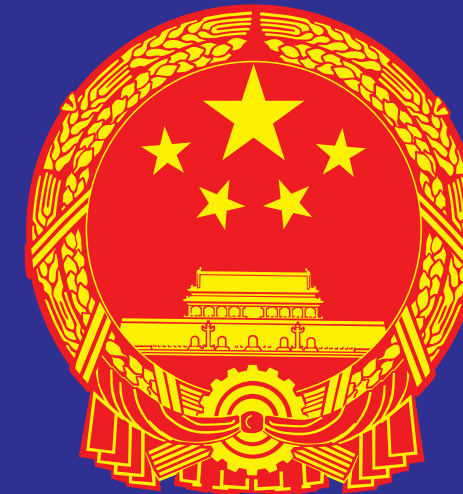


北京市法规规章汇编

( 1949—2020 )

REGULATIONS AND RULES OF BEIJING



北京市法规规章汇编

Regulations and Rules of Beijing

( 1949—2020 )

经济建设

Economic Construction

北京市司法局编

Compiled by Beijing Municipal Bureau of Justice

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Regulations and Rules of Beijing

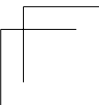
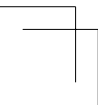
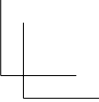
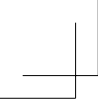
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# 《北京市法规规章汇编（1949—2020）》

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# 编辑说明

建国以来，北京市的立法工作取得了丰硕成果。市人大常委会、市人民政府根据全国人大及其常委会、国务院制定的法律和行政法规，结合本市经济社会发展实际，制定了大量的地方性法规和地方政府规章，并结合改革发展的新形势、新要求定期进行清理，逐步形成了符合法制统一原则、充分体现首都特色的法规规章体系。

本汇编收录 1949 年 10 月 1 日至 2020 年 12 月 31 日北京市制定的有关经济建设全部现行有效地方性法规和政府规章共计 117 件。

为方便读者查阅，本汇编采取了以下编纂体例：

1. 本汇编收录的是与经济建设相关的地方性法规和政府规章；
2. 在各个大类中，按照法规规章涉及的具体领域、制定或者实施部门等，将其分为 17 个小类；
3. 每一小类中的法规规章，均按照发布日期排列，发布日期相同的按照法规在前、规章在后的顺序排列。

本汇编所收法规、规章的英文译本与中文文本有歧义的，以中文文本为准。

北京市司法局

2021 年 2 月

# Editor's Notes

Substantial achievements have been made in the legislation work of Beijing Municipality since the founding of the People's Republic of China. In accordance with the laws and administrative regulations formulated by the National People's Congress and its Standing Committee as well as the State Council, the Standing Committee of Beijing Municipal People's Congress and the Beijing Municipal People's Government have formulated a large amount of local regulations and government rules in light of the economic and social development in this Municipality, have sorted out these local regulations and government rules at regular intervals in light of new circumstances and requirements of reform and development, and have gradually established a framework of local regulations and government rules with characteristics of the capital according to the principle of unified legal system.

This collection gathers together 117 sets of currently effective local regulations and government rules of this Municipality on economic construction which are formulated between October 1, 1949 and December 31, 2020.

For the convenience of the readers, this collection adopts the following compilation style:

1. Local regulations and government rules in this collection are divided into one category: Economic Construction;
2. Local regulations and government rules in the category are then divided into 17 sub-categories according to specific fields or enacting or implementing authorities;
3. Local regulations and government rules in each sub-category are listed according to their dates of promulgation, and regulations are listed before rules with the same dates of promulgation.

Where any discrepancy arises between English translation and the original Chinese version, the Chinese version shall prevail.

Beijing Municipal Bureau of Justice  
February 2021

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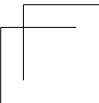
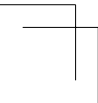
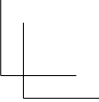
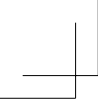
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## 二、经济建设

## II. Economic Construction

## （一）财 政

### 北京市行政性事业性收费管理条例

（1994年5月21日北京市第十届人民代表大会常务委员会第十次会议通过）

#### 第一章 总 则

**第一条** 为加强本市行政性、事业性收费管理，规范收费行为，促进廉政建设，制止非法收费，维护国家利益，保护公民、法人和其他组织的合法权益，根据法律、法规的有关规定，结合本市实际情况，制定本条例。

**第二条** 在本市行政区域内的行政性、事业性收费，适用本条例。

**第三条** 本条例所称行政性收费，是指国家机关和其他依法行使行政管理职权的单位（以下统称国家机关），对社会进行特定管理，依据法律、法规实施的收费。

本条例所称事业性收费，是指事业单位和其他非经营性单位为社会提供特定服务，依据法律、法规实施的收费。

**第四条** 市和区、县人民政府负责本条例的贯彻实施。

市和区、县财政局、物价局是行政性、事业性收费的主管部门，对本行政区域内行政性、事业性收费进行管理和监督。

市和区、县审计局对行政性、事业性收费财务收支实行审计监督。

**第五条** 实施行政性、事业性收费的单位（以下简称收费单位），必须遵守本条例，确定行政性、事业性收费的主管负责人和专（兼）职人员，建立、健全收费管理制度。

国家机关在职责范围内办理公务，除法律、法规另有规定外不得收费；不得将国家机关职能转移、分解到所属的经济实体进行有偿服务；也不得利用职权以保证金、

## i. Finance

### Regulations of Beijing Municipality on the Administration of Administrative and Institutional Charges

(Adopted at the 10<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup>  
People's Congress of Beijing Municipality on May 21, 1994)

#### Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of strengthening the administration of administrative and institutional charges in this Municipality, standardizing charges, promoting the construction of a clean government, stopping illegal charges, safeguarding the interests of the State and protecting the legitimate rights and interests of citizens, legal persons and other organizations in accordance with relevant provisions of laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to administrative and institutional charges within the administrative area of this Municipality.

**Article 3** The term “administrative charges” as mentioned in the Regulations refers to the charges made by state organs and other units that exercise administrative power according to law (hereinafter referred to as state organs) for specific management of the society in accordance with laws and regulations.

The term “institutional charges” as mentioned in the Regulations refers to the charges made by public institutions and other non-operating units for specific services to the society in accordance with laws and regulations.

**Article 4** The municipal, district and county people's governments shall be responsible for the implementation of the Regulations.

The municipal, district and county bureaus of finance and price administration are the competent departments for administrative and institutional charges, which shall manage and supervise the administrative and institutional charges within their respective administrative areas.

The municipal, district and county bureaus of audit shall exercise supervision through auditing over the financial revenues and expenditures of administrative and institutional charges.

**Article 5** The units that make administrative and institutional charges (hereinafter referred to as charging units) must abide by the Regulations, determine the person in charge as well as full-time and part-time personnel for administrative and institutional charges, and establish and improve the charge management system.

Except as otherwise provided by laws and regulations, state organs shall not charge for handling official business within the scope of their functions and duties, transfer or delegate

抵押金、储蓄金、赞助等形式变相收费。

## 第二章 项目设置和标准制定

**第六条** 行政性收费项目的设置，必须依照法律、法规以及特定管理行为的需要，从严控制。

行政性收费标准的制定，属于管理性收费的，必须依据特定管理行为的合理支出制定；属于证照收费的，必须依据制发证照的工本费用制定，法律、法规另有规定的从其规定；属于资源性收费的，依据国家有关规定制定。

**第七条** 事业性收费项目必须根据为社会提供特定服务的事实设置。

事业性收费标准必须根据提供服务的质量、数量和合理耗费制定。

**第八条** 在本市实施的行政性、事业性收费，应当由市级主管部门或者区县人民政府提出申请。设置收费项目、调整收费范围报市财政局，由市财政局会同市物价局审批，并报市人民政府备案；制定、调整收费标准报市物价局，由市物价局会同市财政局审批，并报市人民政府备案。

面向农民的行政性、事业性收费项目的设置和标准的制定，由市财政局、物价局会同市农民负担监督管理部门审批，并报市人民政府备案。

重要的行政性、事业性收费项目和标准由市财政局、物价局审核后报市人民政府批准，或者由市人民政府报国务院批准。

市财政局、物价局自身的收费项目和收费标准报市人民政府批准。

除市人民政府或者市财政局、物价局外，本市任何单位和部门不得批准设置收费项目和制定、调整收费标准。

**第九条** 市财政局、物价局应当将审查批准的收费项目和收费标准编制目录，并

their functions to subordinate economic entities for paid services, or take advantage of their powers to make disguised charges in the form of deposit, cash pledge, savings, sponsorship, etc.

## **Chapter II Item Establishment and Standard Formulation**

**Article 6** The establishment of items of administrative charges must be strictly controlled in accordance with laws, regulations and the needs of specific administrative acts.

The standards for administrative charges for administrative acts must be formulated based on the reasonable expenses of specific administrative acts; the standards for administrative charges for licenses must be formulated based on the cost of production and issuance of licenses, unless otherwise provided by laws and regulations; and the standards for administrative charges for resources must be formulated based on relevant provisions of the State.

**Article 7** The items of institutional charges must be established based on the fact of providing specific services to the society.

The standards for institutional charges must be formulated according to the quality, quantity and reasonable cost of the services provided.

**Article 8** For the administrative and institutional charges in this Municipality, an application shall be filed by the municipal competent department or the district or county people's governments. The establishment of items of charges and adjustment of scope of charges shall be reported to the Municipal Bureau of Finance for approval together with the Municipal Bureau of Price Administration, and shall be reported to the Municipal People's Government for the record; the formulation and adjustment of standards for charges shall be reported to the Municipal Bureau of Price Administration for approval together with the Municipal Bureau of Finance, and shall be reported to the Municipal People's Government for the record.

The establishment of items of and formulation of standards for administrative and institutional charges to peasants shall be examined and approved by the Municipal Bureau of Finance and the Municipal Bureau of Price Administration, together with the municipal departments of supervision and administration of burden on peasants, and reported to the Municipal People's Government for the record.

The items of and standards for important administrative and institutional charges shall be examined by the Municipal Bureau of Finance and the Municipal Bureau of Price Administration and then submitted to the Municipal People's Government for approval, or submitted by the Municipal People's Government to the State Council for approval.

The items of and standards for charges by the Municipal Bureau of Finance and the Municipal Bureau of Price Administration shall be submitted to the Municipal People's Government for approval.

Except for the Municipal People's Government, the Municipal Bureau of Finance and the Municipal Bureau of Price Administration, no unit or department in this Municipality may approve the establishment of items of charges and the formulation and adjustment of standards for charges.

**Article 9** The Municipal Bureau of Finance and the Municipal Bureau of Price Administration shall create catalogues of the items of and standards for charges as examined

定期予以公布。

**第十条** 国务院有关部门经国家计委、财政部批准下达的行政性、事业性收费项目和收费标准，在本市执行的，应当由市有关部门结合本市情况提出实施意见，经市财政局、物价局审核后执行。

**第十一条** 制定地方性法规和政府规章，凡涉及行政性、事业性收费的，起草部门上报法规、规章草案时必须附有市财政局和物价局对收费项目和收费标准的审核意见。

### 第三章 管理和监督

**第十二条** 本市行政性、事业性收费实行收费许可证制度。经依法批准的行政性、事业性收费项目和收费标准，收费单位必须持批准文件到指定的物价部门申请领取《北京市收费许可证》（以下简称《收费许可证》）。

区、县以上国家机关直接实施收费的，由市物价局核发《收费许可证》；其他收费单位实施收费的，由所在区、县物价局核发《收费许可证》。无《收费许可证》的，不得收费。

《收费许可证》由市物价局统一印制，定期分级审查、换发。

**第十三条** 收费单位必须按照《收费许可证》核定的项目、范围和标准收费。收费单位在收费项目、范围、标准或者机构变更、撤销时，应当到原发证机关办理变更或者注销手续。

**第十四条** 行政性、事业性收费实行统一的收费票据制度。收费单位必须持《收费许可证》到指定的财政部门购领北京市行政性、事业性收费收据（以下简称收费收据）。无收费收据的，不得收费。

收费收据由市财政局统一印制或者监制。

**第十五条** 收费单位所收费款，原则上实行收支两条线。除国家另有规定外，行政性收费的收入，作为财政收入纳入预算管理；事业性收费的收入，执行预算外资金

and approved, and publish them regularly.

**Article 10** Where the items of and standards for administrative and institutional charges issued by the relevant departments of the State Council with the approval of the State Planning Commission and the Ministry of Finance are to be implemented in this Municipality, the relevant departments of this Municipality shall, in light of the circumstances of this Municipality, put forward implementation opinions, which shall be implemented after the examination of the Municipal Bureau of Finance and the Municipal Bureau of Price Administration.

**Article 11** In the formulation of local regulations and government rules, where administrative and institutional charges are involved, the drafting departments must submit the draft regulations and rules together with the examination opinions of the Municipal Bureau of Finance and the Municipal Bureau of Price Administration on the items of and standards for charges.

### **Chapter III Management and Supervision**

**Article 12** The charge license system shall be implemented for the administrative and institutional charges in this Municipality. For the items of and standards for administrative and institutional charges as approved according to law, the charging units must apply to the designated price department with approval documents for the Beijing Municipal Charge License (hereinafter referred to as Charge License).

Where the state organs at or above the district or county level directly make charges, the Municipal Bureau of Price Administration shall issue a Charge License; where other charging units make charges, the bureaus of price administration of respective districts or counties shall issue a Charge License. No charge may be made without a Charge License.

The Charge License shall be printed by the Municipal Bureau of Price Administration in a unified way, and shall be subject to level-to-level review and renewal on a regular basis.

**Article 13** The charging units must charge in accordance with the items, scope and standards approved in the Charge License. In case of change or cancellation of any charging item, scope, standard or office, the charging units shall go through the change or cancellation procedures with the original license issuing authority.

**Article 14** The unified bill system for charges shall be implemented for administrative and institutional charges. The charging units must purchase and obtain the Beijing receipts for administrative and institutional charges (hereinafter referred to as receipts for charges) from the designated financial department with the Charge License. No charge may be made without receipts for charges.

The receipts for charges shall be printed by or produced under supervision of the Municipal Bureau of Finance in a unified way.

**Article 15** In principle, the charges made by the charging units shall be subject to separation between revenue and expenditure. Unless otherwise stipulated by the State, the revenues from administrative charges shall be included in budget management as fiscal revenues, while the revenues from institutional charges shall be subject to the measures for management of extra-budgetary funds.



管理办法。

**第十六条** 收费单位必须健全收费财务管理制度，严格执行用款审批办法，按照规定的支出范围使用，定期向财政部门 and 上级主管部门报告收支情况。

**第十七条** 财政、物价部门对行政性、事业性收费实行年审制度。收费单位应当接受财政、物价部门对收费、收支和收费收据使用情况的监督检查，并如实提供账簿、单据等有关资料。

**第十八条** 收费单位实施收费时，必须出示《收费许可证》和使用收费收据，并且应当在固定收费场所公布收费项目、收费标准，设置举报设施，接受社会监督。

收费单位不出示《收费许可证》或者不使用收费收据收费的，单位和个人有权拒绝交纳。

**第十九条** 本市实行收费监督卡制度。收费监督卡由收费管理监督部门发给被收费单位，收费单位在收费时必须如实填写。具体实施办法由市人民政府制定。

**第二十条** 任何单位和个人对非法收费行为有权向收费管理监督部门进行举报、控告。收费管理监督部门应当及时依法查处。

新闻单位应当加强对收费行为的舆论监督。

## 第四章 法律责任

**第二十一条** 违反本条例有下列行为之一的，由物价部门根据情节轻重给予警告、通报批评、责令限期将其收取的费款退还被收费单位或者个人，不能退还的，由物价部门予以没收，上缴财政，可以并处 1 万元以下的罚款：

- （一）擅自设置收费项目、扩大收费范围、制定或者调整收费标准的；
- （二）不按照《收费许可证》核定的收费项目、范围和标准收费的；
- （三）转让、转借或者涂改《收费许可证》的；
- （四）无《收费许可证》或者使用失效、非法制作的《收费许可证》收费的；
- （五）不出示《收费许可证》或者不按照规定公开收费项目、范围和标准的。

**Article 16** The charging units must improve the financial management system for charges, strictly implement the examination and approval measures for the use of funds, use funds within the prescribed scope of expenditure, and regularly report the revenue and expenditure to the financial departments and the competent department at the next higher level.

**Article 17** The departments of finance and price administration shall implement the annual examination system for administrative and institutional charges. The charging units shall accept the supervision and inspection of the departments of finance and price administration on charges, revenues and expenditures as well as the use of receipts for charges, and truthfully provide account books, receipts and other relevant materials.

**Article 18** In making charges, the charging units must produce the Charge License and use a receipt for charges, and shall publish the items of and standards for charges in a fixed charging place, set up reporting facilities and accept social supervision.

Where the charging units fail to produce the Charge License or use a receipt for charges, units or individuals shall have the right to refuse to make payment.

**Article 19** This Municipality shall implement the system of supervision cards for charges. The supervision cards for charges shall be issued by the charge management and supervision departments to the units to be charged, which shall be filled in truthfully by the charging units. The specific implementation measures shall be formulated by the Municipal People's Government.

**Article 20** Any unit or individual shall have the right to report or charge against any illegal charge to the charge management and supervision departments. The charge management and supervision departments shall promptly investigate and deal with the matter according to law.

News units shall strengthen supervision by public opinions over charges.

## **Chapter IV Legal Liability**

**Article 21** Where a person, in violation of the Regulations, commits any of the following acts, the price administration departments shall, depending on the seriousness of the circumstances, give a warning, circulate a notice of criticism, or order the person to return the fees collected to the unit or individual charged within a specified time limit, or confiscate the fees and turn them over to the financial departments if the fees cannot be returned, and may impose a fine of not more than 10,000 yuan at the same time:

- (1) establishing charging items, expanding charging scope, formulating or adjusting charging standards without authorization;
- (2) failing to charge in accordance with the charging items, scope and standards as approved in the Charge License;
- (3) transferring, lending or altering the Charge License;
- (4) charging without the Charge License or with an invalid or illegally produced Charge License; or
- (5) failing to show the Charge License or failing to disclose the charging items, scope and standards as stipulated.

有前款第（二）、（三）项违法行为的，可以吊销其《收费许可证》。

有第一款第（一）、（二）、（三）、（四）项违法行为的，必须立即停止违法收费。

**第二十二条** 违反本条例有下列行为之一的，由财政部门根据情节轻重给予警告、通报批评，可以并处 1000 元至 5000 元的罚款：

- （一）转让、转借或者涂改收费收据的；
- （二）不按照规定使用收费收据收费的；
- （三）瞒报、拒报收费收支情况的；
- （四）不按照财务规定上缴或者使用收费款的。

**第二十三条** 非法制作、销售《收费许可证》或者收费收据，情节较轻的，由物价部门或者财政部门没收其非法制作、销售的《收费许可证》或者收费收据和非法所得，并处非法所得 1 至 3 倍的罚款；构成犯罪的，依法追究刑事责任。

**第二十四条** 对违反本条例的收费单位，市财政局、物价局可以建议收费单位的上级主管部门或者监察机关对收费单位的主管负责人和直接责任人员，给予行政处分；情节严重，构成犯罪的，依法追究刑事责任。

**第二十五条** 被处罚单位和个人对物价、财政部门作出的处罚决定不服的，可以自收到处罚通知之日起 15 日内，向作出处罚决定机关的上一级主管机关申请复议；复议机关应当在接到复议申请书之日起 60 日内作出复议决定；被处罚单位和个人对复议决定不服的，可以在收到复议通知之日起 15 日内向人民法院起诉。被处罚单位和个人也可以在收到处罚通知书之日起三个月内直接向人民法院提起诉讼。复议或者诉讼期间，原处罚决定不停止执行。被处罚单位和个人逾期不申请复议或者不提起诉讼又不履行处罚决定的，作出处罚决定的机关可以申请人民法院强制执行。

**第二十六条** 拒绝、阻碍监督检查人员依法执行公务的，或者对举报、控告非法收费的单位、个人打击报复的，对主要责任人员，或者直接责任人员视情节轻重由其所所在单位或者上级主管部门或者监察机关给予行政处分；违反治安管理的，由公安机

In case of the illegal act in Item (2) or (3) in the preceding paragraph, the Charge License may be revoked.

In case of the illegal act in Item (1), (2), (3) or (4) in the first paragraph, the illegal charges must be stopped immediately.

**Article 22** Where a person, in violation of the Regulations, commits any of the following acts, the financial departments shall, depending on the seriousness of the circumstances, give a warning or circulate a notice of criticism, and may impose a fine of 1,000 yuan to 5,000 yuan:

- (1) transferring, lending or altering the receipts for charges;
- (2) failing to use the receipts for charges as stipulated;
- (3) concealing or refusing to report the revenue and expenditure of charges; or
- (4) failing to turn over or use charges in accordance with financial regulations.

**Article 23** Where a person illegally makes or sells the Charge License or receipts for charges, and the circumstances are relatively minor, the price administration departments or the financial departments shall confiscate the Charge License or receipts for charges illegally made or sold as well as the illegal income, and impose a fine of one to three times the illegal income; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 24** For the charging units that have violated the Regulations, the Municipal Bureau of Finance and the Municipal Bureau of Price Administration may suggest the competent department at the next higher level or the supervisory organ of the charging units impose administrative sanctions on the persons in charge and the persons directly responsible of the charging units; if the circumstances are serious enough to constitute a crime, criminal responsibility shall be investigated for according to law.

**Article 25** Where the punished units or individuals refuse to accept the punishment decisions made by the departments of price administration and finance, they may, within 15 days from the date of receiving the notice of punishment, apply for reconsideration to the competent authority at the next higher level of the authority that made the punishment decision; the reconsideration authority shall make a reconsideration decision within 60 days from the date of receiving the application for reconsideration. Where the punished units or individuals refuse to accept the reconsideration decision, a lawsuit may be brought in the people's court within 15 days from the date of receiving the notice of reconsideration. The punished units or individuals may also directly file a lawsuit with the people's court within 3 months from the date of receiving the notice of punishment. During the period of reconsideration or litigation, the original punishment decision shall not be suspended. Where the punished units or individuals fail to apply for reconsideration or file a lawsuit within the specified time limit and fail to fulfill the punishment decision, the authority that made the punishment decision may apply to the people's court for compulsory execution.

**Article 26** Where a person refuses or obstructs the performance of official duties by the supervision and inspection personnel according to law, or retaliates against a unit or individual that has reported or charged against illegal charges, the main person responsible or the person directly responsible shall be given administrative sanctions by the unit to which he belongs or by the competent department at the next higher level or the supervisory

关依照《中华人民共和国治安管理处罚条例》的规定予以处罚；构成犯罪的，依法追究刑事责任。

**第二十七条** 物价、财政部门的监督检查人员玩忽职守、滥用职权、徇私舞弊的，由其所在单位或者其上级主管部门、监察部门，视情节轻重，给予行政处分；构成犯罪的，依法追究刑事责任。

## 第五章 附 则

**第二十八条** 本条例施行前，市人民政府、市财政局、市物价局批准的行政性、事业性收费项目和收费标准，市人民政府或者市财政局、物价局应当按照本条例的规定重新审核，不符合本条例规定的收费项目或者收费标准的，予以取消或者调整。

**第二十九条** 医疗收费管理，由市人民政府依照本条例结合医疗制度改革制定具体办法。

**第三十条** 本条例具体应用中的问题，由市人民政府负责解释。

**第三十一条** 本条例自 1994 年 6 月 1 日起施行。

organ depending on the seriousness of the circumstances; if the administration of public security is violated, penalties shall be imposed by public security organs in accordance with the provisions of the Law of the People's Republic of China on Penalties for Administration of Public Security; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 27** Where the supervision and inspection personnel of the departments of price administration and finance neglect their duties, abuse their power, or engage in malpractices for personal gains, they shall be given administrative sanctions by the units to which they belong or by the competent department at the next higher level or the supervisory department depending on the seriousness of the circumstances; if a crime is constituted, criminal responsibility shall be investigated for according to law.

## **Chapter V Supplementary Provisions**

**Article 28** The items of and standards for administrative and institutional charges approved by the Municipal People's Government, the Municipal Bureau of Finance and the Municipal Bureau of Price Administration before the implementation of the Regulations shall be reexamined by the Municipal People's Government or the Municipal Bureau of Finance and the Municipal Bureau of Price Administration in accordance with the provisions of the Regulations. The charging items or standards not conforming to the provisions of the Regulations shall be cancelled or adjusted.

**Article 29** The Municipal People's Government shall, in accordance with the Regulations and in combination with the reform of the medical system, formulate specific measures for administration of medical charges.

**Article 30** The Municipal People's Government shall be responsible for the interpretation of issues in specific application of the Regulations.

**Article 31** The Regulations shall come into force as of June 1, 1994.

# 北京市预算审查监督条例

(2016年12月29日北京市第十四届人民代表大会常务委员会  
第三十二次会议通过)

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## 第一章 总 则

**第一条** 为了加强和规范对预算的审查监督，强化预算约束，健全预算制度，提高预算管理水平，保障经济社会的健康发展，根据《中华人民共和国预算法》（以下简称预算法）、《中华人民共和国各级人民代表大会常务委员会监督法》等有关法律、行政法规，结合本市实际，制定本条例。

**第二条** 本条例适用于市人民代表大会常务委员会（以下简称市人大常委会）对市总预算执行的监督，对市级预算调整和市级决算的审查和批准；市人民代表大会财政经济委员会（以下简称财经委员会）对市级预算草案初步方案及上一年预算执行情况、市级预算调整初步方案和市级决算草案的初步审查。

**第三条** 预算审查监督应当遵循完整、合法、公开、注重绩效的原则，将发现问题、解决问题与制度完善相结合，推进预算管理制度改革。

# Regulations of Beijing Municipality on Budget Examination and Supervision

(Adopted at the 32<sup>th</sup> meeting of the Standing Committee of the 14<sup>th</sup>  
Beijing Municipal People's Congress on December 29, 2016)

## Contents

Chapter I	General Provisions
Chapter II	Preliminary Examination of Budget
Chapter III	Supervision of Budget Implementation
Chapter IV	Examination and Approval of Budget Adjustments
Chapter V	Examination and Approval of Final Accounts
Chapter VI	Supplementary Provisions

## Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of strengthening and regulating budget examination and supervision, intensifying budget constraint, improving budget management level and ensuring healthy economic and social development in accordance with the Budget Law of the People's Republic of China (hereinafter referred to as the Budget Law), the Law of the People's Republic of China on Supervision by the Standing Committees of the People's Congresses at All Levels and other relevant laws and administrative regulations, and in light of the actual circumstances of this Municipality.

**Article 2** These Regulations shall apply to the supervision of municipal general budget implementation and the examination and approval of municipal-level budget adjustments and final accounts by the Standing Committee of Municipal People's Congress (hereinafter referred to as the Standing Committee), as well as the preliminary examination of preliminary scheme for draft municipal-level budgets, budget implementation in previous year, preliminary scheme for municipal-level budget adjustments and municipal-level draft final accounts by the Financial and Economic Affairs Committee of Municipal People's Congress (hereinafter referred to as the Financial and Economic Affairs Committee).

**Article 3** Budget examination and supervision shall follow the principles of completeness, legitimacy, openness and emphasis on performance, integrate problem discovery, problem solution and institution improvement, and promote the reform of budget management system.



**第四条** 市人大常委会预算工作机构依法承担审查预算草案、预算调整方案、决算草案和监督预算执行等方面的具体工作。

市人大常委会预算工作机构履行前款规定的职责时，可以聘请第三方机构对预算监督有关事项协助开展工作。

**第五条** 市人大常委会依法组织成立市人大财经代表小组，参与财经委员会组织的关于预算审查监督的相关活动。

市人大常委会可以聘请预算监督顾问，参加财经委员会相关的预算审查监督和调研等活动，就有关专业性问题提出咨询意见。

**第六条** 市人民政府及其财政等部门应当贯彻预算法和有关法律、法规；执行市人民代表大会通过的预算和关于预算的决议；监督检查市级预算、部门预算及其所属各单位预算的执行。

市人民政府审计部门应当对财政资金的使用效果、国有资产和国有资源的经营利用、财政政策的制定等重点事项开展绩效审计。

市人民政府应当建立健全审计查出问题的整改机制，对违反相关法律、法规的行为开展行政监察，对负有直接责任的主管人员实施行政问责。

**第七条** 市人民政府应当按照预算法的有关规定，及时、完整、真实、准确地将预决算信息向社会公开。

市人大常委会应当按照规定将预决算审批、监督的有关情况向社会公开。

**第八条** 公民、法人或者其他组织对违反预算法和有关法律、法规的行为，有权向市人大常委会或者其他有关国家机关进行检举、控告。

鼓励、支持和保护公民、法人或者其他组织进行社会监督和舆论监督。

## 第二章 预算的初步审查

**第九条** 预算的初步审查是在市人民代表大会召开前，由财经委员会按照法定、

**Article 4** The Standing Committee's working body on budgetary affairs shall undertake the specific work in such aspects as examination of draft budget, budget adjustment plan, draft final accounts and supervision of budget implementation.

When performing the duties stipulated in the preceding paragraph, the Standing Committee's working body on budgetary affairs may employ third-party institutions to assist in the affairs related to budget supervision.

**Article 5** The Standing Committee shall establish the Financial and Economic Representative Group of Municipal People's Congress, and participate in the Financial and Economic Affairs Committee's activities related to budget examination and supervision.

The Standing Committee may employ budget supervision consultants to participate in the Financial and Economic Affairs Committee's relevant budget examination and supervision and research activities, and to provide advisory opinions on the relevant professional issues.

**Article 6** The Municipal People's Government and its departments for finance and other affairs shall implement the Budget Law and other relevant laws and regulations; implement budgets and resolutions on budget adopted by the Municipal People's Congress; supervise and inspect the implementation of municipal-level budgets, departmental budgets and budgets of its subordinate units.

The Municipal People's Government's audit department shall carry out performance audit on key issues such as the using effect of financial funds, the operation and use of state-owned assets and resources and the formulation of financial policies.

The Municipal People's Government shall establish and improve the mechanism for rectification of problems discovered in the audit, carry out administrative supervision on acts in violation of the relevant laws and regulations, and apply administrative accountability to persons in charge with direct responsibility.

**Article 7** The Municipal People's Government shall timely, completely, truthfully and correctly publicize the information about budgets and final accounts in accordance with the relevant provisions of the Budget Law.

The Standing Committee shall publicize the information related to examination, approval and supervision of budget and final accounts as stipulated.

**Article 8** Citizens, legal entities and other organizations shall be entitled to report or accuse of acts in violation of the Budget Law and other relevant laws and regulations to the Standing Committee or other relevant state organs.

The social supervision and supervision by public opinions of citizens, legal entities and other organizations are encouraged, supported and protected.

## **Chapter II Preliminary Examination of Budget**

**Article 9** The preliminary examination of budget is a system that the Financial and Economic Affairs Committee carry out the examination of budget implementation and

规范、有效的原则，对预算执行情况和市级预算草案初步方案进行相关审查活动，提出初步审查意见，督促市人民政府财政部门修改和完善市级预算草案的制度。

**第十条** 在市人民代表大会会议举行的 30 日前，财经委员会召开会议，对预算执行情况和市级预算草案初步方案，以及市总预算的报告进行初步审查。

**第十一条** 市人大常委会预算工作机构应当在初步审查会议举行的 30 日前，听取相关政府部门关于市级预算编制的情况及本市下一年度财政支出政策要点、重点支出和重大投资项目计划。

本条例中的重点支出是指市人民政府确定的全市年度重点工作或者重点事项在市级支出预算中的财力安排。重大投资项目一般是指市人民政府拟新安排的单个项目市政府固定资产投资总额占本市年度政府固定资产投资总额 1% 以上的项目，或者按市人民政府固定投资总额排序前 10 位的项目。

**第十二条** 市人民代表大会有关专门委员会参加预算的初步审查。重点就预算安排中相关领域的市级预算单位的部门预算草案、相关重点支出和重大投资项目进行研究，提出意见和建议，由财经委员会汇总研究，纳入财经委员会对预算草案初步方案的初步审查意见。

**第十三条** 市人大常委会预算工作机构可以邀请市人大代表参与政府部门组织的财政支出事前绩效评估。

市人民政府财政部门在确定事前绩效评估项目前，应当征求市人大常委会预算工作机构的意见和建议。财政支出事前绩效评估的项目应当选取部分重点支出和重大投资项目。

**第十四条** 市人民政府有关部门应当在市人民代表大会会议举行的 45 日前，向财经委员会提供下列材料：

- （一）国务院及财政部关于编制预算的要求；
- （二）预算执行情况及下一年度市级预算草案的初步方案；

preliminary plan for draft municipal-level budgets, puts forward preliminary examination opinions, and urges the Municipal People's Government's finance department to revise and improve draft municipal-level budgets according to the principles of legality, standardization and effectiveness before a meeting of the Standing Committee.

**Article 10** The Financial and Economic Affairs Committee shall hold a meeting 30 days before a meeting of the Standing Committee to carry out the preliminary examination of budget implementation, preliminary plan for draft municipal-level budgets and report on municipal general budget.

**Article 11** The Standing Committee's working body on budgetary affairs shall listen to reports of the relevant government departments on compilation of municipal-level budget and on key points in financial expenditure policy, key expenditures and plans for major investment projects of this Municipality in the next year 30 days before the meeting on preliminary examination.

As used in these Regulations, "key expenditures" refer to financial resource arrangements for annual key tasks or key matters of this Municipality decided by the Municipal People's Government in the municipal-level expenditure budget. A "major investment project" generally refers to any project proposed to be newly arranged by the Municipal People's Government with a total fixed asset investment amounting to more than 1% of the total fixed asset investment by the Municipal People's Government for the year or ranking among top 10 in the total fixed asset investment by the Municipal People's Government.

**Article 12** The relevant special committees of the Municipal People's Congress shall participate in the preliminary examination of budget. They shall focus on studying draft departmental budgets of municipal-level budgetary units, key expenditures and major investment projects in the relevant fields of budget arrangement, and put forward opinions and suggestions which shall be gathered and reviewed by the Financial and Economic Affairs Committee and included in the Financial and Economic Affairs Committee's preliminary examination opinions on preliminary scheme for draft budget.

**Article 13** The Standing Committee's working body on budgetary affairs may invite deputies to the Municipal People's Congress to participate in the prior performance evaluation of financial expenditure organized by government departments.

When determining items of prior performance evaluation, the Municipal People's Government's finance department shall solicit opinions and suggestions of the Standing Committee's working body on budgetary affairs. Some key expenditures and major investment projects shall be chosen as items for prior performance evaluation of financial expenditure.

**Article 14** The Municipal People's Government's relevant departments shall provide the Financial and Economic Affairs Committee with the following materials 45 days before a session of the Municipal People's Congress:

- (1) requirements of the State Council and the Ministry of Finance on budget compilation;
- (2) the information about budget implementation and the preliminary plan for the next year's draft municipal-level budgets;

（三）市总预算执行情况和下一年度总预算草案的报告；

（四）预算执行情况及下一年度预算安排的说明；

（五）市级预算单位的部门预算草案；

（六）重点支出和重大投资项目计划分别按预算科目列示的清单，同时提供有关项目确定的依据、绩效目标和实施方案等；

（七）本年度预期税收收入情况；

（八）政府采购预算草案；

（九）初步审查需要的其他材料。

市级预算草案初步方案应当包括一般公共预算、政府性基金预算、国有资本经营预算和社会保险基金预算的收入预算表、支出预算表和收支平衡表，一般公共预算按经济性质分类的基本支出表，一般性转移支付分区支出表、专项转移支付分区支出表和分项目支出表。预算草案报表应当分别列出预计执行数、预算数、预算数与预计执行数的比率。预算执行情况的报表应当分别列出预算数、调整预算数、预计执行数，以及预计执行数与调整预算数的比率。

市人民政府财政部门应当在预算草案或者预算说明中，具体说明四类预算的编制原则、国家和本市的财税政策重点、收入测算依据、支出政策、标准和项目内容、收支平衡等情况。

**第十五条** 市人大常委会预算工作机构收到市人民政府财政部门提供的市级预算草案初步方案后，对预算编制的重点内容和相关情况进行分析、提出意见，供财经委员会初步审查时参考。

市人大常委会预算工作机构可以组织对有关市级预算单位的部门预算草案、重点支出和重大投资项目开展专题评估。专题评估的相关意见应当提交财经委员会初步审查会议，供委员审议时参考。必要时，可以聘请第三方机构提出专业性评估论证意见。

**第十六条** 财经委员会召开初步审查会议时，市人大常委会相关负责人出席会议。初步审查会议应当邀请市人大财经代表小组成员、市人大常委会有关工作机构负责人、

(3) the report on municipal general budget implementation and the next year's draft general budget;

(4) explanations on budget implementation and the next year's budget arrangement;

(5) draft departmental budgets of municipal-level budgetary units;

(6) the checklist of key expenditures and major investment projects according to budgetary items, as well as bases, performance objectives and implementation plans for the relevant projects;

(7) anticipated tax revenues of the year;

(8) the draft government procurement budget; and

(9) other materials needed by the preliminary examination.

The preliminary plan for draft municipal-level budgets shall include the revenue budget sheet, expenditure budget sheet and balance sheet of general public budget, government fund budget, state-owned capital management budget and social insurance fund budget, the basic expenditure sheet of general public budget classified according to economic nature, the district expenditure sheet of general purpose transfer payment, the district expenditure sheet and itemized expenditure sheet of special purpose transfer payment. The anticipated actual figure, budget figure and ratio of budget figure to anticipated actual figure shall be separately listed out in each sheet of the draft budget. The budget figure, adjusted budget figure, anticipated actual figure and ratio of anticipated actual figure to adjusted budget figure shall be separately listed out in each sheet on budget implementation.

In the draft budget or budget explanations, the Municipal People's Government's finance department shall specifically explain compilation principles of four kinds of budgets, key points in financial and taxation policies of the State and this Municipality, basis of revenue calculation, expenditure policies, contents of standards and project, and balance of payments.

**Article 15** After receiving the preliminary plan for draft municipal-level budgets provided by the Municipal People's Government's finance department, the Standing Committee's working body on budgetary affairs shall analyze key contents and related conditions of budget compilation, and put forward opinions for the Financial and Economic Affairs Committee's reference in preliminary examination.

The Standing Committee's working body on budgetary affairs may organize and carry out the special evaluation of any draft departmental budget, key expenditure or major investment project of the relevant municipal-level budgetary units. The relevant opinions of special evaluation shall be submitted to the Financial and Economic Affairs Committee's preliminary examination meeting for reference during deliberation. A third-party institution may be employed to provide professional argument evaluation opinions where necessary.

**Article 16** When the Financial and Economic Affairs Committee holds a preliminary examination meeting, the relevant persons in charge of the Standing Committee shall be present. The preliminary examination meeting shall invite members of the Municipal

市人大常委会预算监督顾问等有关人员参加。

市人民政府及其财政、发展改革、国资、人力社保、税务等部门的相关负责人应当到会听取审议意见，对市级预算草案初步方案进行说明，并回答询问。

**第十七条** 财经委员会召开初步审查会议时，可以选取市级预算单位的部门预算草案、重点支出和重大投资项目计划开展专题审议。被审议的相关部门的负责人应当到会听取审议意见，并回答询问。

**第十八条** 财经委员会对预算执行情况和市级预算草案初步方案及其报告重点审查下列内容：

- （一）预算执行情况是否符合市人民代表大会预算决议的要求；
- （二）预算安排是否符合预算法和有关法律、法规的规定，是否遵循了勤俭节约、量入为出的原则，预算收入的测算及相关收支政策和拟采取的措施是否妥当、可行；
- （三）一般公共预算支出安排是否符合公共性和公益性的原则，其中用于对企业等非预算单位的补贴、奖励等支出，应当明确列示说明；
- （四）重点支出的预算编制是否保证了市人民政府确定的年度重点工作的需要，预算安排是否合理；
- （五）重大投资项目的预算编制是否细化、规范，项目的必要性是否符合本市的实际情况，是否符合中长期规划的要求，绩效目标是否明确、可行，预算安排是否适当；
- （六）专项转移支付的预算编制是否规范、公平、合理，绩效目标与用途是否明确；
- （七）其他支出的预算编制是否合理、细化；
- （八）政府债务是否按照国家规定纳入预算管理，预算说明中是否全面、详细地报告了债务情况；
- （九）预算稳定调节基金的安排是否适当；
- （十）其他重要问题。

**第十九条** 财经委员会提出初步审查意见，交市人民政府财政部门研究处理。

市人民政府财政部门应当在收到财经委员会的初步审查意见后 15 日内，将研究处



People's Congress's Financial and Economic Representative Group, persons in charge of the Standing Committee's relevant working bodies, the Standing Committee's budget supervision consultants and other relevant personnel to be present.

The relevant persons in charge of the Municipal People's Government and its departments for finance, development and reform, state-owned assets, human resources and social security and taxation shall be present and listen to deliberation opinions, make explanations on the preliminary plan for draft municipal-level budgets, and answer inquiries.

**Article 17** When the Financial and Economic Affairs Committee holds a preliminary examination meeting, it may choose any draft departmental budget, key expenditure or major investment project plan of the relevant municipal-level budgetary units for special deliberation. The person in charge of the relevant department subject to deliberation shall be present in the meeting to listen to deliberation opinions and answer inquiries.

**Article 18** The Financial and Economic Affairs Committee's examination of budget implementation and the preliminary plan for and report on draft municipal-level budgets shall focus on the following contents:

(1) whether the budget implementation conforms to requirements of the Municipal People's Congress's resolutions on budget;

(2) whether the budget arrangement conforms to provisions of the Budget Law and other relevant laws and regulations and follows the principles of thrifty and making ends meet, whether the calculation of budgetary revenues, the relevant revenue and expenditure policies and the proposed measures are appropriate and feasible;

(3) whether the expenditure arrangement of general public budget conforms to the principles of publicity and public welfare, whether such expenditures as subsidies and awards to non-budgetary units including enterprises are clearly listed out and explained;

(4) whether the budget compilation of key expenditures ensure the demand of annual key tasks decided by the Municipal People's Government, whether budget arrangement is rational;

(5) whether the budget compilation of major investment projects is detailed and standardized, whether necessity of projects conforms to actual circumstances of this Municipality and requirements of medium and long-term planning, whether performance objectives are clear and feasible, whether budget arrangement is appropriate;

(6) whether the budget compilation of special purpose transfer payment is standardized, equitable and rational, whether performance objectives and purposes are clear;

(7) whether the budget compilation of other expenditures is rational and detailed;

(8) whether the government debt is included in budget management in accordance with provisions of the State, whether such debt is reported in a complete and detailed manner in budget explanations;

(9) whether the arrangement of budget stabilization fund is appropriate; and

(10) other important issues.

**Article 19** The Financial and Economic Affairs Committee shall put forward preliminary examination opinions to the Municipal People's Government's finance department for study and disposal.

The Municipal People's Government's finance department shall provide the written



理情况书面反馈财经委员会。

市人大常委会将财经委员会提出的初步审查意见和市人民政府财政部门反馈的处理情况报告印发市人民代表大会代表。

**第二十条** 市人民代表大会召开前，市人大常委会预算工作机构可以召开会议，听取市人民政府财政部门关于对初步审查意见的研究处理情况及预算草案变化的情况。

### 第三章 预算执行的监督

**第二十一条** 预算执行监督的主要内容：

- （一）执行市人民代表大会批准的预算决议的情况；
- （二）预算的公开情况；
- （三）为实现预算采取的各项措施落实情况；
- （四）预算支出进度情况；
- （五）重点支出的预算执行情况；
- （六）重大投资项目的实施情况；
- （七）依法征收各项税费和其他财政收入情况；
- （八）国库按照规定办理预算收入的收纳、划分、留解、退库等情况；
- （九）中央转移支付资金的安排和使用情况、对各区转移支付情况；
- （十）不同预算科目、预算级次或者项目间的预算资金的调剂情况；
- （十一）预备费、预算周转金、预算稳定调节基金和结余资金的使用情况；
- （十二）预算执行中的其他重要事项。

**第二十二条** 市人大常委会应当在每年7月底前听取市人民政府关于上半年预算执行情况的报告。

财经委员会应当在每季度终了后，听取市人民政府财政部门关于预算执行情况的报告。

市人民政府财政部门应当按月提供预算收支报表等有关资料。

feedback of study and disposal results to the Financial and Economic Affairs Committee within 15 days after receiving the Financial and Economic Affairs Committee's preliminary examination opinions.

The Standing Committee shall print and distribute the Financial and Economic Affairs Committee's preliminary examination opinions and the feedback of study and disposal results by the Municipal People's Government's finance department to deputies to the Municipal People's Congress.

**Article 20** The Standing Committee's working body on budgetary affairs may hold a meeting before a session of the Municipal People's Congress, listen to the report of the Municipal People's Government's finance department on study and disposal results of preliminary examination opinions and changes to draft budgets.

### **Chapter III Supervision of Budget Implementation**

**Article 21** Main contents for the supervision of budget implementation are as follows:

- (1) the implementation of the Municipal People's Congress's resolutions on budget;
- (2) the publicity of budgets;
- (3) the implementation of various measures adopted for realizing budgets;
- (4) the progress of budgetary expenditures;
- (5) the budget implementation of key expenditures;
- (6) the implementation of key investment projects;
- (7) the collection of various taxes and dues in accordance with the law and the information about other fiscal revenues;
- (8) the collection, allocation, retainment, turnover and refund of budgetary revenues by the treasury as stipulated;
- (9) the arrangement and use of transfer payment from central government, and the information about transfer payments to districts;
- (10) the transfer of budgetary funds under different budgetary items, budgetary levels or projects;
- (11) the use of budget reserve, budgetary revolving fund, budget stabilization fund and surplus fund; and
- (12) other important issues in budget implementation.

**Article 22** The Standing Committee shall listen to the Municipal People's Government's report on budget implementation in the first half year by the end of each July.

The Financial and Economic Affairs Committee shall listen to the report of the Municipal People's Government's finance department on budget implementation after the end of each quarter.

The Municipal People's Government's finance department shall provide the relevant materials including statements on budgetary revenues and expenditures by month.

**第二十三条** 市人民政府在预算执行过程中需要变更重大投资项目内容的，或者单个重大投资项目总额调增或者调减 30% 以上的，应当报市人大常委会审查和批准。

**第二十四条** 财经委员会可以对有关市级预算单位的部门预算、重点支出和重大投资项目的执行情况进行监督。必要时，将结果向市人大常委会报告。

**第二十五条** 市人大常委会预算工作机构可以与市人民政府财政、税务、审计等部门建立数据联网，实现信息共享。

**第二十六条** 在预算执行过程中，市人大常委会可以采取听取和审议专项工作报告、执法检查、规范性文件备案审查、询问和质询、特定问题调查等方式，对预算执行进行监督。必要时，可以作出决议、决定。市人民政府应当按照决议、决定的要求将执行决议、决定的情况向市人大常委会报告。

市人大常委会可以要求市人民政府责成市人民政府审计部门进行专项审计，并报告审计结果。

## 第四章 预算调整的审查和批准

**第二十七条** 市人民代表大会批准的市级预算在执行中出现下列情况之一的，市人民政府应当编制预算调整方案，提请市人大常委会审查和批准：

- （一）需要增加或者减少预算总支出的；
- （二）需要调入预算稳定调节基金的；
- （三）需要调减预算安排的重点支出数额的；
- （四）需要增加举借债务数额的。

社会保险各项基金如因国家政策调整，影响预算支出增加或者减少，以及需要动用滚存结余平衡预算的，不属于预算调整范围，相关变动情况应当向市人大常委会备案。

**第二十八条** 在预算执行中需要进行预算调整的，市人民政府应当在预算调整方案中说明预算调整的理由、项目和数额。

**第二十九条** 因增加举借债务进行的预算调整，市人民政府应当在预算调整报告

**Article 23** Where the Municipal People's Government needs to change the contents of major investment projects or increase/decrease the total amount of any major investment project for more than 30% during the process of budget implementation, it shall report to the Standing Committee for examination and approval.

**Article 24** The Financial and Economic Affairs Committee may supervise the implementation of departmental budgets, key expenditures and major investment projects of the relevant municipal-level budgetary units, and shall report results to the Standing Committee where necessary.

**Article 25** The Standing Committee's working body on budgetary affairs may set up a data network with the Municipal People's Government's departments for finance, taxation and audit, so as to realize information sharing.

**Article 26** During the process of budget implementation, the Standing Committee may carry out the supervision of budget implementation in such forms as listening to and deliberating special work report, law enforcement inspection, filing and examination of normative documents, inquiry and questioning and investigation of specific issue, and may make resolutions and decisions where necessary. The Municipal People's Government shall report the implementation of resolutions and decisions to the Standing Committee as required by such resolutions or decisions.

The Standing Committee may require the Municipal People's Government to instruct its audit department to carry out special audits and report audit reports.

## **Chapter IV Examination and Approval of Budget Adjustments**

**Article 27** Where any municipal-level budget is in any of the following circumstances during the implementation, the Municipal People's Government shall compile the budget arrangement plan and submit to the Standing Committee for examination and approval:

- (1) total budgetary expenditures need to be increased or decreased;
- (2) the budget stabilization fund needs to be used;
- (3) the amount of key expenditures in budget arrangement needs to be decreased; or
- (4) the amount of debt needs to be increased.

The increase or decrease of budgetary expenditures due to adjustments of social insurance funds according to state policies and the use of accumulated surplus for budget balance are not included in the scope of budget arrangement, and shall be filed at the Standing Committee.

**Article 28** Where the budget arrangement is needed during budget implementation, the Municipal People's Government shall explain reasons, items and amounts of budget arrangement in the budget arrangement plan.

**Article 29** As to the budget arrangement due to the increase of debt, the Municipal People's Government shall explain the following matters in the budget arrangement plan:

中说明下列事项：

- （一）国务院或者财政等部门下达的有关文件；
- （二）债券计划发行的规模、类型及结构等情况；
- （三）债券计划发行的方式、途径、预计成本等情况；
- （四）债务安排的具体项目、数额及预期绩效目标；
- （五）债务的还款来源；
- （六）其他需要说明的问题。

**第三十条** 市人民政府财政部门应当在市人大常委会举行会议审查和批准预算调整方案的 30 日前，将市级预算调整初步方案提交财经委员会进行初步审查。

财经委员会召开初步审查会议时，市人民政府财政等部门的相关负责人应当到会，对市级预算调整初步方案进行说明，听取审议意见，并回答询问。

**第三十一条** 财经委员会对市级预算调整初步方案审查的主要内容：

- （一）调整的依据；
- （二）调整的项目和数额及其必要性与可行性；
- （三）收支结构调整的合规性和合理性；
- （四）收支平衡情况。

**第三十二条** 财经委员会提出初步审查意见，交市人民政府财政部门研究处理。

市人民政府财政部门应当在收到财经委员会的初步审查意见后 10 日内，将研究处理情况书面反馈财经委员会。

市人大常委会将财经委员会提出的初步审查意见和市人民政府财政部门反馈的处理情况报告印发市人民代表大会代表。

**第三十三条** 在市人大常委会审查和批准预算调整方案时，市人民政府及其财政等部门的相关负责人应当列席会议，听取审议意见，并对审议涉及的相关问题进行说明，回答询问。

财经委员会应当向市人大常委会作预算调整方案的审查结果报告，供审议参考。

- (1) the relevant documents circulated by the State Council, the Ministry of Finance or other departments;
- (2) the scale, type and structure of proposed bond issuance;
- (3) the manner, approach and anticipated cost of proposed bond issuance;
- (4) the specific items, amount and anticipated performance objectives of debt arrangement;
- (5) sources of debt repayment; and
- (6) other issues need to be explained.

**Article 30** The Municipal People's Government's finance department shall submit the preliminary plan for adjustment of municipal-level budgets to the Financial and Economic Affairs Committee for preliminary examination 30 days before the Standing Committee holds a meeting to examine and approve the budget arrangement plan.

When the Financial and Economic Affairs Committee holds a preliminary examination meeting, the relevant persons in charge of the Municipal People's Government's departments for finance and other affairs shall be present in the meeting to make explanations on the preliminary plan for adjustment of municipal-level budgets, listen to deliberation opinions and answer inquiries.

**Article 31** Main contents for the examination of the preliminary plan for adjustment of municipal-level budgets by the Financial and Economic Affairs Committee are as follows:

- (1) bases of adjustment;
- (2) adjusted items and amounts as well as their necessity and feasibility;
- (3) the compliance and rationality of adjusting revenue & expenditure structure; and
- (4) the information about balance of revenues and expenditures.

**Article 32** The Financial and Economic Affairs Committee shall put forward preliminary examination opinions to the Municipal People's Government's finance department for study and disposal.

The Municipal People's Government's finance department shall provide the written feedback of study and disposal results to the Financial and Economic Affairs Committee within 10 days after receiving the Financial and Economic Affairs Committee's preliminary examination opinions.

The Standing Committee shall print and distribute the Financial and Economic Affairs Committee's preliminary examination opinions and the feedback of study and disposal results by the Municipal People's Government's finance department to deputies to the Municipal People's Congress.

**Article 33** When the Standing Committee holds a meeting to examine and approve the budget arrangement plan, the relevant persons in charge of the Municipal People's Government and its departments for finance and other affairs shall attend the meeting as non-voting delegates and listen to deliberation opinions, make explanations on the relevant issues involved in the deliberation, and answer inquiries.

The Financial and Economic Affairs Committee shall submit the report on examination

## 第五章 决算的审查和批准

**第三十四条** 预算年度终了后，市人民政府应当按照预算管理有关规定编制市级决算草案，于7月底前提请市人大常委会审查和批准。

市人民政府应当市人大常委会举行会议10日前，向市人大常委会提交市级决算草案、决算报告，以及市级预算执行和其他财政收支的审计工作报告。

**第三十五条** 市人民政府编制的市级决算草案应当如实反映预算执行的结果，根据市人民代表大会批准的预算，按预算数、调整预算数、决算数分别列出，并对变化较大的情况作出说明。

**第三十六条** 市人民政府审计部门应当对市级决算草案进行审计。市人民政府应当向市人大常委会提出审计部门对预算执行和其他财政收支的审计工作报告。

审计工作报告应当如实反映对市级预算执行和其他财政收支及市级决算草案的审计工作情况、审计评价、存在问题、处理情况，以及对改进财政工作和部门财务工作的意见和建议。

**第三十七条** 财经委员会在市人大常委会举行会议审查和批准市级决算草案的30日前，对上一年度市级决算草案进行初步审查。

市人民政府有关部门应当在召开初步审查会议7日前，向财经委员会提供下列材料：

- （一）市级决算草案及报告；
- （二）关于市级决算草案及报告的说明；
- （三）市级预算单位的部门决算草案汇编及相关绩效评价报告；
- （四）市级预算执行和其他财政收支的审计工作报告；
- （五）市级预算单位的部门预算执行的审计结果情况；
- （六）支出政策的实施情况和重点支出的绩效情况；

results of the budget arrangement plan to the Standing Committee for reference during deliberation.

## **Chapter V Examination and Approval of Final Accounts**

**Article 34** After the end of a budget year, the Municipal People's Government shall compile the draft municipal-level final accounts in accordance with the provisions on budget management, and submit to the Standing Committee by the end of July for examination and approval.

The Municipal People's Government shall submit the draft municipal-level final accounts, the report on final accounts and the audit report of municipal-level budget implementation and other financial revenues and expenditures to the Standing Committee 10 days before the Standing Committee holds a meeting.

**Article 35** The draft municipal-level final accounts compiled by the Municipal People's Government shall reflect budget implementation results strictly according to the facts, separately list budget figures, adjusted budget figures and final account figures based on budgets approved by the Municipal People's Congress, and make explanations on large variations.

**Article 36** The Municipal People's Government's audit department shall audit draft municipal-level final accounts. The Municipal People's Government shall submit the audit report of its audit department on budget implementation and other financial revenues and expenditures to the Standing Committee.

The audit report shall reflect the audit of municipal-level budget implementation, other financial revenues and expenditures and draft municipal-level final accounts strictly according to the facts, make audit evaluation, discuss existing problems and disposals, and provide opinions and suggestions on the improvement of finance work and departmental finance.

**Article 37** The Financial and Economic Affairs Committee shall carry out the preliminary examination of draft municipal-level final accounts for the previous year 30 days before the Standing Committee holds a meeting to examine and approve draft municipal-level final accounts.

The Municipal People's Government's relevant departments shall provide the Financial and Economic Affairs Committee with the following materials 7 days before the preliminary examination meeting.

- (1) the draft municipal-level final accounts and the report on municipal-level final accounts;
- (2) explanations of the draft municipal-level final accounts and the report on municipal-level final accounts;
- (3) the collection of draft departmental final accounts of municipal-level budgetary units and the relevant performance evaluation reports;
- (4) the audit report of municipal-level budget implementation and other financial revenues and expenditures;
- (5) audit results of departmental budget implementation by municipal-level budgetary



（七）完成的重大投资项目竣工决算及绩效情况；

（八）其他关于决算的重要情况。

**第三十八条** 财经委员会听取决算报告和审计工作报告，对市级决算草案进行初步审查。

财经委员会召开初步审查会议时，市人民政府财政、审计、发展改革、国资和人力资源社会保障等部门的相关负责人应当到会对决算草案、审计工作报告的主要内容进行说明，听取审议意见，并回答询问。

对市级决算草案，主要审查下列内容：

（一）遵守预算法和有关法律、法规情况；

（二）财政支出政策的实施情况；

（三）重点支出和重大投资项目资金的使用及绩效情况；

（四）结转资金的使用情况；

（五）资金结余情况；

（六）转移支付完成情况；

（七）中央财政补助资金的安排和使用情况；

（八）超收收入安排情况，预算稳定调节基金的规模和使用情况；

（九）预算周转金规模和使用情况；

（十）预备费使用情况；

（十一）经批准举借债务的规模、结构、使用、偿还等情况；

（十二）市级政府设立的各项基金的管理和使用情况；

（十三）市人民代表大会批准的预算决议落实情况；

（十四）其他与决算有关的重要情况。

财经委员会就可以就决算草案中的有关问题听取相关市级预算部门的情况汇报，并就市级预算部门的决算草案、重点支出和重大投资项目的完成情况进行专题审议。

**第三十九条** 财经委员会提出初步审查意见，交市人民政府财政部门研究处理。

units;

(6) the implementation of expenditure policies and the performance of key expenditures;

(7) final accounts and the performance of completed major investment projects; and

(8) other important information about final accounts.

**Article 38** The Financial and Economic Affairs Committee shall listen to the report on final accounts and the audit report, and to carry out the preliminary examination of draft municipal-level final accounts.

When the Financial and Economic Affairs Committee holds the preliminary examination meeting, the relevant persons in charge of the Municipal People's Government's departments for finance, audit, development and reform, state-owned assets and human resources and social security shall be present and make explanations on main contents of the draft final accounts and the audit report, listen to deliberation opinions and answer inquiries.

Main contents for the examination of draft municipal-level final accounts are as follows:

(1) the compliance with the Budget Law and other relevant laws and regulations;

(2) the implementation of financial expenditure policies;

(3) the use and performance of funds for key expenditures and major investment projects;

(4) the use of carry-over funds;

(5) the surplus of funds;

(6) the completion of transfer payments;

(7) the arrangement and use of financial subsidy funds from central government;

(8) the arrangement of excess revenues, the scale and use of budget stabilization fund;

(9) the scale and use of budgetary revolving fund;

(10) the use of budget reserve;

(11) the scale, structure, use and repayment of approved debts;

(12) the management and use of various funds established by the Municipal People's Government;

(13) the implementation of the Municipal People's Congress's resolutions on budget; and

(14) other important information related to final accounts.

The Financial and Economic Affairs Committee may listen to the report of the Municipal People's Government's finance department on the relevant issues in the draft final accounts, and may carry out special deliberations on draft final accounts of municipal-level budgetary units, key expenditures and the completion of major investment projects.

**Article 39** The Financial and Economic Affairs Committee shall put forward preliminary examination opinions to the Municipal People's Government's finance

市人民政府财政部门应当在收到财经委员会的初步审查意见后 10 日内，将研究处理情况书面反馈财经委员会。

市人大常委会将财经委员会提出的初步审查意见和市人民政府财政部门反馈的处理情况报告印发市人民代表大会代表。

**第四十条** 市人大常委会审查和批准市级决算草案时，应当听取并审议市人民政府关于决算草案的报告和审计工作报告；根据审议情况对市级决算作出决议。必要时，也可以对审计工作报告作出决议。市人大常委会对审计工作报告作出决议的，市人民政府应当在决议规定的期限内，将执行决议的情况向市人大常委会报告。

**第四十一条** 市人大常委会审查和批准市级决算草案时，市人民政府相关负责人及财政、审计、发展改革、国资和人力社保等部门主要负责人应当列席会议，并对审议涉及的相关问题进行说明，回答询问。

财经委员会应当向市人大常委会作决算草案的审查结果报告，供审议参考。

**第四十二条** 市人民政府财政部门应当自市级决算批准之日起 20 日内，批复市级各预算单位的部门决算；在批复市级部门决算后 30 日内，将批复情况抄送市人大常委会预算工作机构。

**第四十三条** 市人大常委会在批准市级决算草案的决议中，应当明确是否进一步听取市人民政府的审计整改情况的报告。如需听取，市人民政府应当在市人大常委会批准决算后 20 日内，向市人大常委会提交重点整改部门、单位清单。

市人大常委会在年底前听取和审议市人民政府关于审计查出问题整改情况的报告。市人民政府相关负责人和审计及重点整改部门、单位的主要负责人应当到会听取审议意见，并回答询问。根据需要，市人大常委会可以对审计查出问题的整改情况开展专题询问。

财经委员会可以组织开展对审计查出问题整改情况的跟踪监督。

department for study and disposal.

The Municipal People's Government's finance department shall provide the written feedback of study and disposal results to the Financial and Economic Affairs Committee within 10 days after receiving the Financial and Economic Affairs Committee's preliminary examination opinions.

The Standing Committee shall print and distribute the Financial and Economic Affairs Committee's preliminary examination opinions and the feedback of study and disposal results by the Municipal People's Government's finance department to deputies to the Municipal People's Congress.

**Article 40** When examining and approving draft municipal-level final accounts, the Standing Committee shall listen to and deliberate the Municipal People's Government's report on draft final accounts and the audit report; shall adopt a resolution on municipal-level final accounts, and may adopt a resolution on the audit report where necessary. Where the Standing Committee adopts a resolution on the audit report, the Municipal People's Government shall report the implementation of such resolution to the Standing Committee within the time limit stipulated by such resolution.

**Article 41** When the Standing Committee holds a meeting to examine and approve the draft municipal-level final accounts, the relevant persons in charge of the Municipal People's Government and principals of departments for finance, audit, development and reform, state-owned assets and human resources and social security shall attend the meeting as non-voting delegates, make explanations on the relevant issues involved in the deliberation, and answer inquiries.

The Financial and Economic Affairs Committee shall submit the report on examination results of draft final accounts to the Standing Committee for reference during deliberation.

**Article 42** The Municipal People's Government's finance department shall give written replies to department final accounts of municipal-level budgetary units within 20 days after the municipal-level final accounts are approved; and copy these replies to the Standing Committee's working body on budgetary affairs within 30 days after giving such replies.

**Article 43** In its resolution on approving the draft municipal-level final accounts, the Standing Committee shall make clear whether it will further listen to the Municipal People's Government's report on audit rectification. The Municipal People's Government shall submit the checklist of key departments and units for rectification to the Standing Committee within 20 days after the Standing Committee adopts the resolution.

The Standing Committee shall listen to and deliberate the Municipal People's Government's report on the rectification of problems discovered in the audit by the year end. The relevant persons in charge of the Municipal People's Government as well as principles of the audit department and key departments and units for rectification shall be present to listen to deliberation opinions and answer inquiries. The Standing Committee may make special inquiries on the rectification of problems discovered in the audit as needed.

The Financial and Economic Affairs Committee may carry out the tracking supervision on the rectification of problems discovered in the audit.

## 第六章 附 则

**第四十四条** 市人民政府应当将市级预算及各区人民政府报送备案的区级预算汇总情况、市级决算及各区人民政府报送备案的决算汇总情况，报市人大常委会备案。

市人民政府应当按年度编制以权责发生制为基础的政府综合财务报告，报市人大常委会备案。政府综合财务报告应当包括政府资产负债表、收入费用表等财务报表和报表附注，以及以此为基础进行的综合分析等。

**第四十五条** 本市各区人民代表大会常务委员会的预算审查监督工作，可以参照本条例执行。

**第四十六条** 本条例自 2017 年 3 月 1 日起施行。1996 年 12 月 5 日北京市第十届人民代表大会常务委员会第三十三次会议通过的《北京市预算监督条例》同时废止。

## Chapter VI Supplementary Provisions

**Article 44** The Municipal People's Government shall report municipal-level budgets and the collection of district-level budgets submitted by district people's governments as well as municipal-level final accounts and the collection of district-level budgets submitted by district people's governments to the Standing Committee for the record.

The Municipal People's Government shall compile the comprehensive annual government financial report on accrued basis and submit it to the Standing Committee for the record. The comprehensive annual government financial report shall include financial statements such as the balance sheet and the income & expenses sheet as well as annotations to such statements, and shall also include the comprehensive analysis based on them.

**Article 45** These Regulations shall apply mutatis mutandis to the budget examination and supervision by the standing committees of district people's congresses in this Municipality.

**Article 46** These Regulations shall be effective as of March 1, 2017. The Regulations of Beijing Municipality on Budget Supervision adopted at the 33<sup>rd</sup> Meeting of the Standing Committee of the Tenth Beijing Municipal People's Congress on December 5, 1996 shall be repealed simultaneously.

# 北京市会计管理办法

(1998年5月15日北京市人民政府第4号令发布)

## 第一章 总 则

**第一条** 为加强本市会计工作的管理,根据《中华人民共和国会计法》和有关法律、法规,结合本市实际情况,制定本办法。

**第二条** 凡本市国家机关、社会团体、企业、事业单位、个体工商户和其他组织(以下统称“单位”)办理会计事务,必须遵守《中华人民共和国会计法》(以下简称《会计法》)和本办法。

**第三条** 市和区、县财政局负责管理本行政区域内的会计工作。

**第四条** 各单位的业务主管部门管理本单位、本系统的会计工作。

**第五条** 单位领导人领导会计机构、会计人员和其他人员执行《会计法》和本办法,保证会计资料的合法、真实、准确、完整,保障会计人员的职权不受侵犯。任何单位和个人不得对依法行使职权的会计人员打击报复。

对认真遵守和执行会计法律、法规和本办法,忠于职守,做出显著成绩的会计机构、会计人员,予以表彰和奖励。

## 第二章 会计核算

**第六条** 下列事项,应当办理会计手续,进行会计核算:

- (一) 款项和有价证券的收付;
- (二) 财物的收发、增减和使用;
- (三) 债权、债务的发生和结算;
- (四) 资本、基金的增减和经费的收支;

# Measures of Beijing Municipality for Accounting Management

(Promulgated by Decree No. 4 of the People's Government of Beijing Municipality on May 15, 1998)

## Chapter I General Provisions

**Article 1** The Measures are formulated for the purpose of strengthening the management of accounting work in this Municipality in accordance with the Accounting Law of the People's Republic of China and other relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** All state organs, social organizations, enterprises, institutions, individual businesses and other organizations (hereinafter referred to as "units") in this Municipality shall abide by the Accounting Law of the People's Republic of China (hereinafter referred to as Accounting Law) and the Measures in handling accounting affairs.

**Article 3** The municipal, district and county bureaus of finance shall be responsible for management of the accounting work within their respective administrative areas.

**Article 4** The business offices of various units shall manage the accounting work of their own units and systems.

**Article 5** The leaders of the units shall lead the accounting offices, accounting personnel and other personnel in implementing the Accounting Law and the Measures, ensure the legality, authenticity, accuracy and completeness of accounting materials, and protect the functions and powers of accounting personnel from infringement. No unit or individual may retaliate against the accounting personnel who exercise their functions and powers according to law.

Accounting offices and accounting personnel that conscientiously abide by and implement accounting laws, regulations and the Measures, devote themselves to their duties and have made remarkable achievements shall be commended and rewarded.

## Chapter II Accounting Practice

**Article 6** Accounting procedures shall be followed and accounting practice shall be conducted with respect to the following matters:

- (1) receipt and disbursement of money and negotiable securities;
- (2) receipt, distribution, increase, decrease and use of property;
- (3) creation and settlement of debts and claims;
- (4) increase and decrease of capital and funds, and revenue and expenditure of funds;



（五）收入、费用、成本的计算；

（六）财务成果的计算和处理；

（七）其他需要办理会计手续、进行会计核算的事项。

**第七条** 会计凭证、会计账簿、会计报表和其他会计资料必须符合国家统一的会计准则、会计制度的规定。不得伪造、变造会计凭证、会计账簿，报送虚假的会计报表。

用电子计算机进行会计核算的，对使用的软件及其生成的会计凭证、会计账簿、会计报表和其他会计资料的要求，应当符合国务院财政部门的规定。

**第八条** 办理本办法第六条规定的会计事项，必须填制或者取得合法的原始凭证，并及时送交会计机构。

会计机构、会计人员必须对原始凭证进行审核，并根据经过审核的原始凭证编制记账凭证。

不得填制不符合国家统一的会计准则、会计制度规定的发票、收据等原始凭证。

**第九条** 各单位应当按照国家统一的会计准则、会计制度的规定，设置会计科目和会计账簿。

会计机构、会计人员应当根据经过审核的原始凭证和记账凭证以及国家统一的会计准则、会计制度的有关规定记账。

对各单位设置的总分类账、现金日记账、银行存款日记账，财政部门应当实行监管制度。

**第十条** 各单位采用的会计处理方法前后各期应当一致，不得随意变更；确需变更的，应当将变更的情况、变更的原因及其对单位财务状况的影响，在财务报告中予以说明。

**第十一条** 各单位的开支必须符合国家规定的范围和标准。核算成本必须按照国家规定的成本核算办法计算，不得以估计成本、定额成本、计划（预算）成本代替实际成本或者任意调整成本。

**第十二条** 各单位应当建立、健全财产清查制度。在编制年度财务报告前，应当

- (5) computation of revenues, expenses and costs;
- (6) computation and treatment of financial results; and
- (7) other matters that are subject to accounting procedures and accounting practice.

**Article 7** Accounting vouchers, account books, accounting statements and other accounting materials must conform to the provisions of the unified accounting standards and accounting systems of the State. It is not allowed to forge or alter accounting vouchers or account books, or submit false accounting statements.

Where electronic computers are used for accounting practice, the requirements for the software used and the accounting vouchers, account books, accounting statements and other accounting materials generated therefrom shall conform to the provisions of the financial department of the State Council.

**Article 8** In handling the accounting matters specified in Article 6 of the Measures, legal original documents must be filled in or obtained and be promptly submitted to accounting offices.

Accounting offices and accounting personnel must examine and verify the original documents and prepare bookkeeping documents according to the examined and verified original documents.

It is not allowed to fill in original documents such as invoices and receipts that do not conform to the provisions of the unified accounting standards and accounting systems of the State.

**Article 9** All units shall, in accordance with the provisions of the unified accounting standards and accounting systems of the State, develop the chart of accounts and set up account books.

Accounting offices and accounting personnel shall keep accounts in accordance with the examined and verified original documents and bookkeeping documents as well as relevant provisions of the unified accounting standards and accounting systems of the State.

The financial departments shall implement a supervision system for the general ledger, cash journal and bank deposit journal set up by each unit.

**Article 10** The accounting treatment method adopted by each unit shall be consistent throughout all periods and shall not be changed at will; if it is really necessary to change the method, the situation of and cause for the change and the impact on the financial situation of the unit shall be explained in the financial report.

**Article 11** The expenditure of all units must conform to the scope and standards specified by the State. The accounting cost must be calculated in accordance with the cost accounting method prescribed by the State, and shall not be replaced by the estimated cost, norm cost or planned (budget) cost or adjusted arbitrarily.

**Article 12** All units shall establish and improve the property inventory system. Prior to the preparation of the annual financial report, all assets shall be checked, and the inventory gain, inventory loss, scrappage, price cutting loss and other situations arising in the check shall be handled in accordance with relevant provisions of the State and this

对全部资产进行清查，清查中出现的盘盈、盘亏、报废、削价损失等情况，应当按照国家和本市的有关规定处理。

**第十三条** 各单位必须按照国家统一的会计准则、会计制度的规定，根据账簿记录编制财务报告，并按期报送财政部门 and 有关部门。

财务报告由单位领导人和会计机构负责人、会计主管人员签名或者盖章。设置总会计师的单位还应有总会计师签名或者盖章。

单位领导人对财务报告的合法性、真实性承担法律责任。

**第十四条** 各单位应当建立、健全内部财务管理制度，对本单位的财政收支、财务收支及财产物资实行严格的监督控制。

**第十五条** 会计凭证、会计账簿、会计报表和其他会计资料，应当按照国家有关规定建立档案。会计档案的保管和销毁，应当按照国家有关规定处理。

### 第三章 会计监督

**第十六条** 各单位的会计机构、会计人员对本单位实行会计监督。

**第十七条** 会计机构、会计人员对不真实、不合法的原始凭证不予受理；对记载不准确、不完整的原始凭证应当退回，并要求其更正、补充。

**第十八条** 会计机构、会计人员认为是违法的收支，应当制止和纠正；制止和纠正无效的，应当向单位领导人提出书面意见，要求处理。单位领导人自接到书面意见之日起 10 日内作出书面决定，并对决定承担责任。

对严重违法损害国家和社会公众利益的收支，会计机构、会计人员应当向主管单位或者财政、审计、税务机关报告，接到报告的机关应当负责处理。

**第十九条** 各单位应当加强内部审计监督，建立健全内部审计制度。

**第二十条** 各单位必须依照法律和国家有关规定接受财政、审计、税务机关的监督 and 检查，如实提供会计凭证、会计账簿、会计报表和其他会计资料以及有关情况，不得拒绝、隐匿、谎报。

Municipality.

**Article 13** All units must, in accordance with the provisions of the unified accounting standards and accounting systems of the State, prepare financial reports according to the records of account books and submit them to the financial departments and other relevant departments on schedule.

The financial reports shall be signed or sealed by the leaders of the units and the persons in charge of accounting offices or accountants in charge. The units having a chief accountant shall also obtain the signature or seal of the chief accountant.

The leaders of the units shall bear legal responsibility for the legality and authenticity of the financial reports.

**Article 14** All units shall establish and improve the internal financial management system and exercise strict supervision and control over their own fiscal revenues & expenditures, financial revenues & expenditures, as well as property and materials.

**Article 15** Archives shall be established for accounting vouchers, account books, accounting statements and other accounting materials in accordance with relevant provisions of the State. The preservation and destruction of accounting archives shall be handled in accordance with relevant provisions of the State.

### Chapter III Accounting Supervision

**Article 16** The accounting office and accounting personnel of a unit shall exercise accounting supervision over the unit.

**Article 17** Accounting offices and accounting personnel shall not accept any original documents that are inauthentic or illegitimate. Original documents which are inaccurately and incompletely recorded shall be returned for correction or supplementation.

**Article 18** Accounting offices and accounting personnel shall stop and correct the revenue and expenditure they deem illegal; if the stop and correction are ineffective, they shall put forward written opinions to the leaders of the units and ask for handling. The leaders of the units shall make a written decision within 10 days from the date of receiving the written opinions and shall be responsible for the decision.

Accounting offices and accounting personnel shall report to the competent authorities or the financial, auditing and tax authorities the revenues and expenditures that seriously violate the law and damage the interests of the State and the public, and the authorities receiving the reports shall be responsible for handling them.

**Article 19** All units shall strengthen the internal supervision through auditing and establish a sound internal audit system.

**Article 20** All units must, in accordance with the law and relevant provisions of the State, accept the supervision and inspection of the financial, auditing and tax authorities, and truthfully provide accounting vouchers, account books, accounting statements and other accounting materials as well as relevant information, and may not refuse to provide, conceal or falsify such materials and information.

**第二十一条** 各级财政、审计部门应当加强对企业年度会计报表审计制度的管理。

**第二十二条** 各级财政、审计部门应当加强对会计师事务所、审计事务所的监督检查，每年应当抽查一定数量由注册会计师出具的企业年度会计报表审计报告。

## 第四章 会计机构和会计人员

**第二十三条** 各单位应当根据会计业务的需要设置会计机构，或者在有关机构中设置会计人员，并指定会计主管人员。不具备设置会计机构或者会计人员条件的，可以委托经批准设立的会计咨询、服务机构进行代理记账。

**第二十四条** 会计机构应当建立健全会计人员岗位责任制度和内部稽核制度。

会计机构中的出纳人员不得兼管稽核、会计档案保管及收入、费用、债权、债务账目的登记工作。除出纳人员外，会计人员不得经管现金、有价证券和票据。

**第二十五条** 会计人员实行持证上岗管理制度。

各单位任用的会计人员应当持有《会计证》。任何单位不得任用未取得《会计证》的人员独立担任会计工作。

**第二十六条** 各单位依法设置总会计师，应当由具有会计师（含会计师）以上专业技术任职资格的人员担任。

**第二十七条** 单位任用或者变动总会计师及会计机构负责人，应当依照国家规定执行，并同时向同级财政部门备案。

**第二十八条** 一般会计人员的任用或者变动，应当事先征求本单位总会计师或者会计机构负责人的意见。

**第二十九条** 会计机构、会计人员的主要职责是：

（一）按照《会计法》和本办法的有关规定进行会计核算和会计监督；

（二）拟定本单位财务收支计划，编制年度决算及制定单位内部财务会计管理制度；

（三）拟定本单位办理会计事务的具体办法；

**Article 21** The departments of finance and audit at all levels shall strengthen management of the auditing system for the annual accounting statements of enterprises.

**Article 22** The departments of finance and audit at all levels shall strengthen supervision and inspection of accounting firms and audit firms, and shall carry out random spot checks on a certain number of audit reports on the annual accounting statements of enterprises issued by certified public accountants every year.

## **Chapter IV Accounting Offices and Accounting Personnel**

**Article 23** All units shall, according to the need of their accounting affairs, set up an accounting office, or staff a relevant office with accounting personnel and designate an accountant in charge. Where conditions do not so permit, they may entrust their bookkeeping to an accounting consultation or service agency established with due approval.

**Article 24** Accounting offices shall establish and improve the accountability system of accounting personnel and the internal auditing system.

Cashiers in accounting offices shall not concurrently be in charge of auditing, take custody of accounting archives, or keep accounts of revenues, expenses, claims and liabilities. Except for cashiers, the accounting personnel shall not be in charge of cash, negotiable securities and bills.

**Article 25** The accounting staff shall be accredited personnel and subject to the management system of taking post with certificates.

The accounting personnel appointed by each unit shall hold an Accounting Certificate. No unit may appoint any person who has not obtained an Accounting Certificate to work independently as an accountant.

**Article 26** The chief accountant designated by each unit according to law shall have the professional qualification of accountant or above.

**Article 27** The appointment or change of the chief accountant and the person in charge of the accounting office by a unit shall be carried out in accordance with the provisions of the State and shall be filed with the financial department at the corresponding level.

**Article 28** For the appointment or change of general accounting staff, the opinions of the chief accountant of the unit or the person in charge of the accounting office shall be solicited in advance.

**Article 29** The main responsibilities of accounting offices and accounting personnel shall be as follows:

- (1) to conduct accounting practice and accounting supervision in accordance with relevant provisions of the Accounting Law and the Measures;
- (2) to work out the financial revenue and expenditure plan of their respective units, prepare annual accounts and formulate the internal financial and accounting management system of their respective units;
- (3) to work out specific measures for handling accounting affairs in their respective

（四）参与拟定经济计划、业务计划，考核、分析预算、财务计划的执行情况；

（五）参与本单位的重大投资、产权变动、资产处置等经济活动的论证、决策与管理工作；

（六）检查本单位和所属单位的会计核算、财务收支、资金使用和财产保管、收发、计量、检验等工作情况以及财经纪律执行情况，并提出意见和建议；

（七）办理其他会计事务。

**第三十条** 会计人员工作调动或者离职，必须按照国家有关规定，在 30 日内与接管人员办清交接手续。

单位被依法撤销、合并、分立，会计人员应当会同有关人员编制单位的资金、债权、债务以及其他财产的移交清册，向有关部门或者组织办理交接手续。

办理以上交接手续，必须执行法定的监交制度。

移交人员对所移交的会计凭证、会计账簿、会计报表和其他会计资料的合法性、真实性承担法律责任。

## 第五章 法律责任

**第三十一条** 单位领导人有下列违法行为之一的，应当给予行政处分；构成犯罪的，依法追究刑事责任：

（一）违反或者胁迫、指使、授意他人违反《会计法》和本办法有关会计核算规定的；

（二）接到会计人员要求对违法收支作出处理决定的书面意见后，无正当理由逾期不作出处理决定的；

（三）对按照《会计法》及本办法履行职责的会计人员进行打击报复的。

**第三十二条** 会计人员有下列违法行为之一的，应当给予行政处分；构成犯罪的，依法追究刑事责任：

（一）违反《会计法》和本办法有关会计核算规定的；

（二）对违法的收支予以办理的；

units;

(4) to participate in the formulation of economic and business plans, and assess and analyze the implementation of budget and financial plans;

(5) to participate in the demonstration, decision-making and management of major investment, property right change, asset disposal and other economic activities of their respective units;

(6) to examine the accounting practice, financial revenues and expenditures, use of funds, and safekeeping, receipt, distribution, measurement and inspection of property, as well as the implementation of financial and economic disciplines in their respective units and subordinate units, and put forward opinions and suggestions; and

(7) to handle other accounting affairs.

**Article 30** An accounting staff to be transferred to another place or to leave his post shall, in accordance with relevant provisions of the State, fulfill the handover procedure with the person to take over his post within 30 days.

In case of liquidation, merger or separation of a unit according to law, the accounting personnel shall, together with the relevant personnel, work out a handover list of the funds, claims, debts and other property of the unit, and go through the handover procedure with relevant departments or organizations.

In handling the above handover procedure, the legal supervision system must be implemented.

The personnel handling the handover procedure shall bear legal responsibility for the legality and authenticity of the accounting vouchers, account books, accounting statements and other accounting materials handed over.

## Chapter V Legal Liability

**Article 31** The leader of a unit who commits one of the following illegal acts shall be given an administrative sanction; if a crime is constituted, criminal responsibility shall be investigated for according to law:

(1) violating or compelling, instructing or suggesting others to violate the relevant accounting practice provisions of the Accounting Law and the Measures;

(2) failing to make a decision on handling within the specified time limit without any justifiable reason after receiving the written opinions of the accounting personnel on making a decision on handling of illegal revenue and expenditure; or

(3) retaliating against the accounting personnel who perform their duties in accordance with the Accounting Law and the Measures.

**Article 32** The accounting personnel who commit one of the following illegal acts shall be given administrative sanctions; if a crime is constituted, criminal responsibility shall be investigated for according to law:

(1) violating the relevant accounting practice provisions of the Accounting Law and the Measures;

(2) handling illegal revenue and expenditure;



(三)对违法的收支不制止,不纠正,又不向单位领导人提出书面意见或者报告的;

(四)对严重违法损害国家和社会公众利益的收支不向主管部门或者财政、审计、税务部门报告的;

**第三十三条** 单位领导人、会计人员和其他人员伪造、变造、故意毁灭会计凭证、会计账簿、会计报表和其他会计资料的,或者利用虚假的会计凭证、会计账簿、会计报表和其他会计资料偷税或者损害国家利益、社会公众利益的,由财政、审计、税务机关或者其他有关主管部门依据法律、行政法规规定的职责负责处理,追究责任;构成犯罪的,依法追究刑事责任。

**第三十四条** 对会计师事务所、审计事务所和注册会计师违反《会计法》、《中华人民共和国注册会计师法》或者审计准则、规则,有意隐瞒真实情况,甚至通同作弊的,由市财政局依法取消其注册会计师的执业资格;情节严重的,由工商行政管理部门依法吊销该会计师事务所或者审计事务所的营业执照。

## 第六章 附 则

**第三十五条** 各级人民政府及有关综合部门,应当协助、配合做好会计工作。

**第三十六条** 本办法执行中的具体问题,由市财政局负责解释。

**第三十七条** 本办法自 1998 年 7 月 1 日起施行。

(3) failing to stop or correct illegal revenue and expenditure, and failing to submit written opinions or reports to unit leaders; or

(4) failing to report to the competent departments or the financial, audit and tax departments the revenue and expenditure that seriously break the law and damage the interests of the State and the public.

**Article 33** Where the leader, accounting personnel and other personnel of a unit forge, alter or intentionally destroy accounting vouchers, account books, accounting statements and other accounting materials, or use false accounting vouchers, account books, accounting statements and other accounting materials to evade taxes or damage the interests of the State and the public, they shall be dealt with and held accountable by the financial, audit and tax authorities or other relevant competent departments within the scope of their functions and duties prescribed by laws and administrative regulations; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 34** Where an accounting firm, audit firm or certified public accountant, in violation of the Accounting Law, the Law of the People's Republic of China on Certified Public Accountants or auditing standards and rules, intentionally conceals the truth or even colludes in practicing fraud, the qualification of certified public accountant shall be cancelled by the Municipal Bureau of Finance according to law; if the circumstances are serious, the business license of the accounting firm or audit firm shall be revoked by the administrative department for industry and commerce according to law.

## **Chapter VI Supplementary Provisions**

**Article 35** The people's governments at all levels and relevant departments shall assist and cooperate in the accounting work.

**Article 36** The Municipal Bureau of Finance shall be responsible for the interpretation of specific issues during the implementation of the Measures.

**Article 37** The Measures shall come into force as of July 1, 1998.

## （二）税 务

### 北京市实施《中华人民共和国 城市维护建设税暂行条例》的细则

（1985 年 5 月 11 日北京市人民政府京政发 86 号文件发布）

**第一条** 根据《中华人民共和国城市维护建设税暂行条例》制定本细则。

**第二条** 凡在本市范围内缴纳产品税、增值税、营业税的单位和个人，均在本市缴纳城市维护建设税。按规定不在本市缴纳产品税、增值税、营业税的单位和个人，不在本市缴纳城市维护建设税。

**第三条** 经核准代扣代缴、代收代缴产品税、增值税、营业税的单位，应按本规定代扣代缴、代收代缴城市维护建设税。国家另有规定者除外。

**第四条** 本市城市维护建设税的适用税率：

（一）纳税义务人所在地在东城区、西城区、崇文区、宣武区范围内的；在朝阳、海淀、丰台、石景山、门头沟、燕山六个区所属的街道办事处管辖范围内的，税率为百分之七；

（二）纳税义务人所在地在郊区各县城、镇范围内的，税率为百分之五；

（三）纳税义务人所在地不在本条第（一）、（二）项范围内的，税率为百分之一；

（四）代扣代缴、代收代缴城市维护建设税的，按照代扣代缴、代收代缴的单位所在地的适用税率扣（收）缴。

本条所指街道办事处和城、镇的范围，均以北京市人民政府确定的行政区划为依据。

**第五条** 凡在本市缴纳城市维护建设税的单位和个人，均向征收其产品税、增值

## ii. Taxation

### Detailed Rules of Beijing Municipality for Implementing the Provisional Regulations of the People's Republic of China on City Maintenance and Construction Tax

(Promulgated by Document JZF No. 86 of the People's Government of Beijing Municipality on May 11, 1985)

**Article 1** The Detailed Rules are formulated in accordance with the Provisional Regulations of the People's Republic of China on City Maintenance and Construction Tax.

**Article 2** All units and individuals that pay the consumption tax, value-added tax and business tax within the administrative area of this Municipality shall pay the city maintenance and construction tax in this Municipality. Units and individuals that are not required to pay the consumption tax, value-added tax and business tax in this Municipality will not pay the city maintenance and construction tax in this Municipality.

**Article 3** The units approved to withhold and collect the consumption tax, value-added tax and business tax shall withhold and collect the city maintenance and construction tax in accordance with the Detailed Rules, unless otherwise stipulated by the State.

**Article 4** The applicable rate of city maintenance and construction tax in this Municipality shall be as follows:

(1) Where taxpayers locate in Dongcheng District, Xicheng District, Chongwen District or Xuanwu District, or fall within the scope of administration of the sub-district offices of Chaoyang District, Haidian District, Fengtai District, Shijingshan District, Mentougou District or Yanshan District, the tax rate shall be 7%;

(2) Where taxpayers locate in counties or towns in the suburbs, the tax rate shall be 5%;

(3) Where taxpayers locate beyond the scope in Items (1) and (2) of this article, the tax rate shall be 1%; and

(4) Where the city maintenance and construction tax is to be withheld or collected, the tax shall be withheld or collected at the applicable tax rate of the place where the unit that withholds or collects the tax is located.

The scope of sub-district offices, counties and towns referred to in this article shall be based on the administrative division determined by Beijing Municipal People's Government.

**Article 5** All units and individuals that pay the city maintenance and construction tax in this Municipality shall pay to the tax authorities that collect their consumption tax, value-added tax and business tax.

税、营业税的税务机关缴纳。

**第六条** 对在集市上从事临时经营的个人，征收临时经营营业税或产品税时，暂不征收城市维护建设税。

**第七条** 本细则执行中的具体问题，由北京市地方税务局解释。

**第八条** 本细则自 1985 年 1 月 1 日起施行。

**Article 6** When the business tax or consumption tax is levied on individuals engaged in temporary business operations in the market, the city maintenance and construction tax shall not be levied for the time being.

**Article 7** Specific issues in implementation of the Detailed Rules shall be interpreted by Beijing Municipal Tax Service.

**Article 8** The Detailed Rules shall come into force as of January 1, 1985.

# 北京市实施《中华人民共和国城镇 土地使用税暂行条例》办法

(1988 年 12 月 30 日北京市人民政府京政发〔1988〕115 号文  
件发布 根据 1998 年 6 月 12 日北京市人民政府第 6 号令第一次  
修改 根据 2007 年 4 月 27 日北京市人民政府第 188 号令第二次  
修改)

**第一条** 根据《中华人民共和国城镇土地使用税暂行条例》(以下简称《条例》),  
结合本市实际情况,制定本办法。

**第二条** 在本市城区、近郊区行政区域内,远郊区的区、县政府所在地(县城)  
和建制镇、工矿区使用土地的单位和个人,为城镇土地使用税(以下简称土地使用税)  
的纳税人,应当依照《条例》和本办法缴纳土地使用税。

**第三条** 土地使用税以纳税人实际占用的土地面积为计税依据,依照本办法规定  
的税额计算征收。占用的土地面积按建设用地规划许可证或者土地权属文件的土地占  
用面积确定;没有建设用地规划许可证或者土地权属文件的,以纳税人据实申报并经  
地方税务机关核实的土地占用面积确定。

**第四条** 本市土地使用税的纳税等级划分为六级,每平方米年税额如下:

一级土地 30 元;

二级土地 24 元;

三级土地 18 元;

四级土地 12 元;

五级土地 3 元;

六级土地 1.5 元。

## Measures of Beijing Municipality for Implementing the Interim Regulations of the People's Republic of China on the Tax for Use of Land in Urban Areas

(Promulgated by Document Jingzhengfa [1988] No. 115 of the People's Government of Beijing Municipality on December 30, 1988, revised for the first time in accordance with Decree No. 6 of the People's Government of Beijing Municipality on June 12, 1998 and revised for the second time in accordance with Decree No. 188 of the People's Government of Beijing Municipality on April 27, 2007)

**Article 1** These Measures are formulated in accordance with the Interim Regulations of the People's Republic of China on the Tax for Use of Land in Urban Areas (hereinafter referred to as the Regulations) and by taking into account the particular situation of this Municipality.

**Article 2** The units and individuals that use the land within the administrative regions of the urban districts and suburbs, locations of district or county governments (county seats) in outer suburbs, towns, industrial and mineral areas of this Municipality shall be taxpayers of the tax for use of land in urban areas (hereinafter referred to as the land-use tax) and shall pay land-use tax in accordance with the Regulations and these Measures.

**Article 3** The base for the calculation of land-use tax shall be the area of the land actually occupied by a taxpayer and the tax shall be calculated and collected in accordance with the tax rates set forth in these Measures. The area of the occupied land shall be determined on the basis of the area of the occupied land specified in the permit for the planned use of land for construction or in land ownership documents; where there is no permit for the planned use of land for construction or land ownership documents, the area of the occupied land shall be determined on the basis of the area of the occupied land actually declared by a taxpayer and verified by the local taxation authority.

**Article 4** Tax grades for land use tax of this Municipality are classified into six grades, and the annual tax amount for per square meter is as follows:

- Grade 1 land: 30 Yuan;
- Grade 2 land: 24 Yuan;
- Grade 3 land: 18 Yuan;
- Grade 4 land: 12 Yuan;
- Grade 5 land: 3 Yuan;
- Grade 6 land: 1.5 Yuan.



土地纳税等级范围的划分，由北京市地方税务机关参照北京市出让国有土地使用权基准地价级别范围确定和调整。

**第五条** 下列土地免缴土地使用税：

- （一）国家机关、人民团体、军队自用的土地；
- （二）由财政机关拨付事业经费的单位自用的土地；
- （三）宗教寺庙、公园、名胜古迹自用的土地；
- （四）市政道路、广场、绿化地带等公共用地；
- （五）直接用于农、林、牧、渔业的生产用地；
- （六）经批准开山整治的土地和改造的废弃土地，从使用的月份起免缴土地使用税 10 年；
- （七）由财政部另行规定免税的能源、交通、水利设施用地和其他用地。

**第六条** 缴纳土地使用税确有困难的纳税人，经纳税人提出减免税申请，由地方税务机关按照规定的程序办理。

**第七条** 本市土地使用税全年税额分两次申报缴纳，申报纳税期限为每年 4 月 1 日至 4 月 15 日和 10 月 1 日至 10 月 15 日。

**第八条** 纳税人应在地方税务机关规定的期限内向地方税务机关提交使用土地面积数量的依据，办理土地情况登记手续。

纳税人使用土地情况变动的，应当自变动之日起 30 日内，到登记地的地方税务机关办理土地情况变更税务登记手续。

**第九条** 纳税人应当向土地所在地的地方税务机关缴纳土地使用税。土地所在地与纳税人登记地不一致的，由市地方税务机关按照国家有关规定确定纳税地点。

**第十条** 土地管理机关应当定期向地方税务机关提供土地权属资料信息，具体办法由市地方税务机关会同市土地管理机关制定。

**第十一条** 土地使用税的征收管理，按照《中华人民共和国税收征收管理法》、《中

The classification of the grades for the payment of land-use tax shall be determined and adjusted by the local taxation authority of Beijing Municipality in reference to the scope of benchmark land price for the assignment of the right to use State-owned land in Beijing Municipality.

**Article 5** Land-use tax shall be exempted on the following types of land:

- (1) the land used by State organs, People's organizations and the armed forces;
- (2) the land used by units whose operating expenses are allocated by finance departments;
- (3) the land used by religious temples and shrines, parks and places of historic interest and scenic beauty;
- (4) the land used for public purposes, such as for municipal streets, public squares and areas of greenery;
- (5) the land directly used in production of agriculture, forestry, animal husbandry and fishery;
- (6) for the land reclaimed with approval from mountains or transformed from wasteland, land-use tax shall be exempted on them for ten years, starting from the month in which the use of such land commences; and
- (7) the land used for energy resources, communications and water conservancy facilities or for other purposes, which has been exempted by the Ministry of Finance from taxation in other provisions.

**Article 6** A taxpayer who has true difficulty in paying land-use tax may submit an application for reduction and exemption of the said tax, and the matter shall be handled by the local taxation authority in accordance with the prescribed procedures.

**Article 7** The annual tax amount of land-use tax of this Municipality shall be declared and paid in two times, and the periods of time for the declaration and payment shall be from April 1 to April 15 and from October 1 to October 15 every year.

**Article 8** A taxpayer shall, within the time limits set forth by the local taxation authority, submit the basis for the area of the used land to the local taxation authority and go through the formalities for registration of the land.

Where there is any change to the use of the land by a taxpayer, the taxpayer shall, within 30 days from the date of occurrence of the change, go to the local taxation authority where the land is registered to go through the formalities for taxation registration in terms of the change to the use of land.

**Article 9** A taxpayer shall pay land-use tax to the local taxation authority where the land is located. Where there is any discrepancy between the location of the land and the place registered by the taxpayer, the municipal local taxation authority shall determine the place of tax payment in accordance with the relevant regulations of the State.

**Article 10** Land administration authorities shall, at regular intervals, provide local taxation authorities with the materials and information regarding land ownership, and the specific measures therefor shall be jointly made by the municipal local taxation authority and the municipal land administration authority.

**Article 11** The administration of collection of land-use tax shall be conducted in accordance with the Law of the People's Republic of China on the Administration of Tax

华人民共和国税收征收管理法实施细则》和本市有关规定执行。

**第十二条** 本办法自 1988 年 11 月 1 日起施行。

Collection, the Rules for the Implementation of the Law of the People's Republic of China on the Administration of Tax Collection and the relevant regulations of this Municipality.

**Article 12** These Measures shall be effective as of November 1, 1988.

# 北京市契税管理规定

(1999 年 7 月 13 日北京市人民政府第 29 号令公布 根据 2002 年 6 月 27 日北京市人民政府第 100 号令第一次修改 根据 2010 年 11 月 27 日北京市人民政府第 226 号令第二次修改)

**第一条** 根据《中华人民共和国契税暂行条例》(以下简称《条例》), 结合本市实际情况, 制定本规定。

**第二条** 本市行政区域内土地使用权、房屋所有权发生转移时, 承受的企业、事业单位、国家机关、军事单位、社会团体、其他组织和个体经营者以及其他个人为契税的纳税人, 应当依照《条例》及其细则和本规定缴纳契税。

经批准转让以划拨方式取得土地使用权的房地产时, 房地产转让双方均为纳税人。

**第三条** 契税的征收范围包括国有土地使用权出让、土地使用权转让(包括出售、赠与和交换)、房屋买卖、房屋赠与和房屋交换; 其中土地使用权转让, 不包括农村集体土地承包经营权的转移。

下列转移方式, 视同土地使用权转让、房屋买卖或者房屋赠与征税:

- (一) 以土地、房屋权属抵债或者作价投资、入股的;
- (二) 以获奖、预购、预付集资建房款或者转移无形资产方式承受土地、房屋权属的;
- (三) 建设工程转让时发生土地使用权转移的;
- (四) 以其他方式事实构成土地、房屋权属转移的。

**第四条** 本市契税征收机关为市和区、县地方税务局。

**第五条** 契税税率为 3%。

**第六条** 契税的计税依据如下:

## Regulations of Beijing Municipality on the Administration of Deed Tax

(Promulgated by Order No.29 of the People's Government of Beijing on July 13, 1999; modified according to Order No.100 of the People's Government of Beijing on June 27, 2002; modified according to Order No.226 of the People's Government of Beijing on November 27, 2010)

**Article 1** These Regulations have been formulated in accordance with the Provisional Regulations of the People's Republic of China on Deed Tax (hereinafter referred to as Provisional Regulations ) and in light of the concrete conditions of this Municipality.

**Article 2** In case of transfer of land use right or house ownership occurring in the administrative area of this Municipality, the enterprise, public institution, state organ, military entity, social organization, other organization and individual business, and other individual to which the title is transferred shall be the taxpayer of deed tax and shall pay the deed tax according to the Provisional Regulations and the detailed rules for its implementation, and these Regulations.

In case of acquiring the land use right to real estate by allocation upon approval, both parties to the transfer of real estate shall be the taxpayers.

**Article 3** Deed tax shall be levied upon the assignment of the use right to state-owned land, the transfer of land use right (including sale, presentation and exchange), house trading, house presentation and house exchange; among which the transfer of land use right shall not include the transfer of the operation right of rural collective land.

Deed tax shall be levied upon the following transfer forms that are regarded as transfer of land use right, house trading or house presentation:

1. Paying debts with the title to the land or house or making investment or buying stocks with evaluated value of the title;
2. Taking the title to the land or house through winning of prizes, advance purchase, advance payment for the house financed by fund-raising, or transfer of intangible assets;
3. Transferring the land use right when the construction project is assigned to others;
4. Actually transferring the title to the land or house through other forms.

**Article 4** The deed tax collection authorities shall be the local taxation bureaus of the municipalities, districts and counties.

**Article 5** The rate of deed tax is 3%.

**Article 6** The calculation basis of deed tax shall be as follows:

（一）国有土地使用权出让、土地使用权出售、房屋买卖，为成交价格。

（二）土地使用权赠与、房屋所有权赠与，由契税征收机关参照同类土地使用权出售、房屋买卖的市场价格或者评估价格核定。

（三）土地使用权交换、房屋所有权交换、土地使用权与房屋所有权交换，为交换价格的差额。

（四）以划拨方式取得土地使用权的，经批准转让房地产时，除承受方按规定缴纳契税外，房地产转让者应当补缴契税，计税依据为补缴的土地使用权出让费用或者土地收益。

（五）承受土地、房屋部分权属的，为所承受部分权属的成交价格；当部分权属改为全部权属时，为全部权属的成交价格，原已缴纳的部分权属的税款应予扣除。

前款成交价格明显低于市场价格和交换价格的差额明显不合理，并且无正当理由的，由契税征收机关参照市场价格核定。

#### **第七条 免税规定：**

（一）因不可抗力灭失住房而重新购买住房的，免征契税。

（二）土地、房屋被县级以上人民政府征用、占用后，重新承受土地、房屋权属的，其成交价格没有超出土地、房屋补偿费、安置补助费的部分，免征契税。

（三）城镇职工第一次购买公有住房的，在本市规定标准面积以内的部分免征契税，超过的部分，仍应按照规定缴纳契税。因原住房未达到本市规定标准面积而重新购买公有住房的，视为第一次购房。

（四）国家机关、事业单位、社会团体、军事单位承受土地、房屋用于办公的办公室（楼）、档案室、职工食堂，教学的教室（教学楼）、实验室（楼）、操场、图书馆、食堂、学生宿舍，医疗的门诊部、化验室、住院部、药房，科研的试验场、试验楼，以及市财政局和市地方税务局确定的其他直接用于办公、教学、医疗、科研等的土地、房屋，免征契税。

（五）军事单位承受土地、房屋用于地上和地下的军事指挥工程，军用的机场、库房、营区、训练场、试验场和通信、导航、观测台站，以及市财政局和市地方税务

1. Transaction price in assignment of the use right to state-owned land, sale of land use right, and house trading;

2. In presentation of land use right and house ownership, the price appraised and decided by the deed tax collection authorities in reference to the market prices or the assessed price in the sale of land use right or house trading of the same kind;

3. Price balances in the exchange of land use rights, exchange of house ownerships, and exchange of land use right and house ownership;

4. In case of acquiring the land use right through allocation, the transferee shall pay the deed tax pursuant to the provisions when the real estate is transferred, and the transferor shall make up the deed tax, the calculation basis of tax shall be the fees for the assignment of land use right or the land proceeds that are made up later;

5. Transaction price of the title accepted in having partial title to the land or house; transaction price of the entire title where the partial title is changed into entire title, the tax already paid for the partial title shall be deducted. Where the transaction price mentioned in the preceding paragraph is obviously lower than the market price or the price balances in exchange are patently unreasonable and without justifiable reasons, the deed tax collection authorities shall appraise and determine the price in reference to the market price.

**Article 7** Provisions on tax exemption:

1. Deed tax shall be exempted for the purchase of new houses in case of destruction of the original house due to force majeure;

2. For those re-accepting the title to lands or houses after the lands or houses were requisitioned or occupied by the people's government at the level of county or above, the deed tax may be exempted for the part of transaction price not exceeding the lands or houses compensation and the relocation subsidy;

3. Where urban workers and staff members purchase public houses for the first time, deed tax shall be exempted for the part within the standard area prescribed by this Municipality, and the deed tax shall still be paid for the exceeding part. Those repurchasing public houses because their original houses haven't met the standard area prescribed by this Municipality shall be regarded as purchasing for the first time;

4. Deed tax shall be exempted for the lands or houses transferred to state organs, public institutions, social organizations, and military unit to be used as offices (buildings), archives, and employee canteens, as classrooms (buildings), laboratories (buildings), playgrounds, libraries, canteens, and student dormitories, as clinics, labs, inpatient departments, and pharmacies, and as testing fields and testing buildings, as well as other lands and houses to be directly used for the purposes of office work, teaching, medical and scientific research determined by the municipal finance bureau and the local taxation bureau of this Municipality;

5. Deed tax shall be exempted for the lands or houses transferred to military units to be used as overground and underground military command projects, airports, storerooms, camps, training fields, testing fields and communication, navigation and observation platforms and stations for military use, as well as other lands or houses to be directly used



局确定的其他直接用于军事设施的土地、房屋，免征契税。

（六）纳税人承受荒山、荒沟、荒丘、荒滩土地使用权，用于农、林、牧、渔业生产的，免征契税。

（七）依法应当予以免税的外国驻京外交机构、联合国驻京机构以及外交人员承受土地、房屋权属的，经外交部确认，可以免征契税。

财政部规定的其他减征、免征契税的项目，按照财政部的规定执行。

**第八条** 契税的纳税义务发生时间，为纳税人签订土地、房屋权属转移合同的当天，或者纳税人取得具有合同效力的契约、协议、合约、单据、确认书以及由市财政局和市地方税务局确定的其他凭证的当天。

纳税人因改变土地、房屋用途应当补缴已经减征、免征契税的，其纳税义务发生时间为改变有关土地、房屋用途的当天。

**第九条** 纳税人应当自纳税义务发生之日起 10 日内，到市或者土地、房屋所在地的区、县契税征收机关办理纳税申报手续，并在契税征收机关核定的期限内缴纳税款；符合减征或者免征契税规定的，应当办理减征或者免征契税手续。

**第十条** 纳税人应当持契税完税凭证或者减、免税证明和其他规定的文件材料，依法到房屋土地管理部门办理有关土地、房屋的权属变更登记手续；对未出具完税凭证或者减、免税证明的，房屋土地管理部门不予办理有关变更登记手续。

**第十一条** 纳税人已缴纳契税，但土地、房屋权属转移未能实现的，经契税征收机关批准，可准予退税。

**第十二条** 根据征收管理的需要，契税征收机关可以委托有关单位代扣代缴和代征契税。具体办法由市地方税务局制定。

**第十三条** 本市契税的征收管理，依照《条例》及其细则、本规定和其他有关法律、行政法规的规定执行。

**第十四条** 对在《条例》实施之前签订土地、房屋权属转移合同的，契税征收办法按照原有关于契税的政策规定执行。

for military facilities determined by the municipal finance bureau and the local taxation bureau of this Municipality;

6. Deed tax shall be exempted for the taxpayers to whom the land use rights of barren hills, trenches, mounds or beaches are transferred and who use such lands in agriculture, forestry, animal husbandry or fishery productions;

7. Where the title to lands or house is transferred to the foreign diplomatic agencies stationed in Beijing, UN agencies stationed in Beijing and the diplomatic personnel that shall be exempted from tax pursuant to law, the deed tax may be exempted upon the confirmation by the Ministry of Foreign Affairs.

For other projects for which the deed tax shall be reduced or exempted stipulated by the Ministry of Finance, the provisions of the Ministry of Finance shall be implemented.

**Article 8** The time of occurrence of the obligation to pay deed tax shall be the date on which the taxpayer signs the contract of transfer of the title to lands or houses, or the date on which the taxpayer obtains the covenant, agreement, document, confirmation letter with the binding force of a contract and other proofs determined by the municipal finance bureau and the local taxation bureau of this Municipality.

Where the taxpayer shall make up the deed tax reduced or exempted for alteration of the use of land or house, the time of occurrence of the obligation of tax payment shall be the date on which the relevant use of land or use is altered.

**Article 9** Taxpayer shall file the tax returns with the deed tax collection authorities of this Municipality, or the district or country where the house or land is located within 10 days from the date of occurrence of the obligation of tax payment, and shall pay the tax within the period set by the tax authorities; for those who meeting the provisions on reduction or exemption of deed tax shall go through the formalities for such reduction or exemption.

**Article 10** The taxpayer shall, taking the proofs for deed tax payment or the certifications for tax reduction or exemption and other prescribed documents and materials, go through the relevant formalities for alteration of registration of the title to land or house at the department of land and house administration; and for those failing to present the proofs for tax payment or certifications of tax reduction or exemption, the department of land and house administration shall not handle the relevant formalities for registration alteration.

**Article 11** Where taxpayer has paid the deed tax while the transfer of title to lands or houses hasn't been realized, the tax may be refunded upon the approval of the deed tax collection authorities.

**Article 12** According to the needs of taxation administration, the deed tax collection authorities may entrust the relevant entities to withhold and remit and to collect the deed tax. The local taxation bureau of this Municipality shall formulate the specific measures.

**Article 13** The administration of deed tax collection in this Municipality shall be implemented in accordance with the Provisional Regulations and the detailed rules, these Provisions and other relevant laws and regulations for implementation thereof.

**Article 14** For those that signed the contracts of transfer of title to lands or houses prior to the implementation of the Provisional Regulations, the measures for deed tax

**第十五条** 本规定执行中的具体问题，由市财政局和市地方税务局负责解释。

**第十六条** 本规定自发布之日起施行。市人民政府 1992 年 5 月 30 日发布、1997 年 12 月 31 日修订的《北京市城镇居民购买商品住宅楼房管理办法》第八条中有关契税的规定同时停止执行。

collection shall be executed according to the previous policies on deed tax.

**Article 15** The power to interpret the specific issues in the implementation of these Provisions shall remain with the municipal finance bureau and the local taxation bureau of this Municipality.

**Article 16** These Provisions shall be effective as of the date of promulgation. The provisions on deed tax in the Article 8 of the Measures for the Administration of Purchases of Commercial Residence Buildings by the Urban Residents of Beijing, which were promulgated on May 30, 1992, and modified on December 31, 1997 by the Municipal People's Government, shall be suspended from execution simultaneously.

# 北京市税收征收保障办法

(2016年7月11日北京市人民政府第271号令公布)

**第一条** 为促进税收征收信息共享，加强税收执法协助，保障税收收入，维护纳税人的合法权益，根据《中华人民共和国税收征收管理法》及其实施细则，结合本市实际情况，制定本办法。

**第二条** 本市税务机关和政府有关部门实施的涉税信息提供和税收执法协助等税收征收保障活动，适用本办法。

**第三条** 市和区人民政府应当加强对税收征收保障工作的领导，建立健全税收征收保障工作协调机制，协调税务机关和政府有关部门做好税收征收保障工作，监督和考核工作完成情况，并将税收征收保障经费列入财政预算。

**第四条** 市和区税务机关负责本行政区域内税收征收保障工作。

工商、民政、机构编制、国土、住房城乡建设、新闻出版广电、知识产权、人力社保、科技、公安、文化等政府有关部门依照各自职责和本办法的规定，做好税收征收保障的有关工作。

**第五条** 政府有关部门应当依照本办法的规定，向税务机关提供本部门在履行职责过程中形成的涉税信息。政府有关部门提供的涉税信息应当准确和完整。

税务机关对政府有关部门提供的涉税信息应当依法使用和妥善保管，不得用于与税收征收保障工作无关的事项，不得向第三方披露。

政府有关部门因行政管理工作需要税收征收管理信息的，税务机关应当依法提供。

**第六条** 下列信息属于涉税信息：

(一) 企业、事业单位、社会组织、个体工商户、外国企业常驻代表机构的设立、变更、注销等信息；

# Measures of Beijing Municipality for Supporting Tax Collection

(Promulgated by Decree No. 271 of the People's Government of Beijing Municipality on July 11, 2016)

**Article 1** These Measures are formulated in accordance with the Law of the People's Republic of China on the Administration of Tax Collection and the implementing rules thereof, by taking into account the particular situations of this Municipality, and for the purpose of promoting sharing of tax collection information, strengthening assistance in tax enforcement, guaranteeing tax revenues and protecting the legal rights and interests of taxpayers.

**Article 2** These Measures are applicable to the provision of tax-related information, assistance in tax enforcement and other supporting activities for tax collection conducted by the tax authorities and relevant government departments in this Municipality.

**Article 3** The municipal and district people's governments shall strengthen the leadership in the supporting of tax collection, establish and improve a coordination mechanism for the supporting of tax collection, coordinate tax authorities and relevant government departments to bring to success the supporting of tax collection, supervise and examine the completion thereof, as well as include expenditure of the supporting work in tax collection in financial budgets.

**Article 4** The municipal and district tax authorities shall be responsible for the supporting work in tax collection within their respective administrative area.

The departments for industry and commerce, civil affairs, organization establishment, housing and urban-rural development, press, publication, radio, film and television, intellectual property, human resources and social security, technology, public security, culture and etc. shall, according to their respective functions and duties and the provisions hereof, bring to success relevant work in supporting tax collection.

**Article 5** Relevant government departments shall, according to the provisions hereof, provide tax authorities with the tax-related information established during the performance of their functions and duties. The tax-related information provided by relevant government departments shall be accurate and complete.

Tax authorities shall use according to law and keep properly the tax-related information provided by relevant government departments, which shall not be applied to matters irrelevant to the supporting work in tax collection, or disclosed to any third party.

Where relevant government departments require the information of tax collection administration in administrative work, tax authorities shall provide such information according to law.

**Article 6** The following information shall belong to tax-related information:

(1) The information of the establishment, change, cancellation and etc. of enterprises,

- （二）企业股权变更、境内企业对境外投资等登记、备案信息；
- （三）土地权属登记，建设用地的批准、出让、转让等信息；
- （四）新建商品住房交易、存量房交易、房屋登记、房屋征收补偿等信息；
- （五）建设工程施工合同备案、外来建筑施工企业备案、建设工程竣工等信息；
- （六）专利权、著作权的登记、备案等信息；
- （七）基本养老保险、基本医疗保险、工伤保险、失业保险、生育保险等社会保险信息；
- （八）经认定的高新技术企业名单、经认定登记的委托外部研究开发合同等信息；
- （九）外国人入境、出境信息；
- （十）宾馆、酒店等住宿行业信息；
- （十一）残疾人及其就业等信息；
- （十二）机动车注册登记及营运等信息；
- （十三）林权、文化权益、知识产权、金融资产、矿业权等交易信息；
- （十四）矿山、地下热水、矿泉水等矿产资源开采信息；
- （十五）营业性演出、彩票销售、公益捐赠等信息；
- （十六）其他涉税信息。

**第七条** 税务机关应当与政府有关部门协商确定提供涉税信息的具体范围、标准、口径、方式和时限等事项。

税务机关和政府有关部门应当对涉税信息中涉及的国家秘密、商业秘密和个人隐私予以保密。

**第八条** 税务机关应当通过各种方式扩大涉税信息收集渠道，广泛收集涉税信息。

税务机关应当主动向人民法院、金融监管机构、商业银行和其他金融机构了解涉税信息。

**第九条** 税务机关应当与政府有关部门建立税收执法协助机制，税务机关因履行

public institutions, social organizations, individual businesses and permanent representative offices of foreign enterprises;

(2) Registration and record information in terms of equity change of enterprises, overseas investment of domestic enterprises and etc.;

(3) Information in terms of registration of land ownership, approval assignment and transfer of construction lands and etc.;

(4) Information in terms of transaction of newly constructed commodity housing and housing in stock, housing registration, compensation for housing expropriation and etc.;

(5) Information in terms of submission of construction project contracts for the record, submission of foreign construction enterprises for the record, completion of construction projects and etc.;

(6) Registration and record information of patent rights and copyrights and etc.;

(7) Information in terms of basic endowment insurance, basic medical insurance, employment injury insurance, unemployment insurance, maternity insurance and etc.;

(8) Lists of recognized high and new tech enterprises, recognized and registered entrustment contracts for foreign research and development and etc.;

(9) Entry and exit information of foreigners;

(10) Information of guesthouses and hotels in the lodging industry;

(11) Information of the disabled and the employment thereof;

(12) Registration and operation information of automotive vehicles;

(13) Transaction information of forest rights, cultural rights, intellectual property rights, financial assets, mining rights and etc.;

(14) Mining information of such mineral resources as mines, geothermal water and mineral water;

(15) Information in terms of commercial performances, lottery sales, charitable donations and etc.;

(16) Other tax-related information.

**Article 7** Tax authorities shall consult with relevant government departments to determine, among others, the specific scope, standard, specification, means and time limit of the provision of tax-related information.

Tax authorities and relevant government departments shall keep confidential the state secrets, trade secrets and personal privacy involved in tax-related information.

**Article 8** Tax authorities shall expand the channel for collecting tax-related information by all means, so as to widely collect tax-related information.

Tax authorities shall take the initiative to ask for tax-related information from the people's courts, financial regulators, commercial banks and other financial institutions.

**Article 9** Tax authorities shall establish an assistance mechanism for tax enforcement with relevant government departments. Where tax authorities need the assistance of relevant government departments in the performance of tax collection duties,



税收征收职责，需要政府有关部门协助的，政府有关部门应当在职责范围内依法予以协助。

**第十条** 政府有关部门在履行职责过程中发现涉嫌税收违法行为的，应当及时告知税务机关；发现所查处的案件属于税务机关管辖的，应当依法移送税务机关。税务机关应当依法查处，并及时反馈处理结果。

**第十一条** 企业登记机关对需要办理注销登记的纳税人，应当告知其先行注销税务登记；对未先行注销税务登记的，企业登记机关不得办理相关注销登记。

**第十二条** 税务机关依法对单位和个人的不动产采取税收保全措施、强制执行措施的，应当向不动产登记管理部门出具协助执行文书，不动产登记管理部门应当依法暂停办理相关登记手续。

**第十三条** 税务机关依法对单位和个人的车辆采取税收保全措施、强制执行措施的，应当向车辆登记管理部门出具协助执行文书，车辆登记管理部门应当依法暂停办理相关登记手续。

**第十四条** 税务机关依法对欠缴税款的人员作出不准出境决定的，应当及时通知出入境边防检查机关，出入境边防检查机关应当依法采取不准出境措施。

**第十五条** 任何单位和个人都有权对违反税收法律、法规的行为进行举报，税务机关接到举报后应当及时调查处理，并为举报人保密。举报经查证属实的，税务机关应当按照有关规定对举报人给予奖励。

**第十六条** 违反本办法规定，有下列行为之一的，由任免机关或者监察机关依照有关法律、法规、规章的规定，按照管理权限对主管人员和有关责任人员给予行政处分和行政问责；构成犯罪的，依法追究刑事责任：

（一）税务机关工作人员将涉税信息用于与税收征收保障工作无关的事项，或者向第三方披露的；

（二）政府有关部门未按照要求履行涉税信息提供或者税收执法协助职责，造成

relevant government departments shall provide assistance within the scope of their functions and duties according to law.

**Article 10** Where relevant government departments discover acts suspected of infringing tax laws during the performance of the functions and duties thereof, they shall notify tax authorities timely; where cases under investigation are found to be under the jurisdiction of tax authorities, they shall be transferred to tax authorities according to law. Tax authorities shall investigate into such cases according to law and provide feedback timely.

**Article 11** As to taxpayers who need to handle cancellation registration, corporate registration organs shall notify them to cancel tax registration first; corporate registration organs shall not handle relevant cancellation registration for taxpayers who haven't cancelled tax registration first.

**Article 12** Where tax authorities take tax preservation measures or enforcement measures against the real estate of any entities and individuals according to law, they shall issue a document to the administrative departments for real estate registration for enforcement assistance, while the administrative departments for real estate registration shall suspend relevant registration procedures according to law.

**Article 13** Where tax authorities take tax preservation measures or enforcement measures against the vehicles of any entities and individuals according to law, they shall issue a document to the administrative departments for vehicle registration for enforcement assistance, while the administrative departments for vehicle registration shall suspend relevant registration procedures according to law.

**Article 14** Where tax authorities make decisions to forbid persons who are in arrears with paying tax to leave the country, they shall timely notify immigration inspection authorities which shall take measures to forbid the exit of such persons according to law.

**Article 15** Any entities and individuals shall be entitled to report acts in violation of tax laws and regulations. After receiving the report, tax authorities shall investigate into and handle such circumstances according to law, as well as keep secret the informers. Where the report is verified to be true, tax authorities shall reward the informers according to relevant provisions.

**Article 16** Where any unit or individual, in violation of the provisions hereof, commits one of the following acts, the appointment and removal organ or the supervisory organ shall, according to their administration authorities, give administrative sanctions and conduct administrative accountability against the leading person in charge and relevant persons in charge in accordance with the provisions of relevant laws, regulations and rules; where a crime is constituted, criminal liability shall be investigated for according to law:

(1) The personnel of tax authorities apply tax-related information to matters irrelevant to the supporting work in tax collection, or disclose it to any third party;

(2) Relevant government departments fail to perform the duties of providing tax-related information or providing assistance in tax enforcement as required, which leads to loss in

税收流失的。

**第十七条** 本办法自 2016 年 9 月 1 日起施行。

tax revenues.

**Article 17** These Measures shall enter into force as of September 1, 2016.

## （三）交通运输

### 北京市出租汽车管理条例

（1997年10月16日北京市第十届人民代表大会常务委员会第四十次会议通过 根据2001年5月18日北京市第十一届人民代表大会常务委员会第二十六次会议通过的《北京市出租汽车管理条例修正案》第一次修正 根据2002年3月29日北京市第十一届人民代表大会常务委员会第三十三次会议通过的《北京市出租汽车管理条例修正案》第二次修正）

#### 第一章 总 则

**第一条** 为了加强本市出租汽车管理，提高出租汽车服务水平，维护出租汽车的正常营运秩序，保障出租汽车乘客、经营者以及从业人员的合法权益，适应城市经济发展和人民生活的需要，制定本条例。

**第二条** 本市行政区域内的出租汽车经营者、驾驶员、乘务员、设立出租汽车营业站的单位、调度员和出租汽车乘客以及出租汽车管理部门，均应当遵守本条例。

本条例所称出租汽车（含旅游客运汽车）是指按照乘客意愿提供运送服务并按行驶里程和时间收费的客车。

**第三条** 市交通行政主管部门主管本市出租汽车管理工作，负责本条例的组织实施。市交通行政主管部门所属的市区管理处和郊区县交通行政主管部门负责本行政区域内出租汽车的日常管理工作。

工商行政、税务、物价、劳动、公安、公安交通、技术监督、旅游等管理机关，按照各自的职责，依法对出租汽车进行管理。

**第四条** 本市出租汽车行业的发展和管理应当遵循统一管理、协调发展、公平竞

### iii. Transportation

## Regulations of Beijing Municipality on Administration of Taxies

(Adopted at the 40<sup>th</sup> Session of the Standing Committee of the Tenth People's Congress of Beijing Municipality on October 16, 1997, revised in accordance with the Amendment to the Regulations of Beijing Municipality on Administration of Taxies adopted at the 26<sup>th</sup> Session of the Standing Committee of the Eleventh People's Congress of Beijing Municipality on May 18, 2001, and revised in accordance with the Amendment to the Regulations of Beijing Municipality on Administration of Taxies adopted at the 33<sup>rd</sup> Session of the Standing Committee of the Eleventh People's Congress of Beijing Municipality on March 29, 2002 for the second time)

### Chapter I General Provision

**Article 1** These Regulations are formulated with a view to strengthening the administration of taxies in this Municipality, raising the taxi service level, maintaining the normal order of taxi transport, safeguarding the legitimate rights and interests of the taxi passengers, operators as well as employees and adapting to the needs of the municipal economic development and people's lives.

**Article 2** The taxi operators, drivers and stewards, the units establishing taxi business stations, the dispatchers, the taxi passengers as well as the administrative departments of taxies within the administrative area of this Municipality shall all abide by these Regulations.

Taxies (including vehicles for touring passengers) mentioned in these Regulations shall refer to cars used for offering transport services according to the wills of passengers and for which the fares shall be charged based on the road mileage and time.

**Article 3** The municipal competent department for traffic administration shall be in charge of the administration of taxies in this Municipality and responsible for organizing the implementation of these Regulations. The urban administrative division subordinate to the municipal competent department for traffic administration and the suburban district or county competent departments for traffic administration shall be responsible for the daily administration work of taxies within their respective administrative areas.

The administrative agencies for industry and commerce, taxation, pricing, labor, public security, traffic administration for public security, technical supervision, tourism, etc. shall, according to law, administer the taxies within their respective duties and functions.

**Article 4** The development and administration of taxi industry in this Municipality shall

争、方便群众的原则。

**第五条** 市交通行政主管部门应当根据北京城市总体规划的要求，编制本市出租汽车发展规划和年度发展计划，并报市人民政府批准后实施。

**第六条** 本市鼓励和支持出租汽车管理的科学技术研究，积极推广先进技术和设备的使用，提高出租汽车科学管理水平。

**第七条** 本市出租汽车经营者以及从业人员，应当依法经营，文明服务。

对经营管理、营运服务成绩显著和拾金不昧、救死扶伤、见义勇为等方面事迹突出的，由市交通行政主管部门给予表彰和奖励。

## 第二章 经营资质管理

**第八条** 出租汽车经营者应当具备下列条件：

- （一）有经检验合格的并符合规定数量的车辆；
- （二）有固定的经营场所和相应的车辆停放场地；
- （三）有合格的驾驶员，经营旅游客运汽车的还应当有合格的乘务员；
- （四）有相应的管理人员和管理制度。

**第九条** 出租汽车驾驶员应当具备下列条件：

- （一）有本市常住户口，男 60 岁、女 50 岁以下，身体健康，取得驾驶证 3 年以上。

旅游客运汽车驾驶员还必须连续从事 3 年以上大、中型客车驾驶工作；

- （二）遵守法律、法规；
- （三）被吊销营运资格证件的，须期满 5 年以上；
- （四）经市交通行政主管部门考核并取得合格证书。

**第十条** 申请经营出租汽车的单位和个人应当按照下列规定办理申报审批手续：

- （一）到工商行政管理机关办理名称预先核准登记。
- （二）持有关证明向市交通行政主管部门提出书面申请，市交通行政主管部门自

be in compliance with the principles of unified administration, coordinated development, fair competition and facilitating the masses.

**Article 5** The municipal competent department for traffic administration shall, based on the requirements of the overall urban planning of Beijing, work out the planning and annual plans for the development of taxies in this Municipality and implement them upon reporting to the municipal people's government for approval.

**Article 6** This Municipality shall encourage and support the scientific and technological research on the administration of taxies and actively popularize the use of advanced technology and equipment to raise the level of scientific administration of taxies.

**Article 7** The taxi operators and employees thereof to this Municipality shall do business according to law and provide services in a civilized manner.

The municipal competent department for traffic administration shall commend and award those who have made remarkable achievements in business and management or transport services and those who are outstanding for such deeds as not pocketing money picked up, healing the wounded and rescuing the dying, taking up the cudgels for a just cause, etc.

## **Chapter II Administration of Operational Qualifications**

**Article 8** A taxi operator shall meet the following conditions:

- (1) having a specified number of vehicles qualified upon inspection;
- (2) having a fixed business place and the corresponding parking lots;
- (3) having qualified drivers and also having qualified stewards for operating vehicles for touring passengers;
- (4) having corresponding managers and management system.

**Article 9** A taxi driver shall meet the following conditions:

- (1) having a registered permanent residence in this Municipality, aged no more than 60 for man and no more than 50 for woman, healthy, and having obtained a driver's license for more than three years. A driver of a vehicle for touring passengers shall, in addition, have engaged in the driving of large and medium-sized vehicles for more than three years;
- (2) abiding by laws and regulations;
- (3) more than 5 years having expired for him whose qualification certificate for transport services was revoked;
- (4) having obtained a qualification certificate upon examination by the municipal competent department for traffic administration.

**Article 10** Any unit or individual applying to engage in taxi transport shall go through the formalities for examination and approval in accordance with the following provisions:

- (1) shall undertake the pre-approval registration of name at the administrative agency for industry and commerce.
- (2) shall holding relevant certifying documents, submit an application in writing to the municipal competent department for traffic administration, and the municipal competent department for traffic administration shall, within 30 days of receipt of the application letter,



接到申请书之日起 30 天内作出审批决定。合格的，发给经营许可证件。

（三）持经营许可证件向工商行政管理机关申领营业执照，向税务机关办理税务登记，向公安机关办理治安登记。

（四）取得营业执照、办理税务和治安登记后，按规定对营运车辆进行车身装饰，安装安全防护装置、计价器，依法办理保险手续；营运车辆按规定检验合格后，到公安交通管理部门申领车辆牌证。从事旅游客运汽车经营的申请者还须向公安交通管理部门申报发车地点、行车路线等事项，经审查同意后，取得公安交通管理部门发给的旅游通行证。

（五）取得车辆牌证后，向市交通行政主管部门领取车辆营运证及驾驶员准驾证、乘务员服务证等营运资格证件和服务监督卡。从事旅游客运汽车经营的申请者向交通行政主管部门申领旅游准运证。

**第十一条** 出租汽车经营者增加、减少或者更新车辆的，应当报市交通行政主管部门核准；变更办公地点和联系电话以及变更登记事项的，应当向市交通行政主管部门备案；停运或者歇业的，应当向市交通行政主管部门备案，并到工商行政管理机关办理有关手续。

经批准歇业或者减少营运车辆的，应当向交通行政主管部门缴销营运资格证件，并涂掉原营运车辆的车身装饰、拆除车内的营运设施。

**第十二条** 出租汽车营运车辆应当符合下列要求：

- （一）经公安、公安交通管理部门检验合格；
- （二）符合本市规定的车型、车身颜色、车身装饰和使用年限；
- （三）按照规定安装出租汽车标志灯、安全防护装置和计价器；
- （四）按照规定在车辆前风挡玻璃右侧上方张贴营运证，在车内规定位置张贴车辆收费标准，并具有空车待租标志和停运标志；
- （五）旅游客运汽车在车内规定位置放置旅游准运证、旅游通行证等营运证件；在车内明显位置张贴旅游客运说明；

make a decision of approval or not. A business permit shall be issued to the one qualified.

(3) shall holding the business permit, apply to the administrative agency for industry and commerce for obtaining a business license and undertake the tax registration at the tax authority and the public security registration at the public security agency.

(4) shall after obtaining the business license, undertaking the tax registration and the public security registration, decorate the bodies of the vehicles for transport services and install safety protection devices and taximeters in accordance with the provisions and go through the insurance formalities according to law; and after the vehicles for transport services are inspected qualified in accordance with the provisions, shall apply to the traffic administrative agency for public security for obtaining vehicle plates. An applicant to engage in operating vehicles for touring passengers must, in addition, make an application regarding such matters as the starting places and the transport lines, etc. to the traffic administrative agency for public security and upon consent through examination, obtain a tourism pass issued by the traffic administrative agency for public security.

(5) shall, after obtaining the vehicle plates, obtain such qualification certificates for transport services as operation permits for vehicles, driving permits for drivers, service cards for stewards as well as service supervision cards from the municipal competent department for traffic administration. An applicant to engage in operating vehicles for touring passengers must, in addition, apply to the competent department for traffic administration for obtaining a transport permit for tourism.

**Article 11** A taxi operator to increase, reduce or renew vehicles shall report to the municipal competent department for traffic administration for verification; shall, if changing the office places or telephone numbers as well as modifying the registered items, report to the competent department for traffic administration for the record; and shall, if intending to suspend the operations or close the business, report to the competent department for traffic administration for record and undertake the relevant formalities at the administrative agency for industry and commerce.

Whoever, upon approval, closes the business or reduces the vehicles for transport services, shall hand in the qualification certificate for transport services to the competent department for traffic administration for cancellation, daub the decorations on the bodies of the original vehicles for transport services and dismantle the operational facilities within the vehicles.

**Article 12** The taxis for transport services shall meet the following requirements:

(1) qualified upon inspection by the public security agency and the traffic administrative agency for public security;

(2) being in conformity with the type, body color, body decorations and duration of use of car prescribed by this Municipality;

(3) installed with taxi identification lamps, safety protection devices and taximeters in accordance with the provisions;

(4) having an operation permit placarded on the top right corner of the front windshield of each vehicle in accordance with the provisions, the standards of charge placarded on a specified position within each vehicle and having a for-hire sign and a service-suspension sign;

(5) for vehicles for touring passengers, having such certificates for transport services as

(六) 车辆整洁。

### 第三章 营运服务管理

**第十三条** 出租汽车经营者应当遵守下列规定：

(一) 遵守法律、法规和规章，接受交通管理部门和工商行政、税务、物价、劳动、公安、公安交通、技术监督等管理机关的监督检查；

(二) 执行物价管理机关制定的收费标准，使用经税务机关监制的专用收费凭证，不得擅自改变收费标准或者使用其他收费凭证；

(三) 制定服务标准、规程和驾驶员、乘务员守则以及车辆检修、安全行车、治安保卫等规章制度；

(四) 依法与驾驶员签订劳动合同、承包合同，明确双方权利义务；

(五) 建立实施治安保卫责任制，对从业人员进行法制教育，建立学习和业务培训制度；

(六) 对乘客提出的服务质量问题及时调查处理，并应当自乘客提出之日起 10 天内作出答复；

(七) 执行交通管理部门协调营运业务的措施；

(八) 法定代表人和管理人员按照规定参加市交通管理部门组织的培训，经培训合格后方可上岗；

(九) 按规定期限和要求向交通管理部门如实报送营运报表及其他营运资料，接受交通管理部门对营运资料和票证的查阅；

(十) 不得使用无营运资格证件、被暂扣营运资格证件的驾驶员或者非本单位的驾驶员驾驶车辆营运；

(十一) 不得擅自出租汽车内或者在车身上张贴、设置商业性广告；

**第十四条** 旅游客运汽车经营者及其从业人员还应当遵守下列规定：

transport permit for tourism, tourism pass, etc. placed at the specified position within each vehicle; having the directions on passenger transport for tourism placarded on the obvious position within each vehicle;

(6) keeping each vehicle tidy.

### **Chapter III Administration Of Transport Services**

**Article 13** A taxi operator shall abide by the following provisions:

(1) abiding by laws, regulations and rules, accepting the supervision and inspection by the competent department for traffic administration and the administrative agencies for industry and commerce, taxation, pricing, labor, public security, traffic administration for public security, technical supervision, etc.;

(2) executing the standards of charge formulated by the pricing administrative agency, and using the special charge vouchers made under the supervision of the tax authority and not changing the standards of charge or use other charge vouchers without authorization;

(3) formulating the service standards and rules, the rules for drivers and stewards, as well as the rules and systems on inspection of vehicles, safe drive and public order and security, etc.

(4) concluding labor contracts or contracting agreements with drivers according to law to clarify the rights and obligations of both parties;

(5) establishing and implementing a system of responsibility for public order and security, carrying out legal education for the employees and set up a system of study and professional training;

(6) timely investigating and dealing with the problem of service quality proposed by passengers and making a reply within 10 days of proposing the problem by passengers;

(7) executing the measures to coordinate the transport business by the competent department for traffic administration;

(8) the legal representative and the managers shall, in accordance with the provisions, attend the training organized by the municipal competent department for traffic administration, and may not work at their posts until being trained qualified;

(9) shall, in accordance with the specified time limit and requirements, truthfully submit the transport statements and other transport materials to the competent department for traffic administration and accept the check by the competent department for traffic administration on the transport materials and vouchers;

(10) shall not employ a driver with no qualification certificate for transport services or whose qualification certificate for transport services is temporarily detained or not employed by itself to drive a vehicle for transport services;

(11) shall not placard or set up commercial advertisements within or on the bodies of taxis without authorization.

**Article 14** An operator of vehicles for touring passengers and employees thereof shall, in addition, abide by the following provisions:

- (一) 在售票地点公布发车地点、时间和行驶路线;
- (二) 因故变更发车地点、时间和行驶路线的,应当提前通知乘客,允许乘客退票;
- (三) 旅游高峰期间,按照规定向公安交通管理部门申领旅游景点通行证;
- (四) 乘务员具有相应的旅游客运服务知识,向乘客提供相应的旅游客运服务;
- (五) 不得流动揽客;
- (六) 不得强行为乘客代买旅游景点门票或者参观券;
- (七) 不得擅自将旅游客运业务转让其他单位或者个人经营;
- (八) 不得违反乘客意愿强行将乘客载至旅游景点、旅馆、饭店、商店等处参观、住宿、用餐、购物;
- (九) 不得索取、收受回扣;
- (十) 从事涉外旅游的,应当遵守国家和本市的有关规定。

**第十五条** 出租汽车驾驶员在营运时应当遵守下列规定:

- (一) 服饰整洁、文明礼貌、服务规范;
- (二) 安全行车,遵守交通管理法规;
- (三) 携带并按照规定放置、张贴营运资格证件和服务监督卡;
- (四) 在准许停车的路段实行招手停车载客或者停车下客,不得乱停车;
- (五) 按照规定使用标志灯,车内无乘客时应当显示空车待租标志,因故暂时不能营运时,应当显示停车标志;
- (六) 按照最佳路线行驶,不得故意绕行;
- (七) 必须正确使用计价器,不得与乘客议价,不得向乘客索要财物,收款后需要给乘客找零钱时,必须找零钱;
- (八) 按照计价器显示的金额收费,禁止私自拆除、改装计价器或者在计价器上弄虚作假;
- (九) 收款后应当向乘客开具项目填写齐全并与实收金额相符的专用收费凭证,不得在专用收费凭证上弄虚作假;

- (1) publicizing the starting places, time and transport lines at the ticket office;
- (2) where the starting places, time or transport lines are to be changed due to certain reasons, notifying the passengers in advance and allow them to return the tickets;
- (3) during the peak touring period, applying to the traffic administrative agency for public security for obtaining a tourism pass for sight spots in accordance with the provisions;
- (4) the stewards shall have corresponding knowledge of transport services for touring passengers and provide the passengers with corresponding transport services for touring passengers;
- (5) shall not solicit passengers on the way;
- (6) shall not coercively buy tickets or vouchers of tourism sight spots on behalf of passengers;
- (7) shall not transfer the transport business of touring passengers to other units or individuals to provide transport services without authorization;
- (8) shall not deny passengers' desires by coercively carrying them to the tourism sight spots, hotels, restaurants, stores and other places for visit, accommodation, dining or shopping;
- (9) shall not extort or take rebates;
- (10) whoever engaged in tourism services facing foreigners shall abide by the relevant provisions of the State and this Municipality.

**Article 15** A taxi driver shall abide by the following provisions when providing transport services:

- (1) shall be neatly dressed, act in a civilized manner and politely and provide standardized services;
- (2) shall safely drive the vehicle and abide by the regulations on traffic administration;
- (3) shall bring, place and placard the qualification certificate for transport services and the service supervision card in accordance with the provisions;
- (4) shall, on the roads where taxis are permitted to stop, stop the taxi to carry a passenger upon his waving hand, or stop the taxi to let the passenger get off and shall not stop the taxi disorderly;
- (5) shall use the identification lamp in accordance with the provisions, and shall show the for -hire sign when there is no passenger within the taxi and show the service -suspension sign when temporarily unable to provide transport services;
- (6) shall drive the taxi along the best route and shall not intentionally make a detour;
- (7) must use the taximeter correctly, shall not negotiate with the passenger on price or extort properties from the passenger, and must, when necessary, give change to the passenger after collecting the fare;
- (8) shall collect the fare according to the amount indicated on the taximeter and be prohibited from privately dismantling or rectifying the taximeter or practicing frauds on the taximeter;
- (9) shall, after collecting the fare, provide the passenger with a special charge voucher which is completely filled in with all items and conform to the amount actually collected and shall not practice frauds on the special charge voucher;

- （十）满足乘客提出的使用或者不使用车内服务设施的要求；
- （十一）不得擅自拆除安全防护装置；
- （十二）保持车辆整洁，牌证齐全、清晰，不得挪用车辆牌证或者对车辆牌证弄虚作假；
- （十三）遇有计价器损坏、失准、显示不全、无专用收费凭证、标志灯发生故障、车辆号牌污损、不全等情形时，不得营运载客。上述情况在载客过程中发生时，应当立即告知乘客，并与乘客协商解决；
- （十四）出本市或者夜间去远郊区、县营运，应当按照规定向本单位或者到就近的公安机关、营业站登记；
- （十五）在出租汽车营业站候客时，应当按序排队、顺序走车，服从调度员的调派，不得欺行霸市或者私自揽客；
- （十六）乘客遗失在车内的物品，应当及时归还失主或者交有关部门处理，不得私自隐匿；
- （十七）不得将车辆交予他人驾驶或者驾驶非本单位的出租汽车营运；
- （十八）不得利用车辆为违法犯罪提供方便，发现违法犯罪嫌疑人应当及时向公安机关或者本单位报告；
- （十九）禁止运载违禁和易燃、易爆等物品；
- （二十）接受市交通行政主管部门和有关管理机关的监督检查。

**第十六条** 出租汽车驾驶员除下列情形外，不得以任何理由拒绝载客或者中途终止客运服务：

- （一）乘客在禁止停车的路段招手拦车；
- （二）乘客携带违禁和易燃、易爆等危险品以及污损车辆的物品乘车；
- （三）醉酒者、精神病患者在无人监护下乘车；
- （四）乘客要求出本市或者在夜间到远郊区、县而不按规定随驾驶员进行登记；
- （五）乘客的要求有其他违反出租汽车管理、道路交通管理、治安管理规定。

(10) shall satisfy the passengers' requirements on using or not using the service facilities within the vehicle;

(11) shall not dismantle the safety protection devices without authorization;

(12) shall keep the vehicle tidy, the license and certificates complete and clear, and shall not peculate the vehicle plate or practice frauds on the vehicle plate;

(13) shall not, in the event of such circumstances as the taximeter damaged, inaccurate or unable to completely indicate the amount, not having special charge voucher, the identification lamp having drawbacks, the vehicle plate defiled or incomplete, etc., provide transport services or carry passengers. The circumstances above mentioned occur on the way of carrying a passenger, he shall immediately inform the passenger and negotiate the settlement with him;

(14) shall, where intending to go out of this Municipality or go to a distant suburban district or county at night for providing transport services, make a registration in accordance with the provisions at the unit he works for or at the nearby public security agency or taxi business station;

(15) shall, when waiting for passengers at a taxi business station, queue in order and drive the taxi in sequence, and obey the dispatcher's management and shall not oppress the fellow of the same trade or privately solicit passengers;

(16) shall timely return the articles lost by the passenger within the taxi to the loser or hand in them to the relevant departments and shall not privately conceal them;

shall not hand over the vehicle to others for driving or drive a taxi not belonging to the unit he works for to provide transport services;

(17) shall not make use of the vehicle to facilitate illegal or criminal acts, and shall, once finding any illegal or criminal suspect, timely report to the public security agency or the unit he works for;

(18) shall be prohibited from carrying contrabands, inflammable or explosive articles;

(19) shall accept the supervision and inspection by the competent department for traffic administration and the relevant administrative agency.

**Article 16** Except for the following circumstances, a taxi driver shall not refuse to carry a passenger or terminate transport services midway with any reason:

(1) the passenger waves his hand to stop the taxi on the road where taxies are prohibited to stop;

(2) the passenger takes the taxi with such dangerous articles as contrabands, inflammable or explosive articles or with articles which will defile the vehicle;

(3) a drunken man or a mentally ill person takes the taxi without a guardian;

(4) the passenger requires to go out of this Municipality or go to a distant suburban district or county at night, but does not make a registration with the driver in accordance with the provisions;

(5) the passengers' requirements are otherwise in violation of the provisions on the administration of taxies, road traffic administration or public security administration.



**第十七条** 乘客在乘坐出租汽车时应当遵守下列规定：

- （一）文明乘车，不得损坏车内设施，维护车内清洁卫生；
- （二）按照计价器显示的金额交付乘车费用或者按照规定购买车票，不与驾驶员议价；
- （三）不向驾驶员提出违反出租汽车管理、道路交通管理、治安管理的要求；
- （四）不在车内进行违法活动。

**第十八条** 出租汽车乘客对出租汽车经营者及其从业人员在营运中侵犯其合法权益的行为，有权向出租汽车经营者反映或者向交通行政主管部门投诉。

乘客反映服务质量问题或者投诉应当自权利被侵犯之日起 30 天内提出，投诉时应当提供书面材料和出租汽车专用收费凭证、车辆牌号等证据。

**第十九条** 交通行政主管部门受理乘客投诉后，应当及时调查处理，并在 30 天内将处理结果答复投诉人。

## 第四章 营业站管理

**第二十条** 出租汽车营业站和停车站，应当按照本市城市规划、道路交通和出租汽车管理等有关规定设置。

设置、关闭或者拆除出租汽车营业站和停车站，或者改变其用途的，该站的所有者应当按照规定程序提前 30 天向社会公示。

**第二十一条** 机场、火车站、宾馆、饭店、医院等客运业务较集中的公共场所，其主管部门可根据出租汽车发展规划设立出租汽车营业站，公示站区范围，选派调度员，对出租汽车的营运进行调度和管理。

**第二十二条** 设立出租汽车营业站的单位应当遵守下列规定：

- （一）建立管理责任制度，维护营运秩序，保障乘客用车，制止和纠正扰乱营业站管理秩序的行为；
- （二）所设的车站对所有出租汽车和乘客开放，做到公正调派车辆；

**Article 17** A passenger shall abide by the following provisions when taking a taxi:

(1) shall take a taxi in a civilized manner, shall not damage the facilities within the taxi and keep the taxi clean;

(2) shall pay the taxi fare according to the amount indicated on the taximeter or buy the ticket in accordance with the provisions and shall not negotiate with the driver on price;

(3) shall not make a proposal to the driver in violation of taxi administration, road traffic administration or public security administration;

(4) shall not commit illegal activities within the taxi.

**Article 18** A taxi passenger shall, with respect to the infringement upon his legitimate rights and interests by a taxi operator or its employee in the provision of transport services, have the right to report to the taxi operator or complain to the competent department for traffic administration.

The passengers report on the problem of service quality or complaint shall be made within 30 days of infringement upon his rights or interests. He shall, when making the complaint, provide the written materials and such evidence as the special charge voucher for taxies, the vehicle plate number, etc.

**Article 19** The competent department for traffic administration shall, after accepting a passenger's complaint, timely investigate and deal with it and reply to the complainant on the result within 30 days.

## **Chapter IV Administration Of Business Stations**

**Article 20** Taxi business stations and stops shall be established in accordance with the relevant provisions of this Municipality on city-planning, administration of road traffic and taxies, etc.

Where a taxi business station or stop is to be established, closed or dismantled, or its purpose is to be changed, the owner of this station or stop shall make a public notice to the society 30 days in advance in accordance with the stipulated procedures.

**Article 21** In such public places as airports, railway stations, hotels, restaurants, hospitals concentrated with passenger transport business, their competent departments may, according to the development plans of taxies, establish taxi stations, publicize the ranges of stations and designate dispatchers to dispatch taxies and manage the taxi transport services.

**Article 22** A unit establishing a taxi. station shall abide by the following provisions:

(1) shall set up a system of management responsibility, maintain the order of transport services, guarantee the use of vehicles by passengers, stop and correct the acts of disturbing the order of taxi station management;

(2) shall open the established taxi station to all taxies and passengers and dispatch vehicles justly;

(三) 对调度员进行法制教育、职业道德教育和业务培训;

(四) 发生重大或者紧急情况时,应当妥善处理并及时向交通行政主管部门及有关部门报告;

(五) 接受交通行政主管部门的监督和指导。

**第二十三条** 出租汽车营业站调度员应当遵守下列规定:

(一) 经市交通行政主管部门考核并取得调度员证件后持证上岗;

(二) 服饰整洁、文明礼貌、服务规范;

(三) 按序派车,做好派车记录;

(四) 维护营业站秩序,对出租汽车驾驶员扰乱营运秩序的行为进行制止和纠正;

(五) 对出本市或者夜间到远郊区、县营运的出租汽车进行登记;

(六) 发现违法犯罪活动或者违法犯罪嫌疑人,应当及时向公安机关报告;

(七) 不得为出租汽车驾驶员私揽业务或者利用职务牟取私利。

## 第五章 法律责任

**第二十四条** 违反本条例规定,未经批准擅自经营出租汽车业务的,由交通行政主管部门暂扣车辆,责令停止经营活动,没收违法所得,并按每辆车1万元至2万元处以罚款。

公安交通管理部门发现无照经营出租汽车业务的,可暂扣车辆,并在5日内移送工商行政管理机关处理。

**第二十五条** 违反本条例的规定,出租汽车经营者未经批准擅自增加或者减少出租汽车营运车辆的,由交通行政主管部门责令限期改正,没收违法所得,并按每增加或者减少一辆车处以2000元至5000元罚款。

**第二十六条** 出租汽车经营者和驾驶员、乘务员、调度员不符合本条例规定的资质条件的,由交通行政主管部门责令限期改正。逾期未改正的,吊销出租汽车经营者

(3) shall carry out legal education, professional ethics education and business training for dispatchers;

(4) shall, in the case of a major event or an emergency, deal with it appropriately and report it to the competent department for traffic administration and other relevant department in time;

(5) shall accept the supervision and guidance by the competent department for traffic administration.

**Article 23** A dispatcher in a taxi station shall abide by the following provisions:

(1) shall work at the post with a certificate after being examined by the municipal competent department for traffic administration and obtain a dispatcher's certificate;

(2) shall be neatly dressed, act in a civilized manner and politely and provide standardized services;

(3) shall dispatch the vehicles orderly and make good records of the dispatchment;

(4) shall maintain the order at the taxi station, stop and correct the taxi drivers' acts of disturbing the order of transport services;

(5) shall make a registration of the taxi which will go out of this Municipality or go to a distant suburban district or county at night for providing transport services;

(6) shall, once finding any illegal or criminal activity or any illegal or criminal suspect, report to the public security agency in time;

(7) shall not solicit business privately for the taxi. drivers or make use of his position to seek personal gains.

## Chapter V Legal Liability

**Article 24** Where anyone, in violation of the provisions of these Regulations, engages in the taxi business without authorization and approval, the competent department for traffic administration shall detain the vehicles temporarily, order him to stop the business activity, have the illegal earnings confiscated, and impose on him a fine of 10,000 Yuan up to 20,000 Yuan per vehicle.

Where the traffic administrative agency for public security finds anyone operating the taxi business without a license, it may temporarily detain the vehicle, and transfer the case within five days to the administrative agency for industry and commerce to deal with.

**Article 25** Where a taxi operator, in violation of the provisions of these Regulations, increases or reduces the vehicles for transport services without authorization and without approval, the competent department for traffic administration shall order it to make a correction within a prescribed time limit, have its illegal earnings confiscated, and impose on it a fine of 2,000 Yuan up to 5,000 Yuan per vehicle increased or reduced.

**Article 26** A Taxi operator, driver, steward or dispatcher who does not conform to the qualification conditions provided for in these Regulations shall be ordered by the competent department for traffic administration to make a correction within a prescribed time limit. In case of failure to make a correction upon the expiration of the prescribed time limit, the taxi operator's business permit, the driver's or steward's qualification certificate for transport

的经营许可证件和驾驶员、乘务员的营运资格证件、调度员的调度员证。

营运车辆不符合本条例规定的运营条件的，由交通行政主管部门责令经营者限期改正。逾期未改正的，吊销车辆营运证件。

**第二十七条** 出租汽车经营者违反本条例，有下列行为之一的，由交通行政主管部门给予警告，并可处以 200 元至 2000 元的罚款；情节严重的，处以 2000 元至 2 万元罚款，并可责令停业整顿 3 天至 7 天：

- （一）未按规定建立或者执行各项规章制度；
- （二）对乘客和用户提出的服务质量问题置之不理或者不及时处理；
- （三）使用无营运资格证件、被暂扣营运资格证件的驾驶员或者非本单位的驾驶员驾驶车辆营运；
- （四）不执行交通行政主管部门协调营运业务的措施；
- （五）法定代表人和管理人员不按照规定参加市交通行政主管部门组织的培训或者未经培训合格擅自上岗；
- （六）未按照规定报送各类营运报表的或者拒绝交通行政主管部门对营运资料、票证进行查阅。

**第二十八条** 旅游客运汽车经营者或者驾驶员、乘务员违反本条例的规定，有下列行为之一的，由交通行政主管部门对旅游客运汽车经营者处以 500 元至 5000 元的罚款，情节严重的，处以 5000 元至 2 万元的罚款，并可责令停业整顿 3 天至 7 天；对责任者个人处 200 元至 1000 元的罚款，在其营运资格证件上作违章记录，暂扣其营运资格证件 1 个月至 3 个月；情节严重的，吊销其营运资格证件：

- （一）未按照规定的时间、地点售票、发车、营运；
- （二）强行为乘客代买旅游景点门票或者参观券；
- （三）擅自将旅游客运业务转让其他单位或者个人经营；
- （四）违反乘客意愿将乘客载至旅游景点、旅馆、饭店、商店等处参观、住宿、用餐、购物；

services, or the dispatcher's dispatcher Certificate shall be revoked.

Where any vehicle for transport services does not meet the operational conditions provided for in these Regulations, the operator shall be ordered by the competent department for traffic administration to make a correction within a prescribed time limit. In case of failure to make a correction upon the expiration of the prescribed time limit, the operation permits for vehicles shall be revoked.

**Article 27** A taxi operator who, in violation of these Regulations, commits any one of the following acts, shall be given upon a warning by the competent department for traffic administration, and may also be imposed upon a fine of 200 Yuan up to 2,000 Yuan; where the circumstances are serious, it shall be imposed upon a fine of 2,000 Yuan up to 20,000 Yuan, and may also be ordered to stop its business for rectification for three to seven days:

(1) failing to set up or execute various rules and systems in accordance with the provisions;

(2) putting aside the problem of service quality proposed by passengers and users or not dealing with the problem in time;

(3) employing a driver with no qualification certificate for transport services or whose qualification certificate for transport services is temporarily detained or who is not employed by itself to drive a taxi for transport services;

(4) not executing the measures to coordinate the transport business by the competent department for traffic administration;

(5) the legal representative or the managers not attending the training organized by the municipal competent department for traffic administration in accordance with the provisions, or working at their posts without being trained qualified without authorization;

(6) not in accordance with the provisions, submitting all kinds of transport statements or refuse the competent department for traffic administration to check the transport materials and vouchers.

**Article 28** Where an operator of vehicles for touring passengers or a driver or a steward, in violation of these Regulations, commits any one of the following acts, the competent department for traffic administration shall impose a fine of 500 Yuan up to 5,000 Yuan on the operator of vehicles for touring passengers; where the circumstances are serious, it shall be imposed upon a fine of 5,000 Yuan up to 20,000 Yuan, and may also be ordered to stop its business for rectification for three to seven days; the responsible individual shall be imposed upon a fine of 200 Yuan up to 1,000 Yuan, and his qualification certificate for transport services shall be put down a record of violation of rules and temporarily detained for one to three months; where the circumstances are serious, his qualification certificate for transport services shall be revoked:

(1) not selling the tickets, starting the vehicle or providing transport services according to the publicized time and places;

(2) coercively buying tickets or vouchers of tourism sight spots on behalf of passengers;

(3) transferring the transport business of touring passengers to other units or individuals to provide transport services without authorization;

(4) denying passengers' desires by carrying them to the tourism sight spots, hotels,

（五）索取、收受回扣。

**第二十九条** 出租汽车驾驶员违反本条例第十六条第（一）、（三）、（五）、（六）、（七）、（九）、（十）、（十二）、（十三）、（十五）、（十七）、（二十）项规定的，由交通行政主管部门给予警告、并可处以 100 元至 1000 元的罚款；情节严重的，处以 1000 元至 2000 元的罚款，在营运资格证件上作违章记录，并可暂扣营运资格证件 1 个月至 3 个月。

**第三十条** 出租汽车驾驶员违反本条例第十七条的规定，拒绝载客或者中途终止客运服务的，由交通行政主管部门处以 1000 元至 2000 元的罚款，在营运资格证件上作违章记录，并可暂扣营运资格证件 1 个月至 3 个月；情节严重的，吊销营运资格证件。

**第三十一条** 出租汽车驾驶员违反本条例的规定，私自拆除、改装计价器或者在计价器上弄虚作假的，由交通行政主管部门吊销其营运资格证件。

出租汽车驾驶员违反本条例的规定，在营运中发生严重服务质量事故或者利用出租汽车为违法犯罪活动提供方便的，由交通行政主管部门吊销其营运资格证件。

**第三十二条** 设立出租汽车营业站的单位违反本条例第二十三条第（一）、（二）、（四）项规定的，由交通行政主管部门给予警告，并可处以 200 元至 2000 元的罚款；情节严重的，处以 2000 元至 2 万元的罚款。

出租汽车营业站调度员违反本条例第二十四条第（一）、（二）、（三）、（四）、（七）项规定的，由交通行政主管部门给予警告，并可处以 100 元至 1000 元的罚款，暂扣调度员证 1 个月至 3 个月；情节严重的，吊销其调度员证。

**第三十三条** 出租汽车经营者治安保卫责任制不落实，多次发生治安案件，由公安机关依照有关规定处以罚款；情节严重的，责令其停业整顿 3 天至 7 天。

出租汽车驾驶员或者调度员擅自拆除安全防护装置的，出本市或者夜间去远郊区、县营运不按规定登记的，由公安机关处以 200 元以下罚款；情节严重的，由交通行政主管部门吊销其营运资格证件或者调度员证。

restaurants, stores and other places for visit, accommodation, dining or shopping;

(5) extorting or taking rebates.

**Article 29** A taxi driver violating the provisions of Item (1), (3), (5), (6), (7), (9), (10), (12), (13), (15), (17) or (20) of Article 16 of these Regulations shall be given a warning by the competent department for traffic administration, and may also be imposed upon a fine of 100 Yuan up to 1,000 Yuan; where the circumstances are serious, he shall be imposed upon a fine of 1,000 Yuan up to 2,000 Yuan; his qualification certificate for transport services shall be put down a record of violation of rules and may also be temporarily detained for one to three months.

**Article 30** Where a taxi driver, in violation of the provisions of Article 17 of these Regulations, refuses to carry a passenger or terminate transport services midway, he shall be imposed upon a fine of 1,000 Yuan up to 2,000 Yuan by the competent department for traffic administration, his qualification certificate for transport services shall be put down a record of violation of rules and may also be temporarily detained for one to three months; where the circumstances are serious, his qualification certificate for transport services shall be revoked.

**Article 31** Where a taxi driver, in violation of the provisions of these Regulations, privately dismantles or refits the taximeter or practices frauds on the taximeter, his qualification certificate for transport services shall be revoked by the competent department for traffic administration.

Where a taxi driver, in violation of the provisions of these Regulations, causes a serious accident involving the problem of service quality or makes use of the taxi to facilitate illegal or criminal activities, his qualification certificate for transport services shall be revoked by the competent department for traffic administration.

**Article 32** Where a unit establishing a taxi business station violates the provisions of Item (1), (2) or (4) of Article 23 of these Regulations, it shall be given a warning by the competent department for traffic administration and may also be imposed upon a fine of 200 Yuan up to 2,000 Yuan; where the circumstances are serious, it shall be imposed upon a fine of 2,000 Yuan up to 20,000 Yuan.

Where a dispatcher of a taxi station violates the provisions of Item (1), (2), (3), (4) or (7) of Article 24 of these Regulations, he shall be given a warning by the competent department for traffic administration, and may also be imposed upon a fine of 100 Yuan up to 1,000 Yuan, and his dispatching certificate shall be temporarily detained for one to three months; where the circumstances are serious, his dispatching certificate shall be revoked.

**Article 33** Where a taxi operator does not implement the system of responsibility for public order and security resulting in several cases on public order and security, it shall be imposed upon a fine by the public security agency in accordance with the relevant provisions; where the circumstances are serious, it shall be ordered to stop its business for rectification for three to seven days.

Where a taxi driver or a dispatcher dismantles the safety protection devices without authorization or does not make a registration in accordance with the provisions when going out of this Municipality or going to a distant suburban district or county at night for providing transport services, he shall be imposed upon a fine of less than 200 Yuan by the



**第三十四条** 出租汽车驾驶员一年内违章记录达到两次或者被暂扣营运资格证件的时间在 6 个月以下的，由市交通行政主管部门对其进行培训，经考试合格方可重新上岗。

出租汽车驾驶员一年内违章记录达到三次或者被暂扣营运资格证件的时间累计达到 6 个月以上的，以及在被暂扣营运资格证件期间继续营运载客的，由市交通行政主管部门吊销其营运资格证件。

**第三十五条** 出租汽车经营者因管理不善，本单位出租汽车驾驶员、乘务员、调度员违法行为严重、服务质量低劣，由交通行政主管部门对出租汽车经营者处以 3000 元至 3 万元罚款，并可责令停业整顿 5 天至 15 天。

**第三十六条** 违反本条例，属于违反工商行政、税务、物价、劳动、公安、公安交通、技术监督和旅游等管理方面的法律、法规和规章的，由有关主管部门依法处理。

**第三十七条** 交通行政主管部门的工作人员滥用职权、玩忽职守、循私舞弊的，由其所在单位或者上级主管部门给予行政处分；构成犯罪的，依法追究其刑事责任。

## 第六章 附 则

**第三十八条** 本条例自 1998 年 1 月 1 日起施行。1991 年 4 月 6 日市人民政府发布的《北京市人民政府关于取缔无照经营出租汽车的暂行规定》、1993 年 8 月 14 日市人民政府发布的《北京市旅游客运汽车运营管理办法》和 1995 年 7 月 5 日市人民政府发布的《北京市出租汽车管理办法》同时废止。

public security agency; where the circumstances are serious, his qualification certificate for transport services or his dispatching certificate shall be revoked by the competent department for traffic administration.

**Article 34** Where a taxi driver's records of violation of rules within one year add up to twice or the time period for temporary detainment of his qualification certificate for transport services is less than six months, the municipal competent department for traffic administration shall train him and he may not work again at his post unless passing the examination.

Where a taxi driver's records of violation of rules within one year add up to three times or the time period for temporary detainment of his qualification certificate for transport services accumulatively exceed six months, or where he continues providing transport services by carrying passengers during the period when his qualification certificate for transport services is temporarily detained, his qualification certificate for transport services shall be revoked by the municipal competent department for traffic administration.

**Article 35** Where, due to the poor management of a taxi operator, its taxi drivers, stewards and dispatchers commit serious illegal acts or provide services of low quality, the taxi operator shall be imposed upon a fine of 3,000 Yuan up to 30,000 Yuan by the competent department for traffic administration and may also be ordered to stop its business for rectification for five to 15 days.

**Article 36** Where violations of these Regulations are those in violation of laws, regulations or rules in respect of the industrial and commercial administration, taxation, pricing, labor, public security, traffic administration for public security, technical supervision, tourism, etc., they shall be dealt with by the relevant competent departments according to law.

**Article 37** Any functionary in the competent department for traffic administration who abuses his powers, neglects his duties or engages in illegalities for private gains or by fraudulent means shall be given an administrative sanction by the unit he works for or the superior competent department; where a crime is constituted, the criminal liability shall be investigated according to law.

## **Chapter VI Supplementary Provisions**

**Article 38** These Regulations shall take effect as of January 1, 1998. The Interim Provisions of the People's Government of Beijing Municipality on Banning Taxies Operated without Licenses promulgated by the municipal people's government on April 6, 1991, the Measures of Beijing Municipality on Administration of Transport Services by Vehicles for Touring Passengers promulgated by the municipal people's government on August 14, 1993 and the Measures of Beijing Municipality on Administration of Taxies promulgated by the municipal people's Government on July 5, 1995 shall be repealed simultaneously.

# 北京市实施《中华人民共和国道路交通安全法》办法

(2004年10月22日北京市第十二届人民代表大会常务委员会第十五次会议通过 根据2010年12月23日北京市第十三届人民代表大会常务委员会第二十二次会议通过的《关于修改部分地方性法规的决定》修正 根据2018年9月28日北京市第十五届人民代表大会常务委员会第七次会议通过的《北京市人民代表大会常务委员会关于修改〈北京市实施中华人民共和国道路交通安全法办法〉的决定》修正)

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### 第八章 附 则

# Measures of Beijing Municipality for Implementing the Law of the People's Republic of China on Road Traffic Safety

(Adopted at the 15<sup>th</sup> meeting of the Standing Committee of the 12<sup>th</sup> Beijing Municipal People's Congress on October 22, 2004, amended in accordance with The Decision on Amending Some Local Regulations adopted at the 22<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup> Beijing Municipal People's Congress on December 23, 2010. It is amended according to the Decision of the Standing Committee of the Beijing Municipal People's Congress on Amending the Measures of Beijing Municipality for the Implementation of the Road Traffic Safety Law of the People's Republic of China adopted at the 7<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup> Beijing Municipal People's Congress on September 28, 2018)

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## 第一章 总 则

**第一条** 为了实施《中华人民共和国道路交通安全法》和《中华人民共和国道路交通安全法实施条例》，结合本市实际情况，制定本办法。

**第二条** 在本市行政区域内道路上通行的车辆驾驶人、行人、乘车人以及与道路交通活动有关的单位和个人，应当遵守《中华人民共和国道路交通安全法》、《中华人民共和国道路交通安全法实施条例》和本办法。

**第三条** 本市道路交通安全工作，应当遵循依法管理、方便群众的原则，保障道路交通的有序、安全、畅通。

**第四条** 本市道路交通安全管理工作应当与经济建设和社会发展、城市布局 and 交通需求相适应。城市规划应当与道路交通安全相协调，合理配置道路资源，完善交通基础设施，发展公共交通，提高道路交通安全管理的现代化水平。

**第五条** 市和区人民政府领导道路交通安全管理工作，组织有关部门确定管理目标，增加对道路交通安全基础设施和科技管理手段的投入；建立、健全道路交通安全管理工作的协调机制、重大建设项目的交通影响评价制度和道路交通安全防范责任制度；制定道路交通安全设施、交通文明建设、科学研究与应用等道路交通安全管理规划和实施方案，并组织实施。

**第六条** 本市公安机关交通管理部门负责本市行政区域内道路交通安全管理工作。

市和区人民政府的交通、规划、建设、市政、环保、农业、发展改革、城管监察等部门依据各自职责，负责有关的道路交通工作，落实道路交通安全责任。

**第七条** 公安机关交通管理部门及其交通警察应当依法履行职责，严格、公正、文明执法。

公安机关交通管理部门及其交通警察应当模范遵守道路交通安全法律、法规。

**第八条** 市和区人民政府及其有关部门，应当开展道路交通安全宣传教育，提高

## Chapter I General Provisions

**Article 1** These Measures are formulated to implement the Law of the People's Republic of China on Road Traffic Safety and the Regulations on the Implementation of the Law of the People's Republic of China and in accordance with the actual conditions of this Municipality.

**Article 2** Vehicle drivers, pedestrians, passengers within the administrative area of this Municipality and units and individuals with relation to road traffic activities shall abide by the Law of the People's Republic of China on Road Traffic Safety and the Regulations on the Implementation of the Law of the People's Republic of China and these Measures.

**Article 3** Road traffic safety of this Municipality shall stick to the principle of administration by law and making convenience for people and ensure the road traffic system operate orderly, safely and smoothly.

**Article 4** The administration of road traffic safety of this Municipality shall be adaptable to economic construction, social development, the city layout and the development of road traffic. The city planning shall be comparable with the road traffic safety; road resources shall be allocated rationally; traffic infrastructure facilities shall be optimized; public transport system shall be developed and the modernization level of the administration of road traffic safety shall be improved.

**Article 5** People's governments at the municipality and district levels shall lead the management of road traffic safety and organize relevant departments to set up goals for management and increase the input in the infrastructure facilities of road traffic safety and technological means of management; establish and improve the coordination mechanism for road traffic safety management, the assessment system of major construction projects' impact on traffic and the prevention responsibility system of road traffic safety; work out and put into practice the planning and implementation projects for road traffic safety management such as road traffic safety facilities, traffic civilization construction and scientific research and application.

**Article 6** The traffic administrative department of public security organ of this Municipality shall be responsible for the management of road traffic safety within the administrative area of this Municipality.

Departments for communication, planning, construction, city administration, environment protection, agriculture, development and reform and city management supervision at the Municipal and district levels shall take charge of the road traffic in accordance with their respective responsibilities and fulfill their responsibilities concerning road traffic.

**Article 7** The traffic administrative department of public security organ and its traffic policemen shall perform their duties in accordance with law and conduct law enforcement in a strict, just and civilized manner.

The traffic administrative department of public security organ and its traffic policemen shall set up a good example of abiding by the law and regulations concerning road traffic safety.

**Article 8** The people's governments at the municipal and district level and relevant

公民的道路交通安全意识和交通文明素质。

机关、部队、企业、事业单位、社会团体以及其他组织，应当做好所属人员的交通安全教育工作和所属车辆的管理工作，落实道路交通安全防范责任制度。

学校应当将道路交通安全教育纳入法制教育的内容，中、小学校应当将学生遵守道路交通安全法律、法规的情况纳入综合评定。

新闻、出版、广播、电视等有关单位，应当加强对社会公众的道路交通安全宣传教育。

**第九条** 本市鼓励单位和个人在公安机关交通管理部门的统一组织下，提供志愿服务，协助维护道路交通秩序。

对在道路交通安全工作中有突出贡献的公民、法人和其他组织，本市各级人民政府应当予以表彰、奖励。

## 第二章 车辆和驾驶人

### 第一节 机动车

**第十条** 申请机动车登记的，申请人应当提供真实、合法、有效的证明、凭证。机动车登记内容发生变化的，应当按照规定办理相应手续。

**第十一条** 公安机关交通管理部门应当自受理机动车登记申请之日起5个工作日内完成审查工作，对符合规定条件的，应当发放机动车登记证书、号牌和行驶证；对不符合规定条件的，应当向申请人说明不予登记的理由。

摩托车和道路专项作业车辆登记，应当符合本市的交通发展规划，在限定的区域内实行总量控制。

**第十二条** 在本市办理机动车注册登记期间，机动车需要临时在道路上行驶的，应当取得临时通行牌证。

**第十三条** 机动车安全技术检验，除符合国家机动车安全技术标准外，还应当符合国家和本市环境保护标准；不符合标准的，不予办理相应登记或者不予核发检验合

departments shall conduct education on road traffic safety, with a view to improving people's awareness of road safety.

Government organizations, military units, enterprises, institutions, social communities and other organizations shall conduct education on road traffic safety for their respective personnel and manage their own vehicles and fulfill the traffic safety responsibility system of road traffic safety.

Education on road safety shall be included in legal education subjects in schools. Elementary and high schools shall incorporate into the comprehensive evaluation of students their performance in abiding by the law and regulations concerning road traffic safety.

Press, publication, broadcasting, TV stations and other related units related to strengthen education on road traffic safety.

**Article 9** Units and individuals are encouraged to provide voluntary service to help with the maintaining of road traffic order under the unified organization of the traffic administrative departments of public security organ.

Citizens, legal persons and other organizations that make outstanding contribution to ensuring road traffic safety shall be praised and given awards by the people's governments at all levels of this Municipality.

## **Chapter II Vehicles and Driver**

### **Section 1 Motor Vehicles**

**Article 10** Applicants for motor vehicle registration shall provide true, legitimate and valid certificates and supporting documents. If the contents of the registration have changed, corresponding formalities shall be completed in accordance with provisions.

**Article 11** The traffic administrative departments of public security organ shall finish examination and registration of motor vehicles within 5 days upon receipt of applications. If motor vehicles meet the conditions prescribed, registration certificates, motor vehicle plates, driving permits shall be issued. And explanation shall be given to those that are not qualified for the registration.

The registration of motors and vehicles or special operation on road shall be compatible with the traffic development planning and the total quantity of the registration shall be controlled within a specific region.

**Article 12** During the process of registration, motor vehicles shall get the certificate for movement before it be driven on road temporarily within the area and the time limit prescribed by the movement certificate.

**Article 13** The motor vehicles shall be tested by safety technology and shall be qualified for the national safety technical standards on motor vehicle and the State and Municipal environment protection standards. Those that are not qualified shall not be registered or given test qualification certificate.



格标志。

公安机关交通管理部门应当依法对机动车安全技术检验机构进行监督管理。

**第十四条** 应当报废的机动车，其所有人必须及时办理注销登记手续。

应当报废的机动车，其所有人在办理新购机动车注册登记前，必须先行办理报废机动车的注销登记手续。

**第十五条** 上道路行驶的机动车，应当符合下列规定：

- （一）在机动车前后的规定位置，各安装一面号牌，不得倒置或者反向安装；
- （二）在前窗右上角粘贴机动车检验合格标志、保险标志、环境保护合格标志；
- （三）货运机动车及挂车车厢后部喷涂放大的本车牌号；
- （四）大、中型客运机动车驾驶室两侧喷涂准乘人数，从事营运的，应当喷涂经营单位名称和营运编号；
- （五）总质量在 3.5 吨以上的货运汽车、挂车，按照规定安装侧、后防护装置；
- （六）配备有效的灭火器具、反光的故障车警告标志；
- （七）车身两侧的车窗和前后窗，不得粘贴、喷涂妨碍驾驶视线的文字、图案，不得使用镜面反光遮阳膜；
- （八）道路施工养护、环卫清扫、设施维修及绿化等专业作业车辆，符合国家和本市的道路作业车辆安全标准；
- （九）用于公路营运的载客汽车、重型载货汽车、半挂牵引车应当安装、使用符合国家标准的行驶记录仪。

**第十六条** 机动车所有人、管理人和驾驶人应当按照机动车国家安全技术标准和本市有关规定，对车辆进行维修和保养，保持车况良好、车容整洁、排放合格。

**第十七条** 机动车定期安全技术检验后，公安机关交通管理部门对符合国家机动车安全技术标准的车辆，应当发给检验合格标志。

在机动车安全技术检验前，有未接受处理的道路交通违法行为记录的当事人，应当在规定的时

**第十八条** 本市禁止生产、销售和使用未经国家机动车产品主管部门许可生产的摩托车（含轻便摩托车）、动力装置驱动的三轮车、四轮车。

The traffic administrative department of public security organ shall supervise and manage the motor vehicle safety technology inspection institutions.

**Article 14** The owners of rejected and disposed motor vehicles shall promptly go through the formalities of cancellation registration.

The owners of rejected and disposed motor vehicles must go through the formalities of cancellation registration before new motor vehicles are registered.

**Article 15** Motor vehicles driven on roads shall comply with the following provisions:

(1) Two plates shall be hung separately on the front and the back of the motor vehicles, and shall not be hung upside-down or reversely;

(2) Motor vehicle inspection qualification sign, insurance sign, environment protection qualification mark shall be stuck on the right corner of the front window;

(3) An enlarged plate number shall be printed on the back of cargo motor vehicles and the back of the carriage of trailers;

(4) The permitted passenger capacity shall be printed on the sides of driver's cab of large and medium-sized passenger motor vehicles and the name of the operation unit and the operation number shall be printed on the motor vehicles that are for profit-making operation;

(5) Cargo vehicles and trailers with the total weight over 3.5 tons shall be installed with side and back protection equipment in accordance with provisions;

(6) Effective fire extinguisher and reflector malfunctioning warning mark shall be installed;

(7) No characters or pictures hindering the eyesight of the driver shall be stuck or printed on the side windows and the front window of the vehicles and no mirror face sun-blocking film shall be applied;

(8) The special operation vehicles for road maintenance, sanitation, facility maintenance and greening shall comply with the State and Municipal road operation vehicle safety standards;

(9) Driving recorder complying with state standards shall be installed and applied on passenger vehicles for road operation, heavy cargo vehicle and half-hung trailers.

**Article 16** The owner, manager and driver of motor vehicle shall repair and maintain the vehicle in accordance with the national safety technical standards for motor vehicle and relevant Municipal provisions in order to keep the vehicle in good shape, keep the vehicle clean and keep the emission up to standards.

**Article 17** The traffic administrative department shall issue inspection qualification sign to motor vehicles complying with the national safety technical standards for motor vehicle after regular safety technology inspection.

The person who has road traffic law violation record and has not been punished shall be punished within the prescribed time limit and at the designated place before the motor vehicle safety technology inspection is carried out.

**Article 18** This Municipality shall prohibit the production, selling and use of motorcycles (including mopeds), and tricycles and quadricycles driven by power devices

## 第二节 非机动车

**第十九条** 电动自行车、人力三轮车、残疾人机动轮椅车和其他应当登记的非机动车，经公安机关交通管理部门登记并领取牌证后，方可上道路行驶。

**第二十条** 申请非机动车登记的，提交车辆所有人身份证明和车辆来历证明。申请残疾人机动轮椅车登记的，还应当提交公安机关交通管理部门指定的医疗机构出具的下肢残疾证明。

申请电动自行车、人力三轮车登记，应当符合市人民政府的有关规定。

**第二十一条** 残疾人机动轮椅车只可过户给符合条件条件的残疾人。

**第二十二条** 非机动车牌证丢失，车辆所有人应当携带本人身份证明和车辆，到公安机关交通管理部门补领。

## 第三节 机动车驾驶人

**第二十三条** 申请机动车驾驶证的，申请人应当提供真实、合法、有效的证明、凭证。机动车驾驶证记载的机动车驾驶人信息发生变化的，应当及时办理换证手续。

**第二十四条** 场地与道路驾驶培训、考试，应当在符合规定条件的机动车考试场进行。

## 第三章 道路通行条件

**第二十五条** 大型公共建筑、民用建筑以及其他重大建设项目在立项时，应当由市交通主管部门组织有关部门进行道路交通影响评价。经论证，对交通环境将造成重大不利影响的项目，立项主管部门不予立项。

**第二十六条** 新建、改建、扩建道路时，交通信号灯、交通标志、标线及其他交通安全设施，应当与道路同时设计、同时验收。

道路交通标志、标线的设置，应当符合道路交通安全、畅通的要求和国家标准，

which are not licensed for production by the national competent departments for motor vehicle products.

## **Section 2 Non-motor Vehicles**

**Article 19** Non-motor vehicles such as electric bicycle, man-power tricycle, and power-driven wheelchairs for disabled persons that are required for registration can only be used on roads after the registration at traffic administrative departments of public security organ and the acquirement of plate.

**Article 20** Applicant for non-motor vehicle registration shall provide the identity document and the origin certificate of the vehicle. Applicant for motor wheel chair for the handicapped shall also provide the certificate for lower limbs handicap issued by the medical institutions designated by the traffic administrative department of the public security organ.

Application for electric bicycle and man-power tricycle registration shall comply with the provisions of the people's government of this Municipality.

**Article 21** Power-driven wheelchairs for disabled persons can only be transferred to disabled persons meeting the prescribed conditions.

**Article 22** In case of a loss of the non-motor plate, the owner of the non-motor vehicle shall go to the traffic administrative department of public security organ to get another one.

## **Section 3 Motor Vehicle Drivers**

**Article 23** The applicant for motor vehicle driving license shall provide true, legitimate and valid certificates and supporting documents. If there are changes to the information contained in the motor vehicle driving license about the motor vehicle driver, the license shall be changed promptly.

**Article 24** Place and road driving training and examination shall be conducted at the motor vehicle examination places conforming to prescribed conditions.

## **Chapter III Road Traffic Conditions**

**Article 25** When large-scale public construction, civil construction and other major construction projects are being considered for approval, their impact on road traffic shall be assessed first by relevant departments organized by the traffic administrative department of public security organ. Those projects that are proved to produce significant adverse impact on traffic environment shall not be approved by the administrative department of approval.

**Article 26** Traffic lights, traffic signs, traffic marks and other traffic safety facilities shall be designed, checked and accepted concurrently with the road when the road is built, rebuilt or expanded.

Installation of traffic signs and traffic marks shall conform to the requirements for

并保持清晰、醒目、准确、完好。

**第二十七条** 道路、交通设施的管理部门应当根据通行需要，及时增设、调换、更新道路交通信号。增设、调换、更新限制性的道路交通信号，应当提前向社会公告，广泛宣传。

**第二十八条** 公共停车场的建设，应当根据道路状况，本着安全、畅通的原则，合理规划并实施。公共停车场建设工程的设计，应当符合国家和本市的设计标准和规范。已经建成或者投入使用的公共停车场，不得擅自停止使用或者改作他用。

**第二十九条** 根据本市道路停车泊位设置规划或者在不影响道路交通安全、畅通的情况下，公安机关交通管理部门可以在道路范围内确定道路停车泊位，并设置道路交通标志、标线。其他单位和个人不得设置、占用、撤销道路停车泊位。

**第三十条** 开辟和调整公共汽车、电车和长途汽车、旅游汽车路线或者车站，应当符合交通规划和安全、畅通、方便出行的要求。交通等主管部门在批准前，应当征得公安机关交通管理部门同意。

在道路上堆物、施工作业以及开辟通道，设置台阶、门坡、广告等影响道路交通安全、畅通的占用道路行为，应当征得公安机关交通管理部门的同意。

**第三十一条** 经批准占用道路施工作业的，施工单位应当提前向社会公示，并遵守下列规定：

- （一）在批准的路段和时间内进行；
- （二）在作业区周围设置围挡，夜间在围挡设施上设置并开启照明设备，设置交通标志、交通设施及施划交通标线的作业除外；
- （三）在距来车方向不少于 50 米的地点设置施工标志或者注意危险警告标志，夜间在距来车方向不少于 100 米的地点设置反光的施工标志或者注意危险警告标志；
- （四）施工作业人员按照规定穿戴反光服饰，横穿车行道时，直行通过，注意避让来往车辆；
- （五）施工作业完毕，应当修复损毁路面，并清除现场遗留物。

**第三十二条** 在道路上进行维修、养护等作业的机动车及作业人员，应当遵守下列规定：

- （一）作业时间避开交通流量高峰期；

safe and smooth road traffic and the State standards, ensuring for clearness, obviousness, preciseness and flawlessness.

**Article 27** Traffic signals shall be added, replaced and updated based on traffic needs. Any additions, replacements and updating of restrictive road traffic signals shall be announced to the public in advance.

**Article 28** The construction of public parking lots shall be planned and carried out rationally on the basis of the actual road conditions and in conformity with the principle of safety and smoothness. The design construction projects of public parking lots shall conform to the State and Municipal design standards and provisions. The public parking lots that have been established or put into use shall not be suspended or changed for other uses without authorization.

**Article 29** The traffic administrative department of the public security organ has the right to designate road parking berths within the road area and install road traffic signs and marks in accordance with the Municipal road parking berth design planning and under the condition of not interrupting safe and smooth road traffic. No other units or individuals shall design, occupy or retract the road parking berths.

**Article 30** Opening or altering the routes or stations of the public bus, electric bus, long-distance bus and tour bus shall conform to the traffic planning and the requirements of safe, smooth and convenient traffic.

Activities of occupying the road and interrupting safe and smooth traffic like heaping on road, conducting construction works on road, building passages, building stairs, door slopes and setting up advertisement shall be subject to the approval of the traffic administrative department of public security organ.

**Article 31** Constructing units approved to occupy the road for construction shall make announcement to the public in advance and abide by the following provisions:

(1) conducting construction operation on the approved road sections within the said time;

(2) setting up fences along road construction sections, installing and turning on lighting equipment on fences at night, except for the construction work of installing traffic signs, traffic facilities and traffic marks;

(3) setting up construction signs or safety warning signs not less than 50 meters from the direction in which vehicles are coming, setting up reflecting construction signs or safety warning signs not less than 100 meters from the direction in which vehicles are coming during night time;

(4) builders wearing reflecting garments in accordance with provisions and dodging and making way for vehicles when crossing the driveway straightly;

(5) repairing the roads and cleaning up obstacles on the roads after the completion of road construction works.

**Article 32** The motor vehicles and builders working on the reparation and maintenance of the road shall abide by the following provisions:

(1) working avoiding the traffic rushing hours;

(二) 车辆开启黄色标志灯和危险报警闪光灯，按顺行方向行进；

(三) 在车行道停车作业时，在作业现场划出作业区，并设置围挡；白天在作业区来车方向不少于 50 米、夜间在不少于 100 米的地点设置反光的施工标志或者注意危险警告标志；

(四) 作业人员按照规定穿戴反光服饰，横穿车行道时，直行通过，注意避让来往车辆。

**第三十三条** 作业车辆应当按照下列规定使用箭头指示标志灯：

(一) 占用左侧车道作业时，开启右箭头指示标志灯，指引后方车辆向右变更车道；

(二) 占用右侧车道作业时，开启左箭头指示标志灯，指引后方车辆向左变更车道；

(三) 占用中间车道作业时，开启左右双箭头指示标志灯，指引后方车辆向左右两侧变更车道。

## 第四章 道路通行规定

### 第一节 一般规定

**第三十四条** 车辆、行人应当各行其道，并遵守下列规定：

(一) 在同方向划有二条以上机动车道的道路上，货运汽车、摩托车、拖拉机、低速载货汽车、三轮汽车、轮式自行机械，在慢速车道行驶；大客车不得在快速车道行驶，但超越前方车辆时除外；

(二) 在设有主路、辅路的道路上，拖拉机、低速载货汽车、三轮汽车、轮式自行机械和摩托车，只准在辅路行驶；

(三) 实习期内的驾驶人驾驶机动车，不得在快速车道行驶；

(四) 行人遇人行道有障碍无法正常通行而借用车行道通行时，车辆应当避让借道通行的行人。

**第三十五条** 车辆变更车道不得影响其他车辆、行人的正常通行，并应当遵守下列规定：

(一) 让所借车道内行驶的车辆或者行人先行；

(2) vehicle driving along the right direction with the yellow light and safety warning flash turning on;

(3) working within the designated working area with fences installed when stopping and working on the driveway; setting up construction signs or safety warning signs not less than 50 meters from the direction in which vehicles are coming during daytime, setting up reflecting construction signs or safety warning signs not less than 100 meters from the direction in which vehicles are coming during night time;

(4) builders wearing reflecting garments in accordance with provisions and dodging and making way for vehicles when crossing the driveway straightly.

**Article 33** The working motor vehicles shall use arrow mark lights in accordance with the following provisions:

(1) When the working motor vehicle occupies the left lane of the driveway, the right arrow mark lights shall be turned on, indicating the vehicles behind to transfer to the right lane of the driveway;

(2) When the working motor vehicle occupies the right lane of the driveway, the left arrow mark lights shall be turned on, indicating the vehicles behind to transfer to the lane of the driveway;

(3) When the working motor vehicle occupies the central lane of the driveway, both the left and the right arrow mark lights shall be turned on, indicating the vehicles behind to transfer to the lane or the right lane of the driveway.

## **Chapter IV Provisions On Road Traffic**

### **Section 1 General Provisions**

**Article 34** Vehicles and pedestrians shall pass through the roads by their respective lanes and abide by the following provisions:

(1) If there are more than two motor vehicle lanes of the same direction on the road, cargo vehicles, motors, tractors, low-speed cargo vehicles, tricycle vehicles and wheel-type self-motivation machines shall pass through the road by the low-speed lane; Large passenger bus shall not pass through the road by the high-speed lane except for the situation of overtaking the vehicles in front;

(2) If there are main lane and supplementary lane on the road, tractors, low-speed cargo vehicles, tricycle vehicles, wheel-type self-motivation machines and motors can only pass through the road by the supplementary lane;

(3) The motor vehicle driver during practicing period shall not take the high-speed lane;

(4) When the pedestrians can not pass through the road by the blocked pavement, they can take the driveway instead and the vehicles shall make way for them.

**Article 35** Vehicles' transfer of lanes shall not interrupt the normal passage of other vehicles and pedestrians and be in accordance with the following provisions:

(1) making way for the vehicles and pedestrians on the borrowed lane;



(二) 按顺序依次行驶，不得频繁变更机动车道；

(三) 不得一次连续变更二条以上机动车道；

(四) 左右两侧车道的车辆向同一车道变更时，左侧车道的车辆让右侧车道的车辆先行。

**第三十六条** 在道路划设的公交专用车道内，在规定的时间内只准公共汽车、电车通行，其他车辆不得进入该车道行驶；遇交通管制等特殊情况时，按照交通警察指挥或者交通标志指示，可以借用公交专用车道行驶。

在划设公交专用车道的道路上，在规定的时间内，公共汽车、电车应当在公交专用车道内顺序行驶。在未划设公交专用车道的道路上，公共汽车、电车不得在快速车道内行驶。超越前方车辆时，只准借用相邻的一条机动车道，超越前方车辆后应当立即驶回原车道。

**第三十七条** 出租汽车上下站、出租汽车停靠站为出租汽车专用停车地点，其他车辆不得占用。

在设置出租汽车上下站的地点，出租汽车可以临时停车上下乘客，上下乘客后应当立即驶离。

在设置出租汽车停靠站的地点，出租汽车可以临时停车上下乘客或者顺序排队等候。

**第三十八条** 遇有重大国事、外事活动，公安机关交通管理部门可以采取临时交通管制措施。

举办大型群众性活动，需要公安机关交通管理部门采取交通管制措施的，公安机关交通管理部门应当在采取管制措施 3 日前向社会公告。

## 第二节 机动车通行规定

**第三十九条** 机动车上道路行驶不得超过限速标志、标线标明的速度；同方向划有二条以上机动车道的道路，没有限速标志、标线的，城市道路最高时速为 70 公里，封闭的机动车专用道路和公路最高时速为 80 公里。

附载作业人员的货运汽车、全挂拖斗车、运载危险化学品的货运汽车、二轮摩托车、

(2) passing through the road in order and prohibited from transferring between motor vehicle lanes frequently;

(3) prohibited from transferring to more than two motor vehicle lanes successively at one time;

(4) motor vehicle on the right lane transferring the lane before the motor vehicle on the left lane when both are going to transfer lanes.

**Article 36** Within the prescribed period of time, no other vehicles except public buses and electric buses shall enter the lane designated for public buses; in case of special situations like traffic controlling, other vehicles can pass through the lane for public buses following the instructions of traffic policemen or traffic signs.

Within the prescribed period of time, public buses and electric buses shall pass through the road by the special lane designated for public buses. Public buses and electric buses shall not take the high-speed lane if no special lane for public buses is designated and can only borrow the nearby motor vehicle lane when overtaking vehicles in front, and shall get back to the original lane after the overtaking is done.

**Article 37** The embarking and debarking stations for taxi and the stopping station for taxi are intended for taxi only and other vehicles shall not occupy these stations.

At the embarking and debarking stations, taxi can stop for passengers temporarily and shall leave immediately after the passengers having got on or got off.

At the stopping stations, taxi can stop temporarily for passengers to get on or off or wait in order.

**Article 38** When there are important State activities, foreign affairs, the traffic administrative departments of public security organ shall temporarily control and limit road traffic.

When there are large-scale public activities, if it's necessary to control and limit road traffic, traffic administrative departments of public security organ shall announce to the public 3 days before the controlling and limiting road traffic.

## **Section 2 Provisions on Motor Vehicle Traffic**

**Article 39** No motor vehicles shall be allowed to run at a speed higher than the maximum speed indicated on speed limit signs and marks; if there is no speed limit signs or marks, the maximum speed for urban roads, where there are over two motor vehicle lanes of the same direction, is 70km/h and the maximum speed for sealed special motor vehicle lanes and roads is 80km/h.

The maximum speed for low-speed cargo buses, tricycle cars, tractors, electric buses, wheel-type special machine cars, tricycle motors and handy motors is 30km/h.

The maximum speed for cargo buses carrying operation workers, full-hung trailers, cargo vehicles carrying dangerous chemicals, motor bikes, tricycle motors and chain-drawn

侧三轮摩托车和铰接式客车、电车在城市道路上行驶时最高时速为 50 公里，在封闭的机动车专用道路和公路上行驶时最高时速为 60 公里。

**第四十条** 机动车在道路空闲、视线良好且不违反道路交通安全法律、法规规定的情况下，应当快速接续行驶，不得妨碍后车通行。

**第四十一条** 机动车在夜间路灯开启期间，应当开启前照灯、示廓灯和后位灯。

机动车转弯、变更车道、超车、掉头、靠路边停车时，应当提前 100 米至 50 米开启转向灯。

**第四十二条** 机动车可以在有掉头标志、标线或者未设置禁止左转弯、禁止掉头标志、标线的路口、路段掉头。掉头时应当提前进入导向车道或者在距掉头地点 150 米至 50 米处驶入最左侧车道，并不得妨碍行人和其他车辆正常通行。

**第四十三条** 机动车通过环形路口，应当按照导向箭头所示方向行驶。进环形路口的机动车应当让已在路口内环行或者出环形路口的机动车先行。

机动车通过有交通信号灯控制的交叉路口，遇放行信号时，应当让先于本放行信号放行的车辆先行。

**第四十四条** 机动车进出或者穿越道路的，应当让在道路上正常行驶的车辆、行人先行。在设有主路、辅路的道路上，进主路的机动车应当让在主路上行驶的和出主路的机动车先行，辅路上行驶的机动车应当让出主路的机动车先行。

**第四十五条** 机动车遇有前方车辆停车排队等候或者行驶缓慢时，应当停车等候或者依次行驶，不得进入非机动车道、人行道行驶，不得鸣喇叭催促车辆、行人。

**第四十六条** 机动车在行驶中不得使用危险报警闪光灯，但道路交通安全法律、法规规定的牵引与被牵引的机动车、道路作业车辆、警车护卫的车队以及低能见度气象条件下行驶的机动车除外。

**第四十七条** 机动车在行驶中发生故障、事故的，应当按照规定立即开启危险报警闪光灯，设置警告标志；除抢救伤员、灭火等紧急情况外，驾驶人、乘车人应当迅速离开车辆和车行道。

**第四十八条** 牵引机动车应当遵守下列规定：

- （一）牵引车与被牵引车均应当由取得机动车驾驶证一年以上的驾驶人驾驶；
- （二）夜间使用软连接牵引时，牵引装置上设置反光标识物；

passenger buses, electric buses on urban roads is 50km/h; the maximum speed for vehicles on lanes restricted for motor vehicles and roads is 60km/h.

**Article 40** When the lane is rather free and the visibility is good, motor vehicles shall keep on passing through the road at high speed in accordance with the provisions of road traffic safety laws and regulations and shall not hinder the passing of vehicles behind.

**Article 41** When driving at night, with the road lights on, the headlight, indicator light and tail light shall be turned on.

When making a turn, transferring lanes, overtaking, turning around, pulling in along the roadside, the reversing light shall be turned on 100 to 50 meters before.

**Article 42** Motor vehicles are allowed to turn around at the intersections and road sections where there are turning signs and marks or there are no signs or marks prohibiting turning around. When turning around, the motor vehicle shall enter the guiding lane in advance or enter the most left lane 150 m to 50 m before the turning site and shall not hinder the normal passing of pedestrians and other vehicles.

**Article 43** Motor vehicles shall follow the directions indicated by the guiding arrow when passing ring intersections and shall make way for the motor vehicles that are already at the inside of the ring intersections or exiting the ring intersections.

At the intersections where traffic lights are working, when the green light is on, motor vehicles shall wait for the vehicles that are allowed to leave before the said green light.

**Article 44** When entering or exiting or crossing the road, motor vehicles shall make way for the vehicles and pedestrians that are passing normally. When driving on road where there is main lane and supplementary lane, motor vehicles that enter the main lane shall make way for the motor vehicles passing on the main lane and the motor vehicles exiting the main lane. Motor vehicles on the supplementary lane shall make way for motor vehicles exiting the main lane.

**Article 45** When the front vehicles are queuing up or drive slowly, motor vehicles shall stop to wait or drive forward orderly, and shall not enter the non-motor vehicle lane or the pavement, or urging the other vehicles or pedestrians by sounding horns.

**Article 46** Motor vehicles shall not use safety warning flash when driving on the road except the motor vehicles that are trailing or being railed as regulated by the road traffic safety laws and regulations, vehicles for road working, group of vehicles escorted by police cars and motor vehicles driving in poor visibility weather.

**Article 47** If malfunction or an accident happened to the motor vehicle driving on the road, the safety warning flash shall be immediately turned on and warning signs shall be set up in accordance with provisions. And the driver and passengers shall leave the vehicle and driveway quickly except for emergencies like rescuing the injured, extinguishing the fire and so on.

**Article 48** Towing motor vehicles shall abide by the following provisions:

(1) both towing motor vehicles and towed motor vehicles shall be driven by drivers with over one-year old driving license;

(2) when soft connection is used for towing, reflecting marks shall be installed on the

(三) 道路设有二条以上机动车道的，在慢速车道内行驶；

(四) 道路设有主路、辅路的，在辅路上行驶；

(五) 全挂拖斗车、运载危险化学品的车辆不得牵引车辆；

(六) 不得牵引轮式专用机械车及其他轮式机械。

**第四十九条** 机动车停放应当遵守下列规定：

(一) 在停车场或者交通标志、标线规定的道路停车泊位内停放；

(二) 在道路停车泊位内，按顺行方向停放，车身不得超出停车泊位；

(三) 借道进出停车场或者道路停车泊位的，不得妨碍其他车辆或者行人正常通行。

**第五十条** 机动车在道路上临时停车时，应当遵守下列规定：

(一) 按顺行方向，车身右侧紧靠道路边缘，不得超过 30 厘米，同时开启危险报警闪光灯；

(二) 夜间或者遇风、雨、雪、雾等低能见度气象条件时，开启示廓灯、后位灯、雾灯。

**第五十一条** 公共汽车、电车驶入停靠站应当遵守下列规定：

(一) 在停靠站一侧单排靠边停车；

(二) 不得在停靠站以外的地点停车上下乘客；

(三) 不得在停靠站内待客、揽客。

**第五十二条** 机动车试车应当遵守下列规定：

(一) 按照规定悬挂公安机关交通管理部门核发的试车号牌；

(二) 由取得机动车驾驶证一年以上的驾驶人驾驶；

(三) 按照公安机关交通管理部门规定的时间、路线进行；

(四) 不得搭乘与试车无关的人员；

(五) 不得在道路上进行制动测试。

**第五十三条** 警车、消防车、救护车、工程救险车在执行紧急任务时，可以在应急车道内行驶，其他机动车不得在应急车道内行驶。

机动车发生交通事故或者故障确需在应急车道内临时停车时，应当按照规定使用灯光、设置故障车警告标志；车身超出应急车道占用车行道的，应当将故障车警告标

connection;

(3) towing motor vehicles shall pass through the road by the low-speed lane if there are over two motor vehicle lanes on the road;

(4) towing motor vehicles shall pass through the road by the supplementary lane if there are main lane and supplementary lane on the road;

(5) vehicles loaded with dangerous chemicals shall not tow vehicles;

(6) special wheel-typed machine vehicles and other wheel-typed machines shall not be towed.

**Article 49** The parking of motor vehicles shall abide by the following provisions:

(1) parking at the parking lot or parking berth that designated by traffic signs and marks;

(2) the vehicle body being within the parking berth when parking at the parking berth;

(3) entering or exiting the parking lot or parking berth temporarily without hindering the normal passing of other vehicles or pedestrians;

**Article 50** Motor vehicles shall abide by the following provisions when stop temporarily on the road:

(1) The right side of the vehicle shall be near the roadside within the distance of 30 cm and the safety warning flash shall be turned on;

(2) When driving at night time or in poor visibility weather due to wind, rain, snow and fog, the indicator light, ail light and fog light shall be turned on.

**Article 51** Public buses and electric buses shall abide by the following provisions when pull in at the stations;

(1) pulling in at one side of the stations;

(2) not stopping for passengers to get on or off other than the stations;

(3) not waiting for or canvassing passengers at the stations.

**Article 52** Motor vehicle testing shall be conducted in accordance with the following provisions:

(1) carrying the testing plate issued by the traffic administrative department of public security organ in accordance with provisions;

(2) driven by driver with over one-year old driving license;

(3) driven along the route and within the time regulated by the traffic administrative department of public security organ;

(4) not carrying persons irrelevant with trial driving;

(5) not conducting brake testing on the road.

**Article 53** Police vehicles, fire trucks, ambulances or engineering wrecking trucks that are executing emergency tasks can take the emergency lane and other motor vehicles are forbidden to take the emergency lane.

Motor vehicle that need urgently to stop temporarily at the emergency lane due to traffic accidents or malfunction shall use lights and install malfunction safety warning mark in accordance with provisions; the malfunction safety warning mark shall be placed at the driveway which are occupied by the exceeding part of the vehicle body from the emergency

志设在被占用的车行道内。

### 第三节 非机动车、行人和乘车人通行规定

**第五十四条** 非机动车通过有交通信号灯控制的交叉路口时，应当遵守下列规定：

- （一）遇放行信号时，让先于本放行信号放行的车辆先行；
- （二）左转弯时，沿非机动车禁驶区边缘或者路口中心右侧转弯；
- （三）不得在非机动车禁驶区内行驶或者停车；
- （四）未被交通信号放行的非机动车不得进入路口。

**第五十五条** 驾驶非机动车应当遵守下列规定：

（一）在非机动车道内顺向行驶。在没有划设非机动车道的道路上，自行车、电动自行车应当在距离道路右侧边缘线向左 1.5 米的范围内行驶，人力三轮车、残疾人机动轮椅车应当在距离道路右侧边缘线向左 2.2 米的范围内行驶，畜力车应当在距离道路右侧边缘线向左 2.6 米的范围内行驶；

- （二）不得进入高速公路、城市快速路或者其他封闭的机动车专用道；
- （三）与相邻行驶的非机动车保持安全距离；在与行人混行的道路上避让行人；
- （四）行经人行横道时避让行人；
- （五）不得在车行道上停车滞留；
- （六）设有转向灯，转弯前开启转向灯；
- （七）自行车、电动自行车、人力三轮车制动器失效的，不得在道路上骑行；
- （八）成年人驾驶自行车、电动自行车可以在固定座椅内载一名儿童，但不得载 12 周岁以上的人员；未成年人驾驶自行车、电动自行车不得载人；

- （九）人力客运三轮车按照核定的人数载人，人力货运三轮车不得载人；
- （十）自行车、电动自行车、三轮车不得在人行道和人行横道上骑行。

**第五十六条** 驾驶残疾人机动轮椅车应当遵守下列规定：

- （一）携带公安机关交通管理部门核发的残疾人机动轮椅车行驶证；

lane.

### **Section 3 Provisions on Non-motor Vehicle, Pedestrians and Passengers Traffic**

**Article 54** Non-motor vehicles shall abide by the following provisions when passing through the intersections controlled by traffic lights:

- (1) non-motor vehicles shall wait for the other vehicles which are allowed to go before them by the traffic light;
- (2) non-motor vehicles shall make a left turn along the side of the area to which non-motor vehicles are not allowed or along the right side of the intersection center;
- (3) non-motor vehicles shall not drive or stop at the area to which non-motor vehicles are not allowed;
- (4) non-motor vehicles shall not enter the intersection if they are not allowed to move by the traffic light;

**Article 55** Drivers of non-motor vehicles shall abide by the following provisions:

- (1) Drivers shall drive in the right direction on the non-motor lane. Bicycles and electric bicycles shall pass thought the road within 1.5 meters left to the right sideline of the road if there is no designated non-motor vehicles lane. Man-power tricycles and power-driven wheelchairs for disabled persons shall pass through the road within 2.2 meters left to the right sideline of the road. Animal-drive vehicles shall be pass through the road 2.6 meters left to the right sideline of the road;
- (2) Non-motor vehicles shall not take the highway, urban high-speed lane or other sealed special lanes for motor vehicles;
- (3) A safety distance shall be kept with the neighboring non motor vehicles and pedestrians shall be made way to on the mixed lane for both non-motor vehicles and pedestrians;
- (4) Non-motor vehicles shall avoid and make way to pedestrians when crossing the pavement;
- (5) Non-motor vehicles shall not stop or stay on the pavement;(6)Turning lights shall be turned on if there are any;
- (7) Bicycles, electric bicycles and man-power tricycles shall not pass through the road if the brakes break down;
- (8) Adults driving bicycles and electric bicycles may carry a child in a fixed seat, except for persons over the age of 12; minors driving bicycles and electric bicycles may not carry persons;
- (9) Man-power passenger tricycles shall carry passengers in accordance with the number of people approved and man-power cargo tricycles shall not carry passengers;
- (10) Bicycles, electric bicycles, tricycles shall not take the pavements and pedestrian crosswalks.

**Article 56** Drivers of power-driven wheelchairs for disabled persons shall abide by the following provisions:

- (1)Driving license for power-driven wheelchairs for disabled persons issued by the



（二）可以载一名陪护人员，但不得从事营运。

**第五十七条** 行人和乘车人应当遵守下列规定：

（一）行人应当在人行道上行走，没有人行道的，应当在距离道路右侧边缘线向左1米的范围内行走；

（二）行人不得进入高速公路、城市快速路或者其他封闭的机动车专用道；

（三）行人不得在车行道上行走或者兜售、发送物品；

（四）不得在车行道上等候车辆或者招呼营运车辆；

（五）遇有交通信号放行机动车时，未被放行的行人不得进入路口；

（六）乘坐公共汽车、电车和长途汽车，在停靠站或者指定地点依次候车，待车停稳后，先下后上；

（七）乘坐机动车不得影响驾驶人安全驾驶；

（八）明知驾驶人无驾驶证、饮酒或者身体疲劳不宜驾驶的，不得乘坐；

（九）乘坐货运机动车时，不得站立或者坐在车厢栏板上；

（十）乘坐二轮摩托车时，只准在后座正向骑坐；

（十一）不得搭乘人力货运三轮车、轻便摩托车；不得违反规定搭乘自行车、电动自行车、残疾人机动轮椅车。

## 第四节 高速公路的特别规定

**第五十八条** 机动车需要上高速公路行驶的，驾驶人应当事先检查车辆的轮胎、燃料、润滑油、制动器、灯光、灭火器具、反光的故障车警告标志等，并保证齐全有效。

**第五十九条** 高速公路救援车、清障车应当按照标准安装示警灯，喷涂明显的标志图案。执行救援、清障任务时，应当开启示警灯和危险报警闪光灯。

**第六十条** 在高速公路上进行施工、维修、养护等作业的单位，除日常维修、养护外，应当在批准的时间、地点、范围内进行，并遵守下列规定：

（一）在距离作业地点来车方向的1000米、500米、300米、100米处分别设置明显的警告标志牌，夜间设置红色示警灯（筒）；

（二）作业人员按照规定穿戴反光服饰，横穿车行道时，直行通过，注意避让来

traffic administrative department of public security organ shall be carried along;

(2) An escort is allowed on the vehicle and no profitable operation is allowed.

**Article 57** Pedestrians and passengers shall abide by the following provisions:

(1) Pedestrians shall walk on sidewalks and shall walk within 1 meter left to the right sideline of roads;

(2) Pedestrians shall not enter highway, urban high-speed lanes or other sealed special lanes for motor vehicles;

(3) Pedestrians shall not walk on the driveway or sell or send out items on the driveway;

(4) Pedestrians shall not wait for vehicles or call for profit-making vehicles on driveway;

(5) When motor vehicles are being allowed to move by traffic lights, pedestrians shall not enter the intersections if they are not allowed to go by traffic lights;

(6) Passengers shall wait orderly for public buses, electric buses and long-distance buses at the stations or other designated places and can only get on or get off the vehicles when they have fully stopped. Passengers can get on the buses only after the other passengers have got off;

(7) Passengers on motor vehicles shall not influence the drivers' safe driving.

(8) People shall not take the vehicles whose drivers are known to have no driving license, or to be drunk and tired.

(9) Passengers on cargo motor vehicles shall not stand or sit on carriage boards;

(10) Passengers on two-wheel motors can only sit on the back seat in forward direction;

(11) It is forbidden to carry persons by manual freight tricycles or mopeds; it is forbidden to carry persons by bicycles, electric bicycles or motor wheelchairs for the disabled in violation of regulations.

## **Section 4 Special Provisions on Expressways**

**Article 58** Before taking on the expressways, drivers of motor vehicles shall first check the tire, fuel, lubricant, brake, light, fire extinguisher, reflecting safety warning signs and make sure the equipment is complete and effective.

**Article 59** Rescuing vehicles, clearing vehicles shall be equipped with warning lights and painted with distinct sign pictures. Warning lights and safety warning lights shall be turned on in rescuing and clearing operations.

**Article 60** Units working on construction, repairing, maintaining operations on expressways shall work within the approved period of time, places and areas except for daily repair and maintenance, and abide by the following provisions:

(1) Distinct warning boards shall be set up at the places 1000 m, 500m, 300m, and 100m away from the operation sites along the direction from which vehicles are coming; red warning lights (canisters) shall be installed during night time.

(2) Operators shall wear reflecting garments in accordance with provisions and walk straightly when crossing the driveway and make way to passing vehicles.

往车辆。

**第六十一条** 遇自然灾害、恶劣气象条件以及施工或者发生交通事故等严重影响交通安全的情形时，高速公路管理机构和公安机关交通管理部门应当及时相互通报情况；公安机关交通管理部门可以采取限制车速、调换车道、暂时中断通行、关闭高速公路等交通管制措施。采取交通管制措施时，应当设置交通标志或者发布公告。

**第六十二条** 高速公路管理机构应当保证高速公路安全防护设施的齐全有效，及时清理发生故障的车辆和其他障碍，劝阻禁限车辆、行人从收费站或者服务区进入高速公路。

**第六十三条** 高速公路上的交通事故现场，在公安机关交通管理部门勘查工作完毕后，由高速公路管理机构及时进行清理。清理时应当按照道路施工作业的规定实行安全控制。

## 第五章 交通事故处理

**第六十四条** 公安机关交通管理部门接到特别重大事故、特大事故或者危险化学品、放射性危险物品运输事故报警时，应当立即采取应急措施，并向市或者区人民政府报告。市或者区人民政府应当及时组织、协调事故处理。

**第六十五条** 对当事人依法可以自行协商解决或者交通警察可以当场处理的交通事故，公安机关交通管理部门应当制定具体范围标准，并向社会公布。

**第六十六条** 现场勘查完毕后，当事人应当在公安机关交通管理部门的组织下，按照要求及时将车辆移至不妨碍交通的地方，并清理现场。

在当事人拒不服从、无力实施或者遇有影响公众利益的紧急情况下，公安机关交通管理部门可以指定单位代为当事人将车辆移至不妨碍交通的地方，并清理现场，所需费用由当事人承担。当事人应当接收、保管从现场清理的物品。

故障车的清理适用本条第二款的规定。

**第六十七条** 公安机关交通管理部门根据检验、鉴定的需要，可以收集交通事故车辆、嫌疑车辆、机动车驾驶证、机动车行驶证以及其他与交通事故有关的证据，并

**Article 61** In case of situations seriously influencing traffic safety, such as natural disaster, bad weather, construction operation, traffic accident and so on, the administrative organ of expressways and the traffic administrative department of public security organ shall inform each other in time; the traffic administrative department of public security organ shall take traffic restrictive measures, such as setting up speed limit, transferring lanes, suspending traffic temporarily, closing the expressway and so on, and at the same time install traffic signs and make announcement to the public.

**Article 62** The administrative organ of expressways shall ensure that the expressway safety facilities are complete and effective, clean off in time the vehicles malfunctioning on expressways and other obstacles, and prevent vehicles, pedestrians entering expressways through toll-stations or service areas.

**Article 63** The accident sites on the expressways shall be cleared off in time by the administrative organ of expressways after the examination of the traffic department of the public security organ. Safety control shall be exercised during the clearing work in accordance with the provisions of construction work on roads.

## **Chapter V Traffic Accidents Handling**

**Article 64** After receiving reports on serious traffic accidents, extraordinary traffic accidents or transport of dangerous chemicals and radioactive dangerous items, the traffic administrative department of public security organ shall immediately take emergency measures and report to People's governments at the municipality or district levels, which shall organize and coordinate immediately the handling of accidents.

**Article 65** The traffic administrative department of the public security organ shall specify the range of the traffic accidents which can be solved through negotiation by the persons involved or handled by the traffic policemen on the spot, and make announcement to the public.

**Article 66** After inspection of the accident site, the persons involved shall move the vehicle to the place not influencing the traffic and clean up the site under the organization of the traffic administrative department of the public security organ and according to requirements.

If the persons involved refuse to obey or can not implement the order, or if emergencies involving public interests happen, the traffic administrative department of the public security organ can designate unit to move the vehicle to the place not influencing the traffic and clear up the site on behalf of the persons involved. The persons involved shall accept and preserve the items collected from the site.

The second paragraph of this article shall also apply to the clearing up of malfunctioning vehicles.

**Article 67** The traffic administrative department of the public security organ may detain the vehicles involved suspect vehicles, motor vehicle driving license, motor vehicle license and collect other evidences relating to the accident according to the needs of

妥善保管，检验、鉴定后应当立即发还。

**第六十八条** 公安机关交通管理部门经过调查后，应当根据当事人的行为对发生交通事故所起的作用以及过错的严重程度，确定当事人的责任。当事人有过错的，应当确定当事人有责任；当事人没有过错的，应当确定当事人无责任。

交通事故当事人的责任分为：全部责任、主要责任、同等责任、次要责任、无责任：

（一）一方当事人有过错，其他当事人无过错的，有过错的为全部责任，无过错的为无责任；

（二）两方以上的当事人均有过错的，作用以及过错大的为主要责任，作用以及过错相当的为同等责任，作用以及过错小的为次要责任；

（三）无法确定各方当事人有过错或者属于交通意外事故的，各方均为无责任；

（四）当事人逃逸，造成现场变动、证据灭失，公安机关交通管理部门无法查证交通事故事实的，逃逸的当事人为全部责任；当事人故意破坏、伪造现场、毁灭证据的，为全部责任；

（五）一方当事人故意造成交通事故的，其他方为无责任。

交通事故当事人的责任具体确定标准由市公安局交通管理部门制定，并向社会公布。

**第六十九条** 本市依法对机动车实行第三者责任强制保险制度，设立道路交通事故社会救助基金。

机动车发生交通事故造成人身伤亡、财产损失的，肇事车辆参加机动车第三者责任强制保险的，由保险公司在机动车第三者责任强制保险责任限额范围内先行赔偿；肇事车辆未参加机动车第三者责任强制保险的，由肇事车辆按照相当于第三者责任强制保险的责任限额先行赔偿。

**第七十条** 机动车之间发生交通事故造成人身伤亡、财产损失的，超过第三者责任强制保险责任限额部分，由有过错的一方承担赔偿责任；双方都有过错的，按照各自过错的比例承担赔偿责任；无法确定双方当事人过错的，平均分担赔偿责任。

inspection and examination, and these evidences shall be kept properly and returned to the owners immediately after the inspection and examination.

**Article 68** After investigation, the traffic administrative department of the public security organ shall ascertain the liabilities of the persons involved according to the effect of their behavior on the traffic accident and the seriousness of their fault. The persons involved shall be confirmed as liable if they are faulty; the persons involved shall be confirmed as not liable if they are not faulty.

The liabilities of the persons involved in traffic accidents are classified as follows: complete liabilities, major liabilities, equal liabilities, minor liabilities, no liabilities:

(1) If one party involved is faulty, and the other parties involved are not faulty, then the faulty party shall bear complete liabilities, and the other parties shall bear no liabilities;

(2) If over two parties are fully, the party with more effect on the accident or more faults shall bear major liabilities; parties with equal effect on the accident or equal faults shall bear equal liabilities; the party with less effect on the accident or less fault shall bear minor liabilities;

(3) If all parties involved can not be confirmed as faulty, or the accident is a traffic contingency, all parties shall bear no liabilities;

(4) If the parties involved run away after traffic accident, cause the change of the accident site or the destruction and disappearance of evidences, which results in the impossibility of investigating and verifying the facts of the accident by the traffic administrative department of the public security organ, the parties running away shall bear complete liabilities; parties, deliberately destroying, faking the accident site, or destroying evidences shall bear complete liabilities.

(5) If one party deliberately causes traffic accident, the other parties involved shall bear no liabilities.

The specific standards of liabilities of parties involved in traffic accidents shall be formulated by the traffic administrative department of the public security organ and announced to the public.

**Article 69** The third party liability compulsory insurance system is practiced for motor vehicles in this Municipality and social assistance funds for traffic accidents have also been set up.

In case of individual injuries or property loss caused by traffic accidents involving motor vehicles, if the involved motor vehicles participate in the compulsory third party insurance, the insurance companies shall make compensations within the liability limits of the compulsory third party liability insurance underwritten for motor vehicles; if the involved motor vehicles do not participate in the compulsory third party insurance, the involved motor vehicles shall make compensations equal to the liability limits of the compulsory third party liability insurance.

**Article 70** In case of individual injuries or property loss caused by traffic accidents between motor vehicles, the amount of compensations exceeding the liability limits of the compulsory third party liability insurance shall be borne by the faulty party; if both parties

**第七十一条** 非机动车之间、非机动车与行人之间发生交通事故造成人身伤亡、财产损失的，由有过错的一方承担赔偿责任；双方都有过错的，按照各自过错的比例承担赔偿责任；无法确定双方当事人过错的，平均分担赔偿责任。

**第七十二条** 机动车与非机动车、行人之间发生交通事故造成人身伤亡、财产损失的，由保险公司在机动车第三者责任强制保险责任限额范围内先行赔偿。超过责任限额的部分，由机动车一方承担赔偿责任；但是，有证据证明非机动车驾驶人、行人违反道路交通安全法律、法规，机动车驾驶人在驾驶中履行了交通安全注意义务并已经采取了适当的避免交通事故的处置措施，机动车一方无过错的，按照国家规定的最低比例、额度承担赔偿责任。机动车一方有过错的，按照过错程度承担赔偿责任。

机动车与非机动车、行人之间发生的交通事故的损失是由非机动车驾驶人、行人故意造成的，机动车一方不承担赔偿责任；机动车第三者责任强制保险已先行赔付的，保险公司有权予以追偿。

**第七十三条** 机动车发生道路交通事故造成人身伤亡、财产损失，当事人有条件报案、保护现场但没有依法报案、保护现场，致使事故基本事实无法查清的，由保险公司在机动车第三者责任强制保险责任限额范围内先行赔偿。超出责任限额的部分，按照下列规定承担赔偿责任：

（一）机动车之间发生交通事故，一方当事人有上述行为的，承担全部赔偿责任；  
两方或者两方以上当事人均有上述行为的，平均分担赔偿责任；

（二）机动车与非机动车、行人发生交通事故，机动车一方有上述行为，又没有证据证明非机动车、行人有交通安全违法行为以及机动车驾驶人已经采取必要处置措施的，由机动车一方承担赔偿责任。

非机动车与非机动车、非机动车与行人发生交通事故，一方当事人有条件报案、保护现场但没有依法报案、保护现场，致使事故基本事实无法查清的，承担全部赔偿责任；两方或者两方以上当事人均有前述行为的，平均分担赔偿责任。



are faulty, the liabilities shall be borne by both parties in proportion to each fault; if both parties can not be confirmed as faulty, the liabilities shall be shared equally by both parties.

**Article 71** In case of individual injuries or property loss caused by traffic accidents between non-motor vehicles, or between non-motor vehicles and pedestrians, the liabilities of compensations shall be borne by the faulty party; if both parties are faulty, the liabilities shall be borne by both parties in proportion to each fault; if both parties can not be confirmed as faulty, the liabilities shall be shared equally by both parties.

**Article 72** In case of individual injuries or property loss caused by traffic accidents between motor vehicles and non-motor vehicles or pedestrians, the insurance companies shall make compensations within the liability limits of the compulsory third party liability insurance underwritten for motor vehicles. The amount exceeding the liability limits shall be borne by the motor vehicles; but if there is evidence proving that non-motor vehicles drivers or pedestrians violate laws and regulations on road traffic safety, and that motor vehicles have taken necessary measures to avoid the accidents, and the motor vehicles are not faulty, the liability shall be borne by the motor vehicles at the lowest proportion and amount in accordance with State provisions; if the motor vehicles are faulty, the liability shall be borne according to the seriousness of the fault.

If the loss caused by traffic accidents between motor vehicles and non-motor vehicles or pedestrians is caused deliberately by the non-motor vehicles drivers or pedestrians, the motor vehicles shall not bear the liabilities; if the compensations have been made by the compulsory third party liability insurance, the insurance companies have the right to reclaim the compensations.

**Article 73** In case of individual injuries or property loss caused by traffic accidents living motor vehicles, if the parties involved do not report the case or protect the accident site in accordance with law even though they can, which results in the impossibility of investigating and verifying the facts of the accident, the insurance companies shall make compensations within the liability limits of the compulsory third party liability insurance underwritten for the motor vehicles. For amount exceeding the insured amount, compensations shall be made in accordance with the following provisions:

(1) In case of traffic accidents between motor vehicles, if one party involved has committed the above-mentioned acts, this party shall bear complete liabilities; if two parties or more than two parties have committed the above-mentioned acts, both parties or all parties shall share equally the liabilities;

(2) In case of traffic accidents between motor vehicles and non-motor vehicles or pedestrians, if the motor vehicles have committed the above-mentioned acts, and there is no evidence proving that non-motor vehicle drivers or pedestrians violate laws and regulations on road traffic safety, and that motor vehicle drivers have taken necessary measures to avoid the accidents, the motor vehicles shall bear liabilities.

In case of traffic accidents between non-motor vehicles, or between non-motor vehicles and pedestrians, if one party involved do not report the case or protect the accident site in accordance with law even though they can, which results in the impossibility of investigating and verifying the facts of the accident, this party shall bear complete liabilities; two parties or more than two parties involved have committed the above-mentioned acts, they shall



**第七十四条** 当事人共同请求公安机关交通管理部门对损害赔偿进行调解的，应当提出书面申请。申请书应当载明具体的赔偿请求、理由，并提供相应的凭证。

公安机关交通管理部门应当在收到当事人的调解申请书之日起，5个工作日内进行审查并做出决定。符合条件的予以受理；不符合条件的不予受理，并书面告知申请人。

## 第六章 事故预防与执法监督

**第七十五条** 本市各级人民政府应当本着预防与减少交通事故，保证道路交通安全、畅通的原则，组织制定应对自然灾害、恶劣气象条件以及其他影响道路交通安全的突发事件的应急预案。公安、交通、卫生、市政以及其他有关部门，应当根据应急预案制定本部门的具体实施方案。

遇有应急预案所规定的情形发生时，各有关部门应当立即启动应急预案，相互密切配合，并注意信息的沟通、反馈。

**第七十六条** 本市建立道路交通安全防范责任制度。单位应当遵守下列规定：

（一）建立对本单位所属机动车的使用、保养、维修、检查制度，保持车辆符合国家安全技术标准；

（二）教育本单位人员遵守道路交通安全法律、法规，建立对本单位专职机动车驾驶人的道路交通安全教育培训、考核制度；

（三）专业运输单位录用驾驶人员驾驶机动车的，应当对驾驶人员进行资质审查和专门的道路交通安全培训考核，建立档案，并向当地公安机关交通管理部门登记备案；

（四）专业运输单位由其法定代表人负责交通安全工作，设置交通安全工作机构，并配备交通安全专职人员；

（五）接受所在地人民政府和公安机关交通管理部门的监督、检查，实现交通安全目标。

**第七十七条** 道路交通安全防范责任制度由本市各级人民政府组织实施。各级人民政府的交通安全委员会，在本级人民政府领导下，负责协调本行政区域内的道路交

share liabilities equally.

**Article 74** If parties involved request the traffic administrative department of the public security organ to mediate the damage liabilities, a written application shall be submitted. The written application shall include specific liability claim, reasons and corresponding evidence.

The traffic administrative department of the public security organ shall make a decision within 5 work days upon receiving the mediation application. Those applications meeting certain conditions shall be accepted and those not meeting certain conditions shall not be accepted and a written notice shall be given to the applicants.

## **Chapter VI Accident Prevention and Supervision Over Law Enforcement**

**Article 75** People's governments at all levels of this Municipality shall organize the formulation of emergency plans dealing with natural disasters, bad weathers or other sudden incidents influencing road traffic safety, following the principle of preventing and reducing traffic accidents, ensuring safe and smooth road traffic. Departments of public security, traffic, health, municipal administration and other departments shall work out the specific implementation plan for respective department according to emergency plans.

If situations prescribed by emergency plans appear, all the relevant departments shall carry out emergency plans immediately, conduct close cooperation and heed the exchanges and feedback of information.

**Article 76** This Municipality has set up road traffic safety responsibility system. Units shall abide by the following provisions:

(1) establishing the system of using, maintaining, repairing and examining motor vehicles that belong to the unit and ensuring that the vehicles conform to the national safety technology standards;

(2) educating the personnel of this unit on the observance of road traffic safety laws and regulations; setting up education, training and examining system on road traffic safety for the full-time motor vehicle personnel of this unit;

(3) conducting qualification examination and special road traffic safety training and examination on drivers when professional transport units recruiting drivers for motor vehicles; setting up archives, and reporting to local traffic department of the public security organ for record;

(4) professional transport units authorizing their legal deputy to be in charge of traffic security; setting up organs in charge of traffic safety work; being equipped with traffic safety professionals;

(5) being supervised and inspected by the local people's government and traffic administrative department of the public security organ; realizing traffic safety goals.

**Article 77** The people's governments at all levels of this Municipality shall organize the implementation of road traffic safety responsibility system. The traffic safety committees

通安全工作。

市和区人民政府各部门应当按照隶属关系督促本系统各单位执行道路交通安全防范责任制度。

中央在京机关及驻京军事机关的交通安全主管部门，负责督促本系统各单位执行道路交通安全防范责任制度。

本市各级公安机关交通管理部门在同级人民政府的领导下，定期监督检查道路交通安全防范责任制度的落实情况，执行道路交通安全防范责任制度的奖励和处罚。

**第七十八条** 快递、外卖等行业使用车辆的管理办法由市商务、邮政、交通、公安机关交通管理等行政部门根据行业发展特点和发展需求制定，并报市人民政府批准。

**第七十九条** 公安机关交通管理部门应当加强对交通警察的管理，提高交通警察的素质和道路管理水平。

公安机关交通管理部门应当加强对营运车辆安全技术状况的检测。

公安机关交通管理部门及其交通警察应当依法履行职责，接受行政监察机关、社会和公民的监督。

市和区人民政府组建的道路交通安全协管员队伍，协助交通警察维护道路交通秩序，劝阻、告知道路交通安全违法行为。

## 第七章 法律责任

**第八十条** 违反道路交通安全法律、行政法规和本办法规定的行为，依照《中华人民共和国道路交通安全法》、《中华人民共和国道路交通安全法实施条例》和本办法以及其他有关法律、法规的规定处罚。

**第八十一条** 公安机关交通管理部门及其交通警察对道路交通安全违法行为，应当及时纠正并依法予以处罚。对情节轻微，未影响道路通行的，指出违法行为，给予口头警告后放行。

of the people's governments at all levels shall be in charge of the coordination of the road traffic safety work within their respective administrative areas under the leadership of the people's government at the same level.

All the departments of the people's governments at the municipality, district, and county levels shall urge all units of this system to implement the road traffic safety responsibility system according to the relationship of administrative subordination.

All the department of the central Executive and Military Organizations located in Beijing Municipality shall urge all units of this system to implement the road traffic safety the responsibility system according to the relationship of administrative subordination.

Traffic safety administrative department of the public security organ at all levels of Beijing Municipality shall supervise and inspect the implementation of road traffic responsibility system, carry out the award and penalty system under the leadership of the people's government at the same level.

**Article 78** The administrative measures for the vehicles used in express delivery and takeout industries shall be formulated by the municipal administrative departments for commerce, postal service, transport and public security traffic management in accordance with the development characteristics and needs of the industries and submitted to the Municipal People's Government for approval.

**Article 79** The traffic administrative department of the public security organ shall strengthen the management of traffic policemen and improve their quality and road traffic management level.

The traffic administrative department of the public security organ shall strengthen the examination and inspection of the technological conditions of profit-making vehicles. The traffic administrative department of the public security organ and the traffic policemen shall perform their duties in accordance with the law and shall be supervised by the administration supervision and inspection organs, the society and the citizens.

The road traffic security coordinators established by the people's governments at the municipality, district and county levels shall provide assistance to the traffic policemen in maintaining road traffic order, prevent and report violations of laws on road traffic safety.

## **Chapter VII Legal Liabilities**

**Article 80** Punishments shall be imposed on the behaviors violating laws on road traffic safety, administrative regulations and the provisions of these Measures in accordance with the provisions of the Law of the People's Republic of China on Road Traffic Safety, the Regulations on the Implementation of the Law of the People's Republic of China on Road Traffic Safety, these Measures and other relevant laws.

**Article 81** The traffic administrative department of the public security organ and the traffic policemen shall correct in time or punish in accordance with law the behaviors violating laws on road traffic safety. If the circumstances are not serious to affect road traffic, such behaviors shall be pointed out and oral warning shall be given before letting go.

**第八十二条** 行人有下列行为之一的，处 10 元罚款：

- （一）违反交通信号、未走人行道或者未按照规定靠路边行走的；
- （二）通过路口或者横过道路，未走人行横道或者过街设施的；
- （三）在道路上使用滑板、滑轮、旱冰鞋等滑行工具的；
- （四）在车行道内坐卧、停留、嬉闹的；
- （五）在道路上有追车、抛物击车等妨碍道路交通安全的行为的；
- （六）在机动车道上拦乘机动车的；
- （七）跨越、倚坐道路隔离设施、扒车、强行拦车或者实施妨碍道路交通安全的其他行为的；

- （八）通过铁路道口未按照管理人员指挥通行的；
- （九）在车行道内行走或者兜售、发送物品的；
- （十）未被交通信号放行的行人进入路口的。

**第八十三条** 乘车人有下列行为之一的，处 10 元罚款：

- （一）违反规定在机动车道上从机动车左侧上下车的；
- （二）开关车门时妨碍其他车辆和行人通行的；
- （三）在机动车行驶中将身体任何部分伸出车外、跳车的；
- （四）乘坐二轮摩托车未在后座正向骑坐的；
- （五）乘坐货运机动车时，站立或者坐在车厢栏板上的；
- （六）违反规定搭乘自行车、电动自行车、人力货运三轮车、残疾人机动轮椅车和轻便摩托车的。

**第八十四条** 行人、乘车人有下列行为之一的，处 20 元罚款：

- （一）行人违反限制通行规定的；
- （二）乘车人向车外抛撒物品的；
- （三）乘车人影响驾驶人安全驾驶的；
- （四）乘车人未按照规定使用安全带的。

**第八十五条** 未满 16 周岁在道路上驾驭畜力车、驾驶电动自行车和残疾人机动轮椅车的，予以警告或者处 10 元罚款。

**第八十六条** 驾驶非机动车有下列行为之一的，处 20 元罚款：

**Article 82** Pedestrians shall be punished by a fine of 10 yuan if they commit any of the following acts:

- (1) disobeying traffic lights, not walking on pavement or not walking along the sides of roads as prescribed;
- (2) not walking on pavement or crossing facilities when crossing intersections or crossing roads;
- (3) the use of skateboards, pulleys, roller skates and other skating tools on roads;
- (4) sitting, lying, stopping or playing on driveway;
- (5) chasing vehicles or throwing things on vehicles or other acts affecting road traffic safety;
- (6) intercepting and taking vehicles on motor vehicle lane;
- (7) jumping over, leaning against, sitting on road separation facilities, climbing on, intercepting vehicles, or committing other acts affecting road traffic safety;
- (8) disobeying the guidance of controllers when crossing railway intersections;
- (9) walking, selling or sending out things within driveways;
- (10) entering intersections without being allowed to go by the traffic lights.

**Article 83** Passengers shall be punished by a fine of 10 yuan if they commit any of the following act:

- (1) getting off from the left side of motor vehicles on the motor vehicle lanes in violation of provisions;
- (2) the way of opening or closing vehicle doors affecting the passing of other vehicles or pedestrians;
- (3) leaning any part of the body or jumping out of the windows of motor vehicles which are in move;
- (4) not sitting on the back seat in the right direction when taking motor bikes;
- (5) standing or sitting on the carriage boards when taking cargo motor vehicles;
- (6) in violation of provisions, taking bicycles, electric bicycles, man-power cargo tricycles, power-driven motor wheelchairs for disabled persons or handy motor bikes.

**Article 84** Pedestrians or passengers shall be punished by a fine of 20 yuan if they commit any of the following acts:

- (1) pedestrians' violating the provisions of passage limitations;
- (2) passengers' throwing things out of the vehicles;
- (3) passengers' affecting the drivers' safe driving;
- (4) passengers' not using safety belts in accordance with provisions.

**Article 85** Persons less than 16 years old drive animal-driven vehicles, electric bicycles or power-driven motor wheelchairs for disabled persons shall be given a warning or be punished by a fine 10 yuan.

**Article 86** Drivers of non-motor vehicles shall be punished by a fine of 20 yuan if they

- (一) 违反交通信号通行的;
- (二) 违反限制通行规定的;
- (三) 在非机动车道内逆向行驶或者违反规定在机动车道上行驶、停车滞留的;
- (四) 违反路口通行规定的;
- (五) 在人行道、人行横道上骑行的;
- (六) 未按照规定横过机动车道的;
- (七) 行经人行横道未避让行人的;
- (八) 突然猛拐或者在其他车辆之间穿行的;
- (九) 扶身并行、互相追逐或者曲折竞驶的;
- (十) 牵引、攀扶车辆或者被其他车辆牵引, 双手离把或者手中持物的;
- (十一) 未被交通信号放行的非机动车进入路口的;
- (十二) 制动器失效在道路上骑行的。

**第八十七条** 驾驶非机动车有下列行为之一的, 处 20 元罚款:

- (一) 未依法登记上路行驶的;
- (二) 违反载物规定的;
- (三) 违反载人规定的;
- (四) 独轮自行车、二人以上骑行的自行车上道路行驶的;
- (五) 在道路上学习驾驶的;
- (六) 驾驶残疾人机动轮椅车未携带行驶证的。

**第八十八条** 驾驭畜力车有下列行为之一的, 处 20 元罚款:

- (一) 违反限制通行规定的;
- (二) 未按照规定下车牵引牲畜的;
- (三) 未按照规定超车的;
- (四) 并行或者驾驭人离开车辆的;
- (五) 使用未驯服牲畜驾车、随车幼畜未拴系的;
- (六) 停放车辆时未拉紧车闸、拴系牲畜的。

**第八十九条** 非机动车驾驶人、行人和乘车人有下列行为之一的, 处 50 元罚款:

- (一) 非机动车、行人进入高速公路、城市快速路或者其他封闭的机动车专用道的;
- (二) 醉酒驾驶非机动车的;

commit any of the following acts:

- (1) passing through the roads disobeying traffic signs;
- (2) violating the provisions of passage limitations;
- (3) driving in reverse direction within non-motor vehicle lanes, or driving, stopping or staying on motor vehicle lanes;
- (4) violating provisions on intersection passage;
- (5) driving on pavements or pedestrian crosswalks;
- (6) crossing motor vehicle lanes in violation of provisions;
- (7) not dodging or making way for pedestrians;
- (8) making harsh and sudden turns or passing between other vehicles;
- (9) driving shoulder to shoulder, chasing each other or competing in a twisting way;
- (10) towing, climbing vehicles or being towed by other vehicles; hands being off handlebars, or with things in hands;
- (11) non-motor vehicles entering intersections without being let go by traffic signs;
- (12) driving on roads with ineffective brakes.

**Article 87** Riders of non-motor vehicles shall be punished by a fine of 20 yuan if they commit any of the following acts:

- (1) driving on roads without registration in accordance with law;
- (2) violating provisions on cargo loading;
- (3) violating provisions on passenger carrying;
- (4) riding single wheel bikes, over two persons riding bikes on roads;
- (5) learning to ride on roads;
- (6) driving power-driven wheelchairs for disabled persons without driving licenses.

**Article 88** Drivers of animal-drive vehicles shall be punished by a fine of 20 yuan if they commit any of the following acts:

- (1) violating provisions on passage limitations;
- (2) getting off the vehicles to lead animals in violation of provisions;
- (3) overtaking in violation of provisions;
- (4) driving shoulder to shoulder or drivers leaving vehicles;
- (5) using untamed animals to drive vehicles or not tying young animals to the vehicles;
- (6) not tightening brakes or tying animals when parking vehicles.

**Article 89** Non-motor vehicles drivers, pedestrians and passengers shall be punished by a fine of 50 yuan if they commit any of the following acts:

- (1) non-motor vehicles, pedestrians entering expressways, urban high-speed roads or other sealed lanes restricted for motor-vehicle;
- (2) driving non-motor vehicles after getting drunk;



- （三）驾驶残疾人机动轮椅车、电动自行车最高时速超过 15 公里的；
- （四）非下肢残疾的人驾驶残疾人机动轮椅车的；
- （五）乘坐摩托车未按照规定佩戴安全头盔的；
- （六）乘车人携带易燃易爆危险品的；
- （七）明知驾驶人无驾驶证、饮酒或者身体疲劳不宜驾驶机动车而乘坐的；
- （八）自行车、三轮车加装动力装置。

对自行车、三轮车加装动力装置的，除给予罚款处罚外，责令拆除加装的动力装置并予以收缴。

**第九十条** 在道路上使用动力装置驱动的平衡车、滑板车等器械的，公安机关交通管理部门可以扣留器械，处 200 元罚款。

**第九十一条** 驾驶机动车有下列情形之一的，处 50 元罚款：

- （一）未按照规定使用安全带的；
- （二）驾驶摩托车未按照规定佩戴安全头盔的；
- （三）车门、车厢未关好时行车的；
- （四）未配备有效的灭火器具、反光的故障车警告标志的；
- （五）进出停车场或者道路停车泊位妨碍其他车辆或者行人正常通行的。

**第九十二条** 驾驶机动车有下列情形之一的，处 100 元罚款：

- （一）未携带行驶证、驾驶证的；
- （二）驾驶证丢失、损毁期间驾驶机动车的；
- （三）驾驶摩托车时手离车把或者在车把上悬挂物品的；
- （四）在机动车驾驶室的前后窗范围内悬挂、放置或者粘贴、喷涂妨碍安全驾驶的物品或者文字、图案的；
- （五）公路营运客车、重型货车、半挂牵引车未按照规定安装或者使用行驶记录仪的；
- （六）未按照规定粘贴或者悬挂实习标志的；
- （七）道路施工养护、环卫清扫、设施维修及绿化等专业作业车辆不符合国家和本市的道路作业车辆安全标准的。

**第九十三条** 驾驶机动车有下列情形之一的，处 100 元罚款：

(3) driving power-driven wheelchairs for disabled persons or electric bicycles at a speed exceeding 15km/h;

(4) persons with no lower limbs disability driving power-driven wheelchairs for disabled persons;

(5) riding motorbikes not wearing safety helmets in accordance with provisions;

(6) passengers carrying inflammables, explosives or dangerous items;

(7) taking motor vehicles whose drivers are known to have no driving license, have drunk wine or be too tired to drive;

(8) installing motor equipment on bicycles, tricycles.

Those who install motor equipment on bicycles and tricycles shall be ordered to dismantle the equipment which shall be confiscated in addition to a punishment of fine.

**Article 90** Whoever uses apparatus such as balance cars and scooters driven by power devices on roads may be withheld the apparatus by the departments for public security traffic management and imposed upon a fine of 200 yuan.

**Article 91** Motor vehicle drivers shall be punished by a fine of 50 yuan if they commit any of the following acts:

(1) not using safety belts according to provisions;

(2) driving motor bikes without wearing safety helmets in accordance with provisions;

(3) driving vehicles without closing the doors or carriages of the vehicles;

(4) failing to install effective fire extinguisher or reflecting malfunctioning warning marks;

(5) the entering or exiting parking lots or road parking berths affecting the normal passing of other vehicles or pedestrians.

**Article 92** Motor vehicle drivers shall be punished by a fine of 100 yuan if they commit any of the following acts:

(1) failing to carry vehicle license, driving license;

(2) driving during the period of time when the driving license is lost or damaged;

(3) keeping hands off handlebars when driving motorbikes or hanging things on handlebars;

(4) hanging, putting things or sticking, painting characters and pictures, which affects safe driving, on the front and back windows of the driving cabs of motor vehicles;

(5) road profit-making passenger vehicles, heavy cargo vehicles, half-trailed towing vehicles failing to install driving record in accordance with provisions;

(6) failing to sticking or hanging practicing signs in accordance with provisions;

(7) special operation vehicles for road construction maintenance, sanitation, facility reparation and greening failing to meet the national and municipal road operation vehicles safety standards;

**Article 93** Motor vehicle drivers shall be punished by a fine of 100 yuan if they commit any of the following acts:

- (一) 在没有划分中心线和机动车、非机动车分道线的道路上，未按照规定行驶的；
- (二) 违反分道行驶规定的；
- (三) 未按照交通标志、标线指示或者交通警察指挥行驶的；
- (四) 违反限制通行规定的；
- (五) 未按照规定与前车保持安全距离的；
- (六) 违反倒车规定的；
- (七) 违反牵引挂车规定的；
- (八) 违反交替通行规定的；
- (九) 违反试车规定的；
- (十) 违反灯光使用规定的；
- (十一) 违反危险报警闪光灯使用规定的；
- (十二) 违反故障机动车牵引规定的；
- (十三) 向道路上抛撒物品的；
- (十四) 违反规定使用喇叭的；
- (十五) 机动车发生故障，未按照规定报警的。

**第九十四条** 驾驶机动车有下列情形之一的，处 100 元罚款：

- (一) 行经交叉路口、环形路口、道路出入口或者进出、穿越道路未按照规定行车、停车或者让行的；
- (二) 通过无交通信号控制路口未减速让行的；
- (三) 通过无交通信号或者无管理人员的铁路道口未减速或者停车确认安全的；
- (四) 行经无交通信号的道路，遇行人横过道路未按照规定避让的。

**第九十五条** 机动车载人、载物有下列情形之一的，处 100 元罚款：

- (一) 非公路客运车辆载人超过核定人数未达到 20% 的；
- (二) 驾驶摩托车违反规定载人的；
- (三) 驾驶拖拉机违反规定载人的；
- (四) 载客汽车违反规定载货的；
- (五) 违反规定标准载物的；
- (六) 运载超限的不可解体物品，未按照公安机关交通管理部门的规定行驶的。

- (1) driving against provisions on roads where there is no central line, motor vehicle lane and non-motor vehicle lane;
- (2) driving against the provisions on driving on separate lanes;
- (3) driving against the guidance of traffic signs, traffic marks or the direction of traffic policemen;
- (4) violating provisions on passage limitations;
- (5) failing to keep a safe distance from the previous vehicles in accordance with provisions;
- (6) violating the provisions on reversing vehicles;
- (7) violating the provisions on towing trailers;
- (8) violating the provisions on alternate passing;
- (9) violating the provisions on trial driving;
- (10) violating the provisions on using lights;
- (11) violating the provisions on using safety warning flashes;
- (12) violating the provisions on towing malfunctioning motor vehicles;
- (13) throwing things on roads;
- (14) failing to sound horns in accordance with provisions;
- (15) failing to report to the police in case of malfunctioning of motor vehicles.

**Article 94** Motor vehicle drivers shall be punished by a fine of 100 yuan if they commit any of the following acts:

- (1) failing to drive, stop or make way for other vehicles and pedestrians in accordance with provisions when passing intersections, circular intersections, or entrance and exit of roads, or crossing roads;
- (2) failing to reduce speed and make way to other vehicles and pedestrians when passing intersections without traffic signs;
- (3) failing to reduce speed or stop to make sure of safety when passing railway intersections without traffic signs or managers;
- (4) failing to avoid and make way to pedestrians who are crossing roads where no traffic signs are installed.

**Article 95** Motor vehicle drivers shall be punished by a fine of 100 yuan if they commit any of the following acts when taking passengers or cargoes:

- (1) non-road passenger vehicles carrying more than the rated capacity while the exceeding capacity is less than 20%;
- (2) motorbikes taking passengers in violation of provisions;
- (3) tractors taking passengers in violation of provisions;
- (4) cargo vehicles taking passengers in violation of provisions;
- (5) taking cargo in violation of prescribed standards;
- (6) failing to drive in accordance with the provisions by the traffic administrative department of the public security organ when carrying indecomposable items over the prescribed limit.

**第九十六条** 驾驶机动车有下列情形之一的，处 200 元罚款：

- （一）驾驶安全设施不齐全的车辆上道路行驶的；
- （二）驾驶机件不符合机动车国家安全技术标准的机动车上道路行驶的；
- （三）服用国家管制的精神药品或者麻醉药品后驾驶机动车的；
- （四）患有妨碍安全驾驶机动车的疾病仍驾驶机动车的；
- （五）使用他人机动车驾驶证的。

**第九十七条** 驾驶机动车有下列情形之一的，处 200 元罚款：

- （一）未悬挂机动车号牌的；
- （二）未按照规定安装号牌的；
- （三）故意遮挡或者污损机动车号牌的；
- （四）机动车号牌不清晰或者不完整的；
- （五）改变车身颜色、更换发动机、更换车身或者车架，未办理变更登记的；
- （六）货运机动车及其挂车的车身或者车厢后未喷涂放大的牌号、放大的牌号不清晰的；
- （七）大、中型客运机动车未按照规定喷涂准乘人数或者经营单位名称的；
- （八）机动车未按照规定期限进行安全技术检验或者未放置有效的检验合格标志、保险标志、环保合格标志的；
- （九）机动车喷涂、粘贴标识或者车身广告影响安全驾驶的；
- （十）总质量在 3.5 吨以上的货运汽车、挂车，未按照规定安装侧、后防护装置的。

**第九十八条** 驾驶机动车有下列情形之一的，处 200 元罚款：

- （一）逆向行驶的；
- （二）违反规定在专用车道内行驶的；
- （三）在划设公交专用车道的道路上，公共汽车、电车违反规定在其他车道内通行的；
- （四）违反交通信号灯指示的；
- （五）违反规定超车的；

**Article 96** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts:

- (1) driving on road vehicles without complete safety facilities;
- (2) driving on road vehicles that fail to reach the national safety technology standards;
- (3) driving motor vehicles after taking mental medicine or anesthesia drugs controlled by the State;
- (4) driving motor vehicles after being confirmed to have had illnesses affecting safe driving;
- (5) using other person's motor vehicle driving license.

**Article 97** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts:

- (1) failing to hang motor vehicle plate or to get motor vehicle certificate, or fail to drive the vehicle in accordance within the validity time limit and driving areas prescribed by the vehicle certificate;
- (2) failing to install plate in accordance with provisions;
- (3) hiding or defiling motor vehicle plate on purpose;
- (4) carrying unclear or incomplete motor vehicle plates;
- (5) failing to make registration of changing the color of the vehicle body, changing engine, vehicle body, or vehicle frame;
- (6) failing to paint clear enlarged plates on cargo motor vehicles, the body of the back of the carriage of their trailers;
- (7) failing to paint the rated passenger capacity or the name of the unit in operation on large and medium-sized passenger motor vehicles in accordance with provisions;
- (8) failing to conduct safety technology inspection within prescribed period of time, or failing to install effective inspection qualification sign, insurance sign and environment protection sign in accordance with provisions;
- (9) painting, sticking marks, or putting on advertisement which affects safe driving on motor vehicles;
- (10) failing to install side and back protection equipment on cargo vehicles, trailers with weight over 3.5 tons.

**Article 98** Motor vehicle drivers shall be punished by a 200 yuan if they commit any of the acts:

- (1) driving in reverse direction;
- (2) driving on special lanes in violation of provisions;
- (3) public buses, electric buses driving on other lanes on roads where there is special lane for public buses;
- (4) running against the guidance of traffic lights;
- (5) overtaking in violation of provisions;

- (六) 违反规定变更车道的;
- (七) 违反规定会车的;
- (八) 违反规定掉头的;
- (九) 变更车道影响本车道内机动车正常行驶的;
- (十) 行经人行横道遇行人通过时, 未停车让行的;
- (十一) 超过规定时速 50% 以下的;
- (十二) 非公路客运车辆载人超过核定人数达到 20% 以上的;
- (十三) 货运机动车违反规定附载作业人员的;
- (十四) 运载危险化学品未按照规定行驶的;
- (十五) 通过铁路道口, 违反交通信号或者管理人员指挥的;
- (十六) 载运超限物品行经铁路道口, 未按照当地铁路部门指定的铁路道口、时间通过的;
- (十七) 遇有执行紧急任务的警车、消防车、救护车、工程救险车未按照规定让行的。

**第九十九条** 驾驶机动车有下列情形之一的, 处 200 元罚款:

- (一) 拨打、接听电话、观看电视的;
- (二) 下陡坡时熄火或者空挡滑行的;
- (三) 连续驾驶超过 4 个小时, 未停车休息或者停车休息时间少于 20 分钟的;
- (四) 警车、消防车、救护车、工程救险车违反规定使用警报器、标志灯具的;
- (五) 违反规定在应急车道内行驶或者停车的。

**第一百条** 遇前方道路受阻或者前方车辆排队等候、缓慢行驶时, 驾驶机动车有下列情形之一的, 处 200 元罚款:

- (一) 违反规定进入路口的;
- (二) 违反规定在人行横道或者网状线区域内停车等候的;
- (三) 借道超车的;
- (四) 占用对面车道的;
- (五) 穿插等候车辆的;
- (六) 进入非机动车道、人行道行驶的。

**第一百零一条** 驾驶机动车有下列情形之一的, 处 200 元罚款:

- (6) transferring lanes in violation of provisions;
- (7) joining vehicles in violation of provisions;
- (8) turning around in violation of provisions;
- (9) transferring lanes, which affects the traffic of motor vehicles on the present lane;
- (10) failing to stop and make way to pedestrians who are crossing the roads when passing through pavements;
- (11) driving at an exceeding speed less than 50% of the speed limit;
- (12) non-road passenger vehicles carrying passengers more than 20% of the rated capacity;
- (13) cargo motor vehicles carrying road workers in violation of provisions;
- (14) failing to drive in accordance with provisions when carrying dangerous chemicals;
- (15) failing to obey the guidance of traffic signs or managers when crossing railway intersections;
- (16) failing to pass through the designated railway intersections within the designated time in accordance with the local railway departments when carrying restricted items through the railway intersections;
- (17) failing to make way to police vehicles, fire trucks, ambulances, and engineering wrecking trucks which are executing emergency tasks.

**Article 99** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts:

- (1) dialing or answering telephone, watching television;
- (2) cutting off or switching to neutral gear when sliding down slope;
- (3) driving for 4 hours on end without stopping for a rest or the rest time being less than 20 minutes;
- (4) police vehicles, fire trucks, ambulances and engineering wrecking trucks failing to use warning siren and sign lights in accordance with provisions;
- (5) driving or stopping on emergency lane in violation of provisions;

**Article 100** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts when the front road is blocked or the front vehicles are queuing up or drive slowly:

- (1) entering intersections in violation of provisions;
- (2) stopping to wait on pavement or netlike areas in violation of provisions;
- (3) overtaking by taking other lanes;
- (4) occupying the opposite lane;
- (5) jumping the queue of waiting vehicles;
- (6) entering the non-motor vehicle lane or pavement;

**Article 101** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts:



- (一) 违反规定停放车辆的；
- (二) 违反规定临时停车的；
- (三) 出租汽车违反规定停车上下乘客的；
- (四) 出租汽车违反规定在道路上停车待客、揽客的；
- (五) 公共汽车、电车违反驶入停靠站规定的。

**第一百零二条** 驾驶机动车发生故障或者事故，有下列情形之一的，处200元罚款：

- (一) 未按照规定开启危险报警闪光灯的；
- (二) 未按照规定设置警告标志的；
- (三) 夜间未开启示廓灯和后位灯的；
- (四) 发生交通事故后，未按照规定撤离现场，造成交通堵塞的；
- (五) 机动车发生故障后尚能移动，未移至不妨碍交通地点的。

**第一百零三条** 学习驾驶或者实习期间驾驶机动车，有下列行为之一的，处200元罚款：

- (一) 未按照指定路线、时间学习驾驶或者教练车乘坐无关人员的；
- (二) 在实习期间内驾驶禁止驾驶的机动车的；
- (三) 在实习期间内驾驶机动车在快速车道内行驶的。

**第一百零四条** 机动车在高速公路、城市快速路行驶，有下列行为之一的，处200元罚款：

- (一) 驾驶禁止驶入高速公路的机动车驶入高速公路的；
- (二) 非救援车、清障车在高速公路上拖曳、牵引机动车的；
- (三) 救援车、清障车执行救援、清障任务时，未开启示警灯和危险报警闪光灯的；
- (四) 行驶速度低于规定的最低时速的；
- (五) 未按照规定保持行车间距的；
- (六) 低能见度气象条件下未按照规定行驶的；
- (七) 倒车、逆行、穿越中央分隔带掉头或者在车行道内停车的；
- (八) 在匝道、加速车道或者减速车道上超车的；
- (九) 骑、轧车行道分界线或者在路肩上行驶的；
- (十) 试车或者学习驾驶机动车的；
- (十一) 货运机动车车厢内载人的；

- (1) stopping or parking in violation of provisions;
- (2) stopping temporarily in violation of provisions;
- (3) taxi failing to stop for passengers to get on or off in accordance with provisions;
- (4) taxi stop on roads to wait for or canvass passengers in violation of provisions;
- (5) public buses, electric buses violating the provisions on entering stations;

**Article 102** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts in case of malfunctioning or traffic accident:

- (1) failing to turn on safety warning light in accordance with provisions;
- (2) failing to install warning sign in accordance with provisions;
- (3) failing to turn on side light and tail light;
- (4) failing to retreat from the accident site in accordance with provisions which results in blocked traffic;
- (5) failing to move the vehicle which is able to move after malfunctioning to the place not affecting normal traffic.

**Article 103** Persons learning how to drive or driving during practice period shall be punished by a fine of 200 yuan if they commit any of the following acts:

- (1) failing to learn how to drive along designated route within designated time or the seat for coach being taken by irrelevant person;
- (2) driving motor vehicles which are prohibited during practice period;
- (3) driving motor vehicles on high-speed lane during practice period.

**Article 104** Motor vehicle drivers shall be punished by a fine of 200 yuan if they commit any of the following acts when driving on expressways or urban high-speed lanes:

- (1) driving on expressways motor vehicles which are prohibited on expressways;
- (2) vehicles not for wrecking or obstacle-clearing purposes towing or trailing motor vehicles on expressways;
- (3) wrecking, obstacle-clearing vehicles failing to turn on warning light or safety warning flash when executing wrecking or obstacle-clearing tasks;
- (4) driving at a speed less than the regulated lowest speed;
- (5) failing to keep distance from other vehicles in accordance with provisions;
- (6) failing to drive in accordance with provisions in poor visibility weather;
- (7) reversing, driving in adverse direction, turning around by transgressing the separation area at the center or stopping on driveway;
- (8) overtaking on circle lane, speed-accelerating lane or speed-reducing lane;
- (9) riding on the separation line of driveways or driving on the road shoulder;
- (10) trial driving or learning how to drive motor vehicles;
- (11) carrying passengers in the carriages of cargo vehicles;

（十二）二轮摩托车载人的。

**第一百零五条** 擅自生产、销售未经国家机动车产品主管部门许可生产的摩托车（含轻便摩托车）、动力装置驱动的三轮车、四轮车的，由工商行政管理部门没收非法生产、销售的摩托车（含轻便摩托车）、动力装置驱动的三轮车、四轮车，可以并处非法产品价值三倍以上五倍以下罚款；有营业执照的，由工商行政管理部门吊销营业执照，没有营业执照的，予以查封。

**第一百零六条** 违反本办法第二十九条规定的，由公安机关交通管理部门责令停止违法行为，恢复原状。

**第一百零七条** 违反本办法第三十一条、第三十二条、第六十条规定的，由公安机关交通管理部门责令施工作业单位立即改正，消除道路交通安全隐患；不能立即消除隐患的，责令停止作业。

**第一百零八条** 违反本办法第七十六条规定，未履行道路交通安全防范责任制度的，公安机关交通管理部门可以约谈负责人，责令限期改正；逾期不改正的，禁止其机动车上道路行驶，可并处1万元以上5万元以下罚款。

**第一百零九条** 公安机关交通管理部门对交通技术监控记录资料确认的交通违法行为，应当向社会公示，公众有权查阅。

公安机关交通管理部门及其交通警察发现机动车有未处理的违法行为记录的，应当通过信函或者手机短信、电子邮件等方式通知机动车所有人或者驾驶人，机动车所有人或者驾驶人应当按照告知的时间、地点接受处理。

## 第八章 附 则

**第一百一十条** 摩托车（含轻便摩托车），动力装置驱动的三轮车、四轮车按照国家和本市机动车管理的相关规定执行。

**第一百一十一条** 本办法自2005年1月1日起施行。

(12) taking people on motor bikes.

**Article 105** Where any unit produces or sells motorcycles (including mopeds), and tricycles and quadricycles driven by power devices without the permission of the national competent departments for motor vehicle products, the administrative departments for industry and commerce shall confiscate the motorcycles (including mopeds), and tricycles and quadricycles driven by power devices that are illegally produced or sold, and may impose a fine of not less than three times but not more than five times the value of illegal products; if there is a business license, the business license shall be revoked by the administrative departments for industry and commerce, and if there is no business license, it shall be closed down.

**Article 106** Whoever violates Article 29 of these Measures shall be ordered by the traffic administrative department of the public security organ to stop illegal acts and make restoration.

**Article 107** Any construction unit that violates Article 31, Article 32 and Article 60 of these Measures shall be ordered by the traffic administrative department of the public security organ shall be ordered to make corrections and eliminate potential road traffic risks; if the potential risks can not be eliminated immediately, the construction unit shall be ordered to stop working.

**Article 108** Where any unit, in violation of the provisions of Article 76 of these Measures, fails to fulfill the responsibility system for protection of road traffic safety, the departments for public security traffic management may interview the person in charge and order to make corrections within a prescribed time limit; in the event of failure to make corrections within the prescribed time limit, the motor vehicles shall be prohibited from driving on roads, and a fine of not less than 10,000 yuan but not more than 50,000 yuan may be imposed.

**Article 109** The traffic administrative department of the public security organ shall make announcements to the public about the violations of traffic law confirmed by traffic technology supervision records and the public have the right to consult.

The traffic administrative department of the public security organ and the traffic policemen shall issue written notices to owners or drivers of motor vehicles which have overdue record of traffic law violation, and the owners or drivers of the motor vehicles shall accept punishment at the informed time and place.

## **Chapter VIII Supplementary Provisions**

**Article 110** Motorcycles (including mopeds), and tricycles and quadricycles driven by power devices shall follow the relevant provisions on motor vehicle management of the State and this Municipality.

**Article 111** These Measures shall take effect as of January 1, 2005.

# 北京市公路条例

(2007年7月27日北京市第十二届人民代表大会常务委员会第三十七次会议通过 根据2010年12月23日北京市第十三届人民代表大会常务委员会第二十二次会议《关于修改部分地方性法规的决定》修正)

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## 第一章 总 则

**第一条** 为加强本市公路的建设和管理，促进公路事业发展，根据《中华人民共和国公路法》、《收费公路管理条例》及有关法律、法规，结合本市实际情况，制定本条例。

**第二条** 本条例适用于本市行政区域内公路的规划、建设、养护、收费、使用以及其他相关管理活动。

本条例所称公路，包括公路桥梁、隧道和涵洞。按其在公路路网中的地位分为国道、

# Regulations of Beijing Municipality on Highways

(Adopted at the 37<sup>th</sup> Session of the Standing Committee of the 12<sup>th</sup> People's Congress of Beijing Municipality on July 27, 2007; and amended in accordance with the Decision on Amending Certain Local Regulations as adopted at the 22<sup>nd</sup> Session of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on December 23, 2010)

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## Chapter I General Provisions

**Article 1** For the purposes of strengthening the construction and management of highways and stimulating the development of highways in this Municipality, these Regulations are enacted in accordance with the Highway Law of the People's Republic of China, the Regulations on the Administration of Toll Roads and other laws and regulations, and in light of the circumstances of this Municipality.

**Article 2** These Regulations are applicable to the planning, construction, maintenance, charging, use and other relevant administrative activities of highways within the administrative area of this Municipality.

The term "highways" mentioned in the Regulations refers to bridges for the highways, tunnels and culverts, and shall be divided into state roads, city roads, county roads, township and village roads, according to their positions in the networks.

市道、县道、乡道和村道。

**第三条** 本市公路的发展应当遵循全面规划、城乡统筹、节约资源、安全环保、科学管理和保障畅通的原则。

**第四条** 市交通行政主管部门主管本市公路工作。

市公路管理机构负责国道、市道、县道的管理工作。区、县人民政府负责本行政区域内乡道、村道的管理工作。市公路管理机构的派出机构按照规定负责监督、检查和指导管辖区域内乡道、村道的建设、养护工作。

乡镇人民政府负责本行政区域内乡道、村道的建设、养护工作。

发展改革、财政、国土资源、规划、建设、环境保护、公安交通等行政管理部门按照各自职责，依法负责公路的相关管理工作。

**第五条** 公路作为公益性基础设施受国家保护。任何单位和个人都有爱护公路、公路用地及公路附属设施的义务，有权检举损毁或者非法占用公路、公路用地及公路附属设施的行为。

## 第二章 公路规划与建设

**第六条** 本市公路规划是城乡规划体系的组成部分，应当依据本市城市总体规划、国民经济和社会发展规划、土地利用总体规划编制，并与国家公路网规划、区域公路网规划、本市城市道路网规划和综合交通运输发展规划相协调。公路规划与建设应当坚持节约用地、保护环境的原则。

**第七条** 市道、县道、乡道、村道规划由市交通行政主管部门会同市规划、发展改革等行政管理部门商相关区、县人民政府，按照城乡统一规划的原则组织编制，依法报市人民政府批准后实施。市道规划同时报国务院交通主管部门备案。

**第八条** 市道、县道、乡道的命名和编号，按照《中华人民共和国公路法》的规定执行。村道的命名和编号的确定办法，由市公路管理机构制定。

**第九条** 公路年度建设计划由市公路管理机构根据本市公路规划组织编制，报市

**Article 3** The development of highways in this Municipality shall follow the principles of overall planning, urban-rural coordination, conservation of resources, safety and environmental protection, scientific administration and clearance of obstruction.

**Article 4** The municipal-level highway administrative departments shall be responsible for the administration of highways within this Municipality.

The municipal highway administrative departments shall be responsible for the management of state, city and county roads. District and county people's governments shall be responsible for the management of township and village roads within their administrative region. The local offices of the municipal highway administrative departments shall be responsible for supervising, inspecting and directing the construction and maintenance of township and village roads within their administrative areas.

People's governments of town/township shall be responsible for the construction and maintenance of township and village roads within their respective administrative areas.

The administrative departments of development and reform, finance, land and resources, planning, construction, environmental protection, public security and transportation shall be responsible for the relevant administration work of highways within the scope of their respective functions according to law.

**Article 5** Highways as public welfare infrastructure shall be subjected to the protection by the State. Any entity or individual is obliged to protect highways, lands and ancillary facilities used by highways, and has the right to report acts that damage or illegally occupy highways, lands and ancillary facilities used by highways.

## **Chapter II Planning and Construction of Highways**

**Article 6** Highway planning is an integral part of the urban and rural planning system of this Municipality and shall be made in accordance with the city's overall urban planning, the national economic and social development plans and the general plans for the utilization of land, and in coordination with the State roads network plans, the regional highway network plans, the urban road network plans of this Municipality and the comprehensive transportation development plans. Highway planning and construction shall adhere to the principle of land conservation and protecting the environment.

**Article 7** Plans of city roads, county roads, township roads and village roads shall be organized and formulated by the municipal transport administrative department in conjunction with administrative departments of the municipal planning, development and reform and other departments, and the people's governments of the relevant districts and counties, in accordance with the principles of unified urban and rural planning, and submitted to the municipal people's government for approval. Plans of city roads shall be filed with the transportation department of the State Council.

**Article 8** Names and indexes of city roads, county roads and township roads shall be carried out in accordance with the provisions of the Highway Law of the People's Republic of China. Names and indexes of village roads shall be formulated by the municipal highway administrative department.

**Article 9** The annual highway construction plan shall be organized and formulated



交通管理部门批准后实施。公路年度建设计划应当在上一年度结束前编制完成。

公路建设项目应当按照国家和本市固定资产投资程序履行相关批准手续。

**第十条** 地下管线年度建设计划应当与公路年度建设计划衔接。

新建公路时，地下管线应当与公路同步规划、同步设计，并按照先地下、后地上的施工原则，与公路同步建设。

**第十一条** 公路建设项目实行代建制的，应当通过招标方式选择代建单位并依法签订合同。交通、发展改革、财政、审计等相关行政管理部门，应当依法加强对公路代建项目和代建单位的监管。

**第十二条** 公路建设项目应当按照国家和本市有关规定进行验收。未经验收或者验收不合格的，不得交付使用。

**第十三条** 新建公路时，公路附属设施、公路客运站点应当与公路同步规划、同步设计、同步建设。

前款公路附属设施，是指为保护、养护公路和保障公路安全畅通所设置的公路防护、排水、养护、管理、服务、交通安全、监控、检测、通信、收费等设施、设备以及专用建筑物、构筑物等。

交通标志、标线等公路交通安全设施，应当按照国家和本市有关标准设置，保持清晰、醒目、准确、完好、方便使用。

**第十四条** 市公路管理机构对失去使用功能的市道、县道，区、县人民政府对失去使用功能的乡道、村道，应当宣布废弃，及时向社会公告，并设立明显标志。废弃公路由相关部门按照国家和本市的有关规定及时进行处理。

### 第三章 公路养护

**第十五条** 公路养护计划由市公路管理机构按照公路等级、里程、路况、养护定额及养护规范评定标准组织编制，报市交通管理部门批准后实施。资金安排按照财政预算管理规定执行。

by the municipal highway administrative department in accordance with the highway plans of this Municipality, and submitted to the municipal traffic administrative department for approval before implementation. The annual highway construction plan shall be completed before the end of the previous year.

Highway construction projects shall go through relevant approval formalities in accordance with the fixed assets investment procedures of the State and this Municipality.

**Article 10** The annual plan for underground pipeline construction shall be in consistent with the annual plan for highway construction.

The underground pipelines shall be planned and designed at the same time when building new highways under the principle of “the pipelines go first”.

**Article 11** Where the agent construction system is adopted, the agent shall be selected through bidding and a contract with the agent shall be signed according to law. The competent administrative departments of transportation, development and reform, finance, audit shall strengthen the supervision of highway agent construction projects and the construction agent.

**Article 12** Highway construction projects are subjected to procedures of inspection and acceptance according to relevant regulations of the State and this Municipality. Projects that have not been inspected or been considered unqualified for acceptance shall not be put to use.

**Article 13** Ancillary facilities of roads and highway passenger stations shall be planned, designed and constructed at the same time with the newly-built highways.

The "ancillary facilities of roads" mentioned in the preceding paragraph refers to facilities, equipment and special buildings or structures for road protection, water discharge, maintenance, management, services, traffic safety, monitoring and control, inspection, telecommunications and fee collection for the purpose of protecting, maintaining and ensuring traffic safety of roads.

Traffic signs, markings and other highway traffic safety facilities shall be set up in accordance with the relevant standards of the State and this Municipality, and shall be kept clear, striking, accurate, intact and easy to use.

**Article 14** For useless city/county roads or township/village roads, the municipal highway administrative department or the district/county people's governments shall declare them as abandoned and announce such abandonment to the public promptly, and set up striking signs on such highway to that effect. Abandoned highways shall be disposed by relevant departments in a timely manner in accordance with the relevant regulations of the State and this Municipality.

### **Chapter III Highway Maintenance**

**Article 15** The highway maintenance plan shall be stipulated by the municipal highway administrative department according to the grade, mileage, road condition, maintenance quota and maintenance standard of highways, and be submitted to the municipal transport

公路养护资金应当专项用于公路养护，不得挪作他用。

**第十六条** 公路养护大修工程、中修工程应当通过招标方式确定养护作业单位；小修保养可以引入竞争机制，逐步推行招标制度。

**第十七条** 公路养护作业单位应当按照国家和本市有关标准规范，建立公路养护巡查制度，定时进行养护巡查；建立公路养护维修信息档案，记录养护作业、巡查、检测以及其他相关信息；设立公示牌，公示单位名称、养护路段以及报修和投诉电话。

**第十八条** 公路养护作业单位应当按照批准的工期、时段进行养护大修、中修工程作业。

公路养护作业单位进行养护作业时，应当按照规定在养护作业现场和养护车辆设置安全警示标志和警示灯光信号，采取相应的安全防护措施。养护作业人员进行养护作业时，应当穿着统一的安全标志服。

市公路管理机构应当向社会公示公路养护大修、中修工程作业信息。对交通有较大影响的养护大修、中修工程作业，市公安交通管理部门应当依法加强交通安全监督检查。

**第十九条** 公路养护车辆进行养护作业时，在不影响过往车辆通行的前提下，其行驶路线和方向不受公路标志、标线限制。过往车辆和行人对公路养护车辆和人员应当注意避让。

**第二十条** 市公路管理机构应当制定公路养护技术规范和管理考核标准，加强对公路养护作业单位的指导，定期对公路养护作业单位进行检查。

**第二十一条** 附设于公路的地下管线的检查井及其井盖等设施，应当符合公路养护技术规范，产权单位应当加强巡查。对因井盖等设施缺损、移位、下沉等影响公路通行安全的，产权单位应当及时补缺或者修复。

**第二十二条** 机动车所有人应当按照规定缴纳公路养路费，未按照规定缴纳公路养路费的机动车不得上路行驶。

公路养路费征稽机构负责本市公路养路费的征收和稽查工作，除公路养路费征稽机构按照国家和本市规定的范围减征、免征公路养路费外，任何单位和个人不得擅自

administrative department for approval before implementation. Fund management shall be implemented in accordance with the financial budget management.

Highway maintenance funds shall be used specifically for highway maintenance and not be peculated for other purposes.

**Article 16** Maintenance entities for highway overhaul maintenance or partial overhaul maintenance project shall be selected through bidding. For minor maintenance, competition mechanism may be introduced with bidding system being gradually implemented.

**Article 17** The highway maintenance entities shall, in accordance with the relevant standards of the State and this Municipality, establish highway maintenance system and carry out regular maintenance patrol; establish archives of highway maintenance information to record maintenance operations, patrol, testings and other relevant information; and set up bulletin boards with names of the entities, maintenance sections and telephone numbers for repairs and complaints.

**Article 18** Highway maintenance entity shall carry out the maintenance overhaul and the partial overhaul according to the approved time limit and period.

When carrying out maintenance operations, the highway maintenance entity shall, in accordance with the regulations, set up safety warning signs and warning light signals at the site of maintenance operations and on the maintenance vehicles, and take corresponding safety protection measures. Maintenance operators shall wear specific safety uniform when carrying out maintenance operations.

The municipal highway administrative organization shall publicize information on the operations of the highway maintenance overhaul and partial overhaul projects. For maintenance overhaul and partial overhaul projects with great interference with traffic, municipal public security traffic administrative department shall strengthen the traffic safety supervision and inspection according to law.

**Article 19** In the running operation of road maintenance, vehicles shall not be subjected to the restrictions of road signs and road marks in route and direction under the condition of not affecting the normal running of other vehicles. Other vehicles running along the road shall give way to road maintenance vehicles and personnel.

**Article 20** The municipal highway administrative department shall formulate technical specifications and management assessment standards for highway maintenance, strengthen guidance to and regularly inspect highway maintenance units.

**Article 21** Inspection of wells and their covers for underground pipelines attached to highways shall conform to the technical specifications for highway maintenance, and the inspection of which shall be strengthened by their property right units. The property right entities shall promptly make up or repair the defects, displacement and sinking of the well cover and other facilities affecting the safety of highway traffic.

**Article 22** Motor vehicle owners shall pay road maintenance fees in accordance with the regulations, otherwise shall not be allowed to drive on the roads.

The highway road maintenance fees collection and inspection departments shall be responsible for the collection and inspection of the highway road maintenance fees in this Municipality. No unit or individual shall reduce the road maintenance fees without authorization, except for the reduction and exemption of the highway road maintenance fees authorized by the highway road maintenance fees collection and inspection departments in

减免公路养路费。

**第二十三条** 有下列情形之一的，公路养路费征稽机构可以采取暂停违法机动车的使用：

- （一）伪造公路养路费票证和收据偷逃公路养路费的；
- （二）以套用、伪造机动车牌照的方式偷逃公路养路费的；
- （三）以办理停驶手续后在停驶期间行驶的方式偷逃公路养路费的；
- （四）欠缴公路养路费 6 个月以上的。

公路养路费征稽机构暂停违法机动车的使用时，应当向当事人出具凭证，并作出责令其所有人缴纳公路养路费、滞纳金及行政处罚的处理决定。机动车所有人履行处理决定的，公路养路费征稽机构应当及时恢复机动车的使用。

被暂停使用的违法机动车的所有人拒不缴纳公路养路费及滞纳金或者不执行行政处罚决定的，公路养路费征稽机构可申请人民法院强制执行。

**第二十四条** 公路养路费征稽机构应当与公安交通管理部门建立机动车登记信息共享机制。公安交通管理部门在机动车办理停驶、注销、过户、年检等环节时，发现有欠缴养路费行为的，应当及时移交公路养路费征稽机构查处；公路养路费征稽机构在征收养路费时，发现有套用、伪造机动车牌照及办理停驶手续后在停驶期间行驶行为的，应当及时移交公安交通管理部门查处。

公路监督检查人员依法进行公路养路费稽查时，有关单位和个人应当予以配合。

## 第四章 路政管理

**第二十五条** 公路用地范围按照以下标准确定：

- （一）公路两侧有边沟的，其用地范围为公路两侧边沟外缘起 1 米的区域；
- （二）公路两侧无边沟的，其用地范围为公路路缘石外缘起 5 米的区域；
- （三）封闭公路用地范围为公路两侧隔离栅起 1 米的区域。

本条例实施前公路的用地范围与上述规定不一致的，按照现状范围确定。

accordance with the scope prescribed by the State and this Municipality.

**Article 23** For any of the following cases, the highway maintenance fee collection and inspection departments may take measures to suspend the use of illegal motor vehicles:

1. Evading road maintenance fees by forging tickets and receipts for road maintenance fees;
2. Evading road maintenance fees by misusing or forging motor vehicle license plates;
3. Evading road maintenance fees by driving during the period of suspension after going through the formalities of stopping driving;
4. Failing to pay road maintenance fees for more than 6 months.

When suspending the use of illegal motor vehicles, the highway road maintenance fee collection and inspection departments shall issue vouchers to the parties concerned and make a decision to order the owners to pay road maintenance fees, late fees and administrative penalties. After the owner of the motor vehicle has carried out the handling decision, the highway road maintenance fees collection and inspection departments shall restore the use of motor vehicles in time.

If the owner of the suspended motor vehicle refuses to pay the road maintenance fees and late fees or does not carry out the decision of administrative punishment, the highway maintenance fees collection and inspection organization may apply to the people's court for enforcement.

**Article 24** The highway maintenance fees collection and inspection department shall establish a vehicle registration information sharing mechanism with the public security traffic administrative department. Where the public security traffic administrative department finds a failure to pay the road maintenance fees in the motor vehicle stop, write-off, transfer of ownership, annual inspection and other links, it shall promptly hand it over to the highway maintenance fees collection and inspection department for investigation and punishment. Where the highway maintenance fees collection and inspection department finds any misuse or forgery of vehicle license plates, or finds driving acts during the stopping period after going through stop-driving formalities, it shall promptly hand over such matters to the public security traffic administrative department for investigation and punishment.

When the highway supervision and inspection personnel carry out highway maintenance fees inspection according to law, the relevant units and individuals shall cooperate.

## **Chapter IV Road Administration**

**Article 25** Scope of lands used by roads shall be determined according to the following criteria:

1. Scope of land used by roads with side ditches on both sides is 1 meter from the outer edges of the side ditches on both sides of the highway;
2. Scope of land used by roads without side ditches on both sides is 5 meters from the outer edges of the stone on the highway edge;
3. Scope of land used by roads of closed highway is 1 meter from barriers on both sides of highway.

If lands used by roads before the implementation of these Regulations are inconsistent with the above provisions, they shall be determined in accordance with the current

**第二十六条** 公路建筑控制区的范围从公路用地外缘起按照以下标准划定：

- （一）国道 20 米，市道 15 米，县道 10 米，乡道 5 米；
- （二）公路弯道内侧及平交道口，以行车视距或改作立体交叉的需要为准。

除公路防护、养护需要外，禁止在公路建筑控制区内建设建筑物和地面构筑物。

公路建筑控制区内已有建筑物、构筑物和埋设的管线、电缆等设施，危及公路安全的，市公路管理机构及其派出机构应当协助其所有人采取必要的安全防护措施。

市公路管理机构和区、县人民政府应当按照各自职责，依照本市规定加强公路建筑控制区内的公路绿化建设和养护的管理工作。

**第二十七条** 有下列行为之一的，应当经过市公路管理机构许可：

- （一）占用、挖掘公路或者使公路改线的；
- （二）跨越、穿越公路修建桥梁、渡槽或者架设、埋设管线等设施，以及在公路用地范围内架设、埋设管线、电缆等设施的；
- （三）在公路建筑控制区内埋设管线、电缆等设施的；
- （四）铁轮车、履带车和其他可能损害公路路面的机具在公路上行驶的；
- （五）在公路用地范围内设置非公路标志的；
- （六）在公路上增设平面交叉道口的；
- （七）超过公路限载、限高、限宽、限长标准的车辆确需在公路上行驶的。

从事前款第（一）、（二）项活动，影响交通安全的，还应当征得公安交通管理部门同意；运载不可解体的超限物品，影响交通安全的，应当按照公安交通管理部门指定的时间、路线、速度行驶，并悬挂明显标志。

**第二十八条** 申请从事本条例第二十七条规定的行为的，应当符合下列条件：

- （一）有保障公路及其附属设施安全和通行安全的防护和监测措施；
- （二）有降低对交通影响的交通组织和作业方案；
- （三）有应急准备措施；
- （四）法律、法规和规章规定的其他条件。

**第二十九条** 经许可跨越、穿越公路修建桥梁、渡槽或者架设、埋设管线等设施，



condition.

**Article 26** A highway construction control area shall cover any of the following from the outer edge of the land used for a highway:

1. 20 meters for State roads, 15 meters for city roads, 10 meters for county roads, 5 meters for township roads;

2. The inner sides of the road bend and the flat crossing shall be subject to the needs of the traffic horizon or the change to a three-dimensional crossing;

Except for the needs of highway protection and maintenance, it is forbidden to erect buildings and ground structures in the control area for construction of highways. If the existing buildings, structures and buried pipelines, cables and other facilities in the highway construction control area endanger the safety of the highway, the municipal highway administrative organization and its dispatched offices shall assist their owners to take necessary safety protection measures.

The municipal highway administrative department and the people's governments of districts and counties shall, in accordance with their respective duties and the provisions of this Municipality, strengthen the management of road greening construction and maintenance in the control area for construction of highways.

**Article 27** Any of the following acts shall be approved by the municipal highway administrative department:

1. Occupying, digging or changing the route of the roads;

2. Building of bridges and/or aqueducts or putting up or laying pipelines across over, at or under the roads or erecting or laying pipelines, cables and other facilities in land used by roads;

3. Installing pipelines, cables and other facilities in the control areas for construction of roads;

4. Iron-wheel carts, caterpillar vehicles and other machines and tools that might damage road surface running on the highway roads;

5. Posting non-highway signs within the scope of land used for highways;

6. Adding road crossings on the roads;

7. Vehicles exceeding the limits of road load, height, width and length need to run on the highway roads.

Whoever engaged in the activities mentioned in the sub-paragraphs (1) and (2) of the preceding paragraph affecting traffic safety shall also be approved by the public security traffic administrative department; vehicles carrying articles beyond the limits that can not be disintegrated and affecting traffic safety shall run in accordance with the time, route and speed specified by the public security traffic administrative department, with clear signs.

**Article 28** Where an application is made for acts under Article 27 herein, the following conditions shall be met:

1. Being equipped with protective and monitoring measures to ensure the safety of traffic, highways and their ancillary facilities;

2. Having programme for transportation organization and operation to reduce traffic impact;

3. Having emergency measure;

4. Other conditions stipulated by laws, regulations and rules.

**Article 29** Where a construction of a bridge, aqueduct or an installation of pipelines



以及在公路用地范围内架设、埋设管线、电缆等设施的，所修建的桥梁、渡槽或者架设、埋设的设施应当与路面保持规定的安全距离。

**第三十条** 经许可在公路用地范围内设置非公路标志的，非公路标志应当符合国家和本市有关标准和规定，其所有人或者维护管理人应当加强维护和管理。

**第三十一条** 经许可在公路上增设平面交叉道口的，被许可人应当委托该公路的养护作业单位修建。

增设平面交叉道口，应当符合国家规定的技术标准，并修建自公路路面边缘起不少于 30 米的沥青或者混凝土路面；影响公路排水畅通的，应当修建相应的排水设施。

被许可人关闭平面交叉道口的，应当向市公路管理机构备案。

**第三十二条** 在公路及公路用地范围内不得从事下列行为：

- （一）破坏、损坏、污染公路及公路附属设施；
- （二）擅自移动、涂改、遮挡公路附属设施；
- （三）设置障碍、打场晒粮、堆放物品、倾倒垃圾、抛撒遗撒或焚烧物品、放养牲畜；
- （四）挖沟引水或利用边沟排放污物；
- （五）在公路上试刹车；
- （六）从事修车、洗车、摆摊设点等服务；
- （七）在市公路管理机构设定的场所以外从事加水降温等活动；
- （八）法律、法规和规章禁止的其他行为。

**第三十三条** 市公安交通管理部门、市公路管理机构、市道路运输管理机构等部门对车辆进行超载超限检测时，被检测车辆应当予以配合；经检测超载超限且未经许可的，责令承运人自行卸载超限物品；拒不卸载的，强制卸载，所需费用由承运人承担。

**第三十四条** 造成公路及其附属设施损坏的，责任人应当保护现场，采取安全防护措施，报告市公路管理机构或者其派出机构并接受调查、处理后，方可离开。

因交通事故造成公路及其附属设施损坏的，公安交通管理部门应当及时通知市公路管理机构或者其派出机构；市公路管理机构应当及时组织建设、养护作业单位修复。

**第三十五条** 经许可挖掘公路的，挖掘单位应当在批准期限届满前委托该公路的

is permitted to cross or spanning a highway, as well as setting up and laying pipelines, cables and other facilities within the scope of land used by roads, the bridge, aqueduct or facilities set up or laid shall maintain the prescribed safe distance from the highway road surface.

**Article 30** If a non-highway sign is posted within the scope of land used by roads, the non-highway sign shall conform to the relevant standards and regulations of the State and the Municipality, and shall be well maintained and managed by its owner or maintenance manager.

**Article 31** Where a road crossing is permitted to add on a highway, the licensee shall entrust the maintenance unit of the highway to build it.

The addition of road crossings shall conform to the technical standards prescribed by the State, with asphalt or concrete pavement not less than 30 meters from the edge of the highway pavement; where the drainage of the highway roads is affected, the corresponding drainage facilities shall be built.

When closing the road crossings, the licensee shall file it with the municipal highway administrative department.

**Article 32** The following acts are prohibited within the scope of highway roads and lands:

1. Destruction, damage and pollution of highways and ancillary facilities;
2. Unauthorized movement, alteration and blocking of highway ancillary facilities;
3. Setting up obstacles, threshing and drying grain, piling up articles, dumping rubbish, scattering or burning articles, and stocking livestock;
4. Digging ditches for water diversion or using side ditches to discharge sewage;
5. Testing brakes on the highways;
6. Providing services including car repairing, washing, setting up stalls, etc;
7. Other acts prohibited by laws, regulations and rules.

**Article 33** When the municipal public security traffic administrative department, municipal highway administrative department, municipal road transport administrative department and other departments carry out overload and overrun examination of vehicles, the testee shall cooperate; the carrier shall be ordered to unload the overloaded items on its own if examined to be overload or overrun without permission; if the carrier refuses to do so, the carrier shall be forced to unload and bear the full cost incurred.

**Article 34** Those who have caused damage to the highway and its ancillary facilities shall protect the sites, take safety protection measures, report the cases concerned to the municipal highway administration or its dispatched offices, and accept investigations and disposals before leaving.

Where highway roads and its ancillary facilities are damaged as a result of traffic accidents, the traffic administrative department of the public security organs shall promptly notify the municipal highway administrative organization or its dispatched offices, the municipal highway administrative department shall promptly organize construction and maintenance units to repair such damage.

**Article 35** If an excavating unit excavates highway roads with permission, it shall

养护作业单位及时修复完毕，并按照标准向养护作业单位交纳挖掘修复费。养护作业单位应当对修复质量负责。

**第三十六条** 造成公路、公路附属设施损坏依法应当补偿或赔偿的，责任人应当向市公路管理机构或者收费公路经营管理者交纳补偿或赔偿费。公路补偿费标准由市交通行政管理部门会同市发展改革、财政等行政管理部门根据公路工程造价定额标准制定和调整，并向社会公布。公路赔偿费参照公路补偿费标准执行。

**第三十七条** 公路监督检查人员进行监督检查时，应当遵守下列规定：

- （一）佩戴标志；
- （二）持证上岗；
- （三）按照规定着装；
- （四）严格执行法定程序。

公路监督检查的专用车辆，应当按照国家有关规定设置标志和示警灯。

## 第五章 收费公路的特别规定

**第三十八条** 收费公路的管理，适用本章规定；本章未作规定的，适用本条例其他有关规定。

**第三十九条** 本市收费公路的设立，应当符合本市公路规划，由市人民政府依据国家规定的技术等级、规模审查批准。

市公路管理机构应当依法加强对收费公路经营管理的监督检查，督促收费公路经营管理者履行公路养护和服务义务。

**第四十条** 政府还贷收费公路应当由依法设立的不以营利为目的的专门组织进行建设和管理。

经营性收费公路应当由依法成立的公路企业法人建设、经营和管理。经营性收费公路的投资、建设、运营和经营者确定方式等由市交通行政管理部门会同市发展改革等相关部门提出，报市人民政府批准。

entrust the maintenance unit of such highway roads to complete the repair before the expiration of approval period, and, in accordance with the standards, pay for the repair. The maintenance unit shall be responsible for the repair quality.

**Article 36** Those who have caused damage to the highway or highway ancillary facilities shall compensate according to law, and pay the indemnity or compensation to the municipal highway administrative department or the manager of toll road operation. The standards of highway compensation fees shall be formulated and adjusted by the municipal traffic administrative department in conjunction with administrative departments of the municipal development and reform, finance and others according to the highway project cost quota standard, and shall be announced to the public. The highway compensation fees shall be implemented with reference to the standard of highway compensation fees.

**Article 37** Highway supervision and inspection personnel shall abide by the following provisions when conducting supervision and inspection:

1. Wearing signs;
2. Showing certificates;
3. Wearing uniform as required;
4. Implementing legal procedure strictly.

Dedicated vehicles for highway supervision and inspection shall be equipped with signs and warning lights in accordance with the relevant provisions of the State.

## **Chapter V Special Provisions on Toll Highways**

**Article 38** The management of toll roads shall be governed by the provisions of this Chapter; where it is not covered by this Chapter, other relevant provisions herein shall be applicable.

**Article 39** Establishment of toll roads in this Municipality shall be governed by the highway planning of this Municipality, and be examined and approved by the municipal people's government in accordance with the technical level and scale stipulated by the State.

The municipal highway administrative department shall, in accordance with the law, strengthen the supervision and inspection, urge the managers of the toll highways to fulfill their obligations of highway maintenance and service.

**Article 40** Toll roads whose loans are to be repaid by government shall be constructed and managed by special non-profit organizations established according to law.

Managerial toll roads shall be constructed, operated and managed by highway enterprise legal person established according to law. The methods of investment, construction, operation and operator determination shall be put forward by the municipal traffic administrative department in conjunction with the relevant departments of municipal reform and development and others, and be submitted to the municipal people's government for approval.

**第四十一条** 收费公路的车辆通行费收费标准、收费期限和收费站设置应当按照国家规定的程序、标准进行审查批准。经批准设置的收费站确需进行调整的，应当重新办理审查批准手续。收费公路收费期满应当按照规定拆除收费设施停止收费，并由市人民政府向社会公告。

市交通行政主管部门对验收合格的收费站应当统一制发收费站标牌，制定公示规范和服务标准并加强监管。

**第四十二条** 收费公路经营管理者应当遵守下列规定：

- （一）按照规定的收费标准和收费方式收取车辆通行费；
- （二）按照规定开具收费票据；
- （三）按照公示规范设置公示牌；
- （四）及时提示路况、通行和预警信息；
- （五）按照标准规范，加强服务区的建设和管理。

遇有交通流量过大影响车辆通行的情形时，收费公路经营管理者应当及时采取提高车辆通行效率的措施。

**第四十三条** 收费公路经营管理者应当提高科技服务水平，推行联网收费和不停车收费。新建收费公路应当同步建设不停车收费系统。

**第四十四条** 在收费公路上行驶的车辆，应当按照规定交纳车辆通行费。

收费公路经营管理者对依法应当交纳而拒交、逃交、少交车辆通行费的车辆，有权拒绝其通行，并要求其补交应当交纳的车辆通行费。收费公路经营管理者对不能提供通行卡或者通行卡毁损导致无法识别驶入站的车辆，对从不停车收费车道驶入的无电子标签的车辆，有权按照最远端的驶入站到本站的距离收取车辆通行费。

**第四十五条** 政府还贷收费公路的车辆通行费，除必要的管理、养护费用从财政部门批准的车辆通行费预算中列支外，应当全部用于偿还贷款，不得挪作他用。

经营性收费公路的通行费收入应当按照国家和本市规定的标准，保证收费公路的养护费用。

收费公路经营管理者应当按照规定及时向市公路管理机构提供收费、还贷、路况、交通流量、养护和管理等有关信息资料。信息资料涉及商业秘密的，市公路管理机构

**Article 41** The vehicle toll standard, charging period and toll station setting shall be approved according to the procedures and standards stipulated by the State. The approved tolls that need to be adjusted shall go through the examination and approval procedures again. When the toll collection period of a toll road has expired, the toll collection facilities shall be demolished as required and be announced by the municipal people's government to the public.

The municipal traffic administrative department shall uniformly make and issue toll station signs, formulate publicity and service standards, and strengthen supervision over toll stations that pass the inspection and considered qualified.

**Article 42** The operators of toll roads shall abide by the following provisions:

1. Collecting vehicle tolls according to the prescribed charging standards and methods;
2. Issuing charge bills in accordance with regulations;
3. Setting up public signs as required;
4. Prompting traffic condition, traffic and warning information in time;
5. Strengthening the construction and management of service areas in accordance with standard and specification.

When passage of vehicles is affected by traffic overflow, toll road managers shall take timely measures to improve the efficiency of vehicle traffic.

**Article 43** The operators of toll roads shall improve the level of science and technology services, and implement online and non-stop toll collection system. The newly-built toll roads shall be equipped simultaneously with non-stop toll collection system.

**Article 44** Vehicles running on the toll roads shall pay tolls as required.

Toll road operators are entitled refuse the driving through of any vehicle that refuses to pay, escapes the payment, or pays vehicle tolls less than it should pay according to law, and requires it to replenish the vehicle tolls that should be paid. For vehicles that can not provide pass cards or whose access cards are damaged that

make it impossible to identify the entrance station, and for vehicles without electronic labels that drive into the toll lanes from non-parking-toll-lanes, toll road operators are entitled to charge vehicle tolls based on the distance from the farthest entrance station to the station where they are situated.

**Article 45** Except that the necessary management and maintenance expenses shall be disbursed from the vehicle toll budget approved by the financial department, all the vehicle tolls of the toll roads whose loans are be repaid by government shall be used to repay the loan and shall not be peculated for other purposes.

The toll income of managerial toll roads shall cover the maintenance costs of toll roads in accordance with the standards set by the State and this Municipality.

Toll road operators shall, in accordance with the provisions, timely provide the municipal highway administrative department with relevant information such as toll collection, loan repayment, road conditions, traffic flow, maintenance and management,

应当予以保密。

**第四十六条** 收费公路的年度养护计划由收费公路经营管理者按照相关标准规范编制，并报市公路管理机构备案。

**第四十七条** 市公路管理机构依法负责收费公路的路政管理。对申请占用、挖掘收费公路或者在收费公路进行管线施工等活动的，市公路管理机构在许可前应当征求收费公路经营管理者的意见。

收费公路经营管理者应当建立、健全公路保护的巡查制度，发现损坏收费公路路产路权的行为，应当及时制止并向市公路管理机构报告。

## 第六章 乡道、村道的特别规定

**第四十八条** 乡道、村道的管理，适用本章规定；本章未作规定的，适用本条例其他有关规定。

**第四十九条** 乡道、村道的建设按照国家和本市有关规定执行。

新建乡道、村道的技术等级不得低于国家规定的四级标准。已建成的乡道、村道达不到四级标准的，应当逐步提级改造。

**第五十条** 区、县人民政府负责编制、下达乡道、村道的年度养护计划，市公路管理机构的派出机构可以接受区、县人民政府委托具体组织编制；乡道、村道的年度养护计划应当报市公路管理机构备案。

**第五十一条** 乡道、村道建设资金应当按照本市有关规定列入政府的财政预算。

鼓励沿线受益单位捐助、企业和个人捐款用于乡道、村道建设；鼓励多渠道筹集社会资金投资乡道、村道建设。

**第五十二条** 市和区、县人民政府应当保证乡道、村道养护资金。乡道、村道养护资金应当专款专用、专项专用，并接受财政、审计、发展改革、交通等行政管理部门的监督。

**第五十三条** 乡道、村道的大修工程可以采取招标方式确定养护作业单位，小修保养可以招聘沿线村民组建养路队进行。



etc. Any of the information that involves business secrets shall be kept confidential by the municipal highway administrative department.

**Article 46** The annual maintenance plan of toll roads shall be made by toll road operators in accordance with relevant standards and specifications, and shall be filed with the municipal highway administrative department.

**Article 47** The municipal highway department shall be responsible for the road administration of toll roads according to law. For those who apply to occupy, excavate toll roads or carry out pipeline construction on toll roads and the like, the municipal highway administrative department shall seek the opinions of toll road operators before licensing.

The operators of toll roads shall establish a sound inspection system of highway protection, and promptly stop and report it to the municipal highway administrative department on finding acts damage the property right of toll roads.

## **Chapter VI Special Provisions on Township and Village Roads**

**Article 48** The management of township and village roads shall be governed by the provisions of this Chapter; where it is not covered by this Chapter, other relevant provisions herein shall be applicable.

**Article 49** The construction of township roads and village roads shall be carried out in accordance with the relevant provisions of the State and this Municipality.

The technical grade of newly-built township roads and village roads shall not be lower than grade 4 required by the national standard. The established township roads and village roads that fail to meet the standard shall be upgraded and improved gradually.

**Article 50** The people's governments of district and county shall be responsible for stipulating and issuing the annual maintenance plans for township roads and village roads, and may entrust agencies dispatched by the municipal highway administrative department to organize and stipulate specifically; the annual maintenance plan of township roads and village roads shall be filed with the municipal highway administrative organization.

**Article 51** The funds for the construction of township roads and village roads shall be included in the financial budget of the government in accordance with the relevant provisions of this Municipality.

Donations are encouraged from beneficiary entities, enterprises and individuals alongside the township roads and village roads, and social funds from various channels are encouraged to invest in the construction of township roads and village roads.

**Article 52** The people's governments of municipal, district and county shall ensure the maintenance funds of township roads and village roads, which shall be used for their specific purposes exclusively, and be subject to the supervision of administrative departments of finance, audit, development and reform, transportation and others.

**Article 53** The maintenance units of overhaul projects of township roads and village roads can be selected by bidding; for small repairs and maintenance, villagers alongside the roads can be recruited to form the maintenance team.



## 第七章 公路突发事件应急管理

**第五十四条** 本市公路突发事件应急管理纳入全市突发事件应急管理体系。市交通行政管理部门负责组织制定本市公路突发事件应急预案，经市人民政府批准后实施。

市公路管理机构及其派出机构负责公路突发事件应急处理的组织工作；市政府相关部门、区、县和乡镇人民政府按照各自职责负责公路突发事件的应急处理工作。

公路建设、养护和经营管理单位应当根据国家和本市有关应急预案的规定，制定公路先期应急处置方案，组织应急处置队伍。

**第五十五条** 市公路管理机构及其派出机构应当定期组织公路建设、养护和经营管理单位进行公路应急预案演练。

公路建设、养护和经营管理单位应当定期组织应急处置队伍进行先期应急处置方案演练。

发生公路突发事件时，市公路管理机构和政府有关部门以及公路建设、养护和经营管理单位应当按照规定启动应急预案。

**第五十六条** 因自然灾害致使公路交通中断，市公路管理机构应当组织养护作业单位及时修复，维护现场秩序，并依法向所在地区、县人民政府和公安交通管理部门通报。损坏严重难以及时修复的，所在地区、县人民政府应当及时组织抢修。

**第五十七条** 发生公路严重损毁、重大交通事故或者遇有恶劣气象等严重影响车辆安全通行的情形时，公安交通管理部门应当及时采取限速通行、关闭公路等交通管制措施，并向社会发布交通管制信息。公路建设、养护和经营管理单位应当积极配合，并采取相应的应急处置措施。

## 第八章 法律责任

**第五十八条** 市交通行政管理部门、市公路管理机构不依法或者不正当履行公路管理职责的，由其上级行政机关或者监察机关责令改正，对直接负责的主管人员和其

## **Chapter VII Highway Emergency Management**

**Article 54** The highway emergency management in this Municipality shall be incorporated into the emergency management system of the whole Municipality. The highway emergency plan shall be organized and stipulated by the municipal transportation administrative department, and approved by the municipal people's government before implementation.

The municipal highway administration department and its dispatched agencies shall be responsible for the organization of highway emergency handling; relevant departments of the municipal government, the people's governments of district, county and township shall be responsible for highway emergency handling according to their respective responsibilities.

The highway construction, maintenance and operation units shall formulate highway emergency response plan and organize emergency response team in accordance with the regulations of emergency plan of the State and this Municipality.

**Article 55** The municipal highway administrative department and its dispatch offices shall regularly organize highway construction, maintenance and operation management units to carry out highway emergency response drills.

Highway construction, maintenance and operation management units shall regularly organize emergency response team to carry out emergency drills.

On occurring highway emergencies, the municipal highway administrative department, relevant departments of government, and units of highway construction, maintenance and operation and management shall activate the emergency plan in accordance with the provisions.

**Article 56** In case of interruption of road traffic due to natural disaster, the municipal highway administrative department shall organize maintenance units to repair in time, maintain the order of the site, and report to local and county people's government and the traffic administrative department of the public security organs pursuant to law. If the damage is too serious to conduct timely repair, the local and county people's government shall promptly organize emergency repairs.

**Article 57** In the event of serious damage to highway roads, major traffic accidents or severe weather conditions that seriously affect the safe passage of vehicles, the traffic administrative department of the public security organs shall promptly take traffic control measures such as speed limit and highway closure, and release traffic control information to the public. Highway construction, maintenance and operation and management units shall actively cooperate and take corresponding emergency measures.

## **Chapter VIII Legal Liabilities**

**Article 58** Where a municipal traffic administrative department or a municipal highway administrative department fails to perform its duties of highway administration according to law or improperly performs, it shall be ordered to make corrections by its

他直接责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

市交通行政主管部门、市公路管理机构的工作人员玩忽职守、徇私舞弊、滥用职权，尚不构成犯罪的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第五十九条** 违反本条例第十七条、第十八条第一款规定，公路养护作业单位未按规定进行养护作业的，由市公路管理机构责令限期改正，予以警告；逾期不改的，处 5000 元以上 2 万元以下罚款。

**第六十条** 违反本条例第五十四条第三款、第五十五条第二款的规定，公路建设、养护和经营管理单位未按规定制定公路先期应急处置方案或者进行先期应急处置方案演练的，由市公路管理机构责令限期改正，并可处 2 万元以上 5 万元以下罚款。

**第六十一条** 违反本条例规定的其他行为，按照相关法律、法规应当予以处理的，由有关部门依法处理。

## 第九章 附 则

**第六十二条** 本条例自 2007 年 10 月 1 日起施行。

superior administrative department or supervisory department, and the directly responsible person in charge and other persons directly responsible shall be given administrative sanctions according to law; if any crime is constituted, it shall be subjected to criminal liabilities.

If a staff member of the municipal traffic administrative department or the municipal highway administrative department neglects the duty, engages in malpractice for personal gain or abuses its power, and does not constitute a crime, it shall be given administrative sanctions according to law; if any crime is constituted, it shall be subjected to criminal liabilities.

**Article 59** In violation of the provision in Article 17 and the first paragraph of the Article 18 herein, the highway maintenance unit that fails to carry on the maintenance operation as required, shall be ordered to make corrections within a prescribed time limit and be given a warning by the municipal highway administrative department; if it fails to do so within the prescribed time limit, it shall be fined between 5000 yuan up to 20,000 yuan.

**Article 60** In violation of the provision in the third paragraph of Article 54 and the second paragraph of Article 55 herein, the highway construction, maintenance and operation and management unit that fails to formulate a highway emergency plan in advance as required, or conducts emergency drills in advance, the municipal highway organization shall order it to make corrections within a prescribed time limit and may impose a fine of 20000 yuan up to 50000 yuan.

**Article 61** Other acts in violation of the provisions herein shall be dealt with in accordance with relevant laws and regulations, and by the relevant departments according to law.

## **Chapter IX Supplementary Provisions**

**Article 62** These Regulations shall be effective as of October 1, 2007.

# 北京市道路运输条例

(2009年7月25日北京市第十三届人民代表大会常务委员会  
第十二次会议通过)

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## 第一章 总 则

**第一条** 为了维护道路运输市场秩序，保障道路运输安全，提高道路运输服务水平，保护道路运输有关各方当事人的合法权益，根据有关法律、法规，结合本市实际情况，制定本条例。

**第二条** 本条例适用于本市行政区域内从事道路旅客运输（以下简称客运）经营、道路货物运输（以下简称货运）经营，以及道路运输场站建设和运营、道路运输服务、机动车维修经营和机动车驾驶员培训等道路运输相关业务的活动。

公共电汽车客运和出租汽车客运不适用本条例。

**第三条** 道路运输是现代服务业的重要组成部分，应当遵循科学发展、统筹规划、节能环保、安全便捷的原则。

**第四条** 从事道路运输经营以及道路运输相关业务的，应当依法经营、诚实守信、公平竞争，为服务对象提供安全、便捷的服务。

# Regulations of Beijing Municipality on Road Transport

(Adopted at the 12<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup>  
People's Congress of Beijing Municipality on July 25, 2009)

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## Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of maintaining the order of road transport market, ensuring road transport safety, improving the level of road transport services and safeguarding the legitimate rights and interests of relevant parties involved in road transport in accordance with relevant laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Regulations shall apply to operation of road passenger transport (hereinafter referred to as passenger transport), operation of road freight transport (hereinafter referred to as freight transport) as well as business activities related to road transport such as construction and operation of road transport stations (yards), road transport services, operation of motor vehicle maintenance and training of motor vehicle drivers engaged within the administrative area of this Municipality.

These Regulations shall not apply to passenger transport by public trolley or bus and by taxi.

**Article 3** Road transport is an important component of the modern service industry and shall follow the principles of scientific development, overall planning, energy saving and environment protection, and safety and convenience.

**Article 4** Anyone engaged in operation of road transport and businesses related to road transport shall do business lawfully, be honest and maintain good faith, compete fairly and provide safe and convenient services for the served users.

**第五条** 本市道路运输管理应当依法、公开、公平、公正、高效、便民。

**第六条** 本市应当统筹道路运输发展，通过调整、优化基础设施结构、运输装备结构和运输服务结构，逐步实现客运的城乡一体化、区域一体化以及与其他客运方式的一体化，货运的社会化、专业化和集约化，推进现代物流业的发展，逐步建立符合国家首都功能和性质的道路运输体系。

**第七条** 本市应当完善道路运输标准体系和安全服务管理规范，建立道路运输信息化系统和共享平台，提高道路运输管理和公共服务水平。

**第八条** 市和区、县交通行政主管部门负责组织领导本行政区域的道路运输管理工作。

市和区、县交通行政主管部门所属的道路运输管理机构及派出机构、市交通执法机构（以下统称道路运输管理机构）按照规定的职责具体实施道路运输管理工作。

市和区、县人民政府有关行政管理部门应当按照各自的职责依法做好相关的道路运输工作。

**第九条** 市交通行政主管部门、市发展改革部门应当共同组织编制本市交通发展规划，确定道路运输发展目标、重点项目及其保障措施等，并向社会公布。

市交通行政主管部门所属的道路运输管理机构根据交通发展规划，定期公布道路运输行业发展指导意见。

**第十条** 本市道路运输行业协会依照章程，建立健全行业自律制度，规范和指导会员经营行为，组织会员开展诚信建设，提高会员的服务质量，维护会员合法权益，参与道路运输相关政策法规、行业标准的研究制定和宣传贯彻。

## 第二章 道路运输服务

### 第一节 一般规定

**第十一条** 市交通行政主管部门所属的道路运输管理机构应当定期收集、分析、整理、更新道路运输管理和服务信息，并通过道路运输信息化系统和共享平台向社会发布。

**Article 5** The administration of road transport in this Municipality shall be lawful, open, fair, impartial, efficient and convenient.

**Article 6** This Municipality shall overall plan the development of road transport, adjust and optimize the structures of infrastructure, transport equipment and transport services so as to gradually achieve the integration of passenger transport in urban and rural areas, in different regions and with other means of passenger transport, the socialization, professionalization and intensification of freight transport, and promote the development of the modern logistics industry to gradually build a road transport system in line with the function and nature of the State capital.

**Article 7** This Municipality shall improve the standard system and administrative regulations on safe services of road transport, set up an informatized road transport system and information sharing platform so as to improve the level of administration and public services concerning road transport.

**Article 8** The competent administrative departments for communications at the municipal and the district or county level shall be responsible for organizing and leading the work of road transport administration within their respective administrative areas.

The road transport administration agencies subordinate to and the offices dispatched by the competent administrative departments for communications at the municipal and the district or county level as well as the municipal traffic law enforcement agency (hereinafter collectively referred to as the road transport administration agencies) shall specifically implement the road transport administration according to the prescribed functions and duties.

Relevant administrative departments of the people's governments at the municipal and the district or county level shall bring to success the relevant work of road transport according to their respective functions and duties.

**Article 9** The competent administrative department for communications and the department for development and reform at the municipal level shall jointly organize the compilation of the traffic development plan of this Municipality to determine the development objectives, key projects and supporting measures of road transport and make it public to the society.

The road transport administration agencies subordinate to the competent administrative department for communications at the municipal level shall regularly publish the guiding opinions on development of the road transport industry according to the traffic development plan.

**Article 10** The road transport industry association of this Municipality shall, according to its Articles of association, establish and improve a self-disciplinary system for the industry, regulate and direct the operations of its members, organize its members to increase their credibility, improve the quality of their services and protect the legitimate rights and interests of its members and participate in research, formulation, advocacy and implementation of the policies, regulations and industry standards relating to road transport.

## **Chapter II Road Transport Services**

### **Section 1 General Provisions**

**Article 11** The road transport administration agencies subordinate to the competent administrative department for communications at the municipal level shall regularly collect, analyze, sort out and update the information of road transport administration and services, and release the information to the society through the informatized road transport system and information sharing platform.



**第十二条** 本市道路运输实行经营许可制度。

从事道路运输经营的单位和个人，应当依据法律、法规规定的程序和条件取得相应的经营许可。

道路运输管理机构做出的行政许可决定应当符合法定的条件、程序和期限，符合本市交通发展规划和绿色环保标准要求。

**第十三条** 道路运输经营者应当遵守下列规定：

（一）按照许可的范围或者事项从事经营活动，接受道路运输管理机构和有关行政管理部门的监督检查；

（二）制定并执行服务标准和规程、收费管理、安全行车等规章制度；

（三）对从业人员加强法制教育、职业道德教育和专业技能培训；

（四）按照规定维护和检测运输车辆，确保车辆符合国家和本市规定的技术标准、排放标准和燃料消耗限值；

（五）运营中携带车辆营运证件、驾驶员资格证件以及其他规定的证件；

（六）按照国家和本市有关价格管理的规定，明码标价，合理收取费用；

（七）使用由税务部门监制的道路运输专用发票，不得伪造、涂改、倒卖、转借和转让专用发票；

（八）对服务对象提出的服务质量问题及时调查处理；

（九）按照规定向道路运输管理机构报送统计报表和信息。

**第十四条** 道路运输车辆运输旅客的，不得超过核定的人数，不得违反规定载货；运输货物的，不得运输旅客，运输的货物应当符合核定的载重量，严禁超载；载物的长、宽、高不得违反装载要求。

违反前款规定的，由公安机关交通管理部门依照《中华人民共和国道路交通安全法》的有关规定进行处罚。

**第十五条** 道路运输管理机构依法对道路客货运输驾驶员、道路危险货物运输从业人员、机动车维修技术人员、道路运输经理人实行从业资格管理，采取措施提高从业人员的安全和服务水平。

道路客货运输驾驶员和道路危险货物运输从业人员必须取得相应从业资格，方可

**Article 12** An operation licensing system is adopted in road transport of this Municipality.

Any unit or individual engaged in road transport operation shall obtain the appropriate operation license according to the procedures and conditions specified in laws or regulations.

The administrative licensing decisions made by the road transport administration agencies shall comply with the statutory conditions, procedures and periods and meet the requirements of the traffic development plan and the Green environmental protection standards.

**Article 13** Road transport operators shall observe the following provisions:

(1) Engaging in operations according to the licensed scope or items and accepting supervision and inspection of the road transport administration agencies and relevant administrative departments;

(2) Formulating and implementing the rules and systems on service standards and Procedures, charge management, safe driving, etc.;

(3) Intensifying the education on legal knowledge and professional ethics and training on professional skills for the employees;

(4) Maintaining and testing the vehicles for transport according to provisions so as to ensure the vehicles meet the technical standards, emission standards and fuel consumption limits specified by the State and this Municipality;

(5) Carrying the vehicle operating certificates, drivers' qualification certificates and other prescribed certificates during operation;

(6) Expressly marking the price and charging reasonably according to the provisions on price administration specified by the State and this Municipality;

(7) Using the special invoices for road transport made under supervision of the taxation departments, and not forging, altering, speculatively reselling, lending or transferring the special invoices;

(8) Promptly investigating and addressing the issues on service quality raised by the served users; and

(9) Submitting the statistical reports and information to the road transport administration agencies according to provisions.

**Article 14** A passenger vehicle in road transport shall not carry passengers in excess of its rated passenger capacity and shall not carry goods in violation of the relevant provisions; and a freight vehicle in road transport shall not carry passengers, and the goods on board shall be in conformity with its rated loading capacity; and overloading is prohibited; and the length, width, and height of the goods loaded shall not be in violation of the requirements for loading.

Anyone violating the provisions of the preceding paragraph shall be punished by the traffic administrative department of the public security organ in accordance with the relevant provisions of the Road Traffic Safety Law of the People's Republic of China.

**Article 15** The road transport administration agencies shall carry out administration on the qualification of drivers of road passenger and freight transport, practitioners in road transport of dangerous goods, motor vehicle maintenance technicians and road transport managers according to law and adopt measures to improve the safety and service level of practitioners.

Drivers of road passenger and freight transport and practitioners in road transport of

从事相应的道路运输活动。

**第十六条** 道路运输经营者应当对道路客货运输驾驶员、道路危险货物运输的驾驶员、押运人员、装卸管理人员等专业人员进行岗前和在职专业技能培训。

道路运输经营者对持有外省市核发的从业资格证件的驾驶员，应当按照有关规定进行本市道路交通状况、道路通行条件、道路通行规定等专项培训，并办理本市驾驶员信息卡；未经培训或培训不合格的，道路运输经营者不得安排其从事专业营运活动。

**第十七条** 旅客、货主以及其他有关当事人对道路运输经营者和从业人员的违法行为，有权向道路运输管理机构举报。道路运输管理机构接到举报后，应当及时调查处理，并将处理结果告知举报人。

## 第二节 客 运

**第十八条** 客运经营者应当遵守下列规定：

- （一）保持车辆性能良好，服务设施齐全，不得擅自改装车辆；
- （二）为旅客提供良好的乘车环境，保持车辆清洁、卫生；
- （三）不得强迫旅客乘车，不得甩客或者转由他人运送；
- （四）在车辆指定位置喷涂经营者名称或者标识，悬挂标志牌，放置服务监督卡片并张贴票价表；
- （五）按照规定执行本市的班线客运统一售票制度，不得擅自在客运场站外组织客源；
- （六）班线客运在许可的线路、场站内，按照核准的经营范围、班次和时间运营，不得站外上客或者沿途揽客；
- （七）包车客运按照约定的起始地、目的地和线路运输，不得承运包车合同之外的旅客，不得变相从事班线客运；
- （八）跨省市客运的运营线路一端应当在车籍所在地，但执行道路运输管理机构下达的紧急包车任务的除外。

**第十九条** 班线客运经营者取得经营许可证后，应当向公众连续提供运输服务，

dangerous goods may engage in the corresponding road transport activities only after they obtain the appropriate qualifications.

**Article 16** Road transport operators shall give pre service and in service training on professional skills to professionals such as drivers of road passenger and freight transport, drivers of road transport of dangerous goods, escorting personnel staff and management personnel for loading and unloading.

Road transport operators shall give the drivers with qualification certificates issued by other provinces or cities special training on the road and traffic conditions, road passage conditions and road passage requirements of this Municipality according the relevant provisions and handle this Municipality's driver information cards for them; for such drivers without receiving such training or failing in such training, the road transport operators shall not arrange them to engage in the professional operations.

**Article 17** Passengers, cargo owners and other parties concerned are entitled to report any illegal conducts of road transport operators or practitioners to the road transport, administration agencies. the road transport administration agencies receiving the reports shall promptly investigate and handle the cases and inform the handling results to the reporting persons.

## **Section 2 Passenger Transport**

**Article 18** Passenger transport operators shall observe the following provisions:

(1) Keeping the vehicles in good conditions, ensuring the service facilities complete and not refitting the vehicles without authorization;

(2) Providing favorable conditions for passengers and keeping the vehicles clean and hygiene;

(3) Not compelling passengers to take their vehicles for transport or get off their vehicles, extorting passengers or transferring passengers to others;

(4) Painting the names or logos of the operators, hanging the signs, placing the service supervision cards and posting the fare lists in the prescribed places on vehicles;

(5) Implementing the unified ticketing system for scheduled passenger transport lines of this Municipality according to provisions, and not organizing passenger sources outside the passenger transport stations (yards) without authorization;

(6) Scheduled passenger transport operators shall operate in the licensed routes and stations (yards) in accordance with the approved business scope, frequency and time, and shall not pick up passengers outside the stations (yards) or on the way;

(7) Chartered passenger transport operators shall conduct the transport in accordance with the agreed origins, destinations and routes, and shall not carry passengers not included in the charter contracts or engage in operation of scheduled passenger transport in any disguised form; and

(8) One end of a trans-regional passenger transport line shall be in the location of the vehicle registration, except for performing an emergency chartering task issued by the road transport administration agency.

**Article 19** After obtaining the road transport operator's license, an operator engaging in scheduled passenger transport shall continuously provide transport service to the public

并不得少于 90 日。

班线客运经营者暂停或者终止班线经营的，应当经道路运输管理机构批准，并于暂停或者终止班线经营之日前 7 日在班线线路各站发布公告。

**第二十条** 郊区的区、县人民政府应当按照本市交通发展规划的要求，制定本行政区域内班线客运的保障措施以及边远乡村班线客运的扶持政策。

享受公交政策的郊区客运经营者应当执行城市公共电汽车的服务标准和票价政策；经许可机关同意，可以采取区域经营、循环运行、设置临时发车停靠点等方式运营。

**第二十一条** 市交通行政主管部门所属的道路运输管理机构应当根据道路通行条件、客流分布、场站容量和公众出行需求，合理设置、调整班线线路的起止站和跨省市班线线路的中途停靠站，并在设置、调整之日前 7 日向社会发布公告。

**第二十二条** 旅客应当持有效客票乘车，遵守社会公德和乘车秩序，讲究文明卫生；不得携带国家规定的危险物品以及其他禁止携带的物品乘车，并配合安全检查。

### 第三节 货 运

**第二十三条** 道路货物运输是城市物流体系的重要组成部分。

本市优先发展封闭、厢式、罐式货车运输和集装箱甩挂运输等专业化货运，整合货运、货运代理和货运场站等运输资源向现代物流业发展。

**第二十四条** 市交通行政主管部门所属的道路运输管理机构会同市商务、建设、农业、市政管理等相关部門建立协调配合机制，定期归集整理本市生产、生活等重要物资的货运需求信息并向社会公布，引导运输供给与需求的平衡发展。

**第二十五条** 本市城市中心区的货运应当保障城市正常运行和人民群众生产、生活的需要，缓解道路交通压力；实行夜运为主、昼运为辅的方式。本市对在城市中心区内从事昼运的货运车辆实行总量控制、分类管理、择优配置，并逐步实施。

本市应当公布在城市中心区内从事昼运的货运经营者的条件和货运车辆的车型、

for not less than 90 days.

An operator engaged in scheduled passenger transport which is to suspend or cease the scheduled operation shall be subject to approval by the road transport administration agency and release the announcements at all stops in the line seven days before the suspension or cessation.

**Article 20** The people's governments of suburban districts or counties shall, in accordance with the requirements of the traffic development plan of this Municipality, develop safeguards for the scheduled passenger transport within their respective administrative areas as well as supporting policies for the scheduled passenger transport in remote villages.

The suburban passenger transport operators that enjoy the policies of public traffic shall implement the service standards and fare policy for urban public trolleys and buses; and may operate by means of regional operation, recycling operation or setting temporary starting points and stops with the permission of the licensing agency.

**Article 21** The road transport administration agencies subordinate to the competent administrative department for communications at the municipal level shall reasonably deploy or adjust the origins or destinations of the scheduled passenger transport line and the stops in the trans regional lines according to the road passage conditions, distribution of passenger flows, the capacity of stations (yards) and public needs for travel and release the announcements seven days before the deployment or adjustment.

**Article 22** A passenger shall board the vehicles with a valid ticket, observe the social morality and riding order, behave properly and pay attention to the hygiene; and shall not carry on board the dangerous Articles or other prohibited Articles prescribed by the State and shall cooperate in security check.

### **Section 3 Freight Transport**

**Article 23** Road freight transport is an important component of the urban logistics system.

This Municipality prioritizes the development of specialized freight transport such as closed truck, van or tank truck transport and container drop and pull transport, and integrate transport resources such as freight transport, freight transport agency and freight transport stations (yards) to develop toward a modern logistics industry.

**Article 24** The road transport administration agencies subordinate to the competent administrative department for communications at the municipal level shall, together with the relevant departments of commerce, construction, agriculture and municipal administration of the Municipality, establish a coordination and cooperation mechanism, regularly collect and sort out the information on the demand of freight transport of important goods for production and living in this Municipality and release it to the society to guide the supply and demand of transport develop in a balanced way.

**Article 25** Freight transport in the central urban area of this Municipality shall guarantee the needs of the Municipality's normal operation and masses; production and living and ease the road traffic pressure; and a method of transport at night supplemented by transport at daytime shall be adopted. This Municipality shall gradually implement total control, category management and merit-based configuration on the freight transport vehicles engaging in transport at daytime in the central urban area.

This Municipality shall publish the conditions for freight transport operators to

外观、安全、环保等标准；通过公开、公平、公正的方式确定符合要求的货运经营者，并建立淘汰退出机制。具体办法由市人民政府制定。

**第二十六条** 货运经营者应当按照货物运输规则和作业规程受理、承运货物，遵守国家和本市有关禁运、限运、检疫控制进出境货物的管理规定，并采取必要措施防止运输中货物的脱落、扬撒或者泄漏。

货运经营者应当按照规定使用具有符合要求的密闭装置的车辆运输散装、流体货物；使用专用车辆运输集装箱、冷藏保鲜货物和危险货物。

**第二十七条** 城市中心区的大型商业设施，应当具备与其规模相适应的商品装卸、短期储存条件，其商品装卸活动不得影响周边道路畅通。

新、改、扩建大型商业设施时，应当同步配建商品装卸、储存等配套设施。大型商业设施及其配套设施在立项时，应当依法进行交通影响评价。未进行交通影响评价或经评价对交通环境将造成重大不利影响的项目，发展改革部门不予立项或核准，规划部门不予核发建设工程规划许可证。

任何单位和个人不得擅自改变商品装卸、储存等配套设施的使用性质。

**第二十八条** 当维持城市正常运行所需物资的运输受到影响时，市交通行政主管部门所属的道路运输管理机构可以会同有关部门采取应急运输保障措施，道路运输经营者应当配合并服从调度指挥。

**第二十九条** 外省市货运经营者驻京从事道路货物运输的，应当按照国家和本市有关规定向经营所在地的道路运输管理机构备案，并接受备案机构的监督管理。

**第三十条** 在货运经营者的责任期间，货物发生灭失或者损坏的，货运经营者依法承担赔偿责任。

#### 第四节 相关业务

**第三十一条** 道路运输场站属于城市交通基础设施，应当科学规划、合理布局。

市交通行政主管部门会同有关部门根据城市总体规划、土地利用规划和交通发展



engage in transport at daytime in the central urban area and the standards on the models, appearances, safety and environment protection on the concerned freight transport vehicles; and the eligible freight transport operators shall be determined through an open, fair and impartial manner and an elimination and withdrawal mechanism shall also be established. The specific measures shall be formulated by the Municipal People's Government.

**Article 26** Freight transport operators shall accept and carry goods according to the rules and operating procedures of freight transport, comply with the administrative provisions of the State and this Municipality on embargo, restricted transport and Quarantine control of entry and exit goods, and take necessary measures to prevent the goods from falling off, spilling or leaking during transport.

Freight transport operators shall transport bulk or liquid cargo in vehicles equipped closed devices that meet requirements, and use special vehicles to transport containers, refrigerated goods and dangerous goods according to provisions.

**Article 27** Large commercial facilities in the central urban area shall have conditions of loading, unloading and short-term storage of goods that match their size and the loading or unloading of goods shall not affect smooth traffic flow in surrounding roads.

Where a large commercial facility is newly built, renovated or expanded, supporting facilities for loading, unloading and storage of goods shall be built simultaneously. Where a project of large commercial facility and its supporting facilities is initiated, the traffic impact assessment shall be carried out according to law. Where a project does not undergo the traffic impact assessment or proves to have major negative impacts on the traffic environment upon the traffic impact assessment, the department for development and reform shall not consent to its initiation or approve it and the planning department shall not issue a planning permit for construction project.

No unit or individual may be allowed to change the nature of use of the supporting facilities for loading, unloading and storage of goods without authorization.

**Article 28** Where the transport of materials necessary for maintaining the normal operation of the municipality is affected, the road transport administration agencies subordinate to the competent administrative department for communications at the municipal level may cooperate with relevant departments to take emergency transport safeguards, and road transport operators shall give cooperation and follow dispatch and command.

**Article 29** A freight transport operator from another province or municipality which engages in road freight transport in Beijing shall go to the road transport administration agency in the location of its operation to undergo the recording procedures and accept the supervision and administration of the recording agency.

**Article 30** For any loss or damage to the goods within the responsibility period of the freight transport operator, the freight transport operator shall be liable for compensation according to law.

## **Section 4 Related Businesses**

**Article 31** Road transport stations (yards) are infrastructure of urban transport, and shall be scientifically planned and rationally distributed.

The competent administrative department for communications at the municipal level



规划编制道路运输场站专项规划。道路运输场站专项规划经市规划部门审查后报请市人民政府批准，由区、县人民政府或市政府相关部门组织实施。市和区、县人民政府对列入规划的道路运输场站的建设，应当在土地、资金等方面给予支持。

**第三十二条** 道路运输场站经营者应当维护场站内的市场秩序，与进入场站的道路运输经营者签订协议，明确双方权利、义务；不得允许非法的道路运输经营者和车辆进入场站经营。

客运场站经营者应当按照规定在明显位置公示客运场站内运营的客运线路及其运输班次、经停站点、到发时间、票价和投诉举报电话；货运场站经营者应当按照规定在明显位置公示货运场站内运营的运输服务经营者名称、经营范围、位置平面图和投诉举报电话。

**第三十三条** 客运场站经营者应当按照规定制定客流高峰期间的备班运力储备计划和加班运营计划。加班车辆的技术等级应当符合运营班线的要求。

**第三十四条** 道路运输货运代理经营者和机动车综合性能检测机构，应当依法办理工商、税务登记手续；自取得营业执照之日起 15 日内持相关登记证件向所在地的道路运输管理机构备案，并接受备案机构的监督管理；备案信息发生变更的，应当自变更之日起 15 日内向原备案机构办理变更备案手续。

国家另有规定的，按照国家规定执行。

**第三十五条** 道路运输服务经营者应当遵守下列服务规范：

（一）道路运输货运代理经营者，根据国家和本市相关规定，为委托人提供代理服务；受理的业务交由具有合法资格的货运经营者承运；

（二）机动车综合性能检测机构，按照国家和本市相关标准进行检测；

（三）从事道路运输信息服务的，向服务对象提供及时、准确的货物运输信息；

（四）从事道路运输仓储理货的，按照货物的性质、保管条件和有效期限，对货物分类存放，妥善保管；

（五）从事道路运输搬运装卸的，按照搬运装卸操作规程进行作业；从事夜间搬运装卸的，应采取有效措施，减少噪声对周围居民生活环境的影响；从事危险货物、大型物件等特种、专项货物搬运装卸的，使用专用搬运装卸工具和防护设备进行作业；

shall, together with relevant departments, compile the special plan for road transport stations (yards) according to the overall urban plan, land use plan and traffic development plan. The special plan for road transport stations (yards) shall be submitted to the Municipal People's Government for approval after reviewed by the Municipal planning department and its implementation shall be organized by the people's governments at the district or county level or the relevant departments of the municipal government. The people's governments at the municipal and the district or county level shall grant support in such aspects as land and funds to the construction of road transport stations (yards) that are incorporated in the plan.

**Article 32** Operators of road transport stations (yards) shall preserve the market order in the stations (yards), and sign agreements with the road transport operators entering into the stations (yards) to specify the rights and obligations of both parties; and shall not permit illegal road transport operators and vehicles to enter into the stations (yards) for operation.

Operators of passenger transport stations (yards) shall publish the passenger transport routes operating in the stations (yards), number of runs, stops, departure and arrival time, fares and complaint hotlines in conspicuous positions and operators of freight transport stations (yards) shall publish the names, business scopes, floor plan of locations and complaint hotlines of the transport service operators operating in the stations (yards) in conspicuous positions according to provisions.

**Article 33** Operators of passenger transport stations (yards) shall develop capacity reserve plans and additional operation plans for peak passenger flows according to provisions. The technical level of the vehicles for additional operation shall comply with the requirements of the operated lines.

**Article 34** An agency of road freight transport or a comprehensive motor vehicle performance testing institution shall go through the industrial and commercial as well as taxation registration formalities; and shall, on the strength of relevant registration certificates, go to the road transport administration agency in its location to undergo the recording procedures within 15 days from the date of obtaining the business license and accept the supervision and administration of the recording agency; where the recorded information is changed, procedures for record changing shall be fulfilled with the original recording agency within 15 days from the date of the change.

Where the State has other provisions, such provisions shall prevail.

**Article 35** Operators of road transport services shall observe the following service specifications:

(1) Agencies of road freight transport shall provide agency services for clients according to the relevant provisions of the State and this Municipality; and shall entrust freight transport operators with legal qualifications to serve as carriers for the accepted business;

(2) Comprehensive motor vehicle performance testing institutions shall make tests according to the relevant standards of the State and this Municipality;

(3) Those engaged in road transport information services shall provide their clients with timely and accurate information on freight transport;

(4) Those engaged in warehousing and tally in road transport shall store goods by category and keep them in safe custody according to the nature, storage conditions and expiration date of the goods;

(5) Those engaged in handling, loading or unloading goods in road transport shall operate according to the operational rules for handling, loading or unloading goods; those engaged in handling loading or unloading operations at night shall take effective measures

（六）从事道路运输客票代售的，公平售票，不得擅自提价，不得倒卖车票。

**第三十六条** 本市引导机动车维修服务站点的网络化建设，鼓励发展专业化和连锁经营的机动车维修企业。

**第三十七条** 机动车维修经营者应当遵守下列规定：

（一）在维修接待场所的醒目位置公示相关服务制度、服务项目、服务承诺、价格标准和投诉举报电话等；

（二）将维修项目及其工时定额、收费标准等服务信息录入本市道路运输信息系统，并保证信息及时、真实、有效；

（三）按照公示的标准收取修理费，分项计算工时费、材料费并将结算票据和结算清单交付托修方；

（四）对机动车进行大修和二级维护的，使用规范合同文本与托修方签订维修合同，并建立维修档案；

（五）按照机动车维修技术标准、技术规范维修车辆；

（六）执行机动车维修质量检验制度。按照技术标准进行进厂、过程和竣工检验；机动车维修竣工出厂时，向托修方出具由出厂检验人员签发的机动车维修竣工出厂合格证；

（七）使用的机动车维修设备应当符合国家和本市相关标准，并建立设备维护保养制度；

（八）执行质量保证期制度。对质量保证期内发生的维修质量问题无偿返修；返修项目的质量保证期从返修的竣工出厂之日起计算；更换的配件存在质量问题的，其无偿返修责任不受质量保证期的限制。

机动车维修质量相关制度，由市交通行政主管部门所属的道路运输管理机构制定并向社会公布。

**第三十八条** 机动车维修经营者应当执行规定的机动车配件采购、检验、使用和公示制度，分别标识原厂配件、副厂配件和修复配件并明码标价，供托修方自主选择；更换下的配件、总成未经托修方同意，不得擅自处理。

to reduce the impacts of noise on the surrounding living environment; those engaged in handling, loading or unloading special goods such as dangerous goods or large items shall use special handling tools and protective equipment during operation;

(6) Those engaged in commissioned passenger ticket booking in road transport shall sell tickets fairly and shall not raise price without authorization or speculatively resell the tickets.

**Article 36** This Municipality guides the construction of a network among points of vehicle maintenance services and encourages the development of professional and chain operated motor vehicle maintenance enterprises.

**Article 37** Operators of motor vehicle maintenance shall observe the following provisions:

(1) Publishing the relevant service rules, service items, service commitments, price standards and complaint hotlines, etc. in conspicuous positions of the maintenance reception places;

(2) Recording such service information as the maintenance items and quotas of man-hour thereof and charging rates into the road transport information system of this Municipality and ensuring that the information is timely, truthful and valid;

(3) Charging the repairing fees according to the published standards, conducting itemized calculation of man-hour fees and material fees and delivering the bills and lists for clearing to the maintenance entrusting parties;

(4) Using the standardized contract texts to sign the maintenance contracts with the maintenance entrusting parties and establishing the maintenance files where overhaul or secondary-class maintenance of motor vehicles are to be conducted;

(5) Maintaining vehicles according to the technical standards and specifications for motor vehicle maintenance;

(6) Implementing the quality inspection system for motor vehicle maintenance; conducting incoming inspections, process inspections and inspections on completion according to the technical standards; producing to the maintenance entrusting parties the conformity certificate of motor vehicle maintenance completion for leaving factories issued by the inspection personnel when the motor vehicle maintenance is completed for leaving factories;

(7) The applied motor vehicle maintenance equipment shall comply with the relevant standards of the State and this Municipality, and the equipment maintenance rules shall be established; and

(8) Practicing the system for quality guarantee period; repairing the vehicles again free of charge where any problem with maintenance quality happen during the quality guarantee period; and the quality guarantee period of the repaired items shall be counted from the date of completion of the repair, and where there is any quality problem in the replaced parts, the liability of repairing free of charge shall not be limited by the quality guarantee period.

The relevant rules on the quality of motor vehicle maintenance shall be formulated and published to the society by the road transport administration agencies subordinate to the competent administrative department for communications at the municipal level.

**Article 38** Operators of motor vehicle maintenance shall implement the pre scribed rules on the purchase, testing, use, and publicity of motor vehicle parts, and identify the parts produced by the original companies, those produced by other companies and repaired parts, and mark their respective prices for the maintenance entrusting parties to choose on their own, and the replaced parts or assemblies shall not be disposed without the consent of

**第三十九条** 质量技术监督、工商行政管理部门应当对生产、销售的机动车配件质量进行监督检查，依法查处生产、销售假冒伪劣配件的行为。道路运输管理机构在监督检查中发现有销售假冒伪劣配件行为的，应当移送工商行政管理部门依法处理。

### 第三章 道路运输安全

**第四十条** 道路运输经营者应当遵守下列安全规定：

（一）制定有效的安全生产措施。定期研究安全生产工作，并对措施执行情况进行检查；

（二）建立从业人员的安全生产教育和培训制度。未经安全生产教育和培训合格的从业人员，不得上岗作业；

（三）建立生产安全事故隐患排查制度。制定并执行防范和应急措施，对容易发生事故的部位、设施明确安全责任人员；

（四）建立运营车辆安全检查制度。未经安全检查或者经安全检查不符合消防、道路交通安全、治安等要求的车辆不得运营。

**第四十一条** 道路运输经营者应当依法制定生产安全事故应急处置预案。应急处置预案应当包括应急处置组织及职责、危险目标的确定和潜在危险性评估、救援预案的启动程序、紧急处置措施、救援组织的训练和演习，以及救援设备储备、经费保障等内容。

道路运输经营者应当至少每半年演练 1 次生产安全事故应急处置预案，并做好记录。

**第四十二条** 道路运输管理机构应当组织编制和完善突发公共事件的应急运输保障预案，并定期组织演练。

预案演练和发生突发公共事件时，道路运输经营者应当服从道路运输管理机构的统一指挥。市和区、县人民政府应当依法给予参与预案演练和发生突发公共事件处置的道路运输经营者适当的补偿。

**第四十三条** 跨省市客运经营者应当遵守下列运营安全规定：

（一）按照有关标准和规定，安装并使用远程定位监控系统，并保证与本市道路

the entrusting parties.

**Article 39** Departments of quality and technology supervision and industrial and commercial administration shall carry out supervision and inspection on the quality of the produced and sold motor vehicle parts, and investigate and deal with the production and sale of shoddy parts according to law. The sale of shoddy parts discovered by the road transport administration agencies in the supervision and inspection shall be transferred to the departments of industrial and commercial administration for disposal according to law.

### Chapter III Road Transport Safety

**Article 40** Road transport operators shall observe the following provisions on safety:

(1) Working out effective measures for work safety; making regular researches in the work safety and inspecting the implementation of the measures;

(2) Establishing the work safety education and training systems for employees; and employees without receiving the work safety education or passing the training shall not be allowed to take operational positions;

(3) Establishing the systems for elimination and investigation of potential work safety accidents; and working out and implementing preventive and emergency response measures, and specifying work safety responsible persons for accident-prone areas and facilities; and

(4) Establishing the safety inspection systems for operational vehicles; and the vehicles that have not received safety inspection or prove after safety inspection to be in conformity with the requirements of fire protection, safety of road traffic and public security shall not be permitted for operation.

**Article 41** Road transport operators shall work out emergency response preplans for work safety accidents according to law, which shall include such contents as emergency response organizations and duties and responsibilities thereof, identification of dangerous targets and potential risk assessment, startup procedures for rescue preplans, emergency treatment measures, trainings and exercises of rescue organizations as well as reserves of rescue equipment and financial safeguards.

Road transport operators shall conduct the drills of emergency response preplans for work safety accidents at least once half a year and well make the records.

**Article 42** The road transport administration agencies shall organize the compilation and improvement of the emergency transport safeguard preplans for public emergencies, and regularly organize the drills.

During the drill of preplans and occurrence of public emergencies, the road transport operators shall follow the unified command of the road transport administration agencies. The people's governments at the municipal and the district or county level shall give appropriate compensation to the road transport operators participating in the drill of preplans and treatment of public emergencies.

**Article 43** Operators of trans-regional passenger transport shall observe the following provisions on operational safety:

(1) Installing and using remote location monitoring systems according to the relevant standards and provisions, and ensuring real-time connectivity with the road transport

运输信息共享平台的实时连通；

（二）运营里程在 400 公里以上的，配备两名或者两名以上驾驶员；

（三）采取有效措施，防止驾驶员连续驾驶时间超过 4 个小时；

（四）运营中保持车内通道的畅通，采取必要措施保证随车运输行李的平稳和固定。

#### **第四十四条** 道路危险货物运输经营者应当遵守下列运营安全规定：

（一）主要负责人和专职安全管理人员经法定主管部门考核合格；

（二）按照有关标准和规定，安装并使用远程定位监控系统，并保证与本市道路运输信息共享平台的实时连通；

（三）按照公安机关依法批准的时间、路线、区域运输危险货物；

（四）采取必要的安全防护措施，防止危险货物在存储、运输、装卸过程中丢失、泄漏、燃烧、爆炸、辐射；

（五）定期委托具有相应资质的中介机构开展安全评价，并向道路运输管理机构报告评价结果。

**第四十五条** 危险货物托运人应当委托具有道路危险货物运输资质的经营者运输危险货物，并向运输经营者说明危险货物的品名、性质、应急处置方法等情况。

危险货物托运人和发货人在交付危险货物前，应当查验、登记运输经营者、车辆和人员的资格证件。

市交通行政主管部门所属的道路运输管理机构应当向社会公布具有道路危险货物运输资质的企业名录及其可以承运的危险货物种类等信息。

**第四十六条** 客运场站候车大厅实际容纳的乘客人数不得超过设计容量。候车大厅内乘客人数接近设计容量或者人员相对聚集时，场站经营者应当采取有效措施控制和疏散人员，确保安全。

候车大厅的安全出口、安全标志、标识的设置以及疏散门和疏散通道的宽度应当符合相关标准。

客运场站应当设置覆盖场站所有区域的应急广播，并能够使用汉语普通话和英语两种语言播放。

**第四十七条** 客运场站经营者应当建立行包安全检查制度。客运场站按照规定配



information sharing platform of this Municipality;

(2) Deploying two or more drivers for operation with the distance of over 400 kilometers;

(3) Taking effective measures to prevent drivers from continuously driving for over four hours; and

(4) Keeping the passages in vehicles clear during operation and taking necessary measures to ensure the accompanying luggage stable and fixed.

**Article 44** Operators of dangerous goods transport shall observe the following provisions on operational safety:

(1) The main responsible person and full-time management personnel for work safety shall be qualified upon examination by the statutory competent authorities;

(2) Installing and using remote location monitoring systems according to the relevant standards and provisions, and ensuring real-time connectivity with the road transport information sharing platform of this Municipality;

(3) Transporting dangerous goods according to the time, routes, and regions approved by the public security organs;

(4) Taking necessary safety protective measures to prevent loss, leakage, inflaming, explosion or radiation of dangerous goods during storage, transportation as well as loading and unloading; and

(5) Regularly entrusting intermediaries with corresponding qualifications to carry out safety assessment and reporting the results of assessment to the road transport administration agencies.

**Article 45** The consignors of dangerous goods shall entrust the operators qualified for road transport of dangerous goods to transport the dangerous goods and state the information on the dangerous goods such as the name, nature and emergency response measures to the transport operators.

The consignors and shippers of dangerous goods shall check and register the qualification certificates of the transport operators, vehicles and personnel before delivering the dangerous goods.

The road transport administration agencies subordinate to the competent administrative department for communications at the municipal level shall publish to the society a list of enterprises qualified for road transport of dangerous goods and such information as the types of dangerous goods they can carry.

**Article 46** The actual number of passengers contained in the waiting hall of a passenger transport station (yard) shall not exceed its designed capacity. Where the number of passengers in a waiting hall approaches the designed capacity or the crowd is converging, the station (yard) operator shall take effective measures to control and evacuate the crowd to ensure safety.

The placement of safety exits as well as safety signs and markings in a waiting and the widths of the evacuation doors and passages shall comply with the relevant standards.

A passenger transport station (yard) shall set up an emergency broadcast covering areas in the station (yard) which is able to broadcast in both Mandarin Chinese and English.

**Article 47** Operators of passenger transport stations (yards) shall establish luggage and parcel security check systems. The passenger transport stations (yards) shall be equipped with security testing instruments according to provisions to carry out security



备安全检测仪器，对出入省际客运场站以及进入其他客运场站的行包进行安全检查；检查发现危险、违禁物品的，及时移交公安机关处理。

**第四十八条** 机动车维修经营者应当对废弃的机油、润滑油、制动液、维修油液以及其他危险废物进行归集、贮存，并交由有危险废物经营许可证的单位集中处置。

## 第四章 监督检查

**第四十九条** 市交通行政主管部门、道路运输管理机构及其他有关行政管理部门应当依法对道路运输活动实施监督管理，制止和纠正违法行为。

市政府批准设置的公路交通检查站应当对过往的道路运输车辆实施监督检查。

**第五十条** 道路运输管理机构的工作人员在执行公务时，应当着装上岗，出示执法证件。

因查处道路运输违法行为确需向相关单位和个人调查、取证时，相关单位和个人应当如实提供有关情况和资料。

检查中涉及经营者的商业秘密的信息和资料，道路运输管理人员应当予以保密。

**第五十一条** 道路运输管理机构及其工作人员执行职务时，应当自觉接受社会和公民的监督。

道路运输管理机构应当建立道路运输举报制度，公开举报电话、通信地址和电子信箱。

任何公民、法人或者其他组织都有权对道路运输管理机构及其工作人员的违法行为进行申诉或者举报。

交通行政主管部门以及其他有关行政管理部门接到申诉或者举报，应当依法及时处理。

**第五十二条** 道路运输管理机构应当依法履行对行政许可事项的监管职责，定期核对行政许可登记事项。对行政许可登记内容发生变化的，依法及时变更；对不符合法定条件的，责令限期改正，逾期未改正的，吊销相应的行政许可证件；对自行终止经营或者具有其他法定注销情形的，注销相应的行政许可。

**第五十三条** 未取得道路运输经营许可或者车辆营运证件从事道路运输经营活动

check on the luggage and parcel entering or leaving inter-regional passenger transport stations (yards) and those entering into other passenger transport stations (yards); any dangerous or prohibited items discovered shall be promptly transferred to the public security organs for handling.

**Article 48** Operators of motor vehicle maintenance shall collect and store waste engine oil, lubricating oil, brake fluid, maintenance oil and liquid and other hazardous wastes and hand them over to the units with the license for disposal of hazardous wastes for centralized disposal.

## **Chapter IV Supervision and Inspection**

**Article 49** The competent administrative department for communications at the municipal level, road transport administration agencies and other relevant administrative departments shall carry out supervision and administration on activities of road transport and stop and correct illegal conducts according to law.

Road traffic checkpoints set up with approval of the municipal government shall implement supervision and inspection of the passing vehicles for road transport.

**Article 50** Staff members of road transport administration agencies shall wear uniforms and present law-enforcement credentials when performing their official duties.

Where it is truly necessary to investigate and take evidence from the relevant units and individuals for the purpose of investigation and dealing with illegal conducts in road transport, the relevant units and individuals shall truthfully provide relevant materials or information.

In investigation, the administrative staff of road transport shall keep confidential the information and materials involving the operators commercial secrets.

**Article 51** The road transport administration agencies and their staff members shall consciously accept supervision from the society and citizens in performing their duties.

The road transport administration agencies shall establish a violation-reporting system for road transport, and make public the telephone number, mail address and email address for reporting of violations.

Any citizen, legal person or other organization has the right to complain or report illegal conducts of road transport administration agencies and their staff members.

Upon receipt of a complaint or report, the competent administrative departments for communications and other relevant administrative departments shall timely investigate and handle the case in accordance with the law.

**Article 52** The road transport administration agencies shall perform their supervisory functions and duties on the matters of administrative licensing and regularly check the registered items of administrative licenses. For any change in the registered contents of administrative licenses, an alteration shall be promptly made; for any incompliance with the statutory requirements, an order shall be issued for corrections within a prescribed time limit, and where no correction is made at the expiration of the time limit, the corresponding administrative license shall be revoked; for any voluntary termination of business or other statutory circumstance under which a license shall be cancelled, the corresponding administrative license shall be cancelled.

**Article 53** Where anyone engages in operation of road transport without obtaining

的，道路运输管理机构可以暂扣其违法经营使用的车辆或者机具设备，并告知当事人在规定的期限内到指定地点接受处理。

道路运输管理机构对无正当理由逾期未接受处理且经公告三个月后仍不接受处理的，可以对暂扣的车辆和机具设备采取措施依法处理。

## 第五章 法律责任

**第五十四条** 违反本条例的规定，道路运输管理机构的工作人员有下列行为之一的，依法给予行政处分；构成犯罪的，依法追究刑事责任：

- （一）不按照法定条件、程序和期限实施行政许可的；
- （二）没有法定依据或者不遵守法定程序实施行政处罚的；
- （三）在执行公务时发现违法行为不及时查处，造成严重后果的；
- （四）参与或者变相参与道路运输经营以及道路运输相关业务的；
- （五）利用职务便利，索取他人财物或者收受他人财物，为他人谋利的；
- （六）要求当事人承担非法义务的；
- （七）截留、挪用、私分或者变相私分查封、扣押、没收的财物的；
- （八）对生产安全事故隐瞒不报、谎报或者拖延不报的；
- （九）其他违法行为。

**第五十五条** 违反本条例的规定，未经许可擅自从事客运经营或者货运经营的，由道路运输管理机构责令停止经营；有违法所得的，没收违法所得，处违法所得2倍以上10倍以下的罚款；没有违法所得或者违法所得不足2万元的，处3万元以上10万元以下的罚款；构成犯罪的，依法追究刑事责任。

**第五十六条** 违反本条例的规定，未经许可擅自从事道路运输场站经营、机动车维修经营的，由道路运输管理机构责令停止经营；有违法所得的，没收违法所得，处违法所得2倍以上10倍以下的罚款；没有违法所得或者违法所得不足1万元的，处2万元以上5万元以下的罚款；构成犯罪的，依法追究刑事责任。

**第五十七条** 违反本条例的规定，道路运输经营者有下列情形之一的，由道路运

a operator's road transport license or a vehicle operating certificate, the road transport administration agency may temporarily detain the vehicles or machinery equipment used in the illegal operations and inform the party concerned to accept treatment at the designated place within a prescribed time limit.

Where the party concerned fails to accept treatment at the expiration of the time limit without a reasonable cause and does not accept treatment after three montits of public announcement, the road transport administration agency may take measures to dispose the vehicles and machinery equipment temporarily detained according to law.

## **Chapter V Legal Liability**

**Article 54** Where any staff member of a road transport administration agency, in violation of the provisions of these Regulations, commits one of the following acts, he shall be given an administrative sanction; and where a crime is constituted, criminal liability shall be investigated in accordance with the law;

(1)Failing to grant an administrative license according to the statutory conditions, procedures and time limits;

(2)Imposing an administrative penalty without statutory base or without following the statutory procedures;

(3)Failing to promptly investigate and deal with the discovered illegal acts during performance of official duties, which result in serious consequences;

(4)Participating or participating in a disguised form in road transport operations or businesses related to road transport;

(5)Extorting or accepting other's money or property for seeking interests for the person by taking advantage of office;

(6)Requiring a party concerned to undertake non-statutory obligations;

(7)Withholding, misappropriating, sharing-out, or disguisedly sharing-out the seized, detained or confiscated property;

(8)Hiding, falsely reporting or delaying the reporting of work safety accidents or

(9)Other illegal acts.

**Article 55** Where anyone, in violation of the provisions of these Regulations, engages in operation of passenger or freight transport without a license, the road transport administration agency shall order it to stop the operation, confiscate its illegal gain, if any, and impose on it a fine of not less than two times but not more than ten times the illegal gain, or, if there is no illegal gain or the illegal gain is less than 20,000 Yuan, impose on it a fine of not less than 30,000 Yuan but not more than 100, 000 Yuan. Where a crime is constituted, criminal liability shall be investigated in accordance with the law.

**Article 56** Where anyone, in violation of the provisions of these Regulations, engages in operation of road transport station (yard) or motor vehicle maintenance without a license, the road transport administration agency shall order it to stop the operation, confiscate its illegal gain, if any, and impose on it a fine of not less than two times but not more than ten times the illegal gain, or, if there is no illegal gain or the illegal gain is less than 10,000 Yuan, impose on it a fine of not less than 20,000 Yuan but not more than 50,000 Yuan. Where a crime is constituted, criminal liability shall be investigated in accordance with the law.

**Article 57** Where any road transport operator, in violation of the provisions of these

输管理机构责令改正，并可处 200 元的罚款：

（一）客运车辆在运营中未保持车内通道的畅通，或者未采取必要措施保证随车运输行李的平稳和固定的；

（二）客运、货运车辆未按规定携带车辆营运证件的；

（三）专业人员在运营中未携带专业资格证件的；

（四）未按规定报送相关信息的。

**第五十八条** 违反本条例的规定，道路运输经营者有下列情形之一的，由道路运输管理机构责令限期改正；逾期未改正的，处 1000 元的罚款：

（一）班线客运经营者未在暂停或者终止班线经营之日前 7 日在运输沿线各站发布公告的；

（二）外省市货运经营者驻京从事货物运输，未向经营所在地的道路运输管理机构备案的；

（三）道路运输货运代理经营者、机动车综合性能检测机构未按规定向所在地的道路运输管理机构备案的；

（四）未对专业人员进行岗前和在职专业技能培训或者安排培训不合格的专业人员上岗的。

**第五十九条** 违反本条例的规定，客运经营者有下列情形之一的，由道路运输管理机构责令改正，处 1000 元以上 3000 元以下的罚款；严重影响客运市场秩序的，由原许可机关吊销道路运输经营许可证：

（一）强迫旅客乘车、甩客或者转由他人运送的；

（二）班线客运经营者违反统一售票制度擅自在站外组织客源的；

（三）班线客运经营者不按照许可的线路、场站或者核准的经营范围、班次和时间运营的；

（四）班线客运经营者站外上客或者沿途揽客的；

（五）班线客运经营者未经批准擅自停业或者歇业的；

（六）包车客运经营者承运包车合同之外的旅客的；

（七）跨省市客运的运营线路一端不在车籍所在地的。

Regulations, falls in one of the following circumstances, the road transport administration agency shall order it to make corrections and may impose on it a fine of 200 Yuan simultaneously:

- (1) Failing to keep the passages in vehicles for passenger transport clear during operation or failing to take necessary measures to ensuring the accompanying luggage stable and fixed;
  - (2) Failing to carry the vehicle operating certificates with the vehicles for passenger or freight transport according to provisions;
  - (3) Professionals failing to carry professional qualification certificates during operation;
- or
- (4) Failing to submit relevant information according to provisions.

**Article 58** Where any road transport operator, in violation of the provisions of these Regulations, falls in one of the following circumstances, the road transport administration agency shall order it to make corrections within a prescribed time limit; and impose a fine of 1,000 Yuan on it that fails to make corrections at the expiration of the time limit:

- (1) An operator engaged in scheduled passenger transport failing to release the announcements at all stops along the line seven days before the suspension or cessation of the scheduled operation;
- (2) A freight transport operator from another province or municipality which engages in freight transport in Beijing failing to go to the road transport administration agency in the location of its operation to undergo the recording procedures;
- (3) An agency of road freight transport or a comprehensive motor vehicle performance testing institution failing to go to the road transport administration agency in its location to undergo the recording procedures; or
- (4) Failing to give professionals preservice and in-service training on professional skills or arranging the professionals failing in the training to take positions.

**Article 59** Where any passenger transport operator, in violation of the provisions of these Regulations, falls in one of the following circumstances, the road transport administration agency shall order it to make corrections, and impose on it a fine Of not less than 1000 Yuan but not more than 3000 Yuan; where the market order of passenger transport is seriously disrupted, the original licensing agency shall revoke its road transport operator license:

- (1) Compelling passengers to take the vehicles for transport or get off the vehicles, extorting passengers or transferring passengers to others;
- (2) A scheduled passenger transport operator organizing passenger sources outside the passenger transport stations (yards) without authorization in violation of the unified ticketing system;
- (3) A scheduled passenger transport operator failing to operate in the licensed routes and stations (yards) in accordance with the approved business scope, frequency and time;
- (4) A scheduled passenger transport operator picking up passengers outside the stations (yards) or on the way;
- (5) A scheduled passenger transport operator terminating or suspending its operation without authorization and approval;
- (6) A chartered passenger transport operator carrying passengers not included in the charter contract; or
- (7) No end of a trans-regional passenger transport line being in the location of the

**第六十条** 违反本条例的规定，道路运输场站经营者允许非法的道路运输经营者或者车辆进站从事经营活动的，由道路运输管理机构责令改正，处1万元以上3万元以下的罚款。

**第六十一条** 违反本条例的规定，道路运输场站经营者有下列行为之一的，由道路运输管理机构责令限期改正；逾期未改正的，处3000元的罚款：

- （一）客运、货运场站经营者未按照本条例规定公示的；
- （二）客运场站经营者未按照规定制定客流高峰期间的各班运力储备计划和加班运营计划的；
- （三）客运场站经营者安排的加班车辆的技术等级不符合运营班线要求的。

**第六十二条** 违反本条例的规定，道路运输货运代理经营者将受理的货物运输业务交给不具有相应合法资格的货运经营者承运的，由道路运输管理机构责令改正，处1000元以上3000元以下的罚款。

**第六十三条** 违反本条例的规定，机动车维修经营者出具虚假的机动车维修合格证的，由道路运输管理机构责令改正；有违法所得的，没收违法所得，处违法所得2倍以上10倍以下的罚款；没有违法所得或者违法所得不足3000元的，处5000元以上2万元以下的罚款；情节严重的，由原许可机关吊销其经营许可证；构成犯罪的，依法追究刑事责任。

**第六十四条** 违反本条例的规定，机动车维修经营者有下列情形之一的，由道路运输管理机构责令改正；逾期未改正的，处2000元以上5000元以下的罚款；严重侵犯消费者合法权益的，由道路运输管理机构处5日以上15日以下的停业整顿：

- （一）未按照规定执行机动车配件采购、检验、使用和公示制度的；
- （二）未按照规定分项计算工时费、材料费或者将结算清单交付托修方的；
- （三）使用的机动车维修设备不符合国家和本市相关标准的。

**第六十五条** 道路运输经营者违反本条例安全管理的有关规定，由道路运输管理机构责令限期改正；逾期未改正的，道路运输管理机构可以责令存在安全隐患的场所、车辆或者其他设施、设备停止使用；不符合安全条件的，依法吊销相应的行政许可证件。



vehicle registration.

**Article 60** Where any operator of road transport station (yard), in violation of the provisions of these Regulations, permits illegal road transport operators or vehicles to enter into the station (yard) for operation, the road transport administration agency shall order it to make corrections, and impose on it a fine of not less than 10, 000 Yuan but not more than 30,000 Yuan.

**Article 61** Where any operator of road transport station (yard), in violation of the provisions of these Regulations, falls in one of the following circumstances, the road transport administration agency shall order it to make corrections within a prescribed time limit; and impose a fine of 3,000 Yuan on it that fails to make corrections at the expiration of the time limit:

(1)An operator of passenger or freight transport station (yard) failing to publish relevant information according to the provisions of these Regulations;

(2)An operator of passenger transport station (yard) failing to develop a capacity reserve plan and an additional operation plan for peak passenger flows according to provisions; or

(3)The technical level of the vehicles for additional operation arranged by the operator of passenger transport station (yard) failing to comply with the requirements of the operated lines.

**Article 62** Where any agency of road freight transport entrusts a freight transport operator without the corresponding legal qualification to serve as a carrier for the accepted business, the road transport administration agency shall order it to make corrections, and impose on it a fine of not less than 1000 Yuan but not more than 3000 Yuan.

**Article 63** Where any operator of motor vehicle maintenance, in violation of the provisions of these Regulations, issues a false quality certificate of motor vehicle maintenance, the road transport administration agency shall order it to make corrections, confiscate its illegal gain, if any, and impose on it a fine of not less than two times but not more than ten times the illegal gain, or if there is no illegal gain or the illegal gain is less than 3,000 Yuan, impose on it a fine of not less than 5,000 Yuan but not more than 20,000 Yuan; where the circumstances are serious, the original licensing agency shall revoke its operator's license. Where a crime is constituted, criminal liability shall be investigated in accordance with the law.

**Article 64** Where any operator of motor vehicle maintenance, in violation of the provisions of these Regulations, falls in one of the following circumstances, the road transport administration agency shall order it to make corrections; and impose a fine of not less than 2,000 Yuan but not more than 5,000 Yuan on it that fails to make corrections at the expiration of the time limit; where the legitimate rights and interests of consumers are seriously infringed upon, the road transport administration agency shall order it to suspend its operation for rectification for not less than five days but not more than 15 days:

(1)Failing to implement the prescribed rules on the purchase, testing, use, and publicity of motor vehicle parts according to provisions;

(2)Failing to conduct itemized calculation of man-hour fees and material fees and deliver the lists for clearing to the maintenance entrusting parties according to provisions; or

(3)The applied motor vehicle repair equipment failing to comply with the relevant standards of the State and this Municipality.

**Article 65** Where any road transport operator violates the relevant provisions



**第六十六条** 经许可的道路运输经营者在停业整顿期间仍从事道路运输经营活动的，由道路运输管理机构按照未经许可擅自从事道路运输经营活动的有关规定处理。

**第六十七条** 道路运输从业人员有下列不具备安全条件情形之一的，由发放从业资格证件的道路运输管理机构吊销其从业资格证件：

（一）道路客货运输驾驶员、道路危险货物运输从业人员身体健康状况不符合有关机动车驾驶和相关从业要求且没有主动申请注销从业资格的；

（二）道路客货运输驾驶员、道路危险货物运输驾驶员发生重大以上交通事故，且负主要责任的；

（三）机动车维修技术人员发生重大生产安全事故，且负主要责任的；

（四）发现重大事故隐患，不立即采取消除措施，继续作业的。

**第六十八条** 违反道路运输管理规定，有下列情形之一的，道路运输管理机构依法从轻或者减轻行政处罚：

（一）主动消除或者减轻违法行为危害后果的；

（二）受他人胁迫有违法行为的；

（三）配合行政机关查处违法行为有立功表现的；

（四）其他依法从轻或者减轻行政处罚的。

违法行为轻微并及时纠正，没有造成危害后果的，不予行政处罚。

**第六十九条** 道路运输管理机构在监督检查过程中发现有违反相关法律、法规规定的其他行为，按照相关法律、法规应当予以处理的，应当移交有关部门依法处理。

## 第六章 附 则

**第七十条** 从事机动车驾驶员培训的，适用国家和本市有关的规定。从事非经营性危险货物运输的，适用国家和本市有关经营性危险货物运输的规定。

**第七十一条** 本条例所称货运经营者，包括在本市道路上从事专业性货物运输的企业和个体工商户，以及其他为社会或本企业提供货运服务、具有经营性质的货物运输者。

on safety administration of these Regulations, the road transport administration agency shall order it to make corrections within a prescribed time limit; and the road transport administration agency may order it that fails to make corrections at the expiration of the time limit to stop the use of places, vehicles or other facilities or equipment with potential safety risks; where the safety conditions are not met, the corresponding administrative licensing certificate shall be revoked according to law.

**Article 66** Where a licensed road transport operator engages in road transport operation during the suspension of operation for rectification, the road transport administration agency shall deal with the case according to the provisions on unlicensed engagement in road transport operation without authorization.

**Article 67** Where any employee engaging in road transport fall in one of the following circumstances of incompliance with safety conditions, the road transport administration agency issuing his qualification certificate shall revoke his qualification certificate:

(1)The health status of a driver of road passenger or freight transport or a practitioner in road transport of dangerous goods failing to comply with the requirements for motor vehicle driving and other relevant requirements and the driver or practitioner failing to voluntarily apply for cancellation of his qualification;

(2)A driver of road passenger or freight transport or road transport of dangerous goods encountering a major or more serious traffic accident and bearing the main liability;

(3)A vehicle maintenance technician encountering a major woke safety accident and bearing the main liability; or

(4) Continuing operations without taking immediate eliminative measures after finding a major potential accident.

**Article 68** Where anyone violating the provisions on road transport falls in one of the following circumstances, the road transport administration agency shall impose a lighter or mitigated administrative penalty according to law:

(1)Having taken the initiative to eliminate or lessen the harmful consequences occasioned by his illegal act;

(2)Having been coerced by another to commit the illegal act;

(3)Having performed meritorious deeds when working in cooperation with administrative agencies to investigate violations of law; or

(4)Being under other circumstances for which he shall be given a lighter or mitigated administrative penalty according to law.

Where a person commits a minor illegal act, promptly puts it right and causes no harmful consequences, no administrative penalty shall be imposed on him.

**Article 69** Where any other act in violation of the provisions of relevant laws or regulations found by the road transport administration agency in the course of supervision and inspection shall be dealt with in accordance with such relevant laws or regulations, the case shall be transferred to relevant departments for dealing with according to law.

## **Chapter VI Supplementary Provisions**

**Article 70** For those engaging in motor vehicle driver training, the relevant provisions of the State and this Municipality shall be applicable. For those engaging in non-commercial transport of dangerous goods, the provisions of the State and this Municipality on commercial transport of dangerous goods shall be applicable.

**Article 71** The term "freight transport operators in these Regulations includes the

**第七十二条** 区、县人民政府根据本地区经济社会发展的需要，可以依照市人民政府的相关规定，对在新城中心区内从事昼运的货运车辆实行总量控制。

**第七十三条** 本条例自 2009 年 12 月 1 日起施行。1997 年 7 月 18 日北京市第十届人民代表大会常务委员会第三十八次会议通过，根据 2001 年 5 月 18 日北京市第十一届人民代表大会常务委员会第二十六次会议通过的《北京市道路运输管理条例修正案》第一次修订，根据 2002 年 3 月 29 日北京市第十一届人民代表大会常务委员会第三十三次会议通过的《北京市道路运输管理条例修正案》第二次修订的《北京市道路运输管理条例》同时废止。

enterprises and self-employed entrepreneurs engaging in professional road freight transport on roads in this Municipality, as well as other freight transporters with commercial nature who provide freight transport services for the society or their own enterprises.

**Article 72** The people's governments at the district or county level may, based on the economic and social development of their own areas, carry out total control on the freight transport vehicles engaging in transport at daytime in the centers of the new city areas in accordance with the relevant provisions of the Municipal People's Government.

**Article 73** These Regulations shall be effective as of December 1, 2009. The Regulations of Beijing Municipality on Road Transport Administration, adopted at the 38th Meeting of the Standing Committee of the 10<sup>th</sup> People's Congress of Beijing Municipality on July 18, 1997, amended according to the Amendment on the Regulations of Beijing Municipality on Road Transport Administration adopted at the 26th Meeting of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on May 18, 2001 for the first time and amended according to the Amendment on the Regulations of Beijing Municipality on Road Transport Administration adopted at the 33<sup>rd</sup> Meeting of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on March 29, 2002 for the second time, shall be repealed simultaneously.

# 北京市机动车停车条例

(2018年3月30日北京市第十五届人民代表大会常务委员会  
第三次会议通过)

## 目 录

第一章	总 则
第二章	停车泊位供给
第三章	治理与服务
第四章	道路停车
第五章	附 则

## 第一章 总 则

**第一条** 为了加强本市机动车停车治理,合理引导停车需求,严格规范停车秩序,促进城市综合交通体系协调、可持续发展,根据有关法律、法规,结合本市实际情况,制定本条例。

**第二条** 本市行政区域内机动车停车设施规划、设置、使用,以及停车秩序、服务、收费适用本条例。

**第三条** 本市机动车停车坚持有偿使用、共享利用、严格执法、社会共治。全社会应当共同构建和维护机动车停车秩序,遵循停车入位、停车付费、违停受罚的基本要求。

**第四条** 市人民政府领导本市机动车停车工作,将停车纳入城市综合交通体系,综合运用法律、经济、行政、科技等方法,严格控制首都功能核心区、北京城市副中心机动车保有量,建立降低机动车使用强度机制,建立管理职责和管辖权限综合协调机制,推进行政执法权集中统一行使。

# Regulations of Beijing Municipality on Motor Vehicle Parking

(Adopted at the 3<sup>rd</sup> Meeting of the Standing Committee of the 15<sup>th</sup>  
People's Congress of Beijing Municipality on March 30, 2018)

## Contents

Chapter I	General Provisions
Chapter II	Parking Space Supply
Chapter III	Governance and Services
Chapter IV	Road Parking
Chapter V	Supplementary Provisions

## Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of strengthening the management of motor vehicle parking in this Municipality, reasonably guiding parking demands, strictly regulating the parking order and promoting the coordination and sustainable development of the comprehensive urban transport system in accordance with the relevant laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Regulations shall apply to the planning, installation and use of motor vehicle parking facilities, as well as the parking order, services and fees within the administrative area of this Municipality.

**Article 3** The motor vehicle parking in this Municipal shall adhere to paid use, shared use, strict law enforcement and social co-governance. The whole society shall jointly build and maintain the parking order of motor vehicles, and abide by the basic requirements of parking in designated space, payment of parking fees and being punished for illegal parking.

**Article 4** The Municipal People's Government shall lead the work of motor vehicle parking in this Municipality, incorporate parking into the comprehensive urban transport system, comprehensively use legal, economic, administrative, scientific and technological methods to strictly control the motor vehicle parking in the capital functional core area and Beijing's sub-center, establish a mechanism for reducing the intensity of motor vehicle use, and establish a mechanism for comprehensive coordination of management responsibilities and competence, in order to promote the centralized and unified exercise of administrative law enforcement powers.

市交通行政主管部门统筹本市机动车停车管理工作，会同相关部门对各区停车管理工作进行综合协调、检查指导、督促考核，组织制订、宣传贯彻停车管理相关政策、标准和服务规范。

公安机关交通管理部门、城市管理综合执法、住房城乡建设、规划国土、发展改革、财政、质量技术监督等部门按照各自职责，负责机动车停车管理相关工作。

**第五条** 区人民政府负责统筹协调和组织实施本行政区域内停车设施规划、设置、使用及停车秩序、服务、收费的管理工作，推进停车区域治理，监督有关部门开展停车执法。区停车管理部门负责本行政区域内机动车停车管理的具体工作。

乡镇人民政府、街道办事处负责统筹辖区内的机动车停车管理工作，组织领导、综合协调、监督检查停车执法事项，将停车纳入网格化管理范畴，确定监督、管理人员，建立居住停车机制，指导、支持、协调开展停车自治和停车泊位共享、挖潜、新增等工作。

**第六条** 本市鼓励社会资本投资建设停车设施；鼓励对违法停车、违法从事停车经营、擅自设置障碍物等行为进行举报；鼓励开展维护停车秩序等停车志愿活动；倡导、宣传有位购车、合理用车、绿色出行理念。

**第七条** 本市有序推进停车服务、管理和执法的智能化、信息化建设，引导停车服务企业利用互联网技术提高服务水平。

**第八条** 本市建立停车信用奖励和联合惩戒机制。将停车设施建设单位、经营单位、停车人等的违法行为记入信用信息系统，严重的可以进行公示、惩戒。市交通行政主管部门应当按照国家和本市要求，制定停车信用机制的具体办法。

## 第二章 停车泊位供给

**第九条** 本市停车设施实行分类分区定位、差别供给，适度满足居住停车需求，从严控制出行停车需求。盘活既有停车资源，提高利用效率；新增停车泊位以配套建

The municipal administrative department for transport shall coordinate the parking management of motor vehicles in this Municipality, comprehensively coordinate, inspect, direct, supervise and evaluate the parking management in various districts together with the relevant departments, as well as organize the formulation, publicity and implementation of parking management policies, standards and service standards.

The departments for public security traffic management, comprehensive law enforcement in urban management, housing and urban-rural development, planning and land resources, development and reform, finance, as well as quality and technology supervision shall be responsible for the management of motor vehicle parking according to their respective duties.

**Article 5** The district people's governments shall be responsible for coordinating and organizing the planning, installation and use of parking facilities and the management of the parking order, services and fees within their respective administrative areas, promoting the management of parking areas, and supervising the parking law enforcement of the relevant departments. The parking management departments of all districts shall be responsible for the specific work of the parking management of motor vehicles within their respective administrative areas.

The township and town people's governments and sub-district offices shall be responsible for coordinating the management of motor vehicle parking within their jurisdiction, organizing leadership, comprehensive coordination, supervision and inspection of parking law enforcement matters, incorporating parking into the scope of grid management, designating supervision and management personnel, establishing a residential parking mechanism, as well as guiding, supporting and coordinating the development of parking self-governance and the sharing, potential exploitation and increase of parking space.

**Article 6** This Municipality shall encourage social capital to invest in the construction of parking facilities; encourage the reporting of illegal parking, illegal parking operations, and unauthorized obstacles; encourage voluntary parking activities such as maintaining the parking order; as well as advocate and publicize the concepts of having parking space before buying cars, rational use of cars and green travel.

**Article 7** This Municipality shall orderly promote the intelligent and information-based construction of parking service, management and law enforcement, and guide parking service enterprises to improve their service level by using Internet technologies.

**Article 8** This Municipality shall establish a parking credit reward and joint punishment mechanism. The illegal acts of parking facility construction units, operation units and the people who park shall be recorded in the credit information system, and serious cases may be publicized and punished. The municipal administrative department for transport shall formulate specific measures for the parking credit mechanism in accordance with the requirements of the State and this Municipality.

## **Chapter II Parking Space Supply**

**Article 9** The parking facilities in this Municipality shall be located by category and area and supplied differentially in order to appropriately meet the residential parking



设为主，临时设置、独立建设、驻车换乘建设等方式为补充。

**第十条** 市交通行政主管部门应当会同市规划国土行政主管部门，在定期普查的基础上，依据城市总体规划和城市综合交通体系规划，结合城市建设发展和道路交通安全管理的需要，组织编制机动车停车设施专项规划。

停车设施专项规划应当确定城市停车总体发展战略，分区域发展策略，统筹地上地下，合理布局停车设施，明确控制目标和建设时序，并将停车设施与城市交通枢纽、城市轨道交通换乘站紧密衔接，经依法批准后，纳入控制性详细规划。

区人民政府根据本市机动车停车设施专项规划，制定本行政区域的停车设施规划及年度实施计划，并组织实施。

**第十一条** 市规划国土、市交通行政主管部门应当制定新建、改建、扩建公共建筑和居住小区等配建停车泊位的标准，明确上限、下限，并建立动态调整机制。

建设单位新建、改建、扩建公共建筑、居住小区，应当按照国家有关规定和本市确定的泊位配建标准、规划指标，配建机动车停车设施。配套建设的停车设施应当与主体工程同步设计、同步施工、同时验收、同时交付使用。

**第十二条** 既有居住小区内配建的停车设施不能满足业主停车需求的，按照物业管理相关法律法规并经业主同意，可以统筹利用业主共有场地设置临时停车设施。

**第十三条** 本市推进单位或者个人开展停车泊位有偿错时共享。停车设施管理单位应当予以支持和配合，并提供便利。

公共建筑的停车设施具备安全、管理条件的，应当将机动车停车设施向社会开放，并实行有偿使用。市人民政府应当制定具体办法，有序推进停车设施开放工作。

居住小区的停车设施在满足本居住小区居民停车需要的情况下，可以向社会开放。

**第十四条** 独立设置的中心城区区域配套停车设施、驻车换乘停车设施、公共汽电车场站等公益性停车设施，是城市交通基础设施，用地按照土地管理规定实行划拨或者协议出让。

needs and strictly control the parking needs for trips. The existing parking resources shall be activated and the efficiency of utilization shall be improved; newly increased parking space shall rely mainly on supporting construction, supplemented by temporary setting, independent construction and park-and-ride construction.

**Article 10** The municipal administrative department for transport shall, together with the municipal administrative department for planning and land resources, based on regular censuses, organize and prepare special plans for motor vehicle parking facilities in accordance with the overall urban planning and the comprehensive urban transport system planning, and in combination with the needs of urban construction development and road traffic safety management.

The special plans for parking facilities shall determine the overall development strategy and regional development strategy of urban parking, plan as a whole underground and ground parking facilities, rationally distribute parking facilities, define control objectives and the construction schedule, and closely link parking facilities with urban transport hubs and urban rail transit transfer stations, which shall be incorporated into the regulatory planning after approval in accordance with the law.

The district people's governments shall, in accordance with the special plans for motor vehicle parking facilities of this Municipality, formulate the planning for parking facilities and the annual implementation plans within their administrative regions, and organize the implementation thereof.

**Article 11** The municipal administrative departments for planning and land resources and transport shall formulate standards for the equipment of parking space for newly constructed, renovated and expanded public buildings and residential quarters, clarify the upper and lower limits, and establish a dynamic adjustment mechanism.

Construction units shall equip newly constructed, renovated and expanded public buildings and residential quarters with motor vehicle parking space in accordance with the relevant provisions of the State and the parking space equipment standards and planning indicators determined by this Municipality. The supporting parking facilities shall be designed, constructed, accepted and delivered to use synchronously with the main projects.

**Article 12** Where the parking facilities equipped in existing residential quarters cannot meet the parking needs of owners, temporary parking facilities may be set up by coordinating the sites commonly owned by all the owners with their consent in accordance with the relevant laws and regulations on property management.

**Article 13** This Municipality shall promote paid sharing of parking space at staggered hours by units or individuals. Parking facility management units shall provide support, cooperation and convenience.

Parking facilities of public buildings under safety and management conditions shall be open to the public and subject to paid use. The Municipal People's Government shall formulate specific measures to promote the opening of parking facilities in an orderly manner.

Parking facilities of residential quarters may be open to the public when they meet the parking needs of the residents therein.

**Article 14** The public welfare parking facilities such as the supporting parking facilities independently set up in central urban areas, park-and-ride parking facilities, and bus and trolley depots are urban transport infrastructure, and the lands shall be allocated or

独立设置的停车设施应当进行交通影响评价，重大建设项目的配建停车设施应当一并纳入项目的交通影响评价，交通影响评价结果由市交通行政主管部门向社会公示。重大建设项目的具体范围由市交通行政主管部门会同相关部门制定。

**第十五条** 待建土地、空闲厂区、边角空地、未移交道路等场所闲置的，可以由区人民政府负责组织协调，设置临时停车设施。

**第十六条** 利用地下空间资源单独选址建设公共停车设施的，建设单位可以依法单独办理规划和土地手续，并取得规划用地许可证和权属证明；市规划国土行政主管部门应当制定单独核发规划用地许可证和权属证明的具体办法。

利用人民防空工程设置停车设施，向社会开放解决居住停车需求的，可以减免相关人民防空工程使用费用。具体办法由市民防主管部门制定。

**第十七条** 平面停车设施进行机械式或者自走式立体化改造的，应当符合相关安全规定，与城市容貌相协调，按照要求采取隔声、减振等措施，对他人造成影响的应当依法予以补偿，符合条件的可以按照国家和本市有关规定享受鼓励政策。

设置机械式停车设备应当符合特种设备的规定，经质量技术监督部门检验合格后方可投入使用，并按照规定定期接受检验。

**第十八条** 确因居住小区及其周边停车设施无法满足停车需求的，区人民政府、乡镇人民政府、街道办事处可以组织公安机关交通管理部门、交通行政等相关部门，在居住小区周边支路及其等级以下道路设置临时居住停车区域、泊位，明示居民临时停放时段。影响交通运行的，应当及时调整或者取消。具体办法由市交通行政主管部门会同相关部门制定。

**第十九条** 新建、改建、扩建交通客运换乘场站、中小学校、医院及其他客流集中的公共场所，应当在项目用地内设置落客区，用于机动车临时停靠上下乘客，并与主体工程同步交付使用；公安机关交通管理部门应当在客流集中的公共场所周边道路设置临时停靠上下乘客专用车位，并明示临时停靠时长。

transferred by agreement in accordance with the land management provisions.

Independent parking facilities shall be evaluated for traffic impact. The supporting parking facilities of major construction projects shall be incorporated into the traffic impact assessment of the projects, the results of which shall be made public by the municipal administrative department for transport. The specific scope of major construction projects shall be formulated by the municipal administrative department for transport together with the relevant departments.

**Article 15** The district people's governments may organize and coordinate the establishment of temporary parking facilities on idle sites such as lands to be built, idle factory areas, vacant corner areas and undelivered roads.

**Article 16** Where underground space resources are used to construct public parking facilities separately, the construction units may go through planning and land formalities separately in accordance with the law, and obtain land planning permits and ownership certificates; the municipal administrative department for planning and land resources shall formulate specific measures for issuing land planning permits and ownership certificates separately.

Where parking facilities are set up by using civil air defense works to meet the residential parking needs of the society, the use costs of the relevant civil air defense works may be reduced or exempted. Specific measures shall be formulated by the municipal administrative department for civil defense.

**Article 17** Planar parking facilities undergoing mechanical or self-propelled three-dimensional transformation shall conform to the relevant safety regulations, be harmonious with the urban appearance, and adopt sound insulation and vibration reduction measures as required. Compensations shall be made in accordance with the law when influences are caused to others. Those meeting the requirements may enjoy encouragement policies in accordance with the relevant provisions of the State and this Municipality.

The mechanical parking equipment shall be installed in accordance with the provisions on special equipment, put into use after having passed the inspection by the quality and technology supervision departments, and regularly inspected as stipulated.

**Article 18** Where the parking facilities in residential quarters and their surrounding areas cannot meet the parking demand, the district, township and town people's governments and sub-district offices may organize the relevant departments for public security traffic management and transport to set up temporary residential parking areas and parking space on the access roads surrounding the residential quarters and the roads at the next lower level, as well as indicate the temporary parking hours for residents. Those that affect traffic operation shall be adjusted or cancelled in time. Specific measures shall be formulated by the municipal administrative department for transport together with the relevant departments.

**Article 19** Newly constructed, renovated or expanded transfer stations for passenger transport, primary and secondary schools, hospitals and other public places with concentrated passenger flows shall set up drop-off zones within the project lands, which shall be used for temporary parking of motor vehicles for passenger boarding and disembarking, and shall be delivered for use simultaneously with the main projects; the departments for

**第二十条** 设置停车设施，应当符合国家和本市停车设施设置标准和设计规范，并按照标准设置无障碍停车泊位和电动汽车充电设施。

### 第三章 治理与服务

**第二十一条** 经营性停车设施经营单位应当依法办理工商登记，并在经营前 15 日内到区停车管理部门办理备案，备案材料应当真实准确。具体备案材料由市交通行政主管部门规定。

实行政府定价的收费停车设施，经营单位或者管理单位应当到区发展改革部门进行价格核定及明码标价牌编号。

违反第一款规定，未如实报送停车设施设置情况的，由城市管理综合执法部门责令限期改正；逾期未改正的，处 1 万元罚款。违反第二款规定，未按照规定进行价格核定及明码标价牌编号的，由价格管理部门责令限期改正；逾期未改正的，处 1 万元罚款。

**第二十二条** 停车设施设置后 10 日内，设置单位应当将停车泊位情况报送区停车管理部门。

违反前款规定，未按照规定的时限或者未如实报送停车设施设置情况的，由城市管理综合执法部门责令限期改正；逾期未改正的，处 2000 元罚款。

居住小区停车自治设置的停车泊位情况，应当由乡镇人民政府、街道办事处统计后报送区停车管理部门。

**第二十三条** 市交通行政主管部门建立停车综合管理服务系统，对停车设施实行动态管理，向社会提供信息服务，并与公安机关交通管理部门、城市管理综合执法、规划国土、住房城乡建设等部门相互共享管理信息。

市交通行政主管部门应当与从事停车信息服务的经营者建立信息共享机制。信息

public security traffic management shall set up special parking space for passenger boarding and disembarking on the roads surrounding the public places with concentrated passenger flows, and indicate the time of temporary parking.

**Article 20** The parking facilities shall be established in accordance with the national and municipal establishment standards and design specifications for parking facilities, and equipped with barrier-free parking space and charging facilities for electric vehicles in accordance with the standards.

### Chapter III Governance and Services

**Article 21** Operating units of for-profit parking facilities shall register with the administrative departments for industry and commerce in accordance with the law, and file materials with the district parking administration departments for the record within 15 days before the operation. The record materials shall be true and accurate. The specific record materials shall be stipulated by the municipal administrative department for transport.

For for-profit parking facilities implementing government pricing, the business units or management units shall go to the district departments for development and reform for price verification and numeration of clearly marked price plates.

Those, in violation of the provisions of Paragraph 1, failing to truthfully report the establishment of parking facilities shall be ordered to make corrections within a prescribed time limit by the departments for comprehensive law enforcement in urban management; those failing to make corrections within the prescribed time limit shall be imposed upon a fine of 10,000 yuan. Those, in violation of the provisions of Paragraph 2, failing to carry out price verification and numeration of clearly marked price plates as stipulated shall be ordered to make corrections within a prescribed time limit by the price administration departments; those failing to make corrections within the prescribed time limit shall be imposed upon a fine of 10,000 yuan.

**Article 22** The establishment units shall report the situations of parking space to the district parking administration departments within 10 days after the establishment of parking facilities.

Those, in violation of the provisions of the preceding paragraph, failing to report the establishment of parking facilities within the prescribed time limit or truthfully shall be ordered to make corrections within a prescribed time limit by the departments for comprehensive law enforcement in urban management; those failing to make corrections within the prescribed time limit shall be imposed upon a fine of 2,000 yuan.

The situations of the parking space set up by self-governed residential quarters shall be reported to the district parking administration departments after statistics by the township and town people's governments and sub-district offices.

**Article 23** The municipal administrative department for transport shall establish a comprehensive parking management service system to dynamically manage parking facilities, provide information services to the society, and share management information with the departments for public security traffic management, comprehensive law enforcement in urban management, planning and land resources, as well as housing and urban-rural development.

The municipal administrative department for transport shall establish an information

服务的经营者应当将相关信息接入停车综合管理服务系统，市交通行政主管部门应当对信息服务质量进行监督，制定信息服务具体规范。

市交通行政主管部门应当制定停车泊位编码规则，对停车泊位进行统一编码管理。定期组织开展停车资源普查，并将普查结果纳入停车综合管理服务系统。

违反第二款规定，信息服务的经营者未将相关信息接入停车综合管理服务系统的，由交通行政主管部门责令限期改正；逾期未改正的，处 5000 元以上 1 万元以下罚款。

**第二十四条** 区停车管理部门应当根据本市停车综合管理服务系统，建立区域停车诱导系统，实时公布分布位置、使用状况、泊位数量等停车设施动态信息，引导车辆有序停放。

公共停车设施应当按照标准配建停车诱导设施、进出车辆信息采集及号牌识别系统，与所在区域停车诱导系统实时对接。

违反第二款规定，公共停车设施未按照标准配建停车诱导设施、进出车辆信息采集及号牌识别系统，或者未与所在区域停车诱导系统实时对接的，由城市管理综合执法部门责令限期改正；逾期未改正的，处 1 万元罚款。

**第二十五条** 国家机关、社会团体、企事业单位、个体工商户等单位，应当做好门前停车管理责任区内的停车秩序维护工作，有权对违法停车行为予以劝阻、制止或者举报。

**第二十六条** 任何单位和个人不得擅自道路上和其他公共区域内设置固定或者可移动障碍物阻碍机动车停放和通行；不得在未取得所有权和专属使用权的停车泊位上设置地桩、地锁。物业服务企业应当在物业管理协议和车位租赁协议中予以明示并统一管理。

违反前款规定，擅自设置固定或者可移动障碍物的，道路范围内由公安机关交通管理部门责令停止违法行为，迅速恢复交通；实行物业管理的居住小区公共区域内，由住房城乡建设部门依据物业管理的相关规定进行处罚；其他公共场所内，由城市管



sharing mechanism with the operators engaged in parking information services. The operators of information services shall integrate the relevant information into the comprehensive parking management service system. The municipal administrative department for transport shall supervise the quality of information services and formulate specific specifications for information services.

The municipal administrative department for transport shall formulate the coding rules for parking space, conduct unified coding management of parking space, carry out censuses of parking resources regularly, and incorporate the census results into the comprehensive parking management service system.

The operators of information services, in violation of the provisions of Paragraph 2, failing to integrate the relevant information into the comprehensive parking management service system shall be ordered to make corrections within a prescribed time limit by the administrative departments for transport; if they fail to make corrections within the prescribed time limit, they shall be imposed upon a fine of not less than 5,000 yuan but not more than 10,000 yuan.

**Article 24** The district parking management departments shall, in accordance with the comprehensive parking management service system of this Municipality, establish a regional parking guidance system to publish in real time the dynamic information of parking facilities such as the distribution, usage status and number of parking space, so as to guide the orderly parking of vehicles.

Public parking facilities shall be equipped with parking guidance facilities and vehicle information collection and license plate recognition systems in accordance with the standards, and shall be connected with the regional parking guidance systems in real time.

Public parking facilities, in violation of the provisions of Paragraph 2, failing to be equipped with parking guidance facilities and vehicle information collection and license plate recognition systems in accordance with the standards, or failing to be connected with the regional parking guidance systems in real time shall be ordered to make corrections within a prescribed time limit by the departments for comprehensive law enforcement in urban management; if they fail to make corrections within the prescribed time limit, they shall be imposed upon a fine of 10,000 yuan.

**Article 25** State organs, social organizations, enterprises and public institutions, individual businesses and other units shall do a good job in maintaining the parking order in the parking areas under their management, and have the right to dissuade, stop or report illegal parking behaviors.

**Article 26** No unit or individual shall, without authorization, set up fixed or movable obstacles on roads and in other public areas to hinder the parking and passage of motor vehicles; no pilings or parking locks shall be installed in parking space without ownership or exclusive right of use, which shall be indicated by property service enterprises in property management agreements and parking space leasing agreements and under the unified management thereof.

Where a fixed or movable obstacle is set up without authorization in violation of the provisions of the preceding paragraph, within the scope of roads, the departments for public security traffic management shall order to stop the illegal acts and promptly



理综合执法部门责令停止违法行为，恢复原状，并处 500 元以上 1000 元以下罚款。

非电动汽车不得占用电动汽车专用泊位。违反规定的，由公安机关交通管理部门责令改正，依法给予处罚。

**第二十七条** 负有停车管理职责的公职人员，在停车管理中不依法履行职责，由监察机关依法予以处置。

**第二十八条** 本市对驻车换乘停车设施和道路停车实行政府定价，道路停车收费应当按照中心城区高于外围区域、重点区域高于非重点区域、拥堵时段高于空闲时段的原则确定，并根据高于周边非道路停车收费价格的原则动态调节。

本市对其他停车设施实行市场调节价，可以根据地理位置、服务条件、供求关系等因素自主定价。

市价格行政主管部门应当依法加强对停车收费价格的监督。

本市各类停车设施应当按照相关规定对军车停车免收停车费。残疾人持公安机关交通管理部门核发的残疾人专用通行证驾驶残疾人本人专用车辆，在本市各类非居住区停车场停放时，免收停车费。

**第二十九条** 调整居住小区内业主共有的停车泊位的收费价格时，应当经专有部分占建筑物总面积过半数的业主且占总人数过半数的业主同意。违反规定，未按照规定程序调整居住小区停车收费价格的，由住房城乡建设部门责令限期改正，并处 10 万元罚款。

**第三十条** 居住小区在居民委员会、村民委员会的指导下，可以成立停车自治组织，对居住小区内停车实行自我管理、自我服务。自我管理服务可以收取一定的费用，用于停车自治成本费用、停车设施建设等，费用收取和使用情况应当定期在居住小区内公示。

**第三十一条** 本市逐步建立居住停车区域认证机制，停车人在划定的居住停车范围内停车，可以按照居住停车价格付费。具体办法由市交通主管部门会同相关部门制定。

restore the traffic; in the public areas of residential quarters where property management is implemented, the housing and urban-rural development departments shall impose punishments in accordance with the relevant provisions on property management; and in other public places, the departments for comprehensive law enforcement in urban management shall order to stop the illegal acts and restore to original conditions, and shall impose a fine of not less than 500 yuan but not more than 1,000 yuan.

Non-electric vehicles shall not occupy the special parking space for electric vehicles. Those violating the provisions shall be ordered to make corrections by the departments for public security traffic management and punished in accordance with the law.

**Article 27** Public functionaries who are responsible for parking management shall be punished by the supervisory organs in accordance with the law if they fail to perform their duties in accordance with the law in parking management.

**Article 28** This Municipality shall implement government pricing on park-and-ride parking facilities and road parking. Road parking charges shall be determined according to the principle that the charges in the central urban areas shall be higher than that in the peripheral areas, the charges in the key areas shall be higher than that in the non-key areas, and the charges during congestion hours shall be higher than that during idle hours, which shall be adjusted dynamically according to the principle that the parking charges shall be higher than the peripheral non-road parking charges.

This Municipality shall implement market-adjusted prices on other parking facilities, which may be determined independently according to geographical locations, service conditions, supply-demand relationships and other factors.

The municipal administrative department for pricing shall strengthen supervision over parking prices in accordance with the law.

All parking facilities in this Municipality shall exempt military vehicles from parking fees in accordance with the relevant provisions. Persons with disabilities shall be exempted from parking fees when they park their own special vehicles with special passes issued by the departments for public security traffic management in various non-residential parking lots in this Municipality.

**Article 29** The adjustment of the prices of parking space commonly owned by the owners in residential quarters shall obtain the consent of the owners whose exclusive parts account for more than half of the total area of buildings and whose number accounts for more than half of the total number of owners. Those, in violation of the provisions, failing to adjust the parking prices in residential quarters in accordance with the prescribed procedures shall be ordered to make corrections within a prescribed time limit by the housing and urban-rural development departments, and imposed upon a fine of 100,000 yuan.

**Article 30** Under the guidance of the neighborhood committees and villagers' committees, autonomous organizations for parking may be established in residential quarters to implement self-management and self-service for parking in residential quarters. Certain fees may be charged for self-management services for the costs of parking autonomy and the construction of parking facilities. The collection and use of the fees shall be publicized regularly in residential quarters.

**Article 31** This Municipality shall gradually establish a certification mechanism for residential parking areas. People may pay for parking according to residential parking prices within the designated residential parking areas. Specific measures shall be formulated by the

**第三十二条** 停车设施经营单位应当遵守下列规定：

（一）在显著位置明示停车设施名称、范围、编号、服务项目、收费标准、车位数量及监督电话；

（二）按照明示的标准收费，并出具专用票据；

（三）实行计时收费的停车设施，满一个计时单位后方可收取停车费，不足一个计时单位的不收取费用。

中心城区范围内的经营性停车设施，应当 24 小时开放。违反规定的，由城市管理综合执法部门责令限期改正，并处 5000 元以上 1 万元以下罚款。

违反第一款规定的，依照价格、税务相关法律法规进行处罚。

**第三十三条** 任何单位和个人不得违反规划将停车设施改作他用。

向社会开放的公共停车设施确需停止经营的，停车设施经营单位应当将处理方案提前报告区停车管理部门；决定停止经营的，停车设施经营单位应当提前 30 日向社会公告。临时停车设施停止使用的，停车设施经营单位应当在停止使用前 30 日向社会公告，并到有关部门办理相关手续。

确需改变停车设施用途的，应当依法报原审批部门办理规划变更手续，但为实现原规划用途，将临时停车设施停止使用的情况除外。

违反第一款规定，改变停车设施用途的，由城市管理综合执法部门责令限期改正、恢复原状，并处每个泊位 1 万元罚款。

**第三十四条** 举办大型群众性活动，承办者应当协调活动举办场所及周边的停车设施，提供停车服务，并向公安机关交通管理部门报告。

公安机关交通管理部门应当制定活动举办场所及其周边区域的机动车疏导方案，周边道路有条件的，可以设置临时停车区域，并明确停放时段。

**第三十五条** 本市机动车停车相关行业社团组织依照章程，建立健全行业自律制度，参与停车相关政策法规、行业标准、规范的研究制订和宣传贯彻，规范指导会员

municipal administrative department for transport together with the relevant departments.

**Article 32** The operating units of parking facilities shall abide by the following provisions:

- (1) indicating the name, scope, number, service items, charging standards, number of parking space and supervisory telephone number of parking facilities in prominent locations;
- (2) charging according to express standards and issuing special receipts;
- (3) for parking facilities implementing time-based charging, parking fees may be charged only after one time-based unit, and no fee shall be charged for the time less than one time-based unit.

The for-profit parking facilities within the central urban areas shall be open 24 hours a day. Those violating the provisions shall be ordered to make corrections within a prescribed time limit by the departments for comprehensive law enforcement in urban management, and imposed upon a fine of not less than 5,000 yuan but not more than 10,000 yuan.

Those violating the provisions of Paragraph 1 shall be punished in accordance with the relevant laws and regulations concerning prices and taxation.

**Article 33** No unit or individual may use parking facilities for other purposes in violation of the planning.

If public parking facilities open to the society really need to stop operation, the operating units of parking facilities shall report the disposal schemes to the district parking administration departments in advance; if they decide to stop operation, the operating units of parking facilities shall make a public announcement to the society 30 days in advance. Where temporary parking facilities cease to be used, the operating units of parking facilities shall make a public announcement to the society 30 days prior to the cessation of use and go through the relevant formalities with the relevant departments.

If it is really necessary to change the purpose of parking facilities, the operating units of parking facilities shall report to the original examination and approval department for planning change formalities in accordance with the law, except that temporary parking facilities cease to be used for the purpose of realizing the original planning purpose.

Those, in violation of the provisions of Paragraph 1, changing the purpose of parking facilities shall be ordered by the departments for comprehensive law enforcement in urban management to make corrections within a prescribed time limit and restore to original conditions, and shall be imposed upon a fine of 10,000 yuan per space.

**Article 34** Organizers of large-scale mass activities shall coordinate the parking facilities of the activity venues and surrounding areas to provide parking services, and shall report to the departments for public security traffic management.

The departments for public security traffic management shall formulate motor vehicle guidance plans for the activity venues and surrounding areas. Temporary parking areas may be set up on the surrounding roads where conditions allow, and the parking time shall be specified.

**Article 35** The industry associations and organizations of motor vehicle parking in this Municipality shall, in accordance with the constitutions thereof, establish and improve

经营管理，组织开展诚信建设，维护会员合法权益，组织会员开展行业服务质量评价和培训，提高停车服务质量。

## 第四章 道路停车

**第三十六条** 公安机关交通管理部门负责设置、维护、调整道路停车泊位，确定停车泊位允许停放的时段。

设置道路停车泊位，遵循严格控制和中心城区减量化的原则，优先保障步行、非机动车、公共交通，保障机动车通行。服务半径内有停车设施可以提供停车泊位的，一般不得设置道路停车泊位；不具备停车条件的胡同，不得设置道路停车泊位。对已有的道路停车泊位，应当根据区域停车设施控制目标、交通运行状况、泊位周转使用效率和周边停车设施的增设情况及时进行调整或者取消。

除前款和本条例第十八条规定的情形外，其他单位和个人不得占用、设置、撤除道路停车泊位或者据为专用。

违反第三款规定，由公安机关交通管理部门责令停止违法行为，恢复原状，擅自占用或者据为专用的，并处每个泊位 500 元以上 1000 元以下罚款；擅自设置、撤除道路停车泊位的，并处每个泊位 1000 元以上 2000 元以下罚款；情节严重的，并处每个泊位 5000 元罚款。

**第三十七条** 道路停车收费纳入政府非税收入管理，实行收支两条线，收入全额上缴区级财政，并定期向社会公开。

**第三十八条** 区人民政府可以采取向社会购买服务的方式，委托专业化停车企业对道路停车进行管理。委托过程应当公开透明并签订书面协议，明确双方权利义务、不得转包、协议期限、终止协议的情形等内容。

市交通行政主管部门应当制定协议示范文本，并将不执行电子收费、议价等行为，

the self-discipline system of the industry, participate in the study, formulation, publicity and implementation of parking-related policies, regulations, industry standards and norms, standardize and guide the operation and management of their members, organize the construction of honesty, safeguard the legitimate rights and interests of their members, and organize the evaluation of the quality of industry service and training to improve the quality of parking services.

## **Chapter IV Road Parking**

**Article 36** The departments for public security traffic management shall be responsible for setting up, maintaining and adjusting road parking space and determining the allowable parking hours.

Road parking space shall be set up following the principles of strict control and reduction in central urban areas, giving priority to ensuring pedestrian, non-motor vehicle and public transport, and ensuring the passage of motor vehicles. Road parking space shall not generally be set up in areas where parking space can be provided by parking facilities within the service radius; road parking space shall not be set up in alleys without parking conditions. The existing road parking space shall be adjusted or cancelled in time according to the regional control objectives of parking facilities, traffic operation conditions, parking space turnover efficiency and the addition of surrounding parking facilities.

Except in the circumstances specified in the preceding paragraph and Article 18 of these Regulations, no other unit or individual may occupy, set up or remove road parking space or possess road parking space for private use.

Those violating the provisions of Paragraph 3 shall be ordered by the departments for public security traffic management to stop the illegal acts and restore to original conditions, and shall be imposed upon a fine of not less than 500 yuan but not more than 1,000 yuan per space for unauthorized occupation or possession for private use; those setting up or removing road parking space without authorization shall be imposed upon a fine of not less than 1,000 yuan but not more than 2,000 yuan per space; if the circumstances are serious, a fine of 5,000 yuan per space shall be imposed.

**Article 37** Road parking fees shall be included in the administration of non-tax revenues of the governments. Revenues and expenditures shall be divided. The full amount of revenues shall be turned over to the district-level finance and shall be regularly disclosed to the public.

**Article 38** The district people's governments may, by means of purchasing services from the society, entrust specialized parking enterprises to manage road parking. The entrusting process shall be open and transparent, and a written agreement shall be signed to clarify the rights and obligations of both parties, the non-subcontracting requirements, the term of the agreement, and the circumstances of termination of the agreement.

The municipal administrative department for transport shall formulate a model text of the agreement and incorporate the non-implementation of electronic charging and bargaining into the circumstances of termination of the agreement. The municipal administrative

纳入终止协议的情形。市交通行政主管部门、区人民政府应当监督协议执行情况。

**第三十九条** 本市道路停车实行电子收费。市交通行政主管部门和区停车管理部门应当明确推进电子收费工作时限。

新建、改建、扩建、大中修道路将要设置电子收费设施的，应当同步预留强弱电条件。

任何单位和个人不得擅自挪移、破坏或者拆除道路停车电子收费的设备设施。

违反第三款规定，擅自挪移、破坏或者拆除道路停车电子收费设备设施的，依法承担赔偿责任，并由公安机关依照《中华人民共和国治安管理处罚法》予以处理；构成犯罪的，依法追究刑事责任。

**第四十条** 停车人应当在停车泊位或者区域内按照规定的时段停放车辆，不得妨碍其他车辆、行人通行。违反规定的，由公安机关交通管理部门依照道路交通安全法律、法规进行处理。

机动车违法停放，驾驶人不在现场或者虽在现场但拒绝立即驶离，妨碍其他车辆、行人通行的，公安机关交通管理部门可以依法作出拖移决定。具体拖移行为可由公安机关交通管理部门或者其委托的相关拖车单位实施。

**第四十一条** 停车人应当按照规定缴纳道路停车费用。

违反前款规定，由区停车管理部门进行催缴，并处 200 元罚款；情节严重的，并处 500 元以上 1000 元以下罚款。

**第四十二条** 乡镇人民政府、街道办事处确定的停车监督、管理人员，以及受委托专业化停车企业人员应当协助公安机关交通管理部门维护道路停车秩序，劝阻、告知道路停车违法行为。

## 第五章 附 则

**第四十三条** 本条例自 2018 年 5 月 1 日起施行。



department for transport and the district people's governments shall supervise the implementation of the agreement.

**Article 39** Electronic charging shall be implemented for road parking in this Municipality. The municipal administrative department for transport and district parking administration departments shall clearly promote the time limit of electronic charging.

Where electronic charging facilities are to be set up on newly constructed, renovated, expanded or repaired roads, strong and weak electric conditions shall be reserved simultaneously.

No unit or individual shall arbitrarily move, destroy or dismantle the electronic charging equipment and facilities for road parking.

Whoever, in violation of the provisions of Paragraph 3, arbitrarily moves, destroys or dismantles the electronic charging equipment and facilities for road parking shall be liable for compensation in accordance with the law and shall be dealt with by public security organs in accordance with the Law of the People's Republic of China on Penalties for Administrative of Public Security; if a crime is constituted, the criminal liability shall be investigated for in accordance with the law.

**Article 40** Vehicles shall be parked in parking space or areas during prescribed hours, and shall not hinder the passage of other vehicles or pedestrians. Those violating the provisions shall be handled by the departments for public security traffic management in accordance with the laws and regulations on road traffic safety.

Where a motor vehicle is parked illegally, and the driver is not present or refuses to leave immediately, thereby obstructing the passage of other vehicles and pedestrians, the departments for public security traffic management may decide to tow away the motor vehicle in accordance with the law. The specific towing behavior may be carried out by the departments for public security traffic management or the relevant towing units entrusted thereby.

**Article 41** People shall pay road parking fees as stipulated.

Those violating the provisions of the preceding paragraph shall be asked for payment by the district parking administration departments and imposed upon a fine of 200 yuan; if the circumstances are serious, they shall be imposed upon a fine of not less than 500 yuan but not more than 1,000 yuan.

**Article 42** The parking supervision and management personnel designated by the township and town people's governments and sub-district offices, as well as the personnel of specialized parking enterprises under entrustment, shall assist the departments for public security traffic management in maintaining the road parking order and dissuade and report illegal road parking acts.

## **Chapter V Supplementary Provisions**

**Article 43** These Regulations shall be effective as of May 1, 2018.



# 北京市查处非法客运若干规定

(2018年5月31日北京市第十五届人民代表大会常务委员会

第四次会议通过)

**第一条** 为了保障客运安全和乘客合法权益,规范本市客运市场秩序,打击非法客运行为,根据国家和本市相关法律法规,结合本市实际情况,制定本规定。

**第二条** 在本市行政区域内从事客运经营的经营者、车辆和驾驶人员应当依法取得相应许可。

未经许可不得从事或者组织从事客运经营。

**第三条** 禁止巡游出租汽车以外的其他车辆喷涂巡游出租汽车专用车身配色和图案标识,安装专用号牌、营运标识和设施,假冒巡游出租汽车。

违反前款规定,假冒巡游出租汽车的,由交通行政执法部门责令停止经营,没收车辆和专用营运标识、设施,有违法所得的,没收违法所得;没有违法所得或者违法所得不足2万元的,处3万元以上10万元以下罚款;违法所得2万元以上的,处违法所得2倍以上10倍以下罚款。

**第四条** 未经许可擅自从事或者组织从事巡游出租汽车客运经营的,由交通行政执法部门、城市管理综合行政执法机关(以下统称执法部门)依照职责分工责令停止经营,扣押车辆,有违法所得的,没收违法所得;没有违法所得或者违法所得不足2万元的,处1万元以上5万元以下罚款;违法所得2万元以上的,处违法所得2倍以上10倍以下罚款;对非法安装的专用营运标识、设施,予以没收。

**第五条** 未经许可擅自从事或者组织从事网络预约出租汽车客运经营的,由交通行政执法部门责令停止经营,扣押车辆,并按照国家和本市相关管理规定处以罚款。

# Several Provisions of Beijing Municipality on the Investigation and Punishment of Illegal Passenger Transport

(Adopted at the 4<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup>  
People's Congress of Beijing Municipality on May 31, 2018)

**Article 1** These Provisions are formulated for the purposes of safeguarding the safety of passenger transport and the legitimate rights and interests of passengers, regulating the order of the passenger transport market in this Municipality and cracking down on illegal passenger transport in accordance with the relevant laws and regulations of the State and this Municipality and in light of the actual circumstances of this Municipality.

**Article 2** The operators, vehicles and drivers engaged in passenger transport operations within the administrative areas of this Municipality shall obtain corresponding licenses in accordance with the law.

No passenger transport operation shall be carried out or organized without permission.

**Article 3** It is forbidden for vehicles other than taxis to spray dedicated body colors and logos of taxis, or install dedicated number plates, operation marks and facilities, in order to pretend to be taxis.

Those, in violation of the provisions of the preceding paragraph, pretending to be taxis shall be ordered by the departments for traffic administrative law enforcement to stop operation, confiscated of vehicles and dedicated marks and facilities, and confiscated of illegal gains if any; if there is no illegal gain or the illegal gains are less than 20,000 yuan, a fine of not less than 30,000 yuan but not more than 100,000 yuan shall be imposed; if the illegal gains are more than 20,000 yuan, a fine of not less than twice but not more than 10 times the illegal gains shall be imposed.

**Article 4** Those engaged in or organizing the operation of passenger transport with taxis without permission shall be ordered by the departments for traffic administrative law enforcement and comprehensive law enforcement in urban management (hereinafter referred to as the law enforcement departments) according to their assignment of responsibilities to stop operation, confiscated of vehicles, and confiscated of illegal gains if any; if there is no illegal gain or the illegal gains are less than 20,000 yuan, a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed; if the illegal gains are more than 20,000 yuan, a fine of not less than twice but not more than 10 times the illegal gains shall be imposed; and the dedicated operation marks and facilities illegally installed shall be confiscated.

**Article 5** Those engaged in or organizing ride-hailing services without permission shall be ordered by the departments for traffic administrative law enforcement to stop operation, confiscated of vehicles, and imposed upon a fine in accordance with the relevant regulations of the State and this Municipality.

**第六条** 驾驶人员有第四条、第五条规定情形之一，从事非法客运经营被执法部门处罚两次的，由公安机关交通管理部门暂扣三个月机动车驾驶证；从事非法客运经营被执法部门处罚三次以上的，由公安机关交通管理部门暂扣六个月机动车驾驶证。

**第七条** 未经许可擅自从事道路运输班车客运、包车客运、旅游客运经营的，由交通行政执法部门责令停止经营，有违法所得的，没收违法所得；没有违法所得或者违法所得不足2万元的，处3万元以上10万元以下罚款；违法所得2万元以上的，处违法所得2倍以上10倍以下罚款。

**第八条** 禁止利用摩托车、三轮车、残疾人机动轮椅车等车辆从事客运经营。具体车辆类型由市交通行政主管部门会同公安机关交通管理部门和城市管理综合行政执法机关确定，并向社会公示。

违反前款规定的，由城市管理综合行政执法机关没收车辆，没收违法所得，并可处500元以上2000元以下罚款。

**第九条** 因从事非法客运经营被没收的车辆和物品，由没收车辆或者物品的执法部门依据国家和本市对罚没物品的处理规定依法处置。

**第十条** 被扣押的非法客运经营车辆属于拼装车或者被扣押时已经达到报废标准的，由扣押车辆的执法部门移送公安机关交通管理部门收缴，强制报废。

非法客运经营车辆在被扣押期间达到报废标准，经公安机关交通管理部门公告车辆登记证书、号牌、行驶证作废的，由扣押车辆的执法部门通知车辆所有人认领并在三个月内自行报废车辆；无法联系车辆所有人的，应当通过公共媒体公告认领。通知车辆所有人或者公告后三个月内仍无人认领的，由扣押车辆的执法部门交机动车回收拆解企业予以报废。

**第十一条** 执法部门在作出扣押决定时，应当向当事人出具《扣押车辆知情书》，告知当事人及时接受处理，非法客运经营车辆被扣押期间的保管费用由执法部门承担，自扣押解除之日起，车辆保管费用由当事人承担。

**Article 6** Where drivers, under one of the circumstances prescribed in Articles 4 and 5, are punished twice by the law enforcement departments for being engaged in illegal passenger transport, the public security traffic management departments shall temporarily withhold their motor vehicle driving licenses for three months; if they are punished more than three times by the law enforcement departments for being engaged in illegal passenger transport, the public security traffic management departments shall temporarily withhold their motor vehicle driving licenses for six months.

**Article 7** Whoever engages in the operation of scheduled bus transport, chartered bus transport or tourist passenger transport without permission shall be ordered by the departments for traffic administrative law enforcement to stop operation and confiscated of illegal gains if any; if there is no illegal gain or the illegal gains are less than 20,000 yuan, a fine of not less than 30,000 yuan but not more than 100,000 yuan shall be imposed; if the illegal gains are more than 20,000 yuan, a fine of not less than twice but not more than 10 times the illegal gains shall be imposed.

**Article 8** It is forbidden to use motorcycles, tricycles and motor wheelchairs for passenger transport. The specific types of vehicles shall be determined by the municipal administrative department for traffic together with the public security traffic management departments and the departments for comprehensive law enforcement in urban management, and shall be made public to the society.

In case of violation of the provisions of the preceding paragraph, the departments for comprehensive law enforcement in urban management shall confiscate the vehicles and illegal gains, and may impose a fine of not less than 500 yuan but not more than 2,000 yuan.

**Article 9** Vehicles and articles confiscated as a result of illegal passenger transport operations shall be disposed of in accordance with the law by the law enforcement departments which confiscate the vehicles or articles in accordance with the provisions of the State and this Municipality on the handling of confiscated articles.

**Article 10** Where the seized vehicles for illegal passenger transport operations belong to assembly vehicles or have reached the standards for being scrapped at the time of seizure, the law enforcement departments which seize the vehicles shall transfer them to the public security traffic management departments for being scrapped compulsorily.

If the vehicles for illegal passenger transport operations reach the standards for being scrapped during the period of seizure, and the vehicle registration certificates, number plates and driving licenses are annulled upon announcement by the public security traffic management departments, the law enforcement departments which seize the vehicles shall notify the owners of the vehicles to claim the vehicles and scrap the vehicles by themselves within three months; if the owners of the vehicles cannot be contacted, announcements shall be issued through public media for claiming the vehicles. Where nobody claims the vehicles within three months after notifying the owners or issuing announcements, the law enforcement departments which seize the vehicles shall hand them over to the vehicle recycling and dismantling enterprises in order to scrap the vehicles.

**Article 11** When making a decision on seizure, the law enforcement departments shall issue a Letter of Information on Seizure of Vehicles to the parties involved, informing them to accept the punishments promptly. The expenses for keeping illegal passenger transport vehicles during the period of their seizure shall be borne by the law enforcement departments, while the expenses for keeping the vehicles shall be borne by the parties

**第十二条** 执法部门应当依法履行职责，根据区域管理现状合理配置执法力量，加大执法巡查力度，提高行政检查频次。

**第十三条** 执法部门应当积极宣传客运经营管理法律法规，强化客运经营者遵守客运经营管理法律法规的意识，引导公众乘坐合法经营车辆、配合查处非法客运经营行为。

**第十四条** 本市建立非法客运举报制度，并对社会公开举报受理机构和方式。  
执法部门接到举报后，应当按照规定立案调查；经调查举报属实的，及时查处。

**第十五条** 执法部门应当将违反本规定的行为记入本市信用信息系统。

**第十六条** 本规定自 2018 年 7 月 1 日起施行。

involved from the date of the release of the seizure.

**Article 12** The law enforcement departments shall perform their duties in accordance with the law, rationally allocate law enforcement forces according to the current situation of regional management, devote greater efforts to law enforcement and inspection, and increase the frequency of administrative inspections.

**Article 13** The law enforcement departments shall actively publicize the laws and regulations on the operation and management of passenger transport, strengthen the consciousness of passenger transport operators to abide by the laws and regulations on the operation and management of passenger transport, as well as guide the public to take lawfully operated vehicles and cooperate with the investigation and punishment of illegal passenger transport operations.

**Article 14** This Municipality shall establish a reporting system for illegal passenger transport, and make public to the society the reporting acceptance institutions and reporting methods.

After receiving reports, the law enforcement departments shall register and investigate the reports as stipulated; if the reports are verified to be true after investigation, they shall be dealt with in time.

**Article 15** The law enforcement departments shall record violations of these Provisions in the credit information system of this Municipality.

**Article 16** These Provisions shall be effective as of July 1, 2018.

# 北京市非机动车管理条例

(2018年9月28日北京市第十五届人民代表大会常务委员会  
第七次会议通过)

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第五章	停车秩序
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## 第一章 总 则

**第一条** 为了加强非机动车管理，保障道路交通有序、安全，维护公民、法人和  
非法人组织的合法权益，根据《中华人民共和国道路交通安全法》《中华人民共和国  
产品质量法》《中华人民共和国道路交通安全法实施条例》等法律法规，结合本市实际，  
制定本条例。

**第二条** 本市行政区域内非机动车的生产、销售、登记、通行、租赁经营、停放  
及相关管理活动，适用本条例。

**第三条** 市和区人民政府应当加强对本行政区域内非机动车管理工作的领导；优  
化交通出行方式，倡导市民绿色出行；落实非机动车通行道路、停放等基础设施规划、  
建设；引导、规范企业开展互联网自行车租赁服务，实施总量调控；不发展电动自行  
车租赁；监督、协调有关行政部门履行职责。

乡镇人民政府、街道办事处应当统筹辖区内的非机动车管理工作；组织管理、综  
合协调、监督检查区政府职能部门派出机构，依标准施划非机动车位，规范非机动车  
停车秩序，清理废旧非机动车等事项；可以依托居（村）民自治、网格化管理、门前

# Regulations of Beijing Municipality on the Administration of Non-motor Vehicles

(Adopted at the 7<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup> People's Congress of Beijing Municipality on September 28, 2018)

## Contents

Chapter I	General Provisions
Chapter II	Production and Sales
Chapter III	Registration
Chapter IV	Traffic Safety
Chapter V	Parking Order
Chapter VI	Legal Liability
Chapter VII	Supplementary Provisions

## Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of strengthening the management of non-motor vehicles, ensuring the orderly and safe road traffic, and safeguarding the legitimate rights and interests of citizens, legal persons and unincorporated organizations in accordance with the laws and regulations such as the Law of the People's Republic of China on Road Traffic Safety, the Product Quality Law of the People's Republic of China and the Regulations for the Implementation of the Law of the People's Republic of China on Road Traffic Safety and in light of the actual circumstances of this Municipality.

**Article 2** These Regulations shall apply to the production, sales, registration, passage, leasing management, parking and related management activities of non-motor vehicles within the administrative areas of this Municipality.

**Article 3** The municipal and district people's governments shall strengthen their leadership in the management of non-motor vehicles within their respective administrative areas; optimize traffic modes and advocate green travel by citizens; implement planning and construction of road and parking infrastructure for non-motor vehicles; guide and standardize bike sharing services by enterprises and implement total amount control; restrain the development of electric bicycle leasing; and supervise and coordinate the performance of duties by the relevant administrative departments.

The township and town people's governments and sub-district offices shall coordinate the management of non-motor vehicles within their jurisdiction; organize, manage, coordinate and supervise the agencies of the functional departments of the district governments to delimit parking space for non-motor vehicles according to standards, standardize the parking order of non-motor vehicles, and deal with scrapped and old non-



三包等机制，采取向社会购买服务、鼓励志愿者服务、协调多主体进行会商、对违法违规企业进行约谈等方式开展工作。

公安机关交通管理、工商行政管理、交通行政管理、质量技术监督、环境保护、城市管理综合行政执法等有关部门在各自的职责范围内负责非机动车管理工作。

**第四条** 本市非机动车相关行业协会应当加强行业自律管理，组织会员制定并遵守行业自律公约，引导、协调、监督会员单位及其员工依法从事销售和经营活动，维护公平竞争的市场秩序；对本行业基本情况进行调查；参与制定车辆与服务的标准及车辆的目录；代表行业反映意见建议。

**第五条** 本市行政区域内的国家机关、企业、事业单位、社会团体应当加强对本单位人员非机动车道路交通安全法律法规和交通安全常识的宣传教育。

电视台、广播电台、互联网信息服务提供者等媒体应当加强非机动车道路交通安全法律法规和交通安全常识的公益宣传。

## 第二章 生产销售

**第六条** 在本市生产、销售的非机动车应当符合国家标准。

**第七条** 本市对符合国家标准的电动自行车实行产品目录制度。产品目录应当载明生产企业、品牌、型号、定型技术参数等项目，及时更新并向社会公布。

市工商行政管理部门会同市质量监督管理、市公安机关交通管理、市环境保护等部门，根据国家标准编制产品目录，也可以委托非机动车行业协会组织编制。市工商行政管理部门应当及时将符合国家标准的电动自行车纳入产品目录。没有纳入产品目录的电动自行车，不得在本市销售和登记上牌。

**第八条** 电动自行车的销售者应当将产品目录和登记上牌的法律法规规定等在销售场所显著位置公示。销售的电动自行车应当和产品目录相符合；不符合的，消费者可以依照国家规定、当事人约定，要求销售者退货或者更换。

motor vehicles; and rely on the mechanisms of residents' (or villagers') self-governance, grid management and general responsibility in areas under management to carry out their work by adopting the methods of purchasing services from the society, encouraging volunteer services, coordinating multi-party consultation, and interviewing enterprises that violate laws and regulations.

The relevant departments for public security traffic management, industry and commerce, transport, quality and technology supervision, environmental protection and comprehensive law enforcement in urban management shall be responsible for the management of non-motor vehicles within their respective scope of duties.

**Article 4** The industry associations of non-motor vehicles in this Municipality shall strengthen the self-discipline management of the industry, organize members to formulate and abide by the self-discipline conventions of the industry, guide, coordinate and supervise member units and their employees to engage in sales and business activities in accordance with the law, and maintain the market order with fair competition; investigate the basic situation of the industry; participate in the formulation of the standards of vehicles and services and the catalogue of vehicles; and express opinions and suggestions on behalf of the industry.

**Article 5** State organs, enterprises, public institutions and social organizations within the administrative areas of this Municipality shall strengthen the publicity and education of the laws and regulations on road traffic safety of non-motor vehicles and the common sense of traffic safety for their personnel.

Media such as TV stations, radio stations and Internet information service providers shall strengthen public welfare propaganda of the laws and regulations on road traffic safety of non-motor vehicles and the common sense of traffic safety.

## **Chapter II Production and Sales**

**Article 6** Non-motor vehicles produced and sold in this Municipality shall conform to the national standards.

**Article 7** This Municipality shall implement a product catalogue system for the electric bicycles that meet the national standards. The product catalogue shall specify such items as the production enterprises, brands, models and final technical parameters, and shall be updated in time and published to the public.

The municipal administrative department for industry and commerce shall, together with the municipal administrative departments for quality supervision and management, public security traffic management and environmental protection, formulate the product catalogue in accordance with the national standards, or may entrust the industry associations of non-motor vehicles to organize the formulation. The municipal administrative department for industry and commerce shall promptly incorporate the electric bicycles in line with the national standards into the product catalogue. Electric bicycles that are not included in the product catalogue shall not be sold and registered for applying for vehicle licenses in this Municipality.

**Article 8** Sellers of electric bicycles shall publicize the product catalogue and the laws and regulations on registration for applying for vehicle licenses at prominent locations in sales places. Electric bicycles sold shall conform to the product catalogue; if they do not conform to the product catalogue, consumers may require the sellers to return or replace them in accordance with the provisions of the State and the agreement of the parties.

**第九条** 电子商务平台经营者应当按照消费者权益保护、电子商务等法律法规的规定，对申请进入平台销售非机动车的销售经营主体身份进行核验和登记，明确销售者在平台进入和退出、商品和服务质量安全保障、消费者权益保护等方面的权利和义务。

电子商务平台经营者发现平台内销售的非机动车违反相关法律法规的，应当依法采取必要的处置措施，并向有关主管部门报告。

工商行政管理部门发现平台内有违反相关法律法规行为的，应当要求平台经营者立即采取措施制止，平台经营者应当予以配合。

### 第三章 登 记

**第十条** 电动自行车经登记，取得本市电动自行车行驶证、号牌，方可在本市道路行驶。

**第十一条** 申请电动自行车登记的，应当自购车之日起 15 日内到公安机关交通管理部门申请登记，现场交验车辆，并提交下列材料：

- （一）登记申请表；
- （二）所有人身份证明；
- （三）购车凭证；
- （四）车辆整车出厂合格证明。

**第十二条** 对申请登记的电动自行车，公安机关交通管理部门应当对车辆进行查验。在产品目录内且申请材料齐全有效的，公安机关交通管理部门应当当场登记并免费发放电动自行车行驶证、号牌；不符合规定的，不予登记，并书面告知申请人。

电动自行车行驶证、号牌由公安机关交通管理部门统一监制。

电动自行车行驶证、号牌损坏或者丢失的，当事人应当向公安机关交通管理部门申请换领或者补领。

市公安机关交通管理部门应当采取增设登记办理点、简化办理程序、逐步推行带牌销售等方式，为市民办理电动自行车登记提供便利。

市公安机关交通管理部门应当制定电动自行车登记的具体办法，并向社会公布。

**Article 9** Operators of e-commerce platforms shall, in accordance with the provisions of the laws and regulations on the protection of the rights and interests of consumers and e-commerce, verify and register the identities of the sellers applying to enter the platforms to sell non-motor vehicles, and clarify the rights and obligations of the sellers in terms of the platform entry and exit, the quality and safety guarantee of goods and services, and the protection of the rights and interests of consumers.

If the operators of e-commerce platforms find that the non-motor vehicles sold on the platforms violate the relevant laws and regulations, they shall take necessary treatment measures in accordance with the law and report to the competent authorities.

If the administrative departments for industry and commerce find violations of the relevant laws and regulations on the platforms, they shall require the platform operators to take immediate measures to stop, while the platform operators shall provide cooperation.

### **Chapter III Registration**

**Article 10** Electric bicycles may only be driven on the roads of this Municipality after they have been registered and obtained the driving licenses and number plates of electric bicycles in this Municipality.

**Article 11** Those applying for registration of electric bicycles shall, within 15 days from the date of purchase of the electric bicycles, apply to the departments for public security traffic management administration for registration, hand over the electric bicycles for on-site inspection and submit the following materials:

- (1) application forms for registration;
- (2) identity certificates of owners;
- (3) vehicle purchase certificates;
- (4) certificates of conformity of finished vehicles at the time of delivery.

**Article 12** The departments for public security traffic management shall inspect the electric bicycles applying for registration. If they are included in the product catalogue and the application materials are complete and valid, the departments for public security traffic management shall register on the spot and issue driving licenses and number plates of electric bicycles free of charge; if they do not meet the requirements, they shall not be registered and the applicants shall be informed in writing.

The driving licenses and number plates of electric bicycles shall be produced under the unified supervision of the departments for public security traffic management.

If the driving licenses and number plates of electric bicycles are damaged or lost, the party concerned shall apply to the departments for public security traffic management for replacement or reissuance.

The departments for public security traffic management shall adopt such methods as adding registration stations, simplifying procedures and gradually promoting sales with licenses to facilitate the registration of electric bicycles by citizens.

The departments for public security traffic management shall formulate and publish specific measures for the registration of electric bicycles.

**第十三条** 本条例施行之前购买的电动自行车未经登记的，应当在规定期限内向公安机关交通管理部门申请登记。符合本条例第十二条规定的，发放行驶证、号牌；不符合本条例第十二条规定的，发放临时标识。

本市对发放临时标识的电动自行车设置3年过渡期，自本条例施行之日起计算。过渡期内上道路行驶的，应当悬挂临时标识，并遵守非机动车通行管理的有关规定。过渡期满后，不得上道路行驶。

具体管理办法由市公安局交通管理部门会同有关部门制定，并向社会公布。

## 第四章 通行安全

**第十四条** 驾驶非机动车上道路行驶，应当遵守道路交通安全法律法规的下列通行规定：

- （一）不得双手离把。不得有分散注意力、妨碍安全驾驶的行为；
- （二）在非机动车道内行驶。没有施划非机动车道的，在车行道的右侧行驶；
- （三）不得逆行；
- （四）遵守交通信号灯的指示。等待信号灯时，在非机动车停止线或者待驶（转）区内顺序等候；
- （五）转弯时让直行车辆、行人优先通行。转弯前减速慢行，伸手示意，不得突然猛拐，超车时不得妨碍被超车辆行驶。设有转向灯，转弯前开启转向灯；
- （六）行经人行横道时避让行人；
- （七）通过人行横道、过街天桥、地下通道时，下车推行，不得骑行通过；
- （八）不得进入高速公路、城市快速路或者其他封闭的机动车专用道；
- （九）不得牵引动物，不得拖拽、牵挂载人载物装置；
- （十）法律法规规定的其他通行规定。

**第十五条** 驾驶电动自行车上道路行驶，应当遵守下列规定：

- （一）悬挂号牌、临时标识，并保持清晰、完整，不得遮挡、污损；
- （二）不得使用伪造、变造的行驶证、号牌、临时标识，不得使用其他电动自行车的行驶证、号牌、临时标识；
- （三）制动、鸣号、夜间反光装置等安全设备性能正常。

**Article 13** If the electric bicycles purchased before the implementation of these Regulations have not been registered, they shall apply to the departments for public security traffic management for registration within the prescribed time limit. Those conforming to the provisions of Article 12 of these Regulations shall be issued driving licenses and number plates; those not conforming to the provisions of Article 12 of these Regulations shall be issued temporary marks.

This Municipality shall establish a three-year transitional period for the electric bicycles with temporary marks, starting from the date of implementation of these Regulations. When driven on roads during the transitional period, they shall display temporary marks and observe the relevant regulations on the traffic management of non-motor vehicles. After the expiry of the transitional period, they shall not be driven on roads.

Specific management measures shall be formulated by the departments for public security traffic management together with the relevant departments and shall be published.

## **Chapter IV Traffic Safety**

**Article 14** Those driving non-motor vehicles on roads shall observe the following traffic provisions of the laws and regulations on road traffic safety:

- (1) not driving with both hands off the handlebars, and not committing any act that distracts attention or interferes with safe driving;
- (2) driving in non-motor vehicle lanes, and driving on the right side of motor vehicle lanes if no non-motor vehicle lane is delimited;
- (3) not driving in a direction not allowed by traffic regulations;
- (4) observing the guidance of traffic lights, and waiting in sequence within the non-motor vehicle stop line or the waiting area when waiting for traffic lights;
- (5) giving priority to the passage of vehicles going straight and pedestrians when making a turn, slowing down before making a turn, stretching out a hand to give a sign, not making a sharp turn suddenly, not obstructing overtaken vehicles when overtaking, and turning on the turn light (if any) before making a turn;
- (6) giving way to pedestrians when passing along the pedestrian crossing;
- (7) getting off the vehicles and walking when passing along the pedestrian crossing, overpasses and underground passages;
- (8) not entering highways, urban expressways or other closed motor vehicle lanes;
- (9) not dragging animals or devices for carrying humans or goods;
- (10) abiding by other traffic provisions of laws and regulations.

**Article 15** Those driving electric bicycles on roads shall observe the following provisions:

- (1) displaying number plates and temporary marks, and keeping them clear and complete instead of intentionally covering or smearing them;
- (2) not using forged or altered driving licenses, number plates and temporary marks, or the driving licenses, number plates and temporary marks of other electric bicycles;
- (3) keeping in good condition the performance of safety equipment such as braking,

**第十六条** 驾驶电动自行车上道路行驶，除遵守本条例第十四条、第十五条规定外，还应当遵守下列规定：

- （一）驾驶人年满 16 周岁；
- （二）成年人可以在驾驶人座位后部的固定座椅内载一名 12 周岁以下的儿童；
- （三）在非机动车道内行驶，最高时速不得超过 15 公里。

本市鼓励电动自行车驾驶人佩戴安全头盔；电动自行车搭载 12 周岁以下儿童的，鼓励为儿童佩戴安全头盔。

**第十七条** 公安机关交通管理部门可以根据道路和交通流量的具体情况，对非机动车采取疏导、限制通行、禁止通行等措施。

公安机关交通管理部门应当根据道路交通情况，在非机动车道设置电动自行车的限速提示。

**第十八条** 禁止对出厂后的电动自行车实施下列行为：

- （一）加装、改装电动机和蓄电池等动力装置，或者更换不符合国家标准的电动机和蓄电池等动力装置；
- （二）加装、改装车篷、车厢、座位等装置；
- （三）拆除或者改动限速处理装置；
- （四）其他影响电动自行车通行安全的拼装、改装行为。

禁止驾驶拼装、改装的电动自行车上道路行驶。

**第十九条** 交通管理部门对互联网租赁自行车行业，履行下列监管和服务职责：

- （一）制定行业发展政策、规范和标准；
- （二）建立行业监管和服务平台，推行电子标签管理制度，对企业的经营活动实行动态管理；
- （三）建立行业企业服务质量信用考核机制。建立质量检测、企业信用等级评定和监督管理信息公示制度；
- （四）设置、协调允许停放区域、禁止停放区域，对禁止停放区域实行目录管理；
- （五）对在履行职责中知悉的个人信息、隐私和商业秘密严格保密。

honking and night reflective devices.

**Article 16** Those driving electric bicycles on roads shall observe the provisions of Articles 14 and 15 of these Regulations and the following provisions:

- (1) the drivers shall have reached the age of 16;
- (2) adults may carry a child under the age of 12 in the fixed seat at the rear of the driver's seat;
- (3) when driving in a non-motor vehicle lane, the maximum speed shall not exceed 15 kilometers per hour.

Electric bicycle drivers are encouraged to wear safety helmet in this Municipality. Children under the age of 12 carried on electric bicycles are encouraged to wear safety helmet.

**Article 17** The departments for public security traffic management may take measures to guide, restrict and prohibit the traffic of non-motor vehicles according to the specific conditions of roads and traffic flows.

The departments for public security traffic management shall set up speed limit tips for electric bicycles in non-motor vehicle lanes according to road traffic conditions.

**Article 18** It is forbidden to conduct the following acts on electric bicycles after they leave the factory:

- (1) installing or refitting power devices such as motors and batteries, or replacing power devices such as motors and batteries that do not meet the national standards;
- (2) installing or refitting awnings, carriages and seats;
- (3) dismantling or altering speed-limiting devices;
- (4) conducting other assembly and refitting acts that affect the traffic safety of electric bicycles.

It is forbidden to drive assembled or modified electric bicycles on roads.

**Article 19** The administrative departments for transport shall perform the following supervision and service duties for the bike sharing industry:

- (1) formulating policies, norms and standards for the development of the industry;
- (2) establishing industry supervision and service platforms, and promoting the electronic label management system to implement dynamic management of business activities of enterprises;
- (3) establishing a credit assessment mechanism for enterprise service quality in the industry, and establishing the systems for quality inspection, enterprise credit rating and publicity of supervision and management information;
- (4) setting up and coordinating permitted parking areas and prohibited parking areas, and implementing directory management for prohibited parking areas;
- (5) keeping strictly confidential the personal information, privacy and business secrets that are known in the performance of duties.



**第二十条** 互联网租赁自行车经营企业应当依法规范经营，维护道路交通安全和市容环境秩序，并遵守下列具体规定：

（一）按照交通管理部门的要求投放车辆，将自行车动态总量、重点投放区域动态总量、承租人信用惩戒信息、自行车停放位置信息，以及其他涉及公共利益的信息实时、完整、准确接入本市互联网租赁自行车行业监管和服务平台。协助公安机关交通管理部门核实确定违法行为人；

（二）车辆整车及其主要部件的安全性能应当符合国家标准，具备唯一性编码；

（三）运用现代信息技术手段规范承租人依法停放车辆。客户端应当显示承租人安全提示、自行车允许停放、禁止停放区域，以及有关惩戒措施；

（四）建立投诉处理机制，及时受理、处理车辆性能、停放秩序等方面的社会投诉举报；

（五）建立承租人信用管理制度，将承租人违法信息纳入信用管理，并采取必要的信用管理措施；

（六）配置必要的管理维护人员，负责车辆调度、停放秩序管理和损坏、废弃车辆回收，及时清理占用道路、绿地等公共场所的车辆；

（七）建立健全押金、预付金管理制度，将押金存放在本市开立的银行资金专用账户。承租人申请退还押金时，应当及时退还；

（八）遵守网络安全法律法规要求，落实网络安全等级保护、数据安全、个人信息保护等制度。

## 第五章 停车秩序

**第二十一条** 交通管理部门负责组织编制非机动车停车设施专项规划，并纳入城市总体规划；制定非机动车停车设施设置规范。

车站、医院、商场、学校、展览馆、影剧院、体育场馆、公园等大中型公共建筑、公共场所建设单位应当按照国家和本市有关规定，配套规划、建设非机动车公共停车设施。

居民住宅区建设单位应当按照规划许可建设非机动车停车设施。

**Article 20** Bike sharing business enterprises shall regulate operations in accordance with the law, maintain road traffic safety and order of the city appearance and environment, and abide by the following specific provisions:

(1) they shall distribute bicycles according to the requirements of the administrative departments for transport, connect the dynamic total amount of bicycles, the dynamic total amount in key areas, the credit and punishment information of lessees, the parking location information of bicycles, and other information related to public interests to the supervision and service platforms of the bike sharing industry in this Municipality in a real-time, complete and accurate manner, and assist the departments for public security traffic management in verifying and determining the offenders;

(2) the safety performance of the finished bicycles and their main components shall conform to the national standards and have unique codes;

(3) they shall use modern information technologies to regulate the parking by the lessees in accordance with the law. The client shall display the safety tips, permitted parking areas, prohibited parking areas, and related disciplinary measures for the lessees;

(4) they shall establish a complaint handling mechanism to receive and deal with social complaints and reports on vehicle performance and parking order in a timely manner;

(5) they shall establish a credit management system for the lessees, incorporate the illegal information of the lessees into credit management, and take necessary credit management measures;

(6) they shall designate necessary management and maintenance personnel to be responsible for vehicle dispatching, parking order management, and recycling of damaged and abandoned vehicles, and timely remove vehicles occupying roads, green spaces and other public places;

(7) they shall establish and improve the management system of deposits and advances, and keep the deposits in the special account for bank funds opened in this Municipality. When the lessees apply for the refund of the deposits, the deposits shall be refunded in time;

(8) they shall comply with the requirements of network security laws and regulations, and implement the systems for grade protection of network security, data security management and personal information protection.

## **Chapter V Parking Order**

**Article 21** The administrative departments for transport shall be responsible for organizing the formulation of special planning for non-motor vehicle parking facilities to be incorporated into the overall urban planning and formulating norms for the establishment of non-motor vehicle parking facilities.

Construction units of large and medium-sized public buildings and public places such as stations, hospitals, shopping malls, schools, exhibition halls, cinemas and theatres, stadiums and parks shall, in accordance with the relevant provisions of the State and this Municipality, plan and construct supporting public parking facilities for non-motor vehicles.

Construction units of residential quarters shall construct non-motor vehicle parking

非机动车停车设施的规划、建设应当考虑电动自行车停放、充电的消防安全；设置有充电设施的，应当符合消防安全要求。不得将居民住宅楼的楼梯间、楼道等疏散通道，安全出口及其两侧影响通行的区域设置为电动自行车充电区域。

管理、使用单位应当按照规划用途使用非机动车公共停车设施。

**第二十二条** 非机动车公共停车场应当按照下列规范设置：

- （一）地面铺装、设置固定或者活动式围栏；
- （二）设置存车标识牌，划定存车标线；
- （三）有条件的，设置停放架、遮雨棚房。

实行收费的非机动车公共停车场应当设置存车收费价格公示牌、经营管理单位的标志及其监督电话，并安排专人负责服务和管理。

**第二十三条** 非机动车公共停车场的经营者、管理者应当遵守下列规定：

- （一）建立并落实各项管理和 service 规范；
- （二）保障停车场内的停车秩序和停车安全；
- （三）按照公示的收费标准收取费用，出具收费凭证。

**第二十四条** 非机动车驾驶人应当将非机动车停放在非机动车停车设施内；没有设置非机动车停车设施的，车辆停放不得影响道路通行和市容环境秩序。

禁止在下列区域停放非机动车：

- （一）人行道的禁止停放区域、消防通道、盲道；
- （二）未明确为停车区域的机动车道、非机动车道；
- （三）市交通管理部门会同市公安机关交通管理部门对道路交叉口、铁路道口、人流密集场所出入口等公共场所划定的禁止停放区域。

**第二十五条** 国家机关、企业、事业单位、社会团体、个体工商户等，应当做好门前停车管理责任区内的非机动车停车秩序维护工作，有权对违法停车行为予以劝阻、制止或者举报。

facilities in accordance with the planning permission.

The planning and construction of parking facilities for non-motor vehicles shall take into account the fire safety of parking and charging electric bicycles, and those equipped with charging facilities shall meet the fire safety requirements. No evacuation routes such as staircases and corridors of residential buildings, safety exits and areas affecting passage on both sides shall be established as the charging areas for electric bicycles.

The management and use units shall use public parking facilities for non-motor vehicles in accordance with the purposes as planned.

**Article 22** Public parking lots for non-motor vehicles shall be set up in accordance with the following specifications:

- (1) installing and setting up fixed or movable fences on the ground;
- (2) setting up parking signboards and delimiting parking areas;
- (3) setting up parking racks and shelters if conditions allow.

The public parking lots for non-motor vehicles that collect fees shall display parking price boards, signs of the business management units and the supervisory telephone numbers, and specially-assigned persons shall be arranged to be responsible for the service and management.

**Article 23** Operators and managers of public parking lots for non-motor vehicles shall abide by the following provisions:

- (1) establishing and implementing various management and service norms;
- (2) ensuring the parking order and safety in parking lots;
- (3) collecting fees in accordance with the publicized charging standards and issuing receipts.

**Article 24** Drivers of non-motor vehicles shall park non-motor vehicles in the non-motor vehicle parking facilities; if no non-motor vehicle parking facility is established, the parking of the vehicles shall not affect the road traffic and order of the city appearance and environment.

It is prohibited to park non-motor vehicles in the following areas:

- (1) prohibited parking areas on sidewalks, fire-fighting access and sidewalks for the blind;
- (2) motor vehicle lanes and non-motor vehicle lanes which are not clearly designated as parking areas;
- (3) prohibited parking areas delimited by the municipal administrative department for transport together with the municipal department for public security traffic management at public places such as road intersections, railway crossings and entrances and exits of crowded places.

**Article 25** State organs, enterprises, public institutions, social organizations and individual businesses shall do a good job in maintaining the parking order of non-motor vehicles within the parking areas under their responsibility, and have the right to dissuade, stop or report illegal parking acts.

## 第六章 法律责任

**第二十六条** 违反本条例第六条规定，销售不符合国家标准的电动自行车的，由工商行政管理部门责令停止销售，没收违法销售的电动自行车，并处违法销售电动自行车（包括已售出和未售出的）货值金额等值以上三倍以下的罚款；有违法所得的，并处没收违法所得；情节严重的，吊销营业执照。

**第二十七条** 违反本条例第十三条规定的，公安机关交通管理部门可以先予扣留电动自行车，对驾驶人处 1000 元罚款，并通知驾驶人及时接受处理：

- （一）未在规定期限内申领临时标识上道路行驶的；
- （二）过渡期满后上道路行驶的。

驾驶人接受处理后，公安机关交通管理部门应当立即发还电动自行车。

**第二十八条** 单位或者个人有下列行为的，公安机关交通管理部门可以先予扣留电动自行车，并通知驾驶人及时接受处理：

（一）违反本条例第十条规定，驾驶未经登记的电动自行车上道路行驶的，对驾驶人处 20 元罚款；

（二）违反本条例第十五条第一项规定，已经登记的电动自行车未悬挂号牌、临时标识上道路行驶的，对驾驶人处警告或者 20 元罚款；

（三）违反本条例第十五条第二项规定，使用伪造、变造或者其他电动自行车行驶证、号牌、临时标识的，对行驶证、号牌、临时标识予以收缴，对驾驶人处 1000 元罚款；

（四）违反本条例第十八条第二款规定，驾驶拼装、改装的电动自行车上道路行驶的，对驾驶人处 500 元以上 1000 元以下罚款；情节严重的，对车辆予以收缴。

驾驶人接受处理后，公安机关交通管理部门应当立即发还电动自行车，但依据前款第四项规定予以收缴的除外。

**第二十九条** 违反本条例第十四条、第十六条规定的，由公安机关交通管理部门处警告或者 10 元以上 50 元以下罚款。

**第三十条** 违反本条例第十八条第一款规定，从事经营性拼装、改装电动自行车

## Chapter VI Legal Liability

**Article 26** Those, in violation of the provisions of Article 6 of these Regulations, selling electric bicycles that do not conform to the national standards shall be ordered by the administrative departments for industry and commerce to stop the selling, confiscated of the electric bicycles illegally sold, imposed upon a fine of not less than the value of the electric bicycles illegally sold (including those sold and unsold) but not more than three times the value of the electric bicycles illegally sold, and confiscated of illegal gains if any; if the circumstances are serious, the business licenses shall be revoked.

**Article 27** If any unit or individual, in violation of the provisions of Article 13 of these Regulations, commits one of the following acts, the departments for public security traffic management may withhold the electric bicycle, impose a fine of 1,000 yuan on the driver, and notify the driver to accept the punishments in time:

(1) failing to apply for a temporary mark for driving on roads within the prescribed time limit;

(2) driving on roads after the expiry of the transitional period.

After the driver accepts the punishments, the departments for public security traffic management shall immediately return the electric bicycle.

**Article 28** If any unit or individual commits one of the following acts, the departments for public security traffic management may withhold the electric bicycle and notify the driver to accept the punishments in time:

(1) a fine of 20 yuan shall be imposed upon the driver for driving an unregistered electric bicycle on roads in violation of the provisions of Article 10 of these Regulations;

(2) a warning or a fine of 20 yuan shall be imposed upon the driver for driving a registered electric bicycle on roads without displaying the number plate or temporary mark in violation of the provisions of Subparagraph 1 of Article 15 of these Regulations;

(3) the driving licenses, number plates or temporary marks shall be seized and a fine of 1,000 yuan shall be imposed upon the driver for using forged or altered driving licenses, number plates or temporary marks or those of other electric bicycles in violation of the provisions of Subparagraph 2 of Article 15 of these Regulations;

(4) a fine of not less than 500 yuan but not more than 1,000 yuan shall be imposed upon the driver for driving an assembled or modified electric bicycle on roads in violation of the provisions of Paragraph 2 of Article 18 of these Regulations; if the circumstances are serious, the vehicle shall be seized.

After the driver accepts the punishments, the departments for public security traffic management shall immediately return the electric bicycle, except for the seizure according to the provisions of Subparagraph 4 of the preceding paragraph.

**Article 29** Those violating the provisions of Articles 14 and 16 of these Regulations shall be warned or imposed upon a fine of not less than 10 yuan but not more than 50 yuan by the departments for public security traffic management.

**Article 30** Whoever, in violation of the provisions of Paragraph 1 of Article 18 of these Regulations, engages in for-profit assembly and refitting of electric bicycles shall be

的，由工商行政管理部门责令改正，并处3万元以上5万元以下罚款。

**第三十一条** 互联网租赁自行车经营企业违反本条例第二十条规定的，交通管理部门可以约谈企业相关负责人；拒不改正的，可以限制车辆投放，并处1万元以上5万元以下罚款。

**第三十二条** 非机动车公共停车场经营者、管理者违反本条例第二十二条、第二十三条第一项和第二项规定的，由城市管理综合行政执法部门责令改正，处1000元以上5000元以下罚款。

违反本条例第二十三条第三项规定的，由价格主管部门依法处理。

**第三十三条** 非机动车驾驶人违反本条例第二十四条第二款规定的，由公安机关交通管理部门责令改正，处警告或者20元以上50元以下罚款；违法行为人拒绝接受罚款处罚的，公安机关交通管理部门可以扣留车辆。

互联网租赁自行车停放影响行人和车辆正常通行的，公安机关交通管理部门应当告知互联网租赁自行车经营企业及时采取措施规范停放；情节严重，且不及时采取措施的，公安机关交通管理部门可以立即实施代履行，将违法停放的自行车搬离现场，并对经营企业处1万元以上3万元以下罚款。

**第三十四条** 相关行政主管部门依法对互联网租赁自行车采取行政措施的，应当告知互联网租赁自行车经营企业及时接受处理。逾期不来接受处理，并经公告3个月仍不来接受处理的，相关行政主管部门可以依法按照相关规定处置。

## 第七章 附 则

**第三十五条** 本条例自2018年11月1日起施行。

ordered by the administrative departments for industry and commerce to make corrections and shall be imposed upon a fine of not less than 30,000 yuan but not more than 50,000 yuan.

**Article 31** If bike sharing business enterprises violate the provisions of Article 20 of these Regulations, the administrative departments for transport may interview the relevant persons in charge of the enterprises; if they refuse to make corrections, the distribution of vehicles may be restricted and a fine of not less than 10,000 yuan but not more than 50,000 yuan may be imposed.

**Article 32** Operators and managers of public parking lots for non-motor vehicles that violate the provisions of Article 22 and Subparagraphs 1 and 2 of Article 23 of these Regulations shall be ordered to make corrections by the departments for comprehensive law enforcement in urban management and shall be imposed upon a fine of not less than 1,000 yuan but not more than 5,000 yuan.

Those violating the provisions of Subparagraph 3 of Article 23 of these Regulations shall be dealt with by the competent price department in accordance with the law.

**Article 33** If non-motor vehicle drivers violate the provisions of Paragraph 2 of Article 24 of these Regulations, the departments for public security traffic management shall order them to make corrections and impose a warning or a fine of not less than 20 yuan but not more than 50 yuan; if the offenders refuse to accept the punishments, the departments for public security traffic management may withhold the vehicles.

If the parking of the bicycles for bike sharing affects the normal passage of pedestrians and vehicles, the departments for public security traffic management shall inform the bike sharing business enterprise to take timely measures to standardize the parking; if the circumstances are serious and the measures are not taken in time, the departments for public security traffic management may immediately remove the bicycles that illegally park on their behalf and impose a fine of not less than 10,000 yuan but not more than 30,000 yuan upon the business enterprises.

**Article 34** Where the relevant administrative departments take administrative measures against bike sharing in accordance with the law, they shall inform the biking sharing business enterprises to accept the punishments timely. If they fail to accept the punishments within the time limit and still fail to accept the punishments after three months' announcement, the relevant administrative departments may dispose in line with the relevant provisions in accordance with the law.

## **Chapter VII Supplementary Provisions**

**Article 35** These Regulations shall be effective as of November 1, 2018.



# 北京市出租汽车计价器管理暂行规定

(1986年7月14日北京市人民政府批准 1986年7月15日北京市技术监督局发布 根据1997年12月31日北京市人民政府第12号令修改)

为保持出租汽车计价器(以下简称计价器)的准确、有效,维护出租汽车经营者和乘客的合法权益,根据《中华人民共和国计量法》,作如下规定:

一、凡在本市使用、制造、修理、销售、进口计价器的单位和个人,均应遵守本规定,接受市和区、县技术监督局(以下简称技术监督部门)的监督管理。

二、使用计价器,必须遵守以下规定:

(一)计价器上必须有技术监督部门指定的检定机构检定的标明有效期限的合格标志。无合格标志或超过有效期限的,禁止使用。

(二)计价器必须安在汽车上便于监督的明显部位,不准隐匿。

(三)必须保持计价器按键上的字样完整、清晰,不准遮盖。

(四)必须正确使用计价器,保持计价器的计量性能。

(五)禁止涂改、伪造计价器上的合格标志。

(六)必须按照规定将计价器送技术监督部门指定的检定机构进行周期检定,确保计价器的准确、有效。

三、专营或兼营制造、修理计价器的单位和个体经营户,须经技术监督部门考核,获得《制造计量器具许可证》或《修理计量器具许可证》后,方可向工商行政管理部门申请开业登记。

四、制造、修理计价器的单位和个体经营户,必须具备出厂检定条件;必须对制造、

## Interim Provisions of Beijing Municipality on the Administration of Taxi Meters

(Approved by the People's Government of Beijing Municipality on July 14, 1986, promulgated by Beijing Municipal Bureau of Technical Supervision on July 15, 1986, and revised in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997)

The following provisions are formulated for the purposes of maintaining the accuracy and effectiveness of taxi meters (hereinafter referred to as meters) and safeguarding the legitimate rights and interests of taxi operators and passengers in accordance with the Metrology Law of the People's Republic of China:

1. All units and individuals using, manufacturing, repairing, selling or importing meters in this Municipality shall abide by the Provisions and accept the supervision and management of the municipal, district and county technical supervision bureaus (hereinafter referred to as technical supervision departments).

2. In the use of meters, the following provisions must be observed:

(1) Meters must bear a mark of conformity indicating the period of validity verified by the verification institution designated by the technical supervision departments, and meters with no mark of conformity or going beyond the period of validity shall not be used;

(2) Meters must be prominently installed on the vehicles to facilitate supervision, and shall not be concealed;

(3) Words on meter buttons must be complete and clear without covering;

(4) Meters must be used correctly to maintain their metrological performance;

(5) It is forbidden to alter or forge the mark of conformity on meters;

(6) It is necessary to send meters to the verification institution designated by the technical supervision departments for periodic verification as stipulated, so as to ensure the accuracy and effectiveness of meters.

3. The units and individual businesses that specialize in or concurrently engage in manufacturing or repair of meters may apply to the administrative departments for industry and commerce for registration of establishment only after they have obtained the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments upon the assessment of the technical supervision departments.

4. The units and individual businesses that manufacture or repair meters must meet the conditions for factory verification; meters that are manufactured or repaired must be inspected to ensure the metrological performance thereof, and product certificates shall be

修理的计价器进行检定，保证产品计量性能合格，并对合格产品出具产品合格证。无合格证的，不准出厂。

生产计价器新产品，须经市技术监督局对其样品的计量性能进行考核，合格后方可投产。未经考核或经考核不合格的，均不准投产。

技术监督部门对已经投产的计价器实行抽查检定或全部检定，未经检定或经检定不合格的，禁止销售。

**五、**进口的计价器，须经市技术监督局指定的计量检定机构检定，获得合格证书后，方准销售和使用。

**六、**计量检定机构检定计价器，可按规定收取检定费。

**七、**违反本规定的，由技术监督部门视情节轻重给予处罚。

（一）违反本规定第二条第（一）项的，对单位、个体经营户或直接责任人处以十五元以上七十元以下的罚款。

（二）违反本规定第二条第（二）项的，对单位、个体经营户或直接责任人处以三十元以上二百元以下的罚款。

（三）违反本规定第二条第（三）项的，对直接责任人处以五元以上三十元以下的罚款。

（四）违反本规定第二条第（四）项的，对直接责任人处以五十元以上三百元以下的罚款。

（五）违反本规定第二条第（五）项的，对单位、个体经营户或直接责任人处以十元以上一百元以下的罚款。

（六）对不按规定进行计价器的周期检定或其他检定的，给予批评教育，责令改正；拒不改正的，对单位、个体经营户或直接责任人处以五元以上五十元以下的罚款。

（七）违反本规定第三条，制造、修理计价器，未取得《制造计量器具许可证》或者《修理计量器具许可证》的，由技术监督部门责令其停止生产、停止营业、封存制造或者修理的计价器，没收全部违法所得，可并处相当其违法所得百分之十至百分之五十的罚款。

issued to conforming meters. Meters with no certificate are not allowed to leave factory.

For the production of new meters, the metrological performance of the samples shall be examined by the Municipal Bureau of Technical Supervision, and they may be put into production only after they pass the examination. Those that have not been examined or fail to pass the examination shall not be put into production.

The technical supervision departments shall carry out spot checks or full verification on the meters that have been put into production. Those that have not been verified or fail to pass the verification shall not be sold.

5. Imported meters shall be verified by the metrological verification institution designated by the Municipal Bureau of Technical Supervision, and may be sold or used only after they have obtained the certificate of conformity.

6. Metrological verification institutions may charge for verification of meters as stipulated.

7. Whoever violates the Provisions shall be punished by the technical supervision departments depending on the seriousness of the circumstances.

(1) In case of violation of Item (1) of Article 2 of the Provisions, a fine of not less than 15 yuan but not more than 70 yuan shall be imposed on units, individual businesses or the person directly responsible;

(2) In case of violation of Item (2) of Article 2 of the Provisions, a fine of not less than 30 yuan but not more than 200 yuan shall be imposed on units, individual businesses or the person directly responsible;

(3) In case of violation of Item (3) of Article 2 of the Provisions, a fine of not less than 5 yuan but not more than 30 yuan shall be imposed on the person directly responsible;

(4) In case of violation of Item (4) of Article 2 of the Provisions, a fine of not less than 50 yuan but not more than 300 yuan shall be imposed on the person directly responsible;

(5) In case of violation of Item (5) of Article 2 of the Provisions, a fine of not less than 10 yuan but not more than 100 yuan shall be imposed on units, individual businesses or the person directly responsible;

(6) Whoever fails to conduct periodic verification or other verification on meters as stipulated shall be criticized and educated and ordered to make corrections; in case of refusal to make corrections, a fine of not less than 5 yuan but not more than 50 yuan shall be imposed on units, individual businesses or the person directly responsible;

(7) Where anyone, in violation of Article 3 of the Provisions, manufactures or repairs meters without obtaining the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments, the technical supervision departments shall order him to stop the production and business, seize the manufactured or repaired meters, and confiscate all illegal income, and may concurrently impose a fine of 10 to 50 percent of his illegal income;

违反本规定第四条，计价器未经检定或者检定不合格的，由技术监督部门责令停止制造、修理、销售，封存制造、修理、销售的计价器，没收全部违法所得；情节严重的，可并处三千元以下的罚款。

（八）违反本规定第五条的，对单位或个体经营户处以五十元以上三百元以下的罚款。

八、本规定应用中的具体问题，由市技术监督局负责解释。

九、本规定自一九八六年十月一日起施行。

Where meters, in violation of Article 4 of the Provisions, have not been verified or fail to pass the verification, the technical supervision departments shall order to stop manufacturing, repairing and selling meters, seize the manufactured, repaired and sold meters, and confiscate all illegal income; if the circumstances are serious, a fine of not more than 3,000 yuan may be imposed.

(8) In case of violation of Article 5 of the Provisions, a fine of not less than 50 yuan but not more than 300 yuan shall be imposed on units or individual businesses.

8. The Municipal Bureau of Technical Supervision shall be responsible for the interpretation of specific issues during the implementation of the Provisions.

9. The Provisions shall come into force as of October 1, 1986.

# 北京市铁路干线两侧隔离带 规划建设管理暂行规定

(1989年3月28日北京市人民政府第7号令发布 根据1994

年1月17日北京市人民政府批准修改)

**第一条** 为贯彻执行北京城市总体规划方案,加强铁路干线两侧的规划建设管理,保证铁路运输的安全畅通,绿化美化环境,根据《北京市城市规划条例》和有关规定,制定本规定。

**第二条** 本市行政区域内的铁路干线(包括京山线、京承线、京秦线、京包线、京通线、丰沙线、京原线、京广线、大秦线和东南环线、东北环线、西北环线)沿线两侧,依照本规定划定隔离带(以下简称隔离带)。

隔离带列为城市建设规划的特定地区,按《北京市城市规划条例》管理。在隔离带内进行建设,必须符合本规定,并按照有关规定的审批程序,报经城市规划行政主管部门审核批准。

**第三条** 隔离带的范围:

(一) 铁路干线通过城镇地区(包括北京城市总体规划方案中规划的城镇建设地区,下同)的路段,以铁路干线(含规划干线)外侧轨道为准,每侧向外划定30米为隔离带。

(二) 铁路干线通过平原农业区的路段,以铁路干线外侧轨道为准,每侧向外划定100米为隔离带。

(三) 铁路干线的车站(场)和通过山区路段的隔离带范围,由市城市规划管理局按规划的需要和具体情况确定。

**第四条** 隔离带内可以植树造林,绿化美化;原是耕地的,仍可种植农作物。但不得妨碍铁路的运输安全和线路设施的管理维护。

# Interim Provisions of Beijing Municipality on the Management of Planning and Construction of Protective Belts on Both Sides of Railways

(Promulgated by Decree No. 7 of the People's Government of Beijing Municipality on March 28, 1989, and revised as approved by the People's Government of Beijing Municipality on January 17, 1994)

**Article 1** The Provisions are formulated for the purposes of implementing the overall urban planning scheme of Beijing, strengthening the management of planning and construction of both sides of railways, ensuring safe and smooth railway transportation, and beautifying the environment in accordance with the Regulations of Beijing Municipality on Urban Planning and other relevant provisions.

**Article 2** Protective belts shall be defined on both sides of railways within the administrative area of this Municipality (including Beijing-Shanhaiguan Line, Beijing-Chengde Line, Beijing-Qinhuangdao Line, Beijing-Baotou Line, Beijing-Tongliao Line, Fengtai-Shacheng Line, Beijing-Yuanping Line, Beijing-Guangzhou Line, Datong-Qinhuangdao Line, as well as Southeast Loop, Northeast Loop and Northwest Loop) in accordance with the Provisions.

Protective belts shall be classified as specific areas under urban construction planning and managed in accordance with the Regulations of Beijing Municipality on Urban Planning. Construction within protective belts must conform to the Provisions and be reported to the competent departments for urban planning for examination and approval in accordance with the examination and approval procedures of relevant provisions.

**Article 3** The boundaries of protective belts shall be as follows:

(1) In sections where railways pass through urban areas (including urban construction areas planned in the overall urban planning scheme of Beijing, the same below), protective belts shall be demarcated by 30m outwards from each side of the outer track of railways (including planned railways).

(2) In sections where railways pass through plain agricultural areas, protective belts shall be demarcated by 100m outwards from each side of the outer track of railways.

(3) The boundaries of protective belts in railway stations (yards) and in sections where railways pass through mountainous areas shall be determined by the Municipal Urban Planning Administration according to the needs and specific conditions of planning.

**Article 4** Trees may be planted within protective belts for afforestation and beautification; crops may be planted within protective belts used to be cultivated land. However, such activities shall not hinder the safety of railway transportation and the management and maintenance of railway facilities.



在隔离带内埋设市政管线，建设道路和管理养护铁路所必需的道班房、变电站等铁路运输维护设施，必须符合规划的要求。

**第五条** 隔离带内不得新建或扩建城市建设工程。现有城市建设工程，应按照市城市规划管理局制定的调整改造方案，逐步迁出隔离带。属危险房屋，迁出隔离带又确有困难的，只许在原用地范围内进行必要的翻建，不准扩大用地，不准增加建筑物的高度。

**第六条** 隔离带内的村镇（不包括建制镇）建设，须遵守下列规定：

（一）现有乡镇的机关、企业事业单位确需在隔离带内新建、扩建、翻建办公或生产用房的，只许在原建设用地范围进行建设，不准扩大用地。

（二）确因群众实际生活需要，必须在隔离带内新建、扩建商业、服务业用房和农民住房的，必须按照规划要求严格控制。翻建房屋不得增加高度。

（三）山区的铁路干线两侧隔离带内的村镇建设，由城市规划行政主管部门视具体情况按规划要求管理。

**第七条** 违反本规定，擅自在隔离带内占地建设的，由城市规划行政主管部门按违法建设处理。

**第八条** 城市规划行政主管部门及其工作人员，必须廉洁奉公，严肃执法，秉公办事。对违反本规定，越权审批的，审批机关应承担由此造成的经济损失，并应追究审批机关负责人和直接责任人员的行政责任。

**第九条** 本规定执行中的具体问题，由市城市规划管理局负责解释。

**第十条** 本规定自 1989 年 5 月 1 日起施行。

The requirements of planning must be met in laying municipal pipelines within protective belts, as well as in constructing roads and railway transportation maintenance facilities such as maintenance squad houses and substations which are necessary for railway management and maintenance.

**Article 5** No new or expanded urban construction project is allowed within protective belts. The existing urban construction projects shall be gradually moved out of protective belts in accordance with the adjustment and reconstruction plan formulated by the Municipal Urban Planning Administration. In the case of a dangerous building which is really difficult to be moved out of protective belts, only necessary renovation is allowed within the original range of land and no expansion of land or increase of the height of the building is allowed.

**Article 6** For the construction of villages and towns (excluding designated towns) within protective belts, the following provisions shall be observed:

(1) Where existing township or town agencies, enterprises and institutions really need to build, expand or rebuild office or production buildings within protective belts, construction is only allowed within the original range of construction land, and no expansion of land is allowed;

(2) Where it is really necessary to build or expand commercial or service buildings and peasant housing within protective belts due to the actual living needs of the masses, strict control must be exercised in accordance with the requirements of planning. No height shall be increased in renovation;

(3) The construction of villages and towns within protective belts on both sides of railways in mountainous areas shall, depending on the specific circumstances, be managed by the competent departments for urban planning in accordance with the requirements of planning.

**Article 7** The construction by land occupation within protective belts without authorization in violation of the Provisions shall be dealt with by the competent departments for urban planning as illegal construction.

**Article 8** The competent departments for urban planning and the staff thereof must be honest and upright, enforce the law seriously and handle affairs impartially. In case of examination and approval beyond authority in violation of the Provisions, the examination and approval authority shall bear the economic losses caused thereby, and the person in charge and the person directly responsible of the examination and approval authority shall be held accountable for administrative responsibility.

**Article 9** The Municipal Urban Planning Administration shall be responsible for interpretation of specific issues in implementing the Provisions.

**Article 10** The Provisions shall come into force as of May 1, 1989.

# 北京市地下铁道列车车票使用办法

(1992 年 12 月 16 日北京市人民政府批准 1993 年 3 月 1 日北京市市政管理委员会发布 根据 2006 年 5 月 30 日北京市人民政府第 172 号令修改 2006 年 6 月 1 日北京市交通委员会公布)

**第一条** 为加强本市地下铁道列车车票的使用管理,维护乘车秩序,根据国家和本市有关规定,制定本办法。

**第二条** 乘坐地下铁道列车的乘客(以下简称乘客),须照章购票,接受验票,凭票乘车。禁止不购票或用废票、假票乘车。

(一) 普通单张票,在购票站当日乘车有效。

(二) 乘客带领一个身高不满 1.2 米的儿童乘车,儿童免票;带领两个以上身高不满 1.2 米的儿童乘车,一个儿童免票。

(三) 持有免费乘车证的伤残军人、盲人,可免费乘车。免费乘车证只限持证人本人使用,但一名盲人可有一名陪同人员免票。

(四) 乘客使用各站通用的本票乘车时,须由站务员验票和撕票。乘客自行从本票上撕下的车票,视为废票。

(五) 已使用过的车票为废票,不得再次使用。车票售出,不予退票。

**第三条** 使用月票的乘客,须遵守下列规定:

(一) 月票限当月按照规定的次数使用。

(二) 购有月票但未随身携带的,乘车时应照章购票。

(三) 禁止使用过期的月票乘车,禁止冒用、涂改或伪造月票。

**第四条** 不按规定购票、用票的乘客,须按下列规定补交票款:

# Measures of Beijing Municipality on Using Tickets for Subway Trains

(Approved by the People's Government of Beijing Municipality on December 16, 1992, promulgated by Beijing Municipal Administration Commission on March 1, 1993, revised in accordance with Decree No. 172 of the People's Government of Beijing Municipality on May 30, 2006, and promulgated by Beijing Municipal Commission of Transport on June 1, 2006)

**Article 1** The Measures are formulated for the purposes of strengthening the administration of use of tickets for subway trains in this Municipality and maintaining the order of taking the subway in accordance with relevant provisions of the State and this Municipality.

**Article 2** Any passenger who takes a subway train (hereinafter referred to as passenger) shall buy a ticket as required, accept ticket checking and take the train with the ticket. It is forbidden to take a train without a ticket or with an invalid or false ticket.

(1) An ordinary ticket is valid on the date of issue for taking a train at the station where the ticket is bought;

(2) When an adult passenger takes a train with one child less than 1.2m in height, the child will take the train free of charge. When an adult takes a train with two or more children less than 1.2m in height, only one child will take the train free of charge;

(3) A disabled serviceman or a blind person with a free boarding card may take a train free of charge. The free boarding card is to be used only by the card holder himself. However, a blind person may have an accompanying person who may take the train free of charge;

(4) When a passenger uses a ticket book valid for all stations, the station operator shall check the ticket and tear it from the book. Any ticket torn by a passenger himself from the book shall be deemed invalid;

(5) A used ticket is invalid and shall not be used again. Tickets sold are non-refundable.

**Article 3** Passengers using monthly pass must comply with the following provisions:

(1) The monthly pass shall be used in the limited frequency within the current month;

(2) A passenger who has bought a monthly pass but fails to carry it shall buy a ticket as required when taking the subway;

(3) Do not use expired monthly pass. It is forbidden to falsely use others' monthly pass, or alter or forge a monthly pass.

**Article 4** A passenger who fails to buy or use a ticket as required must pay the fare in arrears according to the following provisions:

（一）使用过期月票的，自票面标明月份次月第一日起至发现日止，每日按普通单张票票价 4 倍的金额补交票款，但补交票款的总额不超过 300 元。

（二）冒用、涂改、伪造月票的，没收其月票，并补交票款 100 元。

（三）使用假票、废票的，或不接受验票，无票通过验票口的，按普通单张票票价的 10 倍的金额补交票款。

乘客补交票款后，由站务员出具补票凭证。

**第五条** 乘客不按规定购票、用票，且拒绝补票或验票，扰乱公共交通秩序的，移送公安机关依法处理。

**第六条** 本办法经市人民政府批准，自市市政管理委员会发布之日起施行。

(1) Whoever uses an expired monthly pass shall pay the fare in arrears equal to an amount 4 times the fare of an ordinary ticket per day from the first day of the month immediately following the month as indicated on the pass to the day when the act is caught, but the total amount paid shall not exceed 300 yuan;

(2) Whoever falsely uses others' monthly pass, or alters or forges a monthly pass shall have his pass confiscated and pay the fare in arrears equal to 100 yuan;

(3) Whoever uses a false or invalid ticket, or refuses to accept ticket checking, or passes the ticket gate without a ticket shall pay the fare in arrears equal to an amount 10 times the fare of an ordinary ticket.

After a passenger pays the fare in arrears, the station operator shall issue a certificate therefor.

**Article 5** A passenger who fails to buy or use a ticket as required and refuses to pay the fare in arrears or refuses to accept ticket checking, thus disrupting the public transport order shall be transferred to public security organs for handling according to law.

**Article 6** The Measures shall come into force as of the date of promulgation by Beijing Municipal Administration Commission with the approval of the Municipal People's Government.

# 北京市地下铁道通风亭管理规定

(1992 年 12 月 19 日北京市人民政府批准 1993 年 3 月 1 日北

京市市政管理委员会发布)

**第一条** 为加强本市地下铁道(以下简称地铁)通风亭的管理,保证地铁列车、车站和隧洞内的空气质量,保障地铁设备维修和安全应急工作的需要,根据国家有关法律、法规,制定本规定。

**第二条** 本规定适用于本市行政区域内的地铁通风亭的管理。

本规定所称地铁通风亭,是指地铁车站、隧道通风和用于地铁设备维修、安全应急、人防等工作而建于地上的建筑物。

**第三条** 市市政管理委员会是本市地铁通风亭管理工作的主管机关,市地下铁道总公司(以下简称市地铁公司)具体负责地铁通风亭的管理、维护工作,市地下铁道公安分局(以下简称市地铁分局)负责执行本规定的监督、检查。

城市规划、工商行政、环境保护、环境卫生等管理机关按照各自的职责权限,对地铁通风亭进行监督管理。

地铁沿线的区人民政府和街道办事处,应协助市地铁公司做好地铁通风亭的管理工作。

**第四条** 地铁通风亭周围 100 米为地铁通风亭保护范围。在保护范围内实行以下保护措施:

- (一) 地铁通风亭出口处连接道口的 3.5 米宽的通道上禁止堆放物品。
- (二) 地铁通风亭周围 10 米范围内,禁止搭建任何建筑物、构筑物或堆放物品。
- (三) 地铁通风亭周围 30 米范围内,禁止设置垃圾收集站或三类以下(含三类)

# Regulations of Beijing Municipality on the Administration of Ventilation Booths for Subways

(Approved by the People's Government of Beijing Municipality on December 19, 1992, and promulgated by Beijing Municipal Administration Commission on March 1, 1993)

**Article 1** The Regulations are formulated for the purposes of strengthening the administration of ventilation booths for underground railways (hereinafter referred to as subways) in this Municipality, ensuring the air quality in subway trains, stations and tunnels, and supporting the needs of subway equipment maintenance and safety emergency work in accordance with relevant laws and regulations of the State.

**Article 2** The Regulations shall apply to the administration of ventilation booths for subways within the administrative area of this Municipality.

The term “ventilation booths for subways” as mentioned in the Regulations refers to the above-ground buildings for ventilation of subway stations and tunnels and for subway equipment maintenance, safety emergency, civil air defense and other work.

**Article 3** Beijing Municipal Administration Commission is the competent authority for the administration of the ventilation booths for subways in this Municipality. Beijing Municipal Subway Company (hereinafter referred to as Municipal Subway Company) shall be specifically responsible for the management and maintenance of the ventilation booths for subways, while Beijing Municipal Public Security Bureau Subway Branch (hereinafter referred to as Municipal Subway Branch) shall be responsible for the supervision and inspection of the implementation of the Regulations.

The administrative authorities of urban planning, industry and commerce, environmental protection, environmental health, etc. shall, within the scope of their respective functions and powers, supervise and manage the ventilation booths for subways.

The district people's governments and sub-district offices along subways shall assist the Municipal Subway Company in the management of the ventilation booths for subways.

**Article 4** The areas of 100m around the ventilation booths for subways fall within the scope and boundaries of protection of the ventilation booths for subways. The following protection measures shall be implemented within the scope and boundaries of protection:

(1) It is forbidden to pile up articles on the passage of 3.5m in width connecting the exit of the ventilation booths for subways with the crossing;

(2) It is forbidden to build buildings and structures or pile up articles in areas of 10m around the ventilation booths for subways;

(3) In areas of 30m around the ventilation booths for subways, it is forbidden to set up garbage collection stations or toilets at or under Class III; it is forbidden to set up food stalls



的厕所；禁止摆设使用明火的饮食摊点。

（四）地铁通风亭周围 100 米范围内禁止排放有毒有害气体、恶臭气体以及超过污染物排放标准的烟尘、粉尘、污水、固体废弃物。

**第五条** 严格保护地铁通风亭的整洁完好。禁止在通风亭上涂抹、刻划、乱贴乱挂或搭建路牌、霓虹灯、电子显示屏、灯箱等。

**第六条** 违反本规定的行为，由市地铁分局制止，构成违反规划、工商行政管理、环境保护或环境卫生管理等行为的，由市地铁分局分别提请规划、工商行政管理、环境保护或环境卫生管理等机关按照有关规定处罚。市地铁公司发现违反本规定第五条的行为，有权通知违法行为者清除，也可直接予以清除。

**第七条** 违反本规定，造成地铁通风亭及设备、设施损坏的，由责任单位或个人赔偿损失。

**第八条** 本规定执行中的具体问题，由市市政管理委员会负责解释。

**第九条** 本规定经市人民政府批准，自市市政管理委员会发布之日起施行。

using open fire;

(4) It is forbidden to discharge toxic and harmful gas, odorous gas and smoke, dust, sewage and solid wastes exceeding the pollutant discharge standards within 100m around the ventilation booths for subways.

**Article 5** The ventilation booths for subways must be kept clean and in good condition. It is forbidden to daub, carve, disorderly hang or set up guide boards, neon lights, electronic boards, light boxes, etc. on the ventilation booths.

**Article 6** Any act in violation of the Regulations shall be stopped by the Municipal Subway Branch. If such act constitutes a violation of planning, industrial and commercial administration, environmental protection or environmental health management, the Municipal Subway Branch shall respectively request the authorities of planning, industrial and commercial administration, environmental protection or environmental health management, etc. to impose a penalty in accordance with relevant provisions. If the Municipal Subway Company finds any violation of Article 5 of the Regulations, it shall have the right to notify the violator to clear or may directly clear.

**Article 7** In case of damage to the ventilation booths, equipment and facilities for subways due to violation of the Regulations, the responsible unit or individual shall compensate for the loss.

**Article 8** Beijing Municipal Administration Commission shall be responsible for interpretation of specific issues in implementing the Regulations.

**Article 9** The Regulations shall come into force as of the date of promulgation by Beijing Municipal Administration Commission with the approval of the Municipal People's Government.

# 北京市人民政府关于禁止车辆 运输泄漏遗撒的规定

(1996年8月13日北京市人民政府第13号令公布 根据  
2002年11月18日北京市人民政府第116号令第一次修改 根据  
2007年11月23日北京市人民政府第200号令第二次修改 根据  
2010年11月27日北京市人民政府第226号令第三次修改 )

**第一条** 为了维护市容环境卫生，禁止车辆运输泄漏、遗撒，根据《北京市市容环境卫生条例》，制定本规定。

**第二条** 在本市行政区域内的道路上运输垃圾、渣土、砂石、土方、灰浆等流体、散装货物的单位和个人，必须遵守本规定。

**第三条** 运输垃圾、渣土、砂石、土方、灰浆等流体、散装货物的单位和个人必须遵守下列规定：

- (一) 向市市政市容管理行政部门申请办理运输车辆准运证件。
- (二) 运输流体和散装货物时，必须使用有准运证件的运输车辆。
- (三) 设专人负责运输车辆的管理，制定运输车辆管理责任制度并组织实施，加强对驾驶人员的教育和管理。
- (四) 建立运输车辆使用、维修、检查制度，加强对运输车辆的日常检查和维修，严禁使用不符合条件的车辆运输。
- (五) 运输车辆不得超量装载。
- (六) 运输车辆驶出装载现场前，必须将车辆槽帮和车轮冲洗干净，不得车轮带泥行驶。
- (七) 运输车辆必须按照市市政市容管理行政部门依法批准的运输线路、时间、装卸地点运输和卸倒。

# Provisions of the People's Government of Beijing Municipality on Prohibition of Leakage and Scattering during Vehicle Transport

(Promulgated by Decree No. 13 of the People's Government of Beijing Municipality on August 13, 1996, revised for the first time in accordance with Decree No. 116 of the People's Government of Beijing Municipality on November 18, 2002, revised for the second time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the third time in accordance with Decree No. 226 of the People's Government of Beijing Municipality on November 27, 2010)

**Article 1** The Provisions are formulated for the purposes of maintaining city appearance and environmental sanitation and prohibiting leakage and scattering during vehicle transport in accordance with the Regulations of Beijing Municipality on City Appearance and Environmental Sanitation.

**Article 2** Units and individuals that transport fluids and bulk goods such as garbage, muck, sand, stone, earth and mortar on roads within the administrative area of this Municipality must abide by the Provisions.

**Article 3** Units and individuals that transport fluids and bulk goods such as garbage, muck, sand, stone, earth and mortar must abide by the following provisions:

(1) They shall apply to the municipal administration and city appearance department at the municipal level for a transport permit for transport vehicles;

(2) To transport fluids and bulk goods, transport vehicles with a transport permit must be used;

(3) A person shall be specially assigned to be responsible for the management of transport vehicles, and the management responsibility system for transport vehicles shall be formulated and implemented, so as to strengthen the education and management of drivers;

(4) The use, maintenance and inspection system for transport vehicles shall be established to strengthen the daily inspection and maintenance of transport vehicles, and the use of unqualified vehicles for transportation shall be prohibited;

(5) Transport vehicles shall not be overloaded;

(6) Before a transport vehicle leaves the loading site, vehicle grooves and wheels must be washed clean, with no mud on wheels;

(7) For transportation and unloading, transport vehicles must follow the transportation routes, time and loading and unloading places approved by the municipal administration and city appearance departments according to law;

(八) 运输散装货物的车辆必须密封、包扎、覆盖，不得沿途泄漏、遗撒。

(九) 运输时发现自身有泄漏、遗撒的，必须及时清扫干净。

**第四条** 运输车辆必须符合下列规定：

(一) 有市政市容管理行政部门核发的准运证件。

(二) 符合本市环保要求。

(三) 城镇地区内流体、散装货物应当实行密闭运输。

(四) 运输散装货物的车辆，四周槽帮牢固可靠，无破损，挡板严密。

(五) 运输渣土、砂石的车辆应当安装符合本市技术标准的运输装置，并保持密封完好。

(六) 运输流体货物的车辆，必须使用不渗漏的容器装载运输。

**第五条** 运输车辆的使用单位必须遵守下列规定：

(一) 使用有准运证件的车辆从事流体和散装货物的运输。

(二) 与运输单位签订防止车辆运输泄漏、遗撒协议书，对运输单位和运输车辆进行督促检查。

(三) 运输建筑施工材料、土方、渣土的，要在施工现场运输车辆出口处内侧，铺设长度不小于 25 米，宽度不小于出口处宽度的混凝土路面，并在出口处设置冲洗车轮的设备及相应的排水和泥浆沉淀设施。

**第六条** 禁止拖拉机、兽力车和农用运输车在规划市区、郊区的城镇地区以及其他禁止通行的地区从事垃圾、渣土、砂石、土方、灰浆等流体和散装货物的运输。

**第七条** 对违反本规定的，由城市管理综合执法部门给予处罚：

(一) 使用无准运证件或者不符合规定要求的运输车辆从事运输的，责令改正，并处 500 元以上 3000 元以下罚款。

(二) 运输散装货物的车辆未密封、包扎、覆盖或者运输流体货物的车辆未使用不渗漏容器，泄漏、遗撒的，责令清除，并处 5000 元以上 5 万元以下罚款。

(三) 运输渣土、砂石的车辆不符合本市技术标准，造成遗撒的，责令清除，并处 5000 元以上 5 万元以下罚款。

(8) Vehicles transporting bulk goods must be sealed, wrapped and covered, with no leakage or scattering along the way;

(9) If leakage or scattering is found during transportation, prompt cleaning is required.

**Article 4** Transport vehicles must meet the following requirements:

(1) A transport permit has been obtained from the municipal administration and city appearance departments;

(2) The requirements of this Municipality for environmental protection are met;

(3) Fluids and bulk goods shall be transported by sealed vehicles in urban areas;

(4) For vehicles transporting bulk goods, surrounding grooves shall be firm and robust without damage, and the baffles shall be tight;

(5) Vehicles transporting muck, sand and stone shall be equipped with transport devices that meet the technical standards of this Municipality and shall be kept airtight and in good condition;

(6) Fluid goods must be loaded and transported in containers that do not leak.

**Article 5** Users of transport vehicles must abide by the following provisions:

(1) They shall use vehicles with a transport permit for the transportation of fluids and bulk goods;

(2) They shall enter into an agreement with transport units to prevent leakage and scattering during vehicle transport, and supervise and inspect transport units and transport vehicles;

(3) For the transportation of construction materials, earth and muck, a concrete pavement with a length of not less than 25m and a width of not less than the width of the exit shall be laid on the inner side of the exit for transport vehicles on the construction site, and the equipment for washing wheels and the corresponding drainage and mud deposition facilities shall be set up at the exit.

**Article 6** Tractors, animal-drawn vehicles and agricultural transport vehicles shall not be allowed to transport garbage, muck, sand, stone, earth, mortar and other fluids and bulk goods in areas under city planning, towns in the suburbs and other areas where passage is prohibited.

**Article 7** Whoever violates the Provisions shall be punished by the departments for city management and law enforcement:

(1) Whoever uses a transport vehicle without a transport permit or not meeting the required standards for transportation shall be ordered to make corrections and be fined not less than 500 yuan but not more than 3,000 yuan;

(2) If the vehicles transporting bulk goods are not sealed, wrapped or covered, or the vehicles transporting fluid goods do not use containers that do not leak, leading to leakage or scattering, an order on cleaning shall be made and a fine of not less than 5,000 yuan but not more than 50,000 yuan shall be imposed;

(3) If vehicles transporting muck, sand and stone do not meet the technical standards of this Municipality, leading to leakage or scattering, an order on cleaning shall be made and a fine of not less than 5,000 yuan but not more than 50,000 yuan shall be imposed;

（四）运输车辆沿途泄漏、遗撒的，责令清除，并处 5000 元以上 5 万元以下罚款。

（五）运输车辆车轮带泥行驶的，责令改正，并处 500 元以上 3000 元以下罚款。

对于城市道路上泄漏、遗撒物，当事人拒不清除或者没有条件清除的，城市管理综合执法部门可以代为委托市容环境卫生专业作业企业代为清除，所需费用由当事人承担，对不支付费用的，可以依法申请人民法院执行。

**第八条** 公安交通管理部门应当配合城市管理综合执法部门对车辆运输泄漏、遗撒的查处。

公安交通管理部门对运输车辆装载货物捆扎不牢固、封盖不严密，运输途中泄漏、遗撒的，以及拖拉机、兽力车和农用运输车在规划市区、郊区的城镇地区以及其他禁止通行的地区从事垃圾、渣土、砂石、土方、灰浆等流体和散装货物运输的，依法予以处罚。

**第九条** 任何单位和个人对运输车辆泄漏、遗撒的行为有权举报。经查证属实的，有关部门应当给予举报单位和个人表扬和奖励。

**第十条** 城市管理综合执法部门的工作人员应当认真履行职责，加强执法。对玩忽职守、滥用职权、徇私舞弊的，或者因执法不严而使其责任区内运输车辆泄漏、遗撒现象严重的，由其所在单位或者上级主管机关给予行政处分。

**第十一条** 本规定自 1996 年 9 月 1 日起施行。

(4) In case of leakage or scattering of transport vehicles along the way, an order on cleaning shall be made and a fine of not less than 5,000 yuan but not more than 50,000 yuan shall be imposed;

(5) If transport vehicles run with mud on wheels, an order to make corrections shall be made and a fine of not less than 500 yuan but not more than 3,000 yuan shall be imposed.

If the party involved refuses to remove or has no conditions to remove the leaked or scattered things on urban roads, the departments for city management and law enforcement may entrust a professional operation enterprise of city appearance and environmental sanitation to remove them on behalf of the party involved, and the expenses required shall be borne by the party involved. If the party involved does not pay the expenses, an application may be filed to the people's court for enforcement according to law.

**Article 8** The traffic management departments shall cooperate with the departments for city management and law enforcement in the investigation and handling of leakage and scattering during vehicle transport.

If transport vehicles are not firmly wrapped or tightly sealed, leading to leakage or scattering during transportation, or tractors, animal-drawn vehicles and agricultural transport vehicles transport garbage, muck, sand, stone, earth, mortar and other fluids and bulk goods in areas under city planning, towns in the suburbs and other areas where passage is prohibited, the traffic management departments shall impose punishments according to law.

**Article 9** Any unit or individual shall have the right to report the leakage or scattering of transport vehicles. After verification, such unit or individual shall be commended and rewarded by the relevant departments.

**Article 10** The staff of the departments for city management and law enforcement shall conscientiously perform their duties and strengthen law enforcement. Whoever neglects his duties, abuses his power, or engages in malpractices for personal gains, or fails to enforce the law seriously, leading to serious leakage and scattering of transport vehicles in the responsible area shall be given administrative sanctions by the unit to which he belongs or the competent authority at the next higher level.

**Article 11** The Provisions shall come into force as of September 1, 1996.



# 北京市公共汽车电车车票使用办法

(1996年8月7日北京市人民政府批准 1996年8月20日北京市市政管理委员会发布 根据2006年5月30日市政府令第171号修改)

**第一条** 为加强本市公共汽车、电车车票的使用管理，维护乘车秩序，根据国家有关规定，制定本办法。

**第二条** 本市公共汽车、电车的乘务员，应当对乘客主动售票，认真验票；对不照章购买和使用车票的乘客，按本办法处理。

**第三条** 乘坐本市公共汽车、电车的乘客，均须照章购买和使用车票，并接受乘务员验票。

**第四条** 乘客乘车必须按下列规定购买车票，凭票乘车：

(一) 按所乘路程的票价购票。禁止不购票或者使用废票乘车，禁止超过票价有效路程乘车。

(二) 乘客带领一个身高不满1.2米的儿童乘车，儿童免票；带领两个以上身高不满1.2米的儿童乘车，一个儿童免票。

(三) 携带行李、物品超过一个座位面积的，应当加购一张车票。

(四) 车票限当次乘车有效，因特殊情况，由乘务员安排换乘的，所购未过站车票有效。

(五) 车票售出，不予退票。

**第五条** 乘客乘车使用月票，必须遵守下列规定：

(一) 月票限当月按照规定的次数使用。

(二) 严格按照月票的有效期限和种类使用月票，不持月票乘车的，照章购买车票。禁止使用过期月票和涂改、伪造的月票。

# Measures of Beijing Municipality for Using Bus and Trolley Bus Tickets

(Approved by the People's Government of Beijing Municipality on August 7, 1996, promulgated by Beijing Municipal Administration Commission on August 20, 1996, and revised in accordance with Decree No. 171 of the People's Government of Beijing Municipality on May 30, 2006)

**Article 1** The Measures are formulated for the purposes of strengthening the administration of the use of tickets for buses and trolley buses in this Municipality and maintaining the order of taking buses in accordance with relevant provisions of the State.

**Article 2** Conductors of buses and trolley buses in this Municipality shall take the initiative to sell tickets and carefully check tickets; passengers who do not buy or use tickets as required shall be dealt with in accordance with the Measures.

**Article 3** Passengers who take buses or trolley buses in this Municipality must buy and use tickets as required and accept ticket checking by conductors.

**Article 4** A passenger must buy a ticket and take a bus with the ticket according to the following provisions:

(1) The passenger shall buy a ticket based on the distance of travel. It is forbidden to take a bus without a ticket or with an invalid ticket. It is forbidden to take a bus beyond the valid distance of travel covered by the fare;

(2) When an adult passenger takes a bus with one child less than 1.2m in height, the child will take the bus free of charge. When an adult passenger takes a bus with two or more children less than 1.2m in height, only one child will take the bus free of charge;

(3) A passenger who carries luggage or articles larger than a seat shall buy one more ticket additionally;

(4) A ticket is only valid for the current travel. Under special circumstances where a transfer between buses is arranged by a conductor, the ticket already bought that has not exceeded its valid distance shall be valid;

(5) Tickets sold are non-refundable.

**Article 5** Passengers using monthly pass to take bus must comply with the following provisions:

(1) The monthly pass shall be used in the limited frequency within the current month;

(2) The monthly pass shall be used in strict accordance with the valid term and type thereof. Any passenger without holding a monthly pass shall buy a ticket as required. It is forbidden to use an expired, altered or forged monthly pass.

**第六条** 乘客下车前不购车票的，视为无票乘车。无票乘车或者不按本办法购票和使用月票的乘客，须按下列规定补交票款：

（一）超过票价有效路程乘车的，按超过的路程票价补票。

（二）不购票或者使用废票乘车的，市区线路补交票款 5 元，郊区线路补交票款 10 元。

（三）使用过期月票的，从票面月份的次月 1 日起至发现日止，每日补交票款 2 元，但补交票款的总额不超过 300 元。

（四）使用其他证件冒充月票以及冒用他人月票的，补交票款 150 元。

（五）使用涂改、伪造的月票的，补交票款 300 元。

**第七条** 不按规定购买车票或者使用月票的乘客补交票款后，乘务员须按所补票款额出具补票凭证。

**第八条** 不按规定购买车票或者使用月票的乘客，拒绝补票或者拒绝乘务员验票，扰乱公共交通秩序的，移送公安机关依法处理。

**第九条** 本办法自发布之日起施行。市人民政府 1990 年 12 月 26 日批准，市公共交通总公司 1991 年 1 月 1 日公布的《北京市公共汽车、电车车票使用办法》同时废止。

**Article 6** If a passenger fails to buy a ticket till getting off a bus, he shall be deemed to have taken the bus without a ticket. Any passenger who has taken a bus without a ticket or fails to buy a ticket or use a monthly pass according to the Measures must pay the fare in arrears according to the following provisions:

(1) Whoever takes a bus beyond the valid distance of travel covered by the fare shall pay for the extra distance;

(2) Whoever takes a bus without buying a ticket or with an invalid ticket shall pay the fare in arrears of 5 yuan for urban lines or 10 yuan for suburban lines;

(3) Whoever uses an expired monthly pass shall pay the fare in arrears of 2 yuan per day from the first day of the month immediately following the month as indicated on the ticket to the day when the act is caught, but the total amount paid shall not exceed 300 yuan;

(4) Whoever passes any other certificate off as a monthly pass or falsely uses another person's monthly pass shall pay the fare in arrears of 150 yuan;

(5) Whoever uses an altered or forged monthly pass shall pay the fare in arrears of 300 yuan.

**Article 7** After a passenger who fails to buy a ticket or use a monthly pass as required pays the fare in arrears, the conductor must issue a certificate therefor.

**Article 8** A passenger who fails to buy a ticket or use a monthly pass as required and refuses to pay the fare in arrears or fails to have his ticket checked by the conductor, thus disrupting the public transport order shall be transferred to public security organs for handling according to law.

**Article 9** The Measures shall come into force as of the date of promulgation. The Measures of Beijing Municipality for Using Bus and Trolley Bus Tickets approved by the People's Government of Beijing Municipality on December 26, 1990 and promulgated by Beijing Public Transport Company on January 1, 1991 shall be repealed simultaneously.

# 北京市非机动车停车管理办法

(2002年6月7日北京市人民政府第96号令公布 根据2010

年11月27日北京市人民政府第226号令修改)

**第一条** 为加强本市非机动车停车管理,保护非机动车所有人的合法权益,维护社会公共秩序,根据国家有关规定,结合本市实际情况,制定本办法。

**第二条** 本办法适用于本市行政区域内自行车、人力三轮车等非机动车停车管理工作。

残疾人专用车的停车管理也适用本办法。

**第三条** 市市政管理部门负责本市非机动车公共停车场建设、经营的管理工作。规划、国土房管、公安交通、物价、质量技术监督等行政管理部门,应当按照各自职责,做好非机动车停车管理的有关工作。

**第四条** 根据城市总体规划和城市建设发展的需要,市规划行政主管部门会同市市政管理、市公安交通管理等部门组织编制非机动车公共停车场专业规划,经市人民政府批准后实施。

**第五条** 车站、医院、商场、展览馆、影剧院、体育场馆和其他大中型公共建筑的非机动车公共停车场的规划和建设,应当按照国家和本市有关规定执行,并落实专人管理或者委托存车服务机构管理。

**第六条** 居民住宅区应当设置非机动车公共停车场,委托物业管理单位实施管理;未实行物业管理的居民住宅区,由居民委员会组织实施管理,相关单位应当予以协助。

**第七条** 非机动车公共停车场不足的地区,在不影响道路交通的情况下,可以按照国家和本市有关规定经有关部门批准在道路范围内划定一定区域作为非机动车道路

# Measures of Beijing Municipality for Management of Non-Motor Vehicle Parking

(Promulgated by Decree No. 96 of the People's Government of Beijing Municipality on June 7, 2002, and revised in accordance with Decree No. 226 of the People's Government of Beijing Municipality on November 27, 2010)

**Article 1** The Measures are formulated for the purposes of strengthening the management of non-motor vehicle parking in this Municipality, protecting the lawful rights and interests of non-motor vehicle owners, and safeguarding public order in accordance with relevant provisions of the State and in light of actual circumstances of this Municipality.

**Article 2** The Measures shall apply to the management of parking of bicycles, man-drawn tricycles and other non-motor vehicles within the administrative area of this Municipality.

The Measures shall also apply to the management of parking of vehicles exclusively used by the handicapped.

**Article 3** The municipal administration department at the municipal level shall be responsible for the management of construction and operation of public parking lots for non-motor vehicles in this Municipality.

The administrative departments of planning, land and housing management, traffic management, price administration, and quality and technical supervision shall do a good job in the work relevant to the management of parking of non-motor vehicles within the scope of their respective functions and duties.

**Article 4** Based on the overall urban planning and the needs of urban construction and development, the municipal competent department for planning shall, together with the municipal administration and traffic management departments at the municipal level, organize the formulation of specialized planning for public parking lots for non-motor vehicles, which shall be implemented after being approved by the Municipal People's Government.

**Article 5** The planning and construction of public parking lots for non-motor vehicles for railway stations, hospitals, shopping malls, exhibition centers, cinemas and theatres, stadiums and other large and median public buildings shall be carried out in accordance with relevant provisions of the State and this Municipality, and shall be subject to the management of specially-assigned persons or parking service agencies.

**Article 6** Public parking lots for non-motor vehicles shall be established in residential areas, which shall be managed by property management companies upon entrustment; in residential areas where there is no property management, residents' committees shall organize and carry out the management and the relevant units shall render assistance.

**Article 7** In areas where there is a shortage of public parking lots for non-motor vehicles, as long as road traffic is not affected, certain areas within the range of roads may, upon approval by the relevant departments, be earmarked as and signs erected for roadside

公共停车场，并设置相应标志。

在前款规定的情况发生变化时，原批准部门应当撤销已经划定的非机动车道路公共停车场，但应当提前公告。

**第八条** 禁止任何单位和个人擅自占用道路设置非机动车道路公共停车场。

临时占用道路设置收费的非机动车公共停车场，应当依法缴纳占道费。

**第九条** 非机动车公共停车场必须对公众开放，任何单位和个人不得侵占、擅自停止使用非机动车公共停车场或者将其挪作他用。

鼓励单位内部非机动车停车场向社会公众开放。

**第十条** 设置收费的非机动车公共停车场，应当具备下列条件：

（一）地面铺装，设置固定或者活动式围栏；

（二）设置存车标识牌、存车收费价格公示牌、经营管理单位的标志及其监督电话，划定存车标线；

（三）有条件的，设置自行车停放架、遮雨棚房；

（四）有专人负责服务和管理。

**第十一条** 非机动车公共停车场的经营、管理单位，应当遵守下列规定：

（一）遵守有关法律、法规、规章和行业管理规范；

（二）建立并落实各项管理和服 务制度；

（三）接受市政管理等行政管理部门的指导和监督检查；

（四）严格按照批准的范围和标准收取费用，明码标价，给停车人出具收费凭证；

（五）保证停车场内良好的停车秩序、环境卫生和停车安全。

收费的非机动车公共停车场，因管理不当造成非机动车丢失、损坏的，非机动车公共停车场的经营、管理单位应当依法承担赔偿责任。

**第十二条** 非机动车停车人应当遵守下列规定：

（一）在非机动车公共停车场或者设有非机动车停放标志的区域内停车；

（二）在停车场停放非机动车的，遵守停车场的有关管理规定，接受工作人员的管理；

public parking lots for non-motor vehicles in accordance with relevant provisions of the State and this Municipality.

In the event of any change in the circumstances as mentioned in the preceding paragraph, the original approval department shall cancel the earmarked roadside public parking lots for non-motor vehicles after prior announcement.

**Article 8** It is prohibited for any unit or individual to arbitrarily take up road space to establish roadside public parking lots for non-motor vehicles.

Whoever temporarily takes up road space to establish fee-paying parking lots for non-motor vehicles shall pay road occupation fees according to law.

**Article 9** Public parking lots for non-motor vehicles shall be open to the public. It is prohibited for any unit or individual to occupy or arbitrarily stop using public parking lots for non-motor vehicles or divert them for other purposes.

Units shall be encouraged to open to the public their own public parking lots for non-motor vehicles.

**Article 10** To establish fee-paying public parking lots for non-motor vehicles, the following conditions shall be met:

- (1) The ground surface shall be paved and fixed or movable rails shall be set up;
- (2) Parking signs, notice boards for parking fees, signs and complaints hotlines of the operation and management units shall be put up and parking lines shall be marked;
- (3) Where conditions permit, bicycle parking racks and sheds shall be set up; and
- (4) There shall be specially-assigned persons responsible for the service and management.

**Article 11** The operation and management units of public parking lots for non-motor vehicles shall abide by the following provisions:

- (1) observing relevant laws, regulations, rules and trade management codes;
- (2) establishing and implementing various management and service systems;
- (3) accepting the guidance, supervision and inspection of the municipal administration departments, etc.;
- (4) collecting fees in strict accordance with the approved range and standards at expressly marked price and giving users receipts for the fees they have paid; and
- (5) ensuring fine parking order, environmental hygiene and parking security in parking lots.

In the event of loss of or damage to non-motor vehicles due to improper management in fee-paying public parking lots for non-motor vehicles, the operation and management units of these parking lots shall be held responsible for compensation according to law.

**Article 12** Users of parking lots for non-motor vehicles shall observe the following provisions:

- (1) They shall park in the public parking lots for non-motor vehicles or areas with parking signs for non-motor vehicles;
- (2) Users parking their non-motor vehicles in the parking lots shall abide by the relevant management provisions and accept the management of the staff; and



（三）在收费非机动车公共停车场内停车的，按规定交纳停车费。

**第十三条** 违反本办法，在明令禁止停车的道路范围内停放非机动车的，由公安交通管理部门依法处罚，非机动车驾驶人拒绝接受罚款处罚的，可以扣留其非机动车。

**第十四条** 违反本办法第八条规定，擅自占用道路设置非机动车道路公共停车场的，由路政管理、公安交通管理部门依法处理。

**第十五条** 违反本办法第九条第一款、第十条、第十一条第（二）项、第（三）项、第（五）项规定的，由城管监察部门责令限期改正，处 500 元以上 1000 元以下的罚款。

**第十六条** 违反本办法第十一条第（四）项规定的，由价格主管部门依法处理。

**第十七条** 本办法自 2002 年 9 月 1 日起施行。

(3) Users of fee-paying public parking lots for non-motor vehicles shall pay parking fees as required.

**Article 13** Whoever, in violation of the Measures, parks non-motor vehicles within the range of roads where parking is explicitly prohibited shall be punished by the traffic management departments according to law; if a non-motor vehicle driver refuses to accept the penalty of fine, his non-motor vehicle may be impounded.

**Article 14** Whoever, in violation of the provisions of Article 8 of the Measures, arbitrarily takes up road space to establish roadside public parking lots for non-motor vehicles shall be dealt with according to law by the road administration and traffic management departments.

**Article 15** Whoever violates the provisions of Paragraph 1 of Article 9, Article 10 and Items (2), (3) and (5) of Article 11 of the Measures shall be ordered to make corrections within a specified time limit by the city management and supervision departments and fined not less than 500 yuan but not more than 1,000 yuan.

**Article 16** Whoever violates the provisions of Item (4) of Article 11 of the Measures shall be dealt with according to law by the price administration departments.

**Article 17** The Measures shall come into force as of September 1, 2002.

# 北京市城市道路管理办法

(2005年6月1日北京市人民政府第156号令发布)

## 第一章 总 则

**第一条** 为了加强本市城市道路管理,保障城市道路完好,充分发挥城市道路功能,根据《城市道路管理条例》,结合本市实际情况,制定本办法。

**第二条** 本市行政区域内城市道路的规划建设、养护维修及其监督管理,适用本办法。

本办法所称城市道路包括城市快速路、主干路、次干路、支路及其附属桥梁。

**第三条** 市交通行政管理部门主管本市城市道路管理工作。市交通路政部门具体负责城市快速路、主干路及其附属桥梁的建设、养护维修的监督管理,并指导区、县城市道路管理工作;区、县交通路政部门具体负责本行政区域内城市次干路和支路及其附属桥梁的建设、养护维修的监督管理。

规划、发展改革、建设、市政管理、园林、水务、公安交通等行政管理部门依据各自职责,依法负责城市道路相关的管理工作。

**第四条** 本市城市道路管理实行统筹规划、配套建设、协调发展和建设与养护并重的原则。

**第五条** 本市鼓励城市道路科学技术研究,推广先进技术和工艺,提高城市道路管理的科学技术水平。

**第六条** 保护城市道路,人人有责。一切单位和个人有权对危害城市道路安全的行为进行检举和报告。

# Measures of Beijing Municipality for Administration of Urban Roads

(Promulgated by Decree No. 156 of the People's Government of Beijing Municipality on June 1, 2005)

## Chapter I General Provisions

**Article 1** The Measures are formulated for the purposes of strengthening the administration of urban roads in this Municipality, ensuring that urban roads are in good condition, and bringing the functions of urban roads into full play in accordance with the Regulations on the Administration of Urban Roads and in light of actual circumstances of this Municipality.

**Article 2** The Measures shall apply to the planning, construction, maintenance, supervision and administration of urban roads within the administrative area of this Municipality.

For the purpose of the Measures, urban roads refer to urban express ways, arterial roads, sub-arterial roads, branch roads and auxiliary bridges.

**Article 3** The municipal transportation department is the competent department for the administration of urban roads in this Municipality. The municipal transportation and road administration department shall be responsible for the supervision and administration of the construction and maintenance of urban express ways, arterial roads and auxiliary bridges, and shall provide instructions for the administration of urban roads at the district or county level; the district or county transportation and road administration departments shall be responsible for the supervision and administration of the construction and maintenance of urban sub-arterial roads, branch roads and auxiliary bridges within their respective administrative areas.

The competent departments for planning, development and reform, construction, municipal administration, gardening, water affairs, and traffic management shall be responsible for the administration of urban roads within the scope of their respective functions and duties according to law.

**Article 4** The administration of urban roads in this Municipality shall follow the principles of overall planning, construction of supporting facilities, coordinated development and laying equal stress on construction and maintenance.

**Article 5** This Municipality shall encourage scientific and technical research on urban roads, as well as promote advanced technologies and techniques, so as to improve the scientific and technical level of the administration of urban roads.

**Article 6** It is the duty of everyone to protect urban roads. All units and individuals shall have the right to inform against and report the activities that endanger the safety of urban

对保护城市道路做出显著成绩的单位和个人，交通路政部门应当予以表彰。

## 第二章 规划建设

**第七条** 市规划、市交通行政管理部门会同有关部门根据城市总体规划，组织编制本市城市道路网规划。

市交通行政管理部门会同有关部门根据本市城市道路网规划，组织编制城市道路年度建设计划，报市发展改革行政管理部门综合平衡后实施。

城市道路年度建设计划应当在上一年年底前编制完成。

**第八条** 新建城市道路的地下管线，应当与城市道路同步规划，并按照先地下、后地上的施工原则，与城市道路同步建设。有条件的，应当同步建设共用管廊。

市政行政管理部门综合协调编制的地下管线年度建设计划，应当与城市道路年度建设计划衔接。

**第九条** 承担城市道路建设的工程勘察、设计、施工、监理单位，应当具有与承担任务相适应的资质，遵守国家和本市法律、法规、规章的规定，执行规定的技术标准和规范。

**第十条** 城市道路工程完工后，建设单位应当依法组织竣工验收并办理备案手续。经竣工验收合格的，建设单位应当按照规定交付交通路政部门组织养护维修，并移交相应的竣工资料。

附设于城市道路的地下管线的建设单位，应当根据本市有关规定，依法向有关部门移交地下管线工程档案资料，并提供地下管线信息数据。

**第十一条** 新建城市道路与铁路、城市轨道交通线路相交或者新建铁路、城市轨道交通线路与城市道路相交的，应当建设立体交叉设施，费用由建设单位承担。

现有平面交叉铁路道口，应当逐步改建为立体交叉。改建费用的承担由铁路部门

roads.

The transportation and road administration departments shall commend the units and individuals that have made significant achievements in urban road protection.

## **Chapter II Planning and Construction**

**Article 7** The municipal competent departments for planning and transportation shall, together with relevant departments, organize the formulation of the planning for the urban road network of this Municipality in accordance with the overall urban planning.

The municipal competent department for transportation shall, together with relevant departments, organize the formulation of the annual construction plan for urban roads in accordance with the planning for the urban road network of this Municipality, which shall be implemented after being submitted to the municipal competent department for development and reform for overall balance.

The annual construction plan for urban roads shall be completed before the end of the previous year.

**Article 8** The underground pipelines of new urban roads shall be planned simultaneously with the urban roads, and be constructed simultaneously with the urban roads in accordance with the principle of “underground construction first”. If conditions permit, shared pipe galleries shall be constructed at the same time.

The annual construction plan for underground pipelines formulated under the comprehensive coordination by the municipal administration department shall be linked up to the annual construction plan for urban roads.

**Article 9** The project survey, design, construction and supervision units undertaking urban road construction shall be qualified for their work, observe the provisions of laws, regulations and rules of the State and this Municipality, and implement technical standards and specifications as stipulated.

**Article 10** Where an urban road construction project is completed, the development unit shall organize the completion acceptance and handle the filing formalities according to law. Where a construction project passes the inspection, it shall be handed over to the transportation and road administration department for maintenance, and the relevant materials on project completion shall be transferred by the development unit as stipulated.

The development units of auxiliary underground pipelines of urban roads shall, in accordance with relevant regulations of this Municipality, transfer the archives of underground pipeline projects to the relevant departments and provide the information and data of underground pipelines according to law.

**Article 11** Where a newly constructed urban road intersects with a railway or urban rail transit line, or a newly constructed railway or urban rail transit line intersects with an urban road, an overpass facility shall be constructed, and the expenses shall be borne by the development unit.

Existing plane railway crossings shall be reconstructed into flyover crossings gradually.

和城市道路建设单位按照国家有关规定协商确定。

### 第三章 养护维修

**第十二条** 养护维修责任人应当保证城市道路完好。

使用政府投资资金建设的城市道路，应当采取招标等竞争方式，选择具有相应能力的专业养护维修单位作为养护维修责任人进行养护维修。

使用非政府投资资金建设的城市道路，养护维修责任由投资建设单位承担，但投资建设单位与专业养护维修单位另有约定的，从其约定。

交由专业养护维修单位养护维修的，应当签订合同，明确双方的权利、义务和责任。

**第十三条** 城市道路使用政府资金养护维修的，由交通路政部门依照职责按照城市道路等级、数量、状况及养护维修定额编制年度养护维修计划，所需养护维修费用纳入同级年度财政预算。

**第十四条** 养护维修责任人应当建立巡查和检测评估制度，并及时按照养护维修技术标准和规范对城市道路进行养护维修，排除隐患，确保城市道路完好。

**第十五条** 进行城市道路养护维修作业时，应当设置安全警示标志，采取安全防护措施。养护维修车辆和机械设备应当使用统一的作业标志。养护维修人员应当穿着统一的安全服饰。

**第十六条** 城市桥梁结构承载能力下降尚未构成危桥的，养护维修责任人应当及时变更承载能力标志和设置警示标志，采取措施加固桥梁。

城市桥梁结构承载能力下降构成危桥，或者城市道路出现塌陷、断裂以及其他影响通行安全的突发情形的，养护维修责任人应当立即设置警示标志，采取紧急措施，并报告公安交通管理部门和交通路政部门。

**第十七条** 养护维修责任人应当建立健全城市道路养护维修信息档案，全面、及

The reconstruction cost sharing shall be determined by the railway departments and the urban road development units upon consultation in accordance with relevant provisions of the State.

### **Chapter III Maintenance and Repair**

**Article 12** The entity responsible for maintenance and repair shall ensure that urban roads are in good condition.

Such competitive methods as bid invitation shall be adopted for urban roads constructed with government investment and professional maintenance units with the corresponding capacity shall be chosen as the entity responsible for maintenance and repair.

Where an urban road is constructed with non-governmental investment, the responsibility of maintenance shall be undertaken by the investment and development unit. Where it is otherwise agreed between the investment and development unit and the professional maintenance unit, the agreement shall prevail.

Where the maintenance is assigned to a professional maintenance unit, an agreement shall be entered into to specify the rights, obligations and responsibilities of both parties.

**Article 13** Where the maintenance of urban roads is funded by the government, the transportation and road administration departments shall, within the scope of their functions and duties, formulate an annual maintenance plan according to the grade, number, condition and quota of maintenance and repair of urban roads, and the maintenance and repair expenses shall be included in the annual financial budget at the corresponding level.

**Article 14** The entity responsible for maintenance and repair shall establish an inspection, examination and evaluation system and perform maintenance and repair and remove hidden perils according to the technical standards and specifications for maintenance in a timely manner so as to make sure that urban roads are in good condition.

**Article 15** During maintenance and repair operations for an urban road, safety signs shall be set up and safety measures shall be adopted. The vehicles and mechanical equipment for maintenance and repair shall bear uniform operation signs. The maintenance personnel shall wear uniform safety clothes.

**Article 16** Where the load capacity of an urban bridge structure decreases without reaching the dangerous stage, the entity responsible for maintenance and repair shall promptly change the load capacity sign, set up warning signs and take measures to reinforce the bridge.

Where the load capacity of an urban bridge structure decreases and reaches the dangerous stage, or an urban road collapses, falls apart or has other unexpected incidents that impede traffic safety, the entity responsible for maintenance and repair shall immediately set up warning signs, take emergency measures and report to the traffic management department and the transportation and road administration department.

**Article 17** The entity responsible for maintenance and repair shall establish and improve urban road maintenance information archives to record the maintenance operation,



时记录养护维修作业、巡查、检测以及其他相关信息，妥善保存，并如实向交通路政部门提供。

**第十八条** 附设于城市道路的地下管线的检查井及其井盖、雨算，应当符合城市道路养护规范。因井盖、雨算缺损、移位、下沉等影响交通和安全的，有关产权单位应当及时补缺或者修复。

## 第四章 监督管理

**第十九条** 一切单位和个人都有维护城市道路安全的义务并享有通行的权利。

任何单位和个人不得改变城市道路规划用途。除依法实施交通管制外，任何单位和个人不得封闭城市道路或者限制车辆、行人通行。

**第二十条** 禁止下列行为：

- （一）擅自拆改、移动城市道路设施或者设置障碍物；
- （二）擅自在城市道路上建设建筑物、搭建构筑物；
- （三）机动车在桥梁或者非指定的城市道路上试刹车；
- （四）利用城市桥梁进行牵拉、吊装等施工作业；
- （五）其他损害、侵占城市道路的行为。

**第二十一条** 交通路政部门应当建立城市道路检测评估制度，定期组织对城市道路的可靠性进行检测评估。经检测评估，确定城市道路结构承载能力下降或者构成危桥的，应当及时通知养护维修责任人限期排除隐患。

城市道路的检测评估，应当由专业检测机构承担。检测机构及其有关人员对检测结果承担相应的法律责任。

**第二十二条** 确需占用、挖掘城市道路或者跨越、穿越城市桥梁架设、增设管线设施，符合下列条件的，在取得交通路政部门许可后，在许可的范围和期限内进行；影响交通安全的，还应当征得公安交通管理部门的同意。但本办法第二十三条另有规定的，从其规定。

inspection, examination and other relevant information in a thorough and timely manner, preserve the archives well and provide them to the transportation and road administration departments truthfully.

**Article 18** The inspection wells of the auxiliary underground pipelines of urban roads and manhole covers and drain grates shall be in conformity with the standards for urban road maintenance. Where the manhole covers or drain grates are missing, displaced or sunk thus affecting the traffic and safety, the relevant property right units shall have them replaced or repaired in a timely manner.

## **Chapter IV Supervision and Administration**

**Article 19** All units and individuals shall have a duty to maintain the safety of urban roads and shall have the right of way.

No unit or individual may change the planned use of urban roads. Except for traffic control implemented according to law, no unit or individual may block urban roads or restrict the passage of vehicles and pedestrians.

**Article 20** The following activities are prohibited:

- (1) dismantling, altering and removing urban road facilities or setting up obstacles without authorization;
- (2) setting up buildings or structures on urban roads without authorization;
- (3) testing brakes of motor vehicles on bridges or non-designated urban roads;
- (4) using urban bridges to perform construction operations such as towing and hoisting; or
- (5) other activities that damage or occupy urban roads.

**Article 21** The transportation and road administration departments shall establish an examination and evaluation system for urban roads and organize regular examinations and evaluations on the reliability of urban roads. Where, upon examination and evaluation, the load capacity of an urban road is determined to have decreased or have reached the dangerous stage, the entity responsible for maintenance and repair shall be informed promptly and shall remove the hidden perils within a specified time limit.

The examination and evaluation of urban roads shall be undertaken by professional examination institutions. Examination institutions and the relevant personnel thereof shall bear corresponding legal responsibilities for the examination results.

**Article 22** Where it is necessary to occupy or dig urban roads, or to cross over or pass through urban bridges in order to set up or increase pipeline facilities and the following requirements are met, the construction shall be carried out within the permitted scope and time limit upon obtaining the permission of the transportation and road administration departments; where traffic safety is affected, the permission of the traffic management departments shall also be obtained. However, where it is otherwise provided in Article 23 of the Measures, these provisions shall prevail:

- (一) 符合占用、挖掘城市道路管理计划；
- (二) 有最大限度减少对车流量影响的交通分流、疏导方案；
- (三) 挖掘道路的，采用夜间施工等减轻对交通产生影响的作业方案；
- (四) 有保障道路通行安全、城市道路及附设管线安全的防护措施方案；
- (五) 具有必要的应急准备；
- (六) 符合法律、法规、规章规定的其他条件。

前款第（一）项规定的占用、挖掘城市道路管理计划，由市交通路政部门制定并向社会公布后执行。

**第二十三条** 新建、改建、扩建后交付使用未满 5 年或者大修竣工后未满 3 年的城市道路，不得挖掘。因特殊情况确需挖掘的，由交通路政部门审核后报同级人民政府批准。

因事故紧急抢修地下管线需要挖掘城市道路的，抢修单位可以先行抢修，同时报告公安交通管理部门和交通路政部门，并在 24 小时内补办挖掘道路许可手续。

**第二十四条** 经许可占用城市道路的，应当向交通管理部门交纳城市道路占用费。

经许可挖掘城市道路的，挖掘单位应当在批准期限届满前委托该城市道路的养护维修单位及时修复完毕，并向养护维修单位交纳城市道路挖掘修复费。养护维修单位对修复质量负责。

城市道路占用费、挖掘修复费收费标准，按照《城市道路管理条例》的规定执行。

**第二十五条** 履带车、铁轮车或者超重、超高、超长车辆需要在城市道路上行驶的，应当制定通行预案，经交通路政部门许可，按照公安交通管理部门指定的时间、路线、速度行驶，并悬挂明显标志。

**第二十六条** 在城市桥梁外侧 50 米内，从事河道疏浚、挖沙、爆破和其他可能影响桥梁安全的作业的，作业单位应当制定城市桥梁安全保护和监测措施工作方案，并经专家和交通路政、公安交通管理等有关部门进行安全论证通过。

- (1) conforming to the management plan for occupying or digging urban roads;
- (2) having a traffic diversion and dispersion plan which may reduce the impact on traffic to the utmost;
- (3) in the case of road digging, adopting such operation plans as night construction that may reduce the impact on traffic;
- (4) having protective measures and programs that may maintain the safety of traffic, urban roads and auxiliary pipelines;
- (5) having made necessary emergency preparations; and
- (6) meeting other requirements as required by laws, regulations and rules.

The management plan for occupying or digging urban roads as mentioned in Item (1) of the preceding paragraph shall be formulated by the municipal transportation and road administration department and implemented after being announced to the public.

**Article 23** The newly-constructed, reconstructed or expanded urban roads which have been put into use for less than 5 years or those the major repairs of which have been completed for less than 3 years shall not be dug. Where it is necessary to dig such roads due to specific circumstances, the digging operation shall be examined by the transportation and road administration departments and then reported to the people's government at the corresponding level for approval.

Where it is necessary to dig an urban road to do rush repairs of underground pipelines in an emergency, the repairing unit may do rush repairs first and shall report to the traffic management department and the transportation and road administration department at the same time as well as obtain the permission to dig afterwards within 24 hours.

**Article 24** Where an urban road is occupied upon permission, the occupation fees shall be paid to the transportation and road administration department.

Where an urban road is dug upon permission, the digging unit shall entrust the maintenance unit of the urban road with the work of completing the repair in a timely manner before the time limit of the permission expires, and shall pay repairing fees to the maintenance unit. The maintenance unit shall be responsible for the quality of the repair.

The standards for charging the occupation fees and repairing fees shall be set up in accordance with the Regulations on the Administration of Urban Roads.

**Article 25** Where a creeper truck, iron-wheeled vehicle or super-heavy, super-high or super-long vehicle needs to run on urban roads, a passage plan shall be formulated and be approved by the transportation and road administration department, and the vehicle shall run according to the time, route and speed designated by the traffic management department with obvious signs hung on it.

**Article 26** In the event of river dredging, sand digging, exploding and other operations that may affect the safety of an urban bridge within 50m from the outer side of the bridge, the operation unit shall formulate a work program on the safety protection and monitoring measures for the urban bridge, which shall be discussed and approved by experts as well as the transportation and road administration department, the traffic management department and other relevant departments.

**第二十七条** 挖掘城市道路或者依据本办法第二十六条规定作业时，出现影响城市道路安全情形的，作业单位应当立即停止作业，采取应急措施防止危害扩大，并通知城市道路养护维修单位，报告公安交通管理部门和交通路政部门；出现影响附设管线安全的情形的，还应当向管线产权单位和有关管理部门报告。

**第二十八条** 交通管理部门应当协调规划、建设、市政管理、公安交通、交通路政等行政管理部门，实现城市道路管理信息共享。

交通路政部门应当建立和完善城市道路承载能力以及养护维修、占用、挖掘信息数据库，定期发布城市道路养护维修和占用、挖掘等信息。

## 第五章 法律责任

**第二十九条** 行政机关及其工作人员违法实施行政许可和行政处罚，或者未履行安全生产监督管理职责造成安全责任事故，或者对安全生产事故拖延报告、谎报、隐瞒不报的，以及其他不依法履行职责的，由其上级机关责令改正；情节严重的，对直接负责的主管人员和其他直接责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第三十条** 违反本办法第十四条规定，养护维修责任人不建立巡查和检测评估制度的，由交通路政部门责令限期改正，予以警告；情节严重的，并处1万元以上3万元以下罚款。

**第三十一条** 违反本办法第二十条、第二十二条第一款、第二十五条规定的，依照《城市道路管理条例》予以处罚。

**第三十二条** 城市道路养护维修单位的违法行为和处理结果及其改正情况，将依法记入企业信用信息系统。

**第三十三条** 违反本办法对城市道路造成损害的，有关当事人应当依法承担修复、

**Article 27** Where the safety of an urban road is affected while an operation unit is digging the urban road or carrying out operations in accordance with the provisions of Article 26 of the Measures, the operation unit shall stop the operations immediately, take emergency measures to prevent the expansion of the danger, notify the maintenance unit of the urban road and report to the traffic management department and the transportation and road administration department; where the safety of auxiliary pipelines is affected, the operation unit shall also report to the property right unit and relevant administrative departments.

**Article 28** The competent departments for transportation shall coordinate the competent departments for planning, construction, municipal administration, traffic management, transportation and road administration, etc., so as to realize the sharing of the urban road management information.

The transportation and road administration departments shall establish and improve the database of information about the loading capacity, maintenance, occupation and digging of urban roads and regularly release information about the maintenance, occupation and digging of urban roads.

## **Chapter V Legal Liability**

**Article 29** Where administrative organs and the staff thereof grant administrative licenses or impose administrative punishments in violation of laws, fail to perform the duty of supervision and administration of production safety thus leading to safety incidents, intentionally delay in reporting, falsely report, or conceal safe production incidents, or otherwise fail to perform their duties according to law, they shall be ordered to make corrections by the authority at the next higher level; if the circumstances are serious, the main person directly in charge and other persons directly responsible shall be given administrative sanctions according to law; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 30** Where the entity responsible for maintenance and repair, in violation of the provisions of Article 14 of the Measures, fails to establish an inspection, examination and evaluation system, it shall be ordered to make corrections within a specified time limit and given a warning by the transportation and road administration department; if the circumstances are serious, a fine of not less than 10,000 yuan but not more than 30,000 yuan shall be imposed.

**Article 31** Whoever violates the provisions of Article 20, Paragraph 1 of Article 22 and Article 25 of the Measures shall be punished in accordance with the Regulations on the Administration of Urban Roads.

**Article 32** The illegal acts of urban road maintenance units, as well as the handling results and correction thereof, shall be recorded in the enterprise credit information system according to law.

**Article 33** Whoever causes damages to urban roads in violation of the Measures shall

赔偿等责任。

损害责任人不履行修复责任的，城市道路养护维修单位应当先行组织修复，所需费用由损害责任人承担。

## 第六章 附 则

**第三十四条** 本办法自 2005 年 8 月 1 日起施行。1986 年 1 月 24 日市人民政府发布的《北京市城市道路桥梁管理暂行办法》和 1993 年 11 月 18 日市人民政府发布、1997 年 12 月 31 日修改的《北京市临时占用道路管理办法》以及 1988 年 10 月 13 日市人民政府发布、2001 年 8 月 27 日修改的《关于加强人行过街桥、人行地下过街通道管理的规定》第三条、第四条、第六条第（二）项、第（三）项、第（四）项和第七条同时废止。

be held accountable for repair and compensation according to law.

Where the entity responsible for damages fails to fulfill the duty of repair, the urban road maintenance unit shall organize the repair first, and the expenses required shall be borne by the entity responsible for damages.

## **Chapter VI Supplementary Provisions**

**Article 34** The Measures shall come into force as of August 1, 2005. The Interim Measures of Beijing Municipality for Administration of Urban Roads and Bridges promulgated by the People's Government of Beijing Municipality on January 24, 1986, the Measures of Beijing Municipality for Administration of Temporary Occupation of Roads promulgated by the People's Government of Beijing Municipality on November 18, 1993 and revised on December 31, 1997, as well as Article 3, Article 4, Items (2), (3) and (4) of Article 6 and Article 7 of the Provisions of Beijing Municipality on Strengthening the Administration of Pedestrian Overpasses and Underground Passages promulgated by the People's Government of Beijing Municipality on October 13, 1988 and revised on August 27, 2001 shall be repealed simultaneously.



# 北京市道路交通安全防范责任制管理办法

(2005年11月11日北京市人民政府第162号令发布)

**第一条** 为了落实道路交通安全防范责任制(以下简称安全责任制),预防道路交通事故,根据《北京市实施〈中华人民共和国道路交通安全法〉办法》,制定本办法。

**第二条** 本市行政区域内的机关、部队、企业、事业单位、社会团体以及其他组织(以下统称单位),应当遵守本办法。

**第三条** 本市各级人民政府负责安全责任制的组织实施。

市人民政府根据道路交通安全情况,制定交通事故防范对策,对国家下达的道路交通事故控制指标进行分解,明确责任,实行目标管理。

区、县人民政府根据市人民政府制定的交通事故防范对策和下达的道路交通事故控制指标,制定实施方案,落实安全责任。

**第四条** 本市各级人民政府的交通安全委员会是同级人民政府实施安全责任制的组织协调机构,应当履行下列职责:

- (一) 根据本级人民政府的决定和部署,指导、协调、督促安全责任制的落实;
- (二) 通报交通安全情况,督促单位落实防范措施,消除安全隐患;
- (三) 组织宣传道路交通安全法律、法规、规章,开展交通安全公益活动;
- (四) 开展调查研究,总结推广交通安全防范的工作经验;
- (五) 组织安全责任制目标管理考核、评定。

中央在京机关、驻京军事机关以及本市各系统的交通安全委员会,负责督促本系统所属单位实施安全责任制。

# Measures of Beijing Municipality for Administration of Responsibility System for Protection of Road Traffic Safety

(Promulgated by Decree No. 162 of the People's Government of Beijing Municipality on November 11, 2005)

**Article 1** The Measures are formulated for the purposes of implementing the responsibility system for protection of road traffic safety (hereinafter referred to as safety responsibility system) and preventing road traffic accidents in accordance with the Measures of Beijing Municipality for Implementing the "Law of the People's Republic of China on Road Traffic Safety".

**Article 2** The state organs, armed forces, enterprises, public institutions, social groups and other organizations (hereinafter referred to as units) within the administrative area of this Municipality shall comply with the Measures.

**Article 3** The people's governments at all levels in this Municipality shall be responsible for organizing the implementation of the safety responsibility system.

The Municipal People's Government shall, on the basis of the situation of road traffic safety, formulate traffic accident prevention policies, drill down road traffic accident control indexes assigned by the State, clarify responsibilities and implement target management.

The district or county people's governments shall formulate implementation programs and fulfill the safety responsibility according to the traffic accident prevention policies formulated and the road traffic accident control indexes assigned by the Municipal People's Government.

**Article 4** The traffic safety committees of the people's governments at all levels in this Municipality, as an organizer and coordinator of the people's governments at the corresponding level for the implementation of safety responsibility system, shall perform the following functions and duties:

(1) to guide, coordinate and urge the implementation of safety responsibility system according to the decisions and arrangements of the people's governments at the corresponding level;

(2) to announce the situation of traffic safety, and urge the units to implement prevention measures to eliminate safety perils;

(3) to organize the publicity of laws, regulations and rules on road traffic safety and carry out public welfare activities relating to traffic safety;

(4) to conduct investigation and research, summarize and promote the experience in traffic safety accident prevention; and

(5) to organize the target management, examination and assessment of safety responsibility system.

The traffic safety committees of offices under the Central Government in Beijing, military offices in Beijing and various systems of this Municipality shall be responsible for urging their subordinate units to implement the safety responsibility system.

**第五条** 市和区、县公安机关交通管理部门对安全责任制的落实，依法履行下列监督管理职责：

- （一）对安全责任制的执行情况进行监督检查；
- （二）对不履行安全责任制的行为予以处理；
- （三）对道路安全事故负有责任的单位负责人，提出责任追究意见。

**第六条** 市和区、县人民政府各部门，应当按照职责分工，履行道路交通安全防范责任，并督促本系统所属单位落实安全责任制。

**第七条** 每年四月份的第二个星期六为本市道路交通安全宣传日。

本市支持和鼓励单位或者个人开展道路交通安全公益活动，提供志愿服务。对做出突出贡献的单位或者个人，授予荣誉称号。

**第八条** 单位应当落实安全责任制，确定本单位交通安全管理的责任部门，设置专职或者兼职交通安全管理人员，并向当地交通安全委员会备案。

**第九条** 单位履行安全责任制，应当遵守下列规定：

- （一）宣传、贯彻道路交通安全法律、法规、规章，教育所属人员遵守道路交通安全法律、法规、规章；
- （二）制定交通安全目标和交通安全工作方案，建立培训和考核评比制度；
- （三）建立和落实所属机动车的使用、保养、维修、检查制度，保持车辆符合国家安全技术标准；
- （四）建立所属人员的机动车及其驾驶人登记制度；
- （五）接受当地交通安全委员会和公安机关交通管理部门的监督检查，对存在的交通安全隐患，及时改正。

**第十条** 专业运输单位和其他拥有专用运输车辆的生产经营单位，除遵守本办法第九条的规定外，还应当遵守下列规定：

- （一）录用机动车驾驶人时，进行资质审核，对不符合国家和本市规定的机动车驾驶人，不得录用；

**Article 5** Traffic management departments of the public security organs at the municipal, district and county levels shall perform the following supervision and administration functions and duties according to law for the implementation of safety responsibility system:

- (1) to conduct supervision and inspection of the implementation of safety responsibility system;
- (2) to deal with non-performance of safety responsibility system; and
- (3) to put forward suggestions on investigation for responsibility with respect to the person in charge of the unit liable for road traffic accidents.

**Article 6** The municipal, district and county government departments shall, within the scope of their respective functions and duties, perform the responsibility for prevention of road traffic safety accidents and urge their subordinate units to implement the safety responsibility system.

**Article 7** The second Saturday of every April is the Road Traffic Safety Awareness Day of this Municipality.

This Municipality shall support and encourage units or individuals to carry out public welfare activities relating to road traffic safety and provide voluntary services. Any entity or individual having made outstanding contributions shall be granted an honorary title.

**Article 8** The units shall implement the safety responsibility system, determine an office responsible for road traffic safety, retain full-time or part-time personnel for traffic safety management, and report to local traffic safety committees for the record.

**Article 9** The units shall comply with the following provisions in implementing the safety responsibility system:

- (1) to publicize and implement laws, regulations and rules on road traffic safety, and instruct their personnel to observe laws, regulations and rules on road traffic safety;
- (2) to formulate traffic safety targets and work plans for traffic safety, and establish a training, assessment and evaluation system;
- (3) to establish and implement a system of use, maintenance, repair and inspection for their motor vehicles, so as to ensure that the vehicles conform to the safety and technical standards of the State;
- (4) to establish a system of registration for the motor vehicles of their personnel and drivers thereof; and
- (5) to accept supervision and inspection of local traffic safety committees and traffic management departments of public security organs, and correct existing hidden troubles endangering traffic safety in a timely manner.

**Article 10** Professional transport units and other production and business units owning special transport vehicles shall comply with the following provisions besides the provisions of Article 9 of the Measures:

- (1) In employment of drivers of motor vehicles, qualification examination shall be conducted, and drivers of motor vehicles who are not in conformity with the provisions of the State and this Municipality shall not be employed;

（二）对录用后的机动车驾驶人，发生致人死亡事故负同等以上责任或者致人重伤事故负主要以上责任的，三年内不得安排驾驶专业运输车辆；

（三）机动车驾驶人被录用后，累积记分满 12 分的，一年内不得安排驾驶专业运输车辆；

（四）对录用的机动车驾驶人进行道路交通安全培训、考核，建立档案，并向当地公安机关交通管理部门备案；

（五）对录用的持有非本市机动车驾驶证的机动车驾驶人，进行本市道路交通状况、道路通行条件、道路通行规定等知识的培训、考核；

（六）掌握机动车驾驶人的交通违法信息，对有违法行为的机动车驾驶人进行专项教育、培训；

（七）建立机动车行驶信息档案，定期对安装的行驶记录仪记载的行驶状态信息进行检查和分析，落实防范措施。

**第十一条** 学校除遵守本办法第九条的规定外，还应当遵守下列规定：

（一）将交通安全教育纳入学校的教育内容，定期进行交通安全专题教育；

（二）中、小学校将学生遵守道路交通安全法律、法规、规章的情况，纳入学生的综合评定；

（三）将学校自备或者租用接送学生的机动车纳入本单位安全责任制管理；

（四）小学校按照规定落实小黄帽路队制。

**第十二条** 市和区、县人民政府以及各系统实行道路交通安全年度考核评比制度，对成绩突出的单位和个人予以表彰、奖励，对安全责任制落实不力的予以通报批评。

**第十三条** 市公安机关交通管理部门对单位实行道路交通安全信息记录制度。

对单位车辆、人员的道路交通安全违法行为超过控制指标、发生负同等以上责任的致人死亡交通事故、交通事故超过控制指标等信息，市公安机关交通管理部门予以记录，并可以在媒体上公布。

(2) Where employed drivers of motor vehicles take equal or higher responsibility for the accidents involving death or take major or higher responsibility for the accidents involving severe injuries, they shall not be arranged for driving special transport vehicles within 3 years;

(3) Where drivers of motor vehicles have the accumulative score of 12 after being employed, they shall not be arranged for driving special transport vehicles within 1 year;

(4) Road traffic safety training and examination shall be conducted on employed drivers of motor vehicles, and archives shall be established and submitted to traffic management departments of local public security organs for the record;

(5) Where employed drivers of motor vehicles hold motor vehicle driver's licenses of any city other than this Municipality, training and examination shall be conducted related to such knowledge as the situation of road traffic, conditions for road passage and provisions on road passage of this Municipality;

(6) The information of traffic violations of motor vehicle drivers shall be acquired, and special education and training shall be conducted on motor vehicle drivers who have committed illegal acts; and

(7) Archives of motor vehicle running information shall be established, and the driving information recorded by the installed automobile data recorders shall be inspected and analyzed regularly so as to implement prevention measures.

**Article 11** In addition to the provisions of Article 9 of the Measures, schools shall comply with the following provisions:

(1) to incorporate traffic safety education into schools' curriculum and conduct special education on traffic safety regularly;

(2) for middle and primary schools, to incorporate students' compliance with laws, regulations and rules on road traffic safety into students' comprehensive assessment;

(3) to incorporate motor vehicles owned or rented by schools for picking up students into the management of the safety responsibility system; and

(4) for primary schools, to implement the yellow-cap road team system as stipulated.

**Article 12** The municipal, district and county people's governments as well as various systems shall implement annual assessment and appraisal for road traffic safety to commend and reward the units and individuals having made outstanding achievements and criticize those incompetent for implementing the safety responsibility system in circulars.

**Article 13** The traffic management department of the municipal public security organ shall implement a road traffic safety information recording system against the units.

In the event of violations of laws on road traffic safety which go beyond the control index, traffic accidents involving death in which the equal or higher responsibility shall be taken, or traffic accidents which go beyond the control index on the part of the vehicles or staff of the units, the traffic management department of the municipal public security organ shall record such information and may publish such information in the media.

**第十四条** 单位未履行道路交通安全防范责任制度的，由公安机关交通管理部门责令限期改正；逾期不改正的，禁止其机动车上道路行驶。

**第十五条** 本办法自 2006 年 1 月 1 日起施行。1990 年 6 月 16 日北京市人民政府第 17 号令发布的《北京市交通安全责任制暂行规定》同时废止。

**Article 14** Where the units fail to implement the responsibility system for protection of road traffic safety, they shall be ordered to make corrections within a specified time limit by the traffic management departments of public security organs; where they still fail to make corrections at the expiration of the time limit, their motor vehicles shall be forbidden to run on roads.

**Article 15** The Measures shall come into force as of January 1, 2006. The Interim Provisions of Beijing Municipality on Traffic Safety Responsibility System promulgated by Decree No. 17 of the People's Government of Beijing Municipality on June 16, 1990 shall be repealed simultaneously.



# 北京市民用机场净空保护区域管理若干规定

(2010年9月9日北京市人民政府第223号令公布)

**第一条** 为加强本市民用机场净空保护区域管理，保障飞行安全，根据《民用机场管理条例》等有关法律、法规，结合本市实际情况，制定本规定。

**第二条** 本规定适用于首都国际机场和本市其他民用机场净空保护区域。

市人民政府和民用机场所在地地区民用航空管理机构，按照有关规定划定本市民用机场净空保护区域，并向社会公布。

**第三条** 民用机场净空保护区域所在地区县人民政府负责相关区域内民用机场净空保护管理工作。

市口岸主管部门负责本市民用机场净空保护管理的综合协调工作。

**第四条** 区县人民政府和民用机场管理机构应当建立并完善巡查、报告、举报等制度，发现影响民用机场净空保护的行为，应当立即制止并依法处理，消除对飞行安全的影响。

区县人民政府和民用机场管理机构应当加强民用机场净空保护的宣传、教育工作，提高公民的净空保护意识。

任何单位和个人都应当依法履行净空保护义务，有权制止、举报影响飞行安全的违法行为。

**第五条** 区县人民政府应当会同民用机场管理机构，在民用机场净空保护区域设置警示标识。

**第六条** 本市民用机场净空保护区域内，禁止从事下列活动：

(一) 修建靶场、强烈爆炸物仓库等影响飞行安全的建筑物或者其他设施；

# Several Provisions of Beijing Municipality on Administration of Civil Airport Obstacle Clearance Protection Zones

(Promulgated by Decree No. 223 of the People's Government of Beijing  
Municipality on September 9, 2010)

**Article 1** These Regulations are formulated for the purposes of strengthening the administration of civil airport obstacle clearance protection zones and ensuring the flight safety in accordance with the Regulations on Administration of Civil Airports and other relevant laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Provisions shall apply to the airport obstacle clearance protection zones of the Capital International Airport and other civil airports in this Municipality.

The Municipal People's Government and the regional civil aviation administrative organ of the place where the civil airports are located shall, in accordance with relevant provisions, define the civil airport obstacle clearance protection zones in this Municipality and make them public to the society.

**Article 3** The district or county people's governments of the place where the civil airport obstacle clearance protection zones are located shall be responsible for the administration of civil airport obstacle clearance protection within relevant regions.

The competent authority for port at the municipal level shall be responsible for the overall coordination of the administration of civil airport obstacle clearance protection in this Municipality.

**Article 4** The district or county people's governments and civil airport administrative organs shall establish and improve the systems of patrol, report, complaint, etc. and immediately stop any act affecting civil airport obstacle clearance protection discovered and handle it in accordance with law so as to eliminate the impacts on flight safety.

The district or county people's governments and civil airport administrative organs shall intensify publicity and education on civil airport obstacle clearance protection to enhance the awareness of the citizens on airport obstacle clearance protection.

All units and individuals shall perform the obligation of airport obstacle clearance protection in accordance with law and have the power to stop and report any illegal act affecting flight safety.

**Article 5** The district or county people's governments shall, together with the civil airport administrative organs, set up warning signs in civil airport obstacle clearance protection zones.

**Article 6** The following activities shall be prohibited within the civil airport obstacle clearance protection zones in this Municipality:

(1) the construction of buildings or other facilities that will affect flight safety such as

(二) 设置影响民用机场目视助航设施使用或者飞行员视线的灯光、标志或者物体；

(三) 种植影响飞行安全或者影响民用机场助航设施使用的植物；

(四) 放飞影响飞行安全的鸟类；

(五) 违反规定升放无人驾驶的自由气球、系留气球；

(六) 违反规定从事航空模型飞行活动；

(七) 违反规定升放风筝、孔明灯或者其他升空物体；

(八) 焚烧产生大量烟雾的农作物秸秆、垃圾等物质；

(九) 排放大量烟雾、粉尘、火焰、废气等影响飞行安全的物质；

(十) 违反规定燃放烟花、焰火；

(十一) 在民用机场围界外 5 米范围内，搭建建筑物、种植树木，或者从事挖掘、堆积物体等影响民用机场运营安全的活动；

(十二) 国务院民用航空主管部门规定的其他影响民用机场净空保护的行为。

**第七条** 市规划行政主管部门应当会同民用航空管理机构、民用机场管理机构根据民航相关技术规范确定民用机场净空保护区域内建设工程的限制高度和其他控制要求。

市规划行政主管部门审批民用机场净空保护区域内超过限制高度或者不符合其他控制要求的建设工程，应当征得民用航空管理机构、民用机场管理机构同意。

**第八条** 建筑物、构筑物或者设施达到限制高度以及有民航相关技术规范规定的其他影响飞行安全情形的，应当按照国家有关标准设置飞行障碍灯、标志。

建筑物、构筑物或者设施已经安装飞行障碍灯、标志的，管理人应当确保正常使用。飞行障碍灯、标志损坏，管理人不及时修复的，机场管理机构可以先行修复，相关费用由管理人承担。

任何单位和个人不得阻止安装飞行障碍灯、标志，不得影响飞行障碍灯、标志的正常使用。

**第九条** 在民用机场净空保护区域外放飞影响飞行安全的鸟类时，其放飞路线不

shooting ranges or storages of strong explosives;

(2)the installation of lights, signs or objects that will affect the use of airport visual navaid or the sight of pilots;

(3)the growing of plants that will affect flight safety or affect the use of airport visual navaid;

(4)the flying of birds that will affect flight safety;

(5)the flying of pilotless balloons or tethered balloons in violation of provisions;

(6)the engaging in model airplanes flying in violation of provisions;

(7)the flying of kites, sky lanterns or other flying objects in violation of provisions;

(8)the burning of crop stalks, garbage or other substances that will emit large amount of smoke;

(9)the emitting of large amount of smog, dust, flames, waste gas or other substances that will affect flight safety;

(10)the letting off of fireworks in violation of relevant provisions;

(11)the setting up of buildings, the planting of trees, or the engaging in other activities that will affect safe operation of civil airports such as excavation or piling materials within five meters outside the limits of civil airports; or

(12)other acts that will affect civil airport obstacle clearance protection as stipulated by the competent civil aviation authority under the State Council.

**Article 7** The municipal administrative department for planning shall, together with the civil aviation administrative organs and civil airport administrative organs, determine the height limit and other control requirements for the construction projects within civil airport obstacle clearance protection zones in accordance with the relevant technical regulations on civil aviation.

The municipal administrative department for planning shall seek for consent of the civil aviation administrative organ and civil airport administrative organ when examining and approving a construction project within the civil airport obstacle clearance protection zone that exceeds the height limit or does not comply with any other control requirement.

**Article 8** Movement obstacle lights or signs shall be installed in accordance with the relevant standard of the State on any building, structure or facilities reaching the height limit or under any other circumstance affecting flight safety as stipulated in the technical regulations on civil aviation.

Where movement obstacle lights or signs are already installed on the buildings' structures or facilities, their manager shall ensure them in normal condition. Where the movement obstacle lights or signs are damaged and their manager fails to repair them on a timely basis, the airport administrative organ may repair them first and the relevant costs shall be borne by their manager.

No unit or individual may hinder the installation of movement obstacle lights or signs, or affect the proper use of such lights and signs.

**Article 9** Where the birds that will affect flight safety are fled outside the civil airport obstacle clearance protection zones, their flying routes shall not pass through such

得穿越民用机场净空保护区域。

**第十条** 信鸽协会等组织应当做好协会会员、公棚、俱乐部等的组织管理工作，教育和监督其在放飞信鸽和组织竞翔比赛等活动时，严格遵守有关规定，不得影响飞行安全。

信鸽协会等组织应当配合民用机场管理机构，定期对民用机场净空保护区域内的会员和鸽棚进行清查；对在民用机场净空保护区域内放飞信鸽的会员应当制止，制止无效的，及时向民用机场管理机构或者区县人民政府举报。

信鸽协会等组织不得发展居住地在民用机场净空保护区域内的新会员。

**第十一条** 区县人民政府应当会同市气象主管部门、民用机场管理机构确定民用机场净空保护区域内升放无人驾驶的自由气球、系留气球的限制高度和区域，并向社会公布。

区县人民政府应当会同市体育主管部门、民用机场管理机构确定民用机场净空保护区域内航空模型飞行限制高度和区域，并向社会公布。

区县人民政府应当会同民用机场管理机构确定民用机场净空保护区域内升放风筝、孔明灯以及其他升空物体的限制高度和区域，并向社会公布。

区县人民政府应当会同市公安机关、民用机场管理机构确定民用机场净空保护区域内燃放烟花、焰火的限制高度和区域，并向社会公布。

**第十二条** 民用机场管理机构应当加强巡查，发现影响民用机场净空保护的行为，应当立即制止，并报告区县人民政府。接到报告的区县人民政府应当及时采取有效措施，消除对飞行安全的影响。

**第十三条** 违反本规定第六条的，由区县人民政府按照《民用机场管理条例》的规定予以处罚。

**第十四条** 违反本规定第八条第二款，管理人未保证飞行障碍灯、标志正常使用的，民用机场管理机构应当通知改正，并及时报告区县人民政府。区县人民政府应当

airport obstacle clearance protection zones.

**Article 10** The homing pigeon associations and other organizations shall bring to success the organization and management of their members, public lofts, clubs, etc., and educate and supervise them to strictly observe relevant provisions so as to ensure flight safety not affected during the flying of pigeons and the organization of pigeon racing.

The homing pigeon associations and other organizations shall cooperate with the civil airport administrative organs to inspect their members and dovecotes located in civil airport obstacle clearance protection zones on a regularly basis; stop their members from flying pigeons in civil airport obstacle clearance protection zones, and make a timely report to the civil airport administrative organs or the district or county people's governments where their efforts of stopping such activities are ineffective.

The homing pigeon associations and other organizations shall not recruit new members residing in civil airport obstacle clearance protection zones.

**Article 11** The district or county people's governments shall, together with the municipal administrative department for meteorology and civil airport administrative organs, determine the height limit and areas for flying pilotless balloons or tethered balloons in civil airport obstacle clearance protection zones and make them public to the society.

The district or county people's governments shall, together with the municipal administrative department for sports and civil airport administrative organs, determine the height limit and areas for flying model airplanes in civil airport obstacle clearance protection zones and make them public to the society.

The district or county people's governments shall' together with the civil airport administrative organs, determine the height limit and areas for flying kites, sky lanterns or other flying objects in civil airport obstacle clearance protection zones and make them public to the society.

The district or county people's governments shall, together with the municipal public security organ and civil airport administrative organs, determine the height limit and areas for letting off fireworks in civil airport obstacle clearance protection zones and make them public to the society.

**Article 12** The civil airport administrative organs shall intensify patrol and immediately stop the acts affecting civil airport obstacle clearance protection discovered and report to the district or county people's governments. The district or county people's governments receiving such reports shall adopt effective measures on a timely basis to eliminate the impacts on flight safety.

**Article 13** Anyone that violates Article 6 of these Provisions shall be punished by the district or county people's government in accordance with the Regulations on Administration of Civil Airports.

**Article 14** Where a manager, in violation of Paragraph 2 of Article 8 of these Provisions, fails to ensure the proper use of movement obstacle lights or signs, the civil airport administrative organ shall make a notice on correction and make a report to the district or county people's government on a timely basis. The district or county people's

责令限期改正；逾期未改正的，处 2 万元罚款。

违反本规定第八条第三款，阻止安装飞行障碍灯、标志，或者影响飞行障碍灯、标志正常使用的，民用机场管理机构应当报告区县人民政府。区县人民政府应当责令改正；拒不改正的，处 2 万元罚款。

**第十五条** 区县人民政府可以委托区县行政主管部门、乡镇人民政府、街道办事处实施本规定有关行政处罚，并将受委托行政机关和受委托实施行政处罚的内容予以公告。

**第十六条** 本规定自 2010 年 11 月 1 日起施行。

government shall make an order of correction within a prescribed time limit; where no correction is made at the expiration of the time limit, a fine of 20,000 yuan shall be imposed.

Where anyone' in violation of Paragraph 3 of Article 8 of these Provisions, hinders the installation or proper use of movement obstacle lights or signs, the civil airport administrative organ shall make a report to the district or county people's government. The district or county people's government shall make an order of correction; where no correction is made, a fine of 20,000 yuan shall be imposed.

**Article 15** The district or county People's governments may entrust the competent administrative department at the district or county level, people's governments at the town or township level or sub-district offices to implement the relevant administrative penalties under these Provisions and make public announcements on the entrusted administrative agencies and the contents of administrative penalties implemented upon entrustment.

**Article 16** These Provisions shall be effective as of November 1, 2010.



# 北京市小客车数量调控暂行规定

(2020年10月29日北京市人民政府第296号令公布)

**第一条** 为了落实《北京城市总体规划(2016-2035年)》，实现小客车数量合理、有序增长，有效缓解交通拥堵、改善生态环境，制定本暂行规定。

**第二条** 本市实施小客车数量调控措施。小客车年度增长数量和配置比例由市交通行政主管部门会同市发展改革、公安机关交通管理、生态环境等相关行政主管部门，根据小客车需求状况和道路交通、环境承载能力合理确定，报市人民政府批准后向社会公布。

**第三条** 小客车配置指标按照公开、公平、公正和促进公共资源均衡配置的原则无偿分配。市交通行政主管部门的指标调控管理机构负责具体工作。

机关、企业事业单位、社会团体以及其他组织(以下统称单位)，家庭和个人需要取得本市小客车配置指标的，应当依照本暂行规定向指标调控管理机构办理申请登记。

单位和个人新能源小客车配置指标通过轮候方式取得，家庭新能源小客车配置指标通过积分排序方式取得，新能源以外的普通小客车配置指标通过摇号方式取得。具体配置办法由市交通行政主管部门会同有关部门按照提高家庭指标配置比例的原则制定，并向社会公布。

**第四条** 符合下列规定的个人，可以办理配置指标申请登记：

(一)住所地在本市，包括本市户籍人员、驻京部队(含武装警察部队)现役军人、在京居住的港澳台人员和外国人、持本市工作居住证的人员、持本市居住证并且近五年连续在本市缴纳社会保险费和个人所得税的人员；

# Interim Provisions of Beijing Municipality on Quantitative Control of Small Passenger Automobiles

(Promulgated by Decree No.296 by the People's Government of Beijing Municipality on October 29,2020)

**Article 1** These Interim Provisions are formulated for the purpose of implementing the overall urban planning of Beijing Municipality (2016-2035), achieving a reasonable and orderly growth of the number of small passenger automobiles and effectively relieving traffic congestion and improving the ecological environment.

**Article 2** This Municipality implements measures for quantitative control of small passenger automobiles. The annual growth and allocation ratio of small passenger automobiles shall be reasonably determined by the administrative department for communications jointly with the relevant administrative departments for development and reform, traffic for public security, ecological environment, etc. at the municipal level, in accordance with the demand for small passenger automobiles, road traffic conditions and carrying capacity of environment, and disclosed to the public after being reported to and approved by the Municipal People's Government.

**Article 3** The quota of small passenger automobiles shall be allocated for free by promoting the balanced allocation of public resources in accordance with the principles of openness, fairness and impartiality. The regulatory authority of quota control of the administrative department for communications at the municipal level shall be responsible for the specific work.

The agencies, enterprises, institutions, social groups and other organizations (hereinafter collectively referred to as units), families and individuals that need to obtain the quota for small passenger automobiles of this Municipality shall register with the regulatory authority of quota control for drawing lots in accordance with these Interim Provisions.

For NEPC (new energy passenger car) quotas, entity or individual applicants shall pursue their eligibility based on the waiting list, while family applicants shall pursue their eligibility based on the score list. For OPC (ordinary passenger care) quotas, all applicants shall pursue their eligibility via lottery. The details of the Quota-based Program will be worked out by the competent authority in charge of the transportation upon consultation with the relevant authorities taking into account that the percentage of quota assigned to family shall be increased, and the then finalized Quota-based Program will be made public.

**Article 4** Any individual whose meets the following requirements, may apply for registration of configuration index:

(1) An individual whose domicile is in this Municipality, includes an individual with household registration in this Municipality, a soldier in active duty in the forces in Beijing

(二) 名下没有在本市登记的小客车;

(三) 具有有效的机动车驾驶证。

**第五条** 符合下列规定情形的,可以参与以家庭为单位办理配置指标申请登记:

(一) 家庭成员由家庭主申请人和其他家庭申请人(以下统称家庭申请人)构成,总人数不得少于2人;

(二) 其他家庭申请人限于家庭主申请人的配偶、子女、父母、公婆或者岳父母;

(三) 家庭成员及其配偶名下均没有在本市登记的小客车;

(四) 家庭成员符合第四条住所地在本市的规定,家庭主申请人具有有效的机动车驾驶证。

离婚时原配偶名下有在本市登记的小客车的个人,离婚十年内不得参与以家庭为单位办理配置指标申请登记。

家庭主申请人代表家庭办理配置指标申请登记,并在取得指标后作为指标所有人。参与以家庭为单位配置指标申请登记的,不得同时参与其他家庭或者以个人身份办理配置指标申请登记。参与以家庭为单位配置指标申请登记的,家庭申请人在家庭主申请人取得指标后十年内不得再以个人或者家庭申请人身份办理配置指标申请登记。

**第六条** 指标调控管理机构应当向取得配置指标的单位和个人(含家庭主申请人)出具指标证明文件,并公布指标配置结果。

单位和个人(含家庭主申请人)出售、报废名下在本市登记的小客车的,可以申请取得更新指标,办理指标证明文件。

对小客车所有人逾期不办理注销登记,被公安机关交通管理部门依照《中华人民共和国道路交通安全法实施条例》的规定公告机动车登记证书、号牌、行驶证作废的车辆,不予办理更新指标。

**第七条** 指标有效期为12个月,不得转让。指标有效期内,不得重复办理配置指标申请登记。

(including the armed police force), a person from Hong Kong, Macao and Taiwan as well as a foreigner residing in Beijing, an individual holding a work residence permit of this Municipality and an individual holding a residence permit of this Municipality and having paid social insurance premiums and personal income tax for over five years consecutively;

(2) An individual whose name there is no small passenger automobile registered in this Municipality; and

(3) An individual with valid driving license.

**Article 5** Those who meet the following requirements may participate in the Quota-based Program with the family as an applicant:

(1) the total number of members of such family, comprised of the person who initiates the application process (the main applicant) and other family member(s), is not less than two;

(2) other family member(s) only includes the spouse, children, parents, and parents-in-law of the main applicant;

(3) every family member has no passenger car registered in its name in this city;

(4) the family members comply with Article 4 which requires domicile in this city, and the main applicant possesses a valid driver's license.

Where a family has a divorced member whose former spouse has a passenger car registered in the former spouse's name in this city at the time of divorce, such family shall not participate in the Quota-based Program within ten years following the divorce of the said divorced member.

The main applicant shall go through the procedures for participating in the Quota-based Program on behalf of the family, and upon obtaining the quota, shall be the owner thereof. Any member of the family who has participated in the Quota-based Program, may not simultaneously be counted in the number of another family who intends to participate in the Quota-based Program, nor may it participate in the Quota-based Program as an individual. Any individual who is the member of a family which has participated in the Quota-based Program, within ten years following the said family has obtained the quota, may not participate in the Quota-based Program as an individual, nor may it be counted in the number of another family who intends to participate in the Quota-based Program.

**Article 6** The authority in charge of controlling and administrating the Quota-based Program shall issue a quota certificate to the entity or individual (including the main applicant) when such entity or individual has obtained the quota, and publish the result of quota grant.

Where an entity or individual (including the main applicant) has sold the car registered in its name in this city or put the said car under the retirement process, it may apply for renewing the quota, and go through the procedures for obtaining the new quota certificate.

If the division under the public security organ responsible for the transportation administration, in accordance with the Regulation on the Implementation of the Road Traffic Safety Law of the People's Republic of China, has annulled the registration certificate, license plate number and vehicle license of a passenger car, due to the owner of the passenger car has failed to deregister the passenger car within the specified period, the said owner may not be granted a renewed quota.

**Article 7** The quota shall be effective for a period of 12 months and shall not be

单位和个人(含家庭申请人)对办理指标申请时所提供信息的真实性、准确性负责,提供虚假信息的,取得的指标无效,并承担相应法律责任。

**第八条** 单位和个人(含家庭主申请人)办理申报车辆购置税、外地车辆转入本市、验证二手车销售发票、车辆赠与公证等手续的,应当向税务、市场监管等部门或者公证机构出示指标证明文件;对取得指标的,有关部门或者机构应当在相应文件中注明指标取得情况;单位和个人(含家庭主申请人)到本市公安机关交通管理部门办理车辆登记应当持相应文件。

**第九条** 小客车销售经营单位应当在经营场所明示本市实行指标管理规定的具体内容,并在签订买卖合同时书面提示购车人。

**第十条** 本市采取措施打击利用或者违反指标管理措施牟取非法利益的行为,推动个人名下第二辆以上在本市登记的小客车有序退出。具体办法由市交通行政主管部门会同有关部门制定,并向社会公布。

**第十一条** 出租汽车、租赁汽车、教练车等营运小客车的指标分配方式另行规定。

**第十二条** 本暂行规定所称小客车,包括小型、微型载客汽车及市人民政府公布的其他需要实施调控的车型。

**第十三条** 本暂行规定自 2021 年 1 月 1 日起施行。

transferred to others. During the effective period, the owner of the quota shall not re-undergo the vehicle registration procedures.

Where any unit or individual obtains the quota shall be responsible for the authenticity and accuracy of the information provided in the application. The quota shall be invalid and the unit or individual shall bear the corresponding legal liabilities by providing false registration information.

**Article 8** When an entity or individual (including the main applicant) goes through the procedures for declaring vehicle purchase tax, transferring the registration of a vehicle from other place to this city, verifying the sales invoice relating to a used-car, notarizing the giving a vehicle as a gift, it shall produce to the applicable taxing authority, market regulation agency or notary office the quota certificate (if any); where such entity or individual has obtained a quota, the competent authority or agency shall indicate the obtainment in the applicable documents; when going through the procedures for vehicle registration with the division under the public security organ responsible for the transportation administration in this city, the entity or individual (including the main applicant) shall carry the applicable documents.

**Article 9** Sellers of small passenger automobiles shall explicitly indicate the specific contents of the quota control provisions implemented in this Municipality and remind the buyers in writing when signing the sales contracts.

**Article 10** This Municipality works to crack down on taking advantage of or violation of quota administration rules to seek illegal interests, and promote the orderly exit of the second or more passenger cars registered in the name of an individual in this city. The detailed measures will be worked out by the competent authority in charge of the transportation upon consultation with the relevant authorities, and the then finalized measure will be made public.

**Article 11** The measures for allocation of quota for small passenger automobiles on business such as taxis, rental cars and coach cars shall be stipulated separately.

**Article 12** As referred to in these Interim Provisions, small passenger automobiles include small and micro passenger cars and other vehicles necessary to be controlled as declared by the Municipal People's Government.

**Article 13** These Interim Provisions shall take effect as of January 1, 2021

# 北京市汽车租赁管理办法

(2012年3月1日北京市人民政府第243号令发布)

**第一条** 为规范汽车租赁行为，维护汽车租赁市场秩序，保护汽车租赁各方当事人合法权益，保障社会公共安全，促进汽车租赁业健康发展，根据有关法律、法规，结合本市实际情况，制定本办法。

**第二条** 本市行政区域内的汽车租赁活动及其监督管理适用本办法。

本办法所称汽车租赁，是指经营者在约定时间内将汽车交付承租人使用，收取租赁费用，不配备驾驶人员的经营活动。

**第三条** 市交通行政主管部门负责本市汽车租赁行政管理工作。远郊区县交通行政主管部门负责本行政区域内的汽车租赁行政管理工作。

市交通行政主管部门的执法机构负责市区的汽车租赁行政执法工作。

公安机关依法负责汽车租赁经营企业的内部治安保卫的监督管理工作，指导、监督企业建立和完善承租人身份查验及登记制度，指导、监督企业落实租赁车辆安装定位装置等治安防范措施。

工商行政管理部门依照职责，依法对汽车租赁活动实施监督管理。

**第四条** 本市按照统一规划、数量调控、安全服务的原则，促进汽车租赁业规模化、集约化和网络化发展，完善城市交通运输服务功能。

鼓励汽车租赁经营者之间同城和异地合作，开展预约服务、电子商务等业务。鼓励汽车租赁经营者提供汽车租赁共享服务。

**第五条** 市交通行政主管部门应当会同相关行政主管部门、汽车租赁行业协会制定汽车租赁的经营服务、安全管理等标准，并组织实施。

# Measures of Beijing Municipality for Administration of Automobile Lease

(Promulgated by Decree No. 243 of the People's Government of Beijing Municipality on March 1, 2012)

**Article 1** These Measures are formulated for the purposes of regulating automobile lease activities, maintaining the order of automobile lease market, protecting the legal rights and interests of relevant parties in automobile lease, safeguarding the social and public safety, and promoting the healthy development of automobile lease industry in accordance with relevant laws and regulations and in light of the particular circumstances of this Municipality.

**Article 2** These Measures shall apply to the automobile lease activities and supervision and administration thereof within the administrative area of this Municipality.

As used in these Measures, “automobile lease” refers to the operation activities of operators’ delivering automobiles without being equipped with drivers to the lessees for use within the agreed periods of time and charging the lease fee.

**Article 3** The administrative department for traffic at the municipal level shall be responsible for the administration of automobile lease in this Municipality. The administrative departments for traffic in outer suburb districts or counties shall be responsible for the administration of automobile lease within their respective administrative areas.

The law enforcement organs of the administrative department for traffic at the municipal level shall be responsible for the administrative law enforcement on automobile lease in the downtown area.

The public security organs shall, in accordance with law, be responsible for the supervision and administration of internal security of enterprises engaged in operation of automobile lease, guiding and urging such enterprises to establish and perfect the system on identification inspection and registration of lessees, and implement such security precautions as installing positioning devices on automobiles for lease.

The administrative departments for industry and commerce shall, according to their functions and duties, carry out the supervision and administration of automobile lease activities in accordance with law.

**Article 4** This Municipality shall, according to the principles of uniform planning, quantity control and safe services, promote scaled, concentrated and networking development of the automobile lease industry and perfect the functions of urban transport services.

Automobile lease operators are encouraged to cooperate with peers in this Municipality and in other regions to engage in such businesses as reservation services and e-commerce. Automobile lease operators are encouraged to provide sharing services in automobile lease.

**Article 5** The administrative department for traffic at the municipal level shall, together with relevant administrative departments and associations in the automobile lease industry, formulate the standards for operational services and safety administration in



**第六条** 市交通行政主管部门应当建立汽车租赁服务和管理信息系统，并与公安、工商行政管理等相关部门共享管理信息，对行业实施信息化管理，为社会公众提供信息服务。

汽车租赁经营者应当配置信息化服务的相关设备设施，并将安全服务信息即时传输至汽车租赁服务和管理信息系统。

**第七条** 本市对汽车租赁经营者实行年度质量信誉考核制度，对经营者的安全生产、经营行为、服务质量、管理水平和履行社会责任等方面进行综合评价。年度质量信誉考核结果向社会公布。

**第八条** 本市鼓励汽车租赁业实施行业自律，鼓励汽车租赁行业组织建立健全行业自律制度，规范和指导汽车租赁经营者的经营行为，组织汽车租赁经营者开展诚信建设，提高汽车租赁经营者的服务质量，维护汽车租赁经营者的合法权益，参与汽车租赁管理相关法规、政策、标准的研究制定和宣传贯彻。

**第九条** 从事汽车租赁经营的，经营者应当在取得企业营业执照之日起 30 日内按照规定向市交通行政主管部门或者远郊区县交通行政主管部门办理备案。

办理备案时，应当提交下列材料：

- （一）法人登记证明；
- （二）税务登记证明；
- （三）经营场所权属证明或者合法租用证明；
- （四）企业经营服务和安全管理制度。

经营者提交的材料齐全的，市交通行政主管部门或者远郊区县交通行政主管部门应当出具汽车租赁经营备案证明。

经营者购买车辆后应当向原备案部门办理车辆备案，提交车辆行驶证明和经营设备设施清单。原备案部门对已备案的车辆出具车辆备案证明。

**第十条** 经营者的备案事项发生变更的，应当在变更之日起 15 日内到原备案部门

automobile lease and organize the implementation of such standards.

**Article 6** The administrative department for traffic at the municipal level shall establish the information system of automobile lease services and administration and share the administration information with relevant departments such as public security organs and administrative departments for industry and commerce to implement the informationized administration of the automobile lease industry and provide information services to the public.

Automobile lease operators shall be equipped with equipment and facilities related to informationized services, and timely transmit the information on safe services to the information system of automobile lease services and administration.

**Article 7** This Municipality adopts the annual quality and credit assessment system on automobile lease operators, and makes the comprehensive evaluation of such operators in such aspects as work safety, operational behaviors, service quality, management level and performance of social responsibilities. The results of such annual quality and credit assessment shall be made public to the society.

**Article 8** This Municipality encourages the automobile lease industry to implement self-discipline and encourages industrial organizations for automobile lease to establish and perfect the self-discipline system in the whole industry to regulate and guide the operational behaviors of automobile lease operators, organize automobile lease operators in carrying out credit construction, improve the service quality of automobile lease operators, safeguard the legal rights and interests of automobile lease operators, and participate in the discussion, formulation, publicity and implementation of relevant regulations, policies and standards on the administration of automobile lease.

**Article 9** Any operator engaged in automobile lease operations shall register for the record at the administrative department for traffic at the municipal level or the administrative department for traffic in outer suburb districts or counties as stipulated within 30 days after obtaining the business license.

When registering for the record, it shall submit the following materials:

- (1) the legal person registration certificate;
- (2) the tax registration certificate;
- (3) the ownership certificate or certificate of legally rented business site; and
- (4) the systems on operational services and safety administration of enterprises.

Where the materials submitted by the operator are complete, the administrative department for traffic at the municipal level or the administrative department for traffic in outer suburb districts or counties shall issue the certificate for registration of automobile lease operations for the record.

After purchasing an automobile, the operator shall register the automobile for the record at the original registration department, and submit the passing permit of the automobile and checklist of operational equipment and facilities. The original registration department shall issue the certificate for registration of automobile for the record to the registered automobile.

**Article 10** Where there is any change to the registered items, the operator shall register for the record the modification at the original registration department within 15 days

办理备案变更。

**第十一条** 本市对租赁小客车实施数量调控措施。租赁小客车年度增长数量由市交通行政主管部门根据本市租赁行业发展目标、交通发展规划和全市小客车数量调控要求统筹确定，并向社会公布。

**第十二条** 汽车租赁经营者申请租赁小客车新增指标的，应当符合下列条件：

- （一）已经按照本办法第九条的规定办理备案；
- （二）上一年度质量信誉考核合格；
- （三）上一年度在本市依法足额纳税。

新成立的汽车租赁经营者申请租赁小客车新增指标的，不适用前款第二项、第三项的规定。

**第十三条** 租赁小客车新增指标按照公开、公正的原则无偿分配。指标分配方案由市交通行政主管部门根据租赁行业发展目标、企业质量信誉考核情况制定，在征求汽车租赁行业组织和汽车租赁经营者的意见后确定并实施。指标分配方案和分配结果应当向社会公示。

**第十四条** 汽车租赁经营者应当遵守下列规定：

- （一）在经营场所显著位置明示服务项目、收费标准、车辆保险、租车流程及监督电话；
- （二）按照约定的价格收取租赁费用；
- （三）按照规定进行车辆检测和维护保养，保证租赁车辆技术性能良好、符合安全行驶条件；
- （四）建立并完善救援服务体系，对租赁期间发生故障或者事故的车辆，及时按照约定提供救援服务；
- （五）建立租赁经营管理档案和车辆管理档案，并按照规定报送管理数据信息；
- （六）建立健全经营服务、安全保卫、消防等管理制度；
- （七）国家和本市其他相关规定。

after the change happens.

**Article 11** This Municipality adopts the quantity control over passenger cars for lease. The annual increase of passenger cars for lease shall be determined by the administrative department for traffic at the municipal level after comprehensive consideration according to the goals for development of lease industry and planning for transport development of this Municipality as well as the requirements on quantity control over passenger cars in the whole city, and promulgated to the society.

**Article 12** Where any automobile lease operator applies for new quotas of passenger cars for lease, it shall meet the following conditions:

(1) having registered for the record in accordance with the provisions of Article 9 of these Measures;

(2) being qualified in the annual quality and credit assessment for the previous year; and

(3) having paid taxes in full amount in this Municipality in the previous year.

Items two and three of the preceding paragraph shall not apply to the application for new quotas of passenger cars by nay newly established automobile lease operator.

**Article 13** New quotas for passenger cars shall be allocated free of charge according to the principles of openness and justness. The administrative department for traffic at the municipal level shall draft the quota allocation scheme according to the goals for development of lease industry and the results of quality and credit assessment, finalize it and implement it after soliciting the opinions of industrial organizations for automobile lease and automobile lease operators. The quota allocation scheme and allocation results shall be made public to the society.

**Article 14** Automobile lease operators shall abide by the following provisions:

(1) to specify service items, charging standards, automobile insurances, car rent process and supervision telephones at obvious places in their business site;

(2) to charge the lease fee as to the agreed price;

(3) to carry out automobile testing and maintenance as stipulated, and ensure that the automobiles for lease have good technical functions and meet the conditions for safe driving;

(4) to establish and perfect the rescue service systems, and timely provide rescue services as agreed when the automobiles have breakdowns or accidents happen during the lease term;

(5) to establish the archives on management of lease operations and management of automobiles, and submit the information about management data as stipulated;

(6) to establish and improve the management systems for operational services, security protection and fire control, etc.; and

(7) other relevant provisions of the State and this Municipality.

**Article 15** The automobiles for lease shall meet the following requirements:

**第十五条** 用于租赁的车辆应当符合下列要求：

- （一）行驶牌证齐全有效且为汽车租赁经营者所有；
- （二）已按照国家规定办理相应的保险；
- （三）已安装车辆定位装置；
- （四）技术性能良好、符合安全行驶条件；
- （五）车内配备有效的车用灭火器、故障车警示标志牌和必要的维修工具。

**第十六条** 汽车租赁双方应当签订书面租赁合同。合同内容应当包括车辆用途、租赁期限、租赁费用及付费方式、车辆交接、担保方式、车辆维护和维修责任、车辆保险、风险承担、违约责任和争议解决方式等条款。

《北京市汽车租赁合同》示范文本由市交通行政主管部门、市工商行政管理部门会同汽车租赁行业组织制定。

**第十七条** 租赁车辆时，经营者应当核对承租人身份信息，按照规定登记录入服务管理信息系统，并对信息采取保密措施，不得对外泄露。

**第十八条** 承租人应当遵守下列规定：

- （一）提供的相关身份信息合法、真实、有效；
- （二）爱护车辆及其附属设施，按照操作规范驾驶车辆；
- （三）随身携带承租车辆的相关证件；
- （四）不得利用租赁车辆运输国家法律法规禁运、限运物品，以及从事其他违法犯罪活动；
- （五）不得将承租车辆进行抵押、变卖或者转租。

**第十九条** 租赁期间车辆发生交通事故的，承租人和经营企业按照租赁合同的约定承担相应的赔偿责任；租赁合同没有约定的，按照国家有关法律、法规的规定承担相应责任。

**第二十条** 发现承租人利用租赁车辆从事非法营运等违法活动的，汽车租赁经营者有权拒绝签定或者终止履行租赁合同。

经营者发现承租人利用租赁车辆从事违法犯罪活动的，应当及时向有关部门举报。

- (1) having complete and valid plates and passing permits, and owned by the automobile lease operator;
- (2) being covered by the corresponding insurances in accordance with the provisions of the State;
- (3) having been installed positioning devices;
- (4) having good technical functions and meeting the conditions for safe driving; and
- (5) being equipped with effective fire extinguishers for automobiles, warning signs for cars in trouble and necessary repair tools.

**Article 16** Both parties of the automobile lease shall enter into written lease contracts. The contents of contracts shall include such clauses as usage of automobiles, lease term, lease fee and manner of payment, hand-over of automobiles, manner of guarantee, automobile maintenance and repair responsibility, automobile insurance, risk-taking, breach liability and manner for dispute settlement.

The administrative department for traffic and the administrative department for industry and commerce at the municipal level shall, together with the industrial organizations for automobile lease, organize the formulation of the model text of Automobile Lease Contract of Beijing Municipality.

**Article 17** When leasing automobiles, the automobile lease operators shall check up the identification information of the lessees, register and enter such information into the information system of services and administration, take confidentiality measures on such information and let such information undisclosed.

**Article 18** The lessees shall abide by the following provisions:

- (1) to provide legal, truthful and valid identification information;
- (2) to take good care of the automobiles and auxiliary facilities, and drive the automobiles according to the operational rules;
- (3) to bring along relevant certificates of the automobiles leased;
- (4) not to use leased automobiles to transport articles whose transportation is prohibited or restricted by laws and regulations, or not be engaged in other illegal or criminal activities; and
- (5) not to mortgage, sell or release the automobiles leased.

**Article 19** Where any automobile has a breakdown in traffic accident during the lease term, the lessee and the automobile lease operator shall shoulder the corresponding compensation responsibility according to the agreement in the lease contract; where there is no relevant agreement in the lease contract, they shall shoulder the corresponding responsibilities in accordance with the provisions of laws and regulations.

**Article 20** Where any automobile lease operator finding that any lessee uses the leased automobile to engage in such illegal activities as illegal transportation, it shall have the right to refuse to enter into the lease contract or to terminate the performance of the lease contract.

Where any operator finding that any lessee uses the leased automobile to engage in illegal or criminal activities, it shall timely make a report to relevant departments.

**Article 21** Where any automobile lease operator falls in any of the following

**第二十一条** 汽车租赁经营者有下列情形之一的，年度质量信誉考核不合格：

- （一）发生重大生产安全事故，经调查确定为责任事故的；
- （二）对治安案件发生负有较大责任，被公安机关依法处理的；
- （三）存在重大违法经营行为，被有关部门依法处理的；
- （四）经营场所、设备设施、租赁车辆不符合本办法规定，被依法处理后仍不改正的；
- （五）经营服务行为不符合本办法规定，被依法处理后仍不改正的。

上一年度质量信誉考核不合格的，相关部门暂缓办理本年度车辆更新指标手续。

**第二十二条** 市交通执法机构和远郊区县交通行政主管部门应当建立汽车租赁服务质量投诉制度，公开投诉电话、电子邮箱、通信地址等联系方式。

市交通执法机构和远郊区县交通行政主管部门接到投诉或者举报后，应当依法及时处理，并将处理结果向投诉人或者举报人反馈。

**第二十三条** 违反本办法第九条规定，未办理企业经营备案或者车辆备案从事汽车租赁经营的，由市交通执法机构或者远郊区县交通行政主管部门责令限期办理备案手续；逾期未办理的，处以 1 万元以上 3 万元以下罚款。

**第二十四条** 违反本办法第十条规定，未按照规定办理备案变更的，由市交通执法机构或者远郊区县交通行政主管部门责令限期办理备案变更手续；逾期未办理的，处以 5000 元以上 1 万元以下罚款。

**第二十五条** 违反本办法第十四条第一项、第二项、第三项、第四项、第五项规定之一的，由市交通执法机构或者远郊区县交通行政主管部门给予警告，责令限期改正，并可处以 1000 元罚款；违反第三项、第四项规定之一，造成严重后果的，处以 1000 元以上 1 万元以下罚款。

违反本办法第十四条第六项的规定，汽车租赁经营者未建立经营服务管理制度的，由市交通执法机构或者远郊区县交通行政主管部门给予警告，责令限期改正，并可处

circumstances, it will be unqualified in the annual quality and credit assessment:

(1) a serious work safety accident occurs, which is determined to be a liability accident upon investigation;

(2) it shoulders major responsibility in a public order case and is punished by the public security organ in accordance with law;

(3) it commits a serious illegality in operation and is punished by relevant department in accordance with law;

(4) its business site, equipment and facilities, and automobiles for lease fail to meet the provisions in these Measures and it refuses to make corrections after being punished in accordance with law; or

(5) its service behaviors in operation fail to meet the provisions in these Measures, and it refuses to make corrections after being punished in accordance with law.

If any automobile lease operator is unqualified in the annual quality and credit assessment for the previous year, relevant departments shall suspend handling the procedures for quota of renewed automobiles for this year.

**Article 22** The law enforcement organ in traffic at the municipal level and the administrative departments for traffic in outer suburb districts or counties shall establish the complaint system on the quality of automobile lease services, and make public such contact information as complaint telephones, e-mail boxes and mail addresses.

After receiving complaints or reports, the law enforcement organ in traffic at the municipal level and the competent administrative departments for traffic in outer suburb districts or counties shall timely deal with the matters in accordance with law, and feed back the results to the complainants or reporters.

**Article 23** Whichever, in violation of the provisions of Article 9 of these Measures, engages in automobile lease operations without registering for the record its operations or automobiles shall be ordered to handle the registration for the record within a prescribed time limit by the law enforcement organ in traffic at the municipal level or the administrative department for traffic in outer suburb districts or counties; where it fails to do so beyond the time limit, it shall be imposed upon a fine of not less than 10,000 Yuan but not more than 30,000 Yuan.

**Article 24** Whichever, in violation of the provisions of Article 10 of these Measures, fails to register for the record the modification shall be ordered to register for the record the modification within a prescribed time limit by the law enforcement organ in traffic at the municipal level or the administrative department for traffic in outer suburb districts or counties; where it fails to do so beyond the time limit, it shall be imposed upon a fine of not less than 5,000 Yuan but not more than 10,000 Yuan.

**Article 25** Whichever violates one of the provisions of Item 1, 2, 3, 4 or 5, Article 14 of these Measures shall be given a warning and ordered to make corrections within a prescribed time limit and may be imposed upon a fine of 1,000 Yuan by the law enforcement organ in traffic at the municipal level or the administrative department for traffic in outer suburb districts or counties; whichever violates one of the provisions of Item 3 or 4 and causes serious consequences shall be imposed upon a fine of not less than 1,000 Yuan but not more than 10,000 Yuan.

Where any automobile lease operator, in violation of the provisions of Item 6, Article 14 of these Measures, fails to establish the management system for operational services, the law enforcement organ in traffic at the municipal level or the administrative department for traffic in outer suburb districts or counties shall give it a warning and order it make



以 1000 元罚款；造成严重后果的，处以 1000 元以上 1 万元以下罚款。

违反本办法第十四条第六项的规定，汽车租赁经营者未建立安全保卫管理制度的，由公安机关给予警告，责令限期改正，并可处以 1000 元罚款；造成严重后果的，处以 1000 元以上 1 万元以下罚款。

**第二十六条** 违反本办法第十五条第三项的规定，汽车租赁经营者未安装车辆定位装置的，由公安机关给予警告，并责令限期改正；逾期未改正的，处以 1000 元罚款；造成严重后果的，处以 1000 元以上 1 万元以下罚款。

**第二十七条** 违反本办法第十七条规定，经营者未核对承租人身份信息并按照规定登记录入服务管理信息系统的，由公安机关给予警告，并责令改正；拒不改正的，处以 1000 元罚款。

**第二十八条** 违反本办法第二十条第一款的规定，汽车租赁经营者明知承租人利用租赁车辆从事非法营运等违法活动但仍签定或者继续履行租赁合同的，依法承担相应责任。

**第二十九条** 出租 9 座以上客车的，适用道路运输管理的相关规定。

**第三十条** 本办法自 2012 年 5 月 1 日起施行。2002 年 8 月 21 日北京市人民政府第 105 号令发布，根据 2004 年 6 月 1 日北京市人民政府第 150 号令修改的《北京市汽车租赁管理办法》同时废止。

corrections within a prescribed time limit and may impose upon it a fine of 1,000 Yuan; where serious consequences are caused, it shall be imposed upon a fine of not less than 1,000 Yuan but not more than 10,000 Yuan.

Where any automobile lease operator, in violation of the provisions of Item 6, Article 14 of these Measures, fails to establish the management system for security protection, the public security organ shall give it a warning and order it make corrections within a prescribed time limit and may impose upon it a fine of 1,000 Yuan; where serious consequences are caused, it shall be imposed upon a fine of not less than 1,000 Yuan but not more than 10,000 Yuan.

**Article 26** Where any automobile lease operator, in violation of the provisions of Item 3, Article 15 of these Measures, fails to install automobile positioning devices, the public security organ shall give it a warning and order it make corrections within a prescribed time limit; where it fails to make corrections beyond the prescribed time limit, it shall be imposed upon a fine of 1,000 Yuan; where serious consequences are caused, it shall be imposed upon a fine of not less than 1,000 Yuan but not more than 10,000 Yuan.

**Article 27** Where any automobile lease operator, in violation of the provisions of Article 17 of these Measures, fails to check up the identification information of the lessees and register and enter such information into the information system of services and administration, the public security organ shall give it a warning and order it make corrections; where it refuses to make such corrections, it shall be imposed upon a fine of 1,000 Yuan.

**Article 28** Where any automobile lease operator, in violation of the provisions of Paragraph 1, Article 20 of these Measures, enters into or continues performing the lease contract knowing very well that a lessee uses the leased automobile to engage in such illegal activities as illegal transportation, it shall shoulder the corresponding responsibilities in accordance with law.

**Article 29** Relevant provisions on administration of road transport shall apply to the lease of coaches with 9 or more seats.

**Article 30** These Measures shall be effective as of May 1, 2012. The Measures of Beijing Municipality for Administration of Automobile Lease promulgated by Decree No. 105 of the People's Government of Beijing Municipality on August 21, 2002 and revised in accordance with Decree No. 150 of the People's Government of Beijing Municipality on June 1, 2004 shall be repealed simultaneously.

# 北京市机动车停车管理办法

(2013年11月18日北京市人民政府令第252号公布)

**第一条** 为了加强本市机动车停车管理,规范停车秩序,提升停车服务水平,促进城市交通环境改善,引导公众绿色出行,根据有关法律、法规,结合本市实际情况,制定本办法。

**第二条** 本市行政区域内停车场的规划、设置、使用、管理和机动车停放管理适用本办法。

公共交通、道路客货运输车辆等专用停车场的规划、建设、管理和危险化学品运输车辆的停放管理,适用国家和本市其他有关规定。

**第三条** 本办法所称停车场是指供机动车停放的场所,包括独立建设的停车场、配建停车场、临时停车场。

独立建设的停车场,是指根据规划独立建设并向社会开放的停放机动车的场所。

配建停车场,是指为公共建筑、居住区配套建设的停放机动车的场所。

临时停车场,是指临时设置的用于停放机动车的场所,包括道路停车泊位和利用街坊路、胡同以及待建土地、临时空闲场地设置的停车场。

**第四条** 机动车停车是静态交通体系,机动车停车场坚持统筹规划建设,实行差别化管理,逐步形成配建停车场为主、独立建设的停车场为辅、临时停车场为补充的格局。

本市鼓励社会多元化参与停车场建设,鼓励社会单位对外开放停车场。

**第五条** 市交通行政主管部门主管本市的停车管理工作,负责组织制订本市机动车停车管理的相关政策,并会同相关部门对机动车停车管理工作进行综合协调、检查

# Measures of Beijing Municipality for Administration of Motor Vehicle Parking

(Promulgated by Decree No. 252 of the People's Government of Beijing Municipality on November 18, 2013)

**Article 1** These Measures are formulated for the purposes of strengthening the administration of motor vehicle parking, regulating the order of parking, improving the level of parking services, promoting the improvement of urban traffic environment and guiding the green commuting of the public in accordance with relevant laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to the planning, setup, use and management of parking lots as well as the administration of motor vehicle parking within the administrative area of this Municipality.

Other relevant provisions of the State and this Municipality shall apply to the planning, construction and management of special parking lots for vehicles of public transport, road passenger and freight transport as well as the administration of parking of vehicles transporting hazardous chemicals.

**Article 3** As used in these Measures, the term "parking lots", refers to the places for motor vehicle parking, including independently built parking lots, accessory parking lots and temporary parking lots.

The term "independently built parking lots" refers to the places for motor vehicle parking that are independently built as planned and open to the public.

The term "accessory parking lots" refers to the places for motor vehicle parking built accessory to public buildings or residential quarters.

The term "temporary parking lots" refers to the places for motor vehicle parking that are temporarily set up, including the road parking berths and the parking lots set up by using neighborhood roads, hutongs, land to be developed and temporarily unused spaces.

**Article 4** The motor vehicle parking is a static traffic system. Motor vehicle parking lots shall be constructed in an overall planned way, differentiated management shall be adopted and the pattern dominated by accessory parking lots, supplemented by independently built parking lots and complemented by temporary parking lots shall be gradually formed.

This Municipality encourages diversified social forces to participate in the construction of parking lots and encourages social units to open their parking lots to the public.

**Article 5** The administrative department for traffic at the municipal level shall be in charge of the parking administration in this Municipality, responsible for organizing the formulation of relevant policies of this Municipality on the administration of motor vehicle

指导、督促考核。

发展改革行政主管部门负责本市独立建设的停车场的项目审批、核准和备案工作，统筹安排政府投资项目建设资金，制定机动车停车收费标准，并对机动车停车收费标准执行情况进行监督检查。

公安机关交通管理部门负责本市道路停车秩序管理和道路停车泊位的设置。

规划、住房城乡建设、财政、国土资源、质量技术监督、工商行政管理、税务、民防、城市管理综合执法等行政主管部门按照各自职责，依法负责机动车停车管理相关工作。

**第六条** 区、县人民政府负责本行政区域内停车场的规划、设置、管理及机动车停放管理的统筹协调。区、县停车管理部门负责本行政区域内机动车停车管理的具体工作。

街道办事处、乡镇人民政府在区、县人民政府的领导下做好本辖区内的停车管理工作，指导居民委员会、村民委员会在辖区内通过建立停车管理委员会等形式，依法进行机动车停车的自我管理。

**第七条** 市交通行政主管部门应当会同市规划等行政主管部门，依据城市总体规划和城市综合交通体系规划，结合城市建设发展和道路交通安全管理的需要，组织编制停车场专项规划，与控制性详细规划相衔接，经依法批准后实施。

停车场专项规划应当确定城市停车总体发展策略、停车场供给体系及引导政策，统筹地上地下空间资源与布局，明确建设时序，并将停车场与城市交通枢纽、城市轨道交通换乘站紧密衔接。

区、县人民政府根据本市机动车停车场专项规划，制定本行政区域的实施方案，并组织实施。

**第八条** 驻车换乘停车场和为改善交通管理秩序建设的公益性停车场，是城市交通基础设施，建设用地实行划拨，按照政府主导、社会参与、企业运作的方式进行建设与管理。

parking, and together with relevant departments, carry out comprehensive coordination, inspection, guidance, supervision and examination of the administration work of motor vehicle parking.

The administrative departments for development and reform shall be responsible for project approval, ratification and registration of independently built parking lots in this Municipality, make overall arrangements on construction funds for projects with government investment, formulate the charging standards for motor vehicle parking, and carry out supervision and inspection of the implementation of such charging standards.

The traffic management departments of public security organs shall be responsible for the administration of road parking order and setup of road parking berths.

The administrative departments for planning, housing and urban-rural construction, finance, State-land and resources, quality and technical supervision, administration of industry and commerce, taxation, civil defense, comprehensive law enforcement in urban management, etc. shall, in accordance with law, be responsible for the work related to the administration of motor vehicle parking according to their respective functions and duties.

**Article 6** The people's governments at the district or county level shall be responsible for overall planning and coordination of the planning, setup and management of parking lots as well as the administration of motor vehicle parking within their respective administrative areas. The departments for parking administration at the district or county level shall be responsible for the specific work in the administration of motor vehicle parking within their respective administrative areas.

The subdistrict offices and the people's governments at the township or town level shall, under the leadership of the people's governments at the district or county level, bring success to the parking administration within the areas under their jurisdiction, and guide residents' committees and villagers' committees to carry out self-management of motor vehicle parking by such means as setting up parking management committees within the areas under their jurisdiction in accordance with law.

**Article 7** The administrative department for traffic at the municipal level shall, together with the administrative departments for planning, etc. at the municipal level, according to the urban overall planning and urban planning on comprehensive traffic system and in combination with the needs of urban construction and development as well as road traffic safety management, organize the formulation of special planning for parking lots, connect such special planning with regulatory detailed planning, and implement such special planning after obtaining approval in accordance with law.

The special planning for parking lots shall determine the general development strategy, parking lots supply system and guiding policies for urban parking, make overall arrangements on ground and underground space resources and layout, clarify the time order of construction, and closely connect parking lots with urban traffic hubs and interchange stations of urban rail transit.

The people's governments at the district or county level shall, in accordance with the special planning for parking lots of motor vehicles of this Municipality, formulate the implementation plans in their respective administrative areas and organize the implementation of such plans.

**Article 8** Park-and-ride parking lots and public welfare parking lots constructed to improve traffic management order are urban traffic infrastructure, their construction land shall be allocated, and they shall be constructed and managed by means of government leadership, social participation and enterprise operation.

在以划拨方式供地的医院、政府机关、博物馆、展览馆、大中小学、幼儿园及公共服务性设施用地内独立建设的停车场，建设用地实行划拨。

**第九条** 本市鼓励单位和个人利用地下空间资源开发建设公共停车场。

开发利用卫生、教育、文化、体育设施及道路、广场、绿地地下空间资源单独选址建设停车场的，建设单位应当进行安全论证，征求地面设施所有权人意见，提出建设方案，由市交通行政主管部门或者区、县停车管理部门会同发展改革、规划、国土资源、住房城乡建设、市政市容、民防、园林绿化等行政主管部门按照鼓励建设的原则，依法办理相应手续。

依照前款规定建设停车场，应当符合国家和本市有关建设标准和规范，不得影响道路、广场、绿地以及原有设施的使用功能和安全。

**第十条** 新建、改建、扩建公共建筑、居住区等，应当按照国家和本市有关规定和规划指标，配建机动车停车场。配套建设的停车场应当与主体工程同步设计、同步施工、同时验收、同时交付使用。

本市核心区的新建、改建、扩建项目，规划行政主管部门应当统筹考虑其所在区域内的居住停车需求，鼓励建设单位在配建指标基础上利用地下空间增建停车场。建设单位应当将增建的停车场对周边居民开放。

**第十一条** 既有居住区配建的停车场不能满足业主停车需求的，按照物业管理的规定经业主同意，可以统筹利用业主共有场地设置临时停车场；居住区不具备场地条件的，区、县人民政府可以组织相关部门按照规定在居住区周边街坊路或者胡同设置临时停车场。

**第十二条** 不能满足居民停车需求的区域，区、县人民政府可以组织相关单位利用待建土地、空闲厂区、边角空地等场所，设置临时停车场。

设置临时停车场，不得占用消防车通道及地下管线检查井等市政基础设施，不得妨碍消防设施和市政基础设施的正常使用，不得影响已批开发项目建设的进度。

As to the parking lots independently built in hospitals, government agencies, museums, exhibition centers, universities, colleges, primary and secondary schools, kindergartens whose land is supplied by allocation and in land for public service facilities, their construction land shall be allocated.

**Article 9** This Municipality encourages units and individuals to develop and build public parking lots by using underground space resources.

When selecting separate sites to construct parking lots by developing and utilizing the underground space resources of health, education, cultural and sports facilities as well as roads, squares and greenbelts, the development units shall carry out the safety argumentation, solicit the opinions of the owners of ground facilities, and put forward the development schemes, and the administrative department for traffic at the municipal level or the department for parking administration at the district or county level shall, together with the administrative departments for development and reform, planning, State-land and resources, housing and urban-rural construction, municipal administration and city appearances, civil defense, landscaping and afforestation, etc., handle the corresponding formalities in accordance with law according to the principle of encouraging such development.

The parking lots constructed in accordance with the provisions in the preceding paragraph shall measure up to relevant construction standards and norms of the State and this Municipality, and shall not affect the use functions and safety of roads, squares, greenbelts and original facilities.

**Article 10** Accessory parking lots for motor vehicles shall be constructed in a newly constructed, reconstructed or expanded public building or residential quarter in accordance with relevant provisions of the State and this Municipality as well as planning indexes. The accessory parking lots shall be simultaneously designed, constructed, accepted and delivered for use with the main works.

As to the new construction, reconstruction or expansion projects at core areas of this Municipality, the administrative departments for planning shall take comprehensive consideration of the parking demand of residents in such areas, and encourage the development units to use underground spaces for constructing additional parking lots on the basis of indexes for accessory parking lots. The development units shall open the additional parking lots to the neighboring residents.

**Article 11** Where the accessory parking lots of existing residential quarters can not satisfy the parking demand of property owners, the spaces commonly owned by property owners may be used to set up temporary parking lots in an overall planned way with the consent of property owners in accordance with the provisions on property management; as to the residential quarters without such spatial conditions, the people's governments at the district or county level may organize relevant departments to set up temporary parking lots on neighborhood roads or in hutongs around such residential quarters in accordance with relevant provisions.

**Article 12** In the areas where the parking demand of residents can not be satisfied, the people's governments at the district or county level may organize relevant units to set up temporary parking lots by using such places as land to be developed, unused factory premises or open spaces at corners.

The setup of temporary parking lots shall not occupy passages for fire engines as well as such municipal infrastructure as inspection shafts of underground pipelines, hamper the



**第十三条** 设置停车场，应当符合国家和本市停车场设置标准和设计规范，并按照规定设置无障碍停车泊位。设置立体停车设备，应当符合特种设备的有关规定。停车场设置后 10 日内，设置单位应当将停车位情况报送区、县停车管理部门。

停车场向社会开放并收费的，应当配建停车诱导系统以及停车诱导标识。

**第十四条** 任何单位和个人不得擅自停止使用停车场，不得将停车场改作他用，因实现原规划用途将临时停车场停止使用的除外。

临时停车场停止使用的，停车场管理单位应当在停止使用前一个月向社会公示，并到有关部门办理相关手续。

**第十五条** 本市建立统一的停车场信息管理和发布系统，对停车泊位进行编号，对停车场信息实行动态管理，并实时公布向社会开放的停车场分布位置、使用状况、泊位数量等情况。

区、县人民政府应当根据本市停车场动态信息管理和发布系统，建设区域停车诱导设施，并负责运行、维护和管理。

停车场向社会开放并收费的，应当将配建的停车诱导系统接入所在区域停车诱导设施，但单位将配建停车场向社会开放的除外。

**第十六条** 本市停车收费遵循城市中心区域高于外围区域、道路停车高于路外停车的原则。具体区域划分及标准由市发展改革行政主管部门会同市交通行政主管部门确定，报市人民政府批准后实施。

在居住区周边街坊路或者胡同设置临时停车场，小区居民凭有效证明停车时，其临时停放或者按月、按年租用停车位收费标准按照居住区露天停车场收费标准执行。

市发展改革行政主管部门应当会同交通、住房城乡建设行政主管部门制定办法，规范居住区地下停车场收费，提高居住区地下停车场利用率。

**第十七条** 居住区的配建停车场应当优先满足业主的停车需要。实行停车收费的，应当执行价格管理的规定，并公示本办法第二十一条第一款第一项、第二项、第五项

normal use of firefighting facilities and municipal infrastructure and affect the construction progress of approved development projects.

**Article 13** In the setup of parking lots, the standards and design norms of the State and this Municipality for setting up parking lots shall be measured up to, and the barrier-free parking berths shall be set up in accordance with relevant standards. In the setup of stereoscopic parking equipment, relevant provisions on special equipment shall be measured up to. Within 10 days after the setup of parking lots, the units setting up such parking lots shall report the information about parking spaces to the departments for parking administration at the district or county level.

Where any parking lot is open to the public with charges, the parking guidance system and parking guidance signs shall be set up in it as accessories.

**Article 14** No unit or individual shall, without authorization, stop the use of any parking lot or use any parking lot for other purposes, unless the use of any temporary parking lot is stopped to realize the originally planned purpose.

Where the use of any temporary parking lot is stopped, the management unit of the parking lot shall make public announcements one month before stopping the use, and handle relevant formalities at relevant departments.

**Article 15** This Municipality shall establish a uniform information management and disclosure system for parking lots, number the parking berths, carry out dynamic management of information about parking lots, and realize real-time disclosure of such information about parking lots open to the public as their locations, using conditions and amount of berths.

The people's governments at the district or county level shall, based on the management and disclosure system for dynamic information about parking lots in this Municipality, build regional parking guidance facilities and be responsible for their operation, maintenance and management.

Where any parking lot is open to the public with charges, its parking guidance system built as an accessory shall be connected with the local regional parking guidance facilities, unless a unit opens its accessory parking lot to the public.

**Article 16** The charging for parking in this Municipality shall follow the principle of higher charges in core areas than that in outskirts areas and higher charges for road parking than that for off-road parking. The specific division of areas and standards shall be determined by the administrative department for development and reform at the municipal level together with the administrative department for traffic at the municipal level, and be implemented after being approved by the Municipal People's Government.

When any temporary parking lot is set up on neighborhood roads or in hutongs around a residential quarter and residents park their vehicles in it with valid certificates, the charging standards for outdoors parking lots in residential quarters shall apply to such temporary parking, or monthly or annual rent of parking space.

The administrative department for development and reform at the municipal level shall, together with the administrative departments for traffic, and housing and urban-rural development at the municipal level, formulate the measures to regulate the charging of underground parking lots in residential quarters and improve the utilization rate of underground parking lots in residential quarters.

**Article 17** The accessory parking lots in residential quarters shall preferentially satisfy the parking demand of property owners. Where charges are collected for parking, relevant provisions on price administration shall apply, and the service contents stipulated in Items

和第八项等服务内容。

**第十八条** 本市鼓励单位和居住区在满足本单位、本居住区居民停车需求的情况下将配建停车场向社会开放；鼓励有条件的单位将配建停车场在非工作时间向社会开放；鼓励单位和个人实行错时停车。

依照前款规定将配建停车场向社会开放的，可以按照核定的价格对社会车辆收取停车费，但不适用本办法第十三条第二款的规定。

**第十九条** 单位或者个人错时合作停车的，停车场管理单位应当予以支持和配合，并为停车人提供便利。

在单位配建停车场错时停车的停车人，应当按照约定的时段停车；超过约定时段拒不驶离、影响停车场正常运行的，停车场有权终止错时停车约定。

**第二十条** 停车场向社会开放并收费的，停车场管理单位应当依法办理工商登记、税务登记、价格核定、明码标价牌编号等手续，在工商登记后 15 日内到区、县停车管理部门办理备案。

办理备案时，应当提交下列材料：

- （一）法人登记证明及复印件；
- （二）委托经营的提供委托经营协议；
- （三）竣工验收文件；
- （四）停车泊位平面示意图和方位图；
- （五）符合规定的停车场设备清单；
- （六）经营、服务、安全管理制度，突发事件应急预案等；
- （七）停车诱导系统建设技术说明书及管理运行方案。

依照本办法第十一条、第十八条第一款规定设置的停车场提交的备案材料不包括前款第三项、第五项和第七项。

**第二十一条** 停车场向社会开放的，停车场管理单位应当遵守下列规定：

- （一）在停车场显著位置明示停车场名称、服务项目、收费标准、车位数量及监督电话；
- （二）按照核定的价格收费，并出具专用发票；

(1), (2), (5) and (8), Paragraph 1 of Article 21 of these Measures shall be publicized.

**Article 18** This Municipality encourages units and residential quarters to open their accessory parking lots to the public under the premise of satisfying their own parking demand; encourages units with relevant conditions to open their accessor parking lots to the public in nonoffice hours; and encourages units and individuals to adopt staggered parking hours.

Where any accessory parking lot is open to the public in accordance with the provisions in the preceding paragraph, the charges for parking may be collected from social vehicles according to the approved prices, but the provisions in Paragraph 2 of Article 13 of these Measures shall not apply.

**Article 19** Where any unit or individual adopts staggered parking hours, the management unit of the parking lot shall render support and cooperation, and provide conveniences to the parkers.

Any parker parking his vehicle in staggered parking hours in the accessory parking lot of any unit shall park as to the agreed period; where he refuses to drive away his vehicle beyond the agreed period resulting in affecting the normal operation of the parking lot, the parking lot shall be entitled to terminate the agreement on staggered parking hours.

**Article 20** Where any parking lot is open to the public with charges, its management unit shall handle the formalities for industrial and commercial registration, tax registration, price approval and price signboard numbering in accordance with law, and be filed for the record at the department for parking administration at the district or county level within 15 days after the industrial and commercial registration.

The following materials shall be submitted when being filed for the record:

- (1) the registration certificate of legal person and its duplicate;
- (2) the agreement for entrusted operation in the case of entrusted operation;
- (3) the documents for completion acceptance upon check;
- (4) the plan sketch and orientation chart of parking berths;
- (5) the checklist of equipment in the parking lot in conformity with relevant provisions;
- (6) the systems for operation, service and safety management, and the emergency response plan, etc.; and
- (7) the construction technology instructions, and the management and operation plan for the parking guidance system.

The materials to be submitted for the filing for the record of any parking lot set up in accordance with the provisions of Article 11 and Paragraph 1 of Article 18 of these Measures shall not include Items (3), (5) and (7) in the preceding paragraph.

**Article 21** Where any parking lot is open to the public, its management unit shall abide by the following provisions:

- (1) to clear indicate its name, service items, charging standards, number of parking berths and complaint hotlines at a conspicuous place;
- (2) to collect charges according to the approved prices, and issue special invoices;

（三）配置完备的停车设施标志标识，为停车人进出提供明确的引导，为残疾人提供必要服务；

（四）指挥车辆按序进出和停放，维护停车秩序；

（五）制定停放车辆、安全保卫、消防、环境卫生等管理制度；

（六）对停车管理员进行专业培训、考核；

（七）不得在停车区域从事影响车辆安全停放的其他经营活动；

（八）建立投诉处理制度；

（九）国家和本市其他相关停车管理服务规范和标准。

中心城范围内的停车场向社会开放并收费的，应当 24 小时开放；按照规定实行限时的临时停车场除外。

**第二十二条** 市交通行政主管部门和区、县停车管理部门应当对向社会开放的停车场的运营服务实行质量信誉考核，考核结果向社会公布。

**第二十三条** 公安机关交通管理部门可以根据道路交通状况、周边停车需求情况，在城市道路上依法设置和调整道路停车泊位，并予以公示。

除前款和本办法第十一条规定的情形外，其他单位和个人不得擅自在城市道路上设置和调整道路停车泊位。

**第二十四条** 区、县停车管理部门应当与道路停车泊位的管理单位签订协议。协议应当包括双方权利义务、期限、终止协议的情形等内容。

道路停车泊位管理单位有下列情形之一的，区、县停车管理部门可以终止协议：

（一）发生服务质量纠纷，影响恶劣的；

（二）未按原承诺标准提供服务的；

（三）未按期足额缴纳占道费的；

（四）质量信誉考核不合格的；

（五）擅自转租转包、挂靠经营的；

（六）多次实施违法行为，拒不改正的；

（七）双方约定的其他可以终止协议的行为；

（八）法律、法规规定的其他情形。

**第二十五条** 市交通行政主管部门和区、县停车管理部门有计划地对道路停车泊

(3) to set up complete signs and marks of parking facilities, provide exact guidance to the parkers and provide necessary services to persons with disability;

(4) to direct the entrance, exit and parking of vehicles in sequence, and maintain the parking order;

(5) to formulate the management systems for vehicle parking, security, fire protection and environmental sanitation, etc.;

(6) to carry out professional trainings and assessment of parking managers;

(7) not to carry out other operational activities affecting the safe parking of vehicles in the parking area;

(8) to establish the complaint handling system; and

(9) other relevant norms and standards of the State and this Municipality on parking management services.

The parking lots in downtown areas open to the public with charges shall be open 24 hours a day, except for temporary parking lots with time limit in accordance with relevant provisions.

**Article 22** The administrative department for traffic at the municipal level and the departments for parking administration at the district or county level shall carry out the quality and credit assessment on the operation services of parking lots open to the public, and the assessment results shall be publicized to the society.

**Article 23** The traffic management departments of public security organs may set up and adjust road parking berths according to the road traffic conditions and the parking demand of neighboring areas, and make public announcements.

Except for the circumstances stipulated in the preceding paragraph and Article 11 of these Measures, no other unit or individual may set up or adjust road parking berths on urban roads without authorization.

**Article 24** The department for parking administration at the district or county level shall enter into agreements with the management units of road parking berths. The agreements shall include such contents as the rights and obligations of both parties as well as the term and the circumstances under which such agreements may terminate.

Where any management units of road parking berths falls in any one of the following circumstances, the departments for parking administration at the district or county level may terminate the agreements:

(1) involving in disputes on service quality resulting in bad influences;

(2) failing to provide services as to the originally promised standards;

(3) failing to pay the road occupation fee in full amount on time;

(4) being unqualified in the quality and credit assessment;

(5) carrying out releasing, subcontracting or affiliated operation without authorization;

(6) committing illegal behaviors repeatedly and refusing to make corrections;

(7) other behaviors agreed upon by both parties for termination of the agreements; or

(8) other circumstances stipulated by laws or regulations.

**Article 25** The administrative department for traffic at the municipal level and the

位内的停车实行电子计时收费。

**第二十六条** 公安机关交通管理部门根据道路实际状况以及维护交通秩序的需要，可以在道路上加装隔离桩等设施，其他任何单位和个人不得损坏、挪移或者拆除。

**第二十七条** 任何单位和个人不得擅自道路上和其他公共区域内设置地桩、地锁等障碍物阻碍机动车停放和通行，不得在未取得所有权的停车位上设置地桩、地锁；物业服务企业应当在物业管理协议和车位租赁协议中予以明示。

任何单位和个人发现擅自在道路上设置地桩、地锁等障碍物的，有权予以制止并举报。

**第二十八条** 机动车应当在停车场内停放，并不得超过规定时间。

在停车场内停放机动车的，停车人应当遵守下列规定：

- （一）服从引导；
- （二）停车入位且车身不得超出停车泊位；
- （三）做好驻车制动；
- （四）不得损坏停车设备；
- （五）按照规定缴纳停车费用；
- （六）进出停车场、停车泊位的，不得妨碍其他车辆或者行人正常通行。

停车人不遵守本条第二款规定的，停车场管理单位有权劝阻；造成损害的，停车场管理单位可以依法提起诉讼。停车人有权对停车管理中的违法行为进行投诉、举报。

**第二十九条** 举办大型群众性活动，承办者应当协调活动周边停车场，提供停车服务，并在票证上标示活动周边公共交通线路、行车路线及停车场位置；停车场地不能满足停车需求的，承办者应当在票证及其他宣传媒体上提示活动参与者选择公共交通前往活动地点。

举办大型群众性活动，需要公安机关交通管理部门采取交通管制措施的，公安机关交通管理部门应当在采取管制措施3日前向社会公告。周边道路有条件的，公安机

departments for parking administration at the district or county level shall adopt electronic timing charge for parking in road parking berths in a planned manner.

**Article 26** The traffic management departments of public security organs may install such facilities as isolation cones on roads according to the actual situation of roads and the demand for maintaining traffic order, and no other unit or individual may damage, remove or demolish such facilities.

**Article 27** No unit or individual may, without authorization, set up such obstacles as ground piles or locks on roads or in other public areas hindering the parking and passage of motor vehicles, or set up ground piles or locks at parking places without ownership; property service enterprises shall make clear such requirements in property management agreements and parking space leasing agreements.

When discovering the setup of such obstacles as ground piles or locks on roads without authorization, any unit or individual may be entitled to stop and report such behaviors.

**Article 28** Motor vehicles shall be parked in parking lots without exceeding the stipulated time limit.

Parkers parking motor vehicles in parking lots shall abide by the following provisions:

- (1) following the guidance;
- (2) parking the vehicles into the parking berths with no part of the vehicles beyond the parking berths;
- (3) ensuring the parking braking;
- (4) not damaging the parking equipment;
- (5) paying charges for parking as stipulated; and
- (6) not hindering the normal passage of other vehicles or passengers when going into or out of parking lots or parking berths.

Where any parker fails to abide by the provisions in Paragraph 2 of this Article, the management unit of the parking lot shall be entitled to dissuade him; where any damage is caused, the management unit of the parking lot may bring a lawsuit in accordance with law. The parkers shall be entitled to complain and report any illegal behaviors in parking management.

**Article 29** Where any largescale mass activity is to be held, the organizer shall coordinate with the parking lots in neighboring areas to provide parking services, and indicate the public transport lines, driving routes and locations of parking lots in neighboring areas on tickets; where the parking space is unable to satisfy the parking demand, the organizer shall remind the participants to choose public transport to the site of the activity on tickets and other publicity media.

Where the holding of any largescale mass activity needs the traffic management departments of public security organs to take traffic control measures, the traffic management departments of public security organs shall make public announcements



关交通管理部门可以在活动场地周边道路设置一定数量的临时停车泊位。

**第三十条** 交通客运换乘场站、医院及其他客流集中的公共场所的管理单位应当设置出租车上下客车位。周边道路有条件的，公安机关交通管理部门应当在上述公共场所周边道路设置出租车专用上下客车位，其他车辆不得占用。

**第三十一条** 违反本办法第十四条的规定，将停车场擅自停止使用或者将停车场改作他用的，由城市管理综合执法部门责令限期改正，恢复原状。

**第三十二条** 违反本办法第二十条第一款的规定，未依法办理工商登记擅自从事停车场经营活动的，由城市管理综合执法部门或者工商行政管理部门根据职责分工依照《无照经营查处取缔办法》予以处理。

违反本办法第二十条第一款的规定，停车场管理单位未按照规定对停车泊位进行备案的，由城市管理综合执法部门处 1 万元罚款。

**第三十三条** 违反本办法第二十一条第一款第一项、第二项的规定，停车场管理单位未明码标价、擅自提高或者降低收费标准的，由发展改革行政主管部门依法处理。

违反本办法第二十一条第一款第三项、第四项、第六项、第七项、第八项、第九项规定之一的，由城市管理综合执法部门给予警告，并责令限期改正；逾期未改正的，处 1000 元罚款；造成严重后果的，处 5000 元以上 1 万元以下罚款。

**第三十四条** 违反本办法第二十一条第二款的规定，停车场未实行 24 小时开放的，由城市管理综合执法部门责令限期改正，并处 5000 元以上 1 万元以下罚款。

**第三十五条** 违反本办法第二十三条第二款的规定，擅自在城市道路上设置和调整道路停车泊位的，由公安机关交通管理部门责令停止违法行为，恢复原状。

**第三十六条** 违反本办法第二十六条的规定，擅自损坏、挪移、拆除隔离桩等设施的，由公安机关交通管理部门依法进行处罚。

**第三十七条** 违反本办法第二十七条的规定，擅自在道路上设置地桩、地锁等障碍物的，由公安机关交通管理部门责令停止违法行为，迅速恢复交通；擅自在居住区

three days before taking traffic control measures. Where the neighboring roads have the conditions, the traffic management departments of public security organs may set up a certain amount of temporary parking berths on roads around the site of the activity.

**Article 30** The management units of interchange stations for passenger transport, hospitals and other public places with huge passenger flow shall set up parking berths for taxis. Where the neighboring roads have the conditions, the traffic management departments of public security organs shall set up the special parking berths for taxis on roads around the aforesaid public places, which shall not be occupied by other vehicles.

**Article 31** Those, in violation of the provisions of Article 14 of these Measures, stopping the use of parking lots or using parking lots for other purposes without authorization shall be ordered by the departments for comprehensive law enforcement in urban management to make corrections within a specified time limit and restore them to the original state.

**Article 32** Those, in violation of the provisions of Paragraph 1 of Article 20 of these Measures, arbitrarily engaging in the operation of parking lots without handling the formalities for industrial and commercial registration shall be handled by the department for comprehensive law enforcement in urban management or the department for industrial and commercial administration within their respective functions and duties in accordance with the Measures for Investigating, Punishing and Banning Unlicensed Business Operations.

Any management units of parking lots, in violation of the provisions of Paragraph 1 of Article 20 of these Measures, failing to file their parking berths for the record as stipulated shall be fined 10,000 Yuan by the departments for comprehensive law enforcement in urban management.

**Article 33** Any management units of parking lots, in violation of the provisions of Item (1) or (2), Paragraph 1 of Article 21 of these Measures, failing to clearly indicate the prices, or raising or lowering the charging standards without authorization shall be handled by the administrative departments for development and reform in accordance with law.

Those, in violation of the provisions of Item (3), (4), (6), (7), (8) or (9), Paragraph 1 of Article 21 of these Measures, shall be given a warning and ordered to make corrections within a specified time limit by the departments for comprehensive law enforcement in urban management; those failing to make corrections within the specified time limit shall be fined 1,000 Yuan; where serious consequences are caused, a fine of not less than 5,000 Yuan but not more than 10,000 Yuan shall be imposed.

**Article 34** Any parking lots, in violation of the provisions of Paragraph 2 of Article 21 of these Measures, failing to be open 24 hours a day shall be ordered to make corrections within a specified time limit and may be fined not less than 5,000 Yuan but not more than 10,000 Yuan by the departments for comprehensive law enforcement in urban management.

**Article 35** Those, in violation of the provisions of Paragraph 2 of Article 23 of these Measures, setting up or adjusting road parking berths on urban roads without authorization shall be ordered by the traffic management departments of public security organs to stop the illegal behaviors and restore the roads to the original state.

**Article 36** Those, in violation of the provisions of Article 26 of these Measures, damaging, removing or demolishing such facilities as isolation cones shall be punished by the traffic management departments of public security organs in accordance with law.

**Article 37** Those, in violation of the provisions of Article 27 of these Measures, setting up such obstacles as ground piles or locks on roads without authorization shall be ordered to stop the illegal behaviors and rapidly resume the traffic by the traffic management

公共区域内设置地桩、地锁等障碍物的，由住房城乡建设行政主管部门依据《物业管理条例》的相关规定进行处罚；擅自在道路、居住区以外的其他公共场所设置地桩、地锁等障碍物的，由城市管理综合执法部门责令停止违法行为，恢复原状，并处 500 元以上 5000 元以下罚款。

公安机关交通管理部门应当会同城市管理综合执法部门具体划定各自在道路及道路、居住区以外其他公共场所相应的职责范围；对尚未明确划定执法管辖权的公共场所擅自设置地桩、地锁等障碍物的，由公安机关交通管理部门依照本条第一款的规定先行对违法行为予以处理。

**第三十八条** 对擅自设置的地桩、地锁等障碍物，属于《中华人民共和国行政强制法》第五十二条规定的情形的，相关部门可以决定立即实施代履行。

**第三十九条** 违反本办法第二十八条第一款的规定，机动车在道路上违反规定停放的，由公安机关交通管理部门依法进行处罚。

**第四十条** 违反本办法，属于违反规划、建设、税务、质量监督、民防、消防等其他相关法律、法规规定的，由相关行政主管部门依法处理。

行政机关在依法查处违法行为过程中，应当按照规定将涉嫌犯罪的案件移交公安机关。

违反本办法，有扰乱公共秩序、招摇撞骗、诈骗、妨碍公务等违反治安管理的行为的，由公安机关依照《中华人民共和国治安管理处罚法》予以处理；构成犯罪的，依法追究刑事责任。

**第四十一条** 行政机关在停车管理中不依法履行监督职责或者监督不力，造成严重后果的，由其上级行政机关或者监察机关责令改正，对直接负责的主管人员和其他直接责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

行政机关的工作人员在停车管理中滥用职权、玩忽职守、徇私舞弊、索贿受贿，构成犯罪的，依法追究刑事责任；尚不够刑事处罚的，依法给予行政处分。

departments of public security organs; those setting up such obstacles as ground piles or locks in the public areas of residential quarters without authorization shall be punished by the administrative departments for housing and urban-rural construction in accordance with relevant provisions of the Regulations on Property Management; those setting up such obstacles as ground piles or locks in other public places beyond roads and residential quarters without authorization shall be ordered to stop the illegal behaviors and restore the places to the original state and fined not less than 500 Yuan but not more than 5,000 Yuan simultaneously by the departments for comprehensive law enforcement in urban management.

The traffic management departments of public security organs shall, jointly with the departments for comprehensive law enforcement in urban management, make specific division of their respective functions and duties on roads and in other public places beyond roads and residential quarters; those setting up such obstacles as ground piles or locks without authorization in the public places whose jurisdiction is not clearly determined shall be handled first by the traffic management departments of public security organs in accordance with the provisions of Paragraph 1 of this Article.

**Article 38** Where the arbitrary setup of such obstacles as ground piles or locks falls in any one of the circumstances stipulated in Article 52 of the Administrative Compulsion Law of the People's Republic of China, relevant departments may decide to immediately carry out law enforcement on behalf of the parties concerned.

**Article 39** Those, in violation of the provisions of Paragraph 1 of Article 28 of these Measures, failing to park motor vehicles on roads as stipulated shall be punished by the traffic management departments of public security organs in accordance with law.

**Article 40** Where any violation of these Measures is also the violation of other relevant laws or regulations on planning, construction, taxation, quality supervision, civil defense and fire protection, it shall be handled by relevant competent administrative departments in accordance with law.

During the investigation and punishment of illegal behaviors, the administrative departments shall transfer the cases suspected involving crimes to the public security organs as stipulated.

Any violation of these Measures involving such behaviors against the administration of public security as disturbing public order, going about and deceiving people, practicing frauds or obstructing public functions carried out shall be handled by the public security organ in accordance with the Law of the People's Republic of China on Penalties for Administration of Public Security; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 41** Where any administrative agency fails to perform its supervision duty or exercises insufficient supervision in parking administration causing serious consequences, its superior administrative agency or supervisory organ shall order it to make corrections and give administrative sanctions to the directly responsible person in charge and other directly responsible person; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

Where any functionary of administrative agencies abusing his power, neglecting his duties, committing illegalities for personal gains or by fraudulent means, asking for and taking bribes constitutes a crime, he shall be investigated for criminal liability in accordance with law; where the circumstances are not serious enough for criminal penalty, he shall be given an administrative sanction in accordance with law.

**第四十二条** 本办法自 2014 年 1 月 1 日起施行。2001 年 3 月 28 日经北京市人民政府第 33 次常务会议通过的《北京市机动车公共停车场管理办法》同时废止。

**Article 42** These Measures shall be effective as of January 1, 2014. The Measures of Beijing Municipality for Administration of Public Motor Vehicle Parking Lots adopted at the 33rd Executive Meeting of the People's Government of Beijing Municipality on March 28, 2001 shall be repealed simultaneously.

# 北京市民用运输机场管理办法

(2014 年 10 月 22 日北京市人民政府第 262 号令公布)

**第一条** 为了规范民用运输机场的建设和管理，保障民用运输机场安全和有序运营，根据《民用机场管理条例》，结合本市实际情况，制定本办法。

**第二条** 本办法适用于本市行政区域内民用运输机场（以下简称机场）的规划、建设、使用、管理及其相关活动。

法律、法规和规章另有规定的，适用其规定。

**第三条** 机场是公共基础设施。市人民政府鼓励、支持机场发展，依法履行属地管理职责，协调解决机场发展中的重大问题。

市人民政府有关行政部门和机场所在地的区县人民政府应当落实相关措施，维护机场秩序，依法监督管理机场相关工作。

**第四条** 本市建立健全机场管理联席会议制度，研究解决机场在规划、建设、大气污染防治、噪声控制、净空保护、交通组织和食品药品监管等领域涉及属地管理职责的重大问题。

机场管理联席会议成员包括市人民政府有关行政部门、机场所在地的区县人民政府和机场管理机构等单位。机场管理联席会议办公室设在市口岸行政部门，负责组织协调机场管理联席会议的相关工作。

**第五条** 机场管理机构负责机场的安全和运营管理，统一协调机场内航空运输企业和其他驻场单位共同保障机场安全运营。

**第六条** 机场总体规划由机场建设项目法人负责编制。机场改建、扩建的，其总

# Measures of Beijing Municipality for Administration of Civil Transport Airports

(Promulgated by Decree No. 262 of the People's Government of Beijing Municipality on October 22, 2014)

**Article 1** These Measures are formulated for the purposes of regulating the construction and management of civil transport airports, and ensuring the safe and orderly operation of civil transport airports in accordance with the Regulations on the Administration of Civil Airports and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to the planning, construction, use, management of civil transport airports (hereinafter referred to as airports) and relevant activities within the administrative area of this Municipality.

Where there are otherwise provisions in laws, regulations or rules, such provisions shall prevail.

**Article 3** Airports belong to public infrastructure. The Municipal People's Government shall encourage and support the development of airports, and perform the duties of dependency administration in accordance with law and coordinate the solution of major problems in the development of airports.

Relevant administrative departments of the Municipal People's Government and the people's governments at the district and county level at the places where the airports are located shall put relevant measures into practice, maintain order of airports, exercise supervision and administration of the work related to airports in accordance with law.

**Article 4** This Municipality shall set up a sound joint conference system for administration of airports, so as to study and solve the major problems of airports in such fields as planning, construction, prevention and control of atmospheric pollution, noise control, protection of obstacle limitation surfaces, traffic organization, and food and drug administration that involve the duties of dependency administration.

Members of the joint conference for administration of airports shall include relevant administrative departments of the Municipal People's Government, the people's governments at the district or county level at the places where the airports are located as well as such units as airport authorities. The office of the joint conference for administration of airports shall be set at the administrative department for port at the municipal level responsible for organizing and coordinating the work related to the joint conference for administration of airports.

**Article 5** The airport authority shall be responsible for the safety and operation management of an airport, and coordinate airlines and other resident units in a unified manner so as to jointly ensure the safe operation of the airport.

**Article 6** The overall planning for an airport shall be formulated by the legal person of the construction project for the airport. Where an airport is reconstructed or expanded, its



体规划由机场管理机构负责编制。

机场总体规划应当符合有关净空保护、安全生产、消防、环境保护、市政市容、口岸监管及气象等方面的法律、法规、规章、标准和技术规范等要求。

机场总体规划应当按照法定程序报经批准，并纳入本市城市总体规划。

**第七条** 市人民政府有关行政部门负责统一规划和统筹建设机场外的供水、供电、供气、供热、通信、道路等基础设施，保证机场内外基础设施的衔接。

**第八条** 机场地区地下管线工程建设单位应当在地下管线工程竣工验收后，按照国家和本市有关规定向城市建设档案馆移交地下管线走向、埋深、转折点位置等工程竣工档案资料。

机场管理机构可以向城市建设档案馆查询本条前款规定的工程竣工档案资料；未依法向城市建设档案馆移交工程竣工档案资料，或者移交的工程竣工档案资料不齐全、不准确的，机场管理机构可以向地下管线工程建设单位查询并获取相关资料，建设单位应当配合。

**第九条** 机场管理机构统一协调管理机场的安全运营，与航空运输企业和其他驻场单位签订协议，明确各方安全责任。

航空运输企业和其他驻场单位应当遵守保障机场安全运营的法律、法规、规章和机场管理机构制定的机场安全管理制度，维护机场运营安全。

**第十条** 任何单位和个人都应当依法履行机场净空保护和电磁保护的义务。

机场净空保护区域内建设工程施工单位使用临时升空机械时，应当提前书面通知机场管理机构。

**第十一条** 机场控制区禁止下列行为：

- （一）无机场控制区通行证进入机场控制区；
- （二）强行闯入滑行道、客机坪，强行登、占航空器；
- （三）攀（钻）越、损毁机场防护围栏和其他安全防护设施；

overall planning shall be formulated by the airport authority.

The overall planning of an airport shall conform to the requirements of laws, regulations, rules, standards and technical specifications on such aspects as protection of obstacle limitation surfaces, work safety, fire protection, environmental protection, municipal administration and city appearance, port supervision and meteorology.

The overall planning of an airport shall be submitted for approval according to the legal procedures, and incorporated into the overall city planning of this Municipality.

**Article 7** Relevant administrative departments of the Municipal People's Government shall be responsible for planning and construction of the infrastructure outside an airport such as water, electricity and gas supply, telecommunications and roads in a unified way, so as to ensure the connection of infrastructure both within and outside the airport.

**Article 8** The construction units for underground pipeline engineering in the airport areas shall, after the acceptance upon check of completion of underground pipeline engineering, transfer the archival materials of construction completion including the routes and burial depths of underground pipelines as well as the positions of turning points to the Urban Construction Archives in accordance with relevant provisions of the State and this Municipality.

The airport authority may inquire the archival materials of construction completion stipulated in the preceding paragraph at the Urban Construction Archives; where any construction unit for underground pipeline engineering fails to transfer the archival materials of construction completion to the Urban Construction Archives in accordance with law or the transferred archival materials of construction completion are incomplete or incorrect, the airport authority may inquire the construction units for underground pipeline engineering and obtain relevant materials, and the construction unit shall offer cooperation.

**Article 9** The airport authority shall conduct unified coordination and management for safe operation of an airport, and enter into agreements with airlines and other resident units so as to clarify the safety responsibility of all parties.

The airlines and other resident units shall abide by the laws, regulations and rules for ensuring safe operation of airports as well as the safety management systems for the airport formulated by the airport authority, so as to ensure safe operation of the airport.

**Article 10** All units and individuals shall perform the obligations of protecting the obstacle limitation surface and electromagnetic environment of airports in accordance with law.

Where a construction unit of construction project in the obstacle limitation surfaces of an airport uses temporary lifting machinery, it shall notify the airport authority in writing in advance.

**Article 11** The following acts are prohibited within the airport controlled areas:

- (1) entering the airport controlled areas without a pass;
- (2) breaking into running lanes or parking aprons for passenger planes, or boarding or occupying aircrafts by force;
- (3) climbing over (going through), or damaging the airport protective fences and other security protection facilities; and

（四）其他威胁航空运输安全、扰乱机场秩序的行为。

机场管理机构应当向社会公示机场控制区的范围。

违反本条第一款规定的，由公安机关依法处理。

**第十二条** 机场管理机构负责编制机场突发事件应急预案。机场突发事件应急预案应当按照规定向机场所在地的区县人民政府备案。

机场管理机构应当建立应急演练制度，定期组织相关单位进行应急演练，组织开展应急预案相关管理人员和专业救援人员应急预案培训。

**第十三条** 市人民政府会同国务院民用航空主管部门建立机场突发事件应急会商机制，负责机场突发事件应急处置的指挥与协调。

在机场发生突发事件时，公安、交通、卫生计生、食品药品监管、通信、气象、水务等行政部门应当按照本市突发事件总体应急预案，做好机场突发事件应急救援的保障工作。

**第十四条** 机场管理机构应当通过信息显示屏、广播、网络等方式及时发布航班计划、航班实时到达和出发时间、进出机场地区公共交通班次、配套服务设施指南等信息，并与市交通行政部门建立信息共享机制。

**第十五条** 当发生大量旅客滞留时，机场管理机构应当采取措施疏散滞留旅客，同时将滞留情况及时向市交通行政部门、机场所在地的区县人民政府报告；必要时，市交通行政部门、机场所在地的区县人民政府应当组织协调运力，疏散滞留旅客。

**第十六条** 市市政市容行政部门会同机场管理机构编制机场地区户外广告设置规划；在机场地区设置户外广告设施，应当符合机场地区户外广告设置规划。

在机场地区户外广告设施上发布户外广告，应当依法办理户外广告登记手续。

**第十七条** 机场所在地的区县市政市容行政部门应当明确机场管理机构、航空运输企业和其他驻场单位市容环境卫生责任区的具体范围和责任要求，督促其做好市容环境卫生工作。

(4) other acts endangering the safety of air transport or disturbing the order of airport.

The airport authority shall make public the scope of airport controlled areas.

Violations of the first paragraph of this Article shall be handled by the public security organ in accordance with law.

**Article 12** The airport authority shall be responsible for formulating the preparedness plan for emergencies at the airport. The preparedness plan for emergencies at the airport shall, in accordance with provisions, be submitted to the people's government at the district or county level at the place where the airport is located for the record.

The airport authority shall establish a system for emergency drills, regularly organize relevant units to conduct emergency drills, and organize the trainings on preparedness plan for emergencies among relevant management staff and professional rescuers related to the preparedness plan for emergencies.

**Article 13** The Municipal People's Government shall establish an airport emergency consultation mechanism together with the department for civil aviation of the State Council to be responsible for the command and coordination of airport emergency disposal.

Where any airport emergency occurs, the administrative departments for public security, traffic, public health and family planning, food and drug administration, telecommunications, meteorology, water affairs, etc. shall bring success to the safeguard of emergency rescues according to the overall preparedness plan for emergencies of this Municipality.

**Article 14** The airport authority shall timely release such information as flight scheduling, real-time arrival and departure time of flights, runs for public transport into and out of the airport areas and guides on supporting service facilities by means of information display screens, broadcasting, Internet, etc., and establish an information sharing mechanism with the administrative department for traffic at the municipal level.

**Article 15** Where a large number of passengers are stranded, the airport authority shall take measures to evacuate the stranded passengers, and timely report relevant situation to the administrative department for traffic at the municipal level and the people's government at the district or county level at the place where the airport is located; where necessary, the administrative department for traffic at the municipal level and the people's government at the district or county level at the place where the airport is located shall organize and coordinate transport capacity to evacuate the stranded passengers.

**Article 16** The administrative department for urban administration and city appearance at the municipal level shall draw up the installation planning for outdoor advertisements in the airport areas together with the airport authority; the installation of outdoor advertisement facilities in the airport areas shall conform to the installation planning for outdoor advertisements.

Releasing outdoor advertisements on the outdoor advertisement facilities in the airport areas shall be subject to the outdoor advertisement registration procedure in accordance with law.

**Article 17** The administrative department for urban administration and city appearance at the district or county level at the place where an airport is located shall make clear the specific scopes of responsible areas of the airport authority, airlines and other resident units for city appearance and sanitation as well as the requirements on their

机场管理机构、航空运输企业和其他驻场单位应当明确各自责任区的市容环境卫生责任人，做好责任区内环境卫生工作。

**第十八条** 机场地区的绿地建设责任单位、管护责任单位应当做好其职责范围内的绿地建设、管护工作。

机场地区的绿地建设责任不明确的，由机场所在地的区县人民政府确定。机场地区的绿地管护责任不明确的，由机场所在地的区县园林绿化行政部门确定。

**第十九条** 在机场航站楼及其楼前道路和停车场内从事下列可能影响公共秩序的活动，活动的组织者、举办者应当提前报经机场管理机构同意：

- （一）开展募捐活动；
- （二）进行新闻采访、调查咨询；
- （三）现场制作广播电影电视节目；
- （四）举办文娱、体育、展览、展销等活动。

未经机场管理机构同意从事本条前款所列活动的，机场管理机构可以进行劝阻。

**第二十条** 机场管理机构、航空运输企业和其他驻场单位应当按照国家和本市规定的标准配备餐饮、通信、医疗救助等服务设施、设备，履行服务规范和承诺，为旅客提供优质、便捷的服务。

机场管理机构应当组织协调航空运输企业和其他驻场单位做好全市性重大活动或者重要涉外活动在机场内的服务保障工作。

**第二十一条** 有关行政部门在机场公共区进行行政执法应当告知机场管理机构，机场管理机构应当予以配合并提供便利。有关行政部门应当采取有利于维护机场安全和有序运营的执法方式。

**第二十二条** 对在机场公共区发生的扰乱公共秩序、破坏机场环境的违法行为，有关行政部门可以委托机场管理机构实施行政处罚。

**第二十三条** 有关行政部门委托机场管理机构实施行政处罚，应当遵守下列规定：

- （一）与机场管理机构书面签订实施行政处罚委托书，并将委托实施行政处罚的管辖范围、权限、期限等予以公告；

responsibility and urge them to do a good job in city appearance and sanitation.

The airport authority, airlines and other resident units shall designate the responsible persons for city appearance and sanitation within their respective responsible areas, and do a good job in city appearance and sanitation within respective responsible areas.

**Article 18** The responsible units for construction and maintenance of greenbelts in the airport areas shall bring success to the construction and maintenance of greenbelts within the scopes of their duties.

Where the responsibility for greenbelt construction in the airport areas is unclear, it shall be decided by the people's government at the district or county level at the place where the airport is located. Where the responsibility for greenbelt maintenance in the airport areas is unclear, it shall be decided by the administrative department for landscaping and afforestation at the district or county level at the place where the airport is located.

**Article 19** Where any of the following activities which might affect the public order is to be held in terminals, on the roads before terminals or in the parking lots of an airport, the organizer or sponsor of such activity shall report to the airport authority for consent in advance:

- (1) donation activities;
- (2) press interviews or surveys;
- (3) production of live broadcasting, film or TV programs; or
- (4) entertainment, sports, exhibition or sales activities.

Where any activity listed in the preceding paragraph is held without the consent of the airport authority, the airport authority may dissuade it.

**Article 20** The airport authority, airlines and other resident unit shall, in accordance with the provisions of the State and this Municipality, provide service facilities and equipment for catering, telecommunications and medical aid, etc., perform their service specifications and commitments and provide passengers with quality and convenient services.

The airport authority shall organize and coordinate airlines and other resident units to bring success to service assurance in the airport for major municipal-level activities or important foreign-related activities.

**Article 21** Relevant administrative departments to carry out administrative law enforcement in the airport public areas shall notify the airport authority, and the airport authority shall offer cooperation and conveniences. Relevant administrative departments shall adopt law enforcement manners which are good for maintaining the safe and orderly operation of the airport.

**Article 22** As to any law-breaking act which disturbs the public order or damages the airport environment in the airport public areas, relevant administrative department may authorize the airport authority to impose administrative penalties.

**Article 23** Relevant administrative department to authorize the airport authority to impose administrative penalties shall abide by the following provisions:

- (1) to enter into a written letter of authorization on imposing administrative penalties with the airport authority, and make public the scope of jurisdiction, limits of power and term of such authorization;

(二) 对机场管理机构实施行政处罚行为的合法性、合理性进行监督；

(三) 不得实施已委托机场管理机构实施的行政处罚事项；

(四) 对机场管理机构实施的行政处罚承担法律责任。

**第二十四条** 机场管理机构接受有关行政部门委托实施行政处罚，应当遵守下列规定：

(一) 配备熟悉有关法律、法规、规章和机场管理业务的执法人员；

(二) 执法人员应当经过培训、考核合格并取得执法证件；

(三) 严格依照委托内容和法定程序实施行政处罚；

(四) 将实施行政处罚的情况向委托部门报告，并接受监督。

**第二十五条** 市人民政府有关行政部门、机场所在地的区县人民政府和机场管理机构对机场地区行政执法涉及的法律依据、主体资格、执法范围、执法权限和方式等问题无法准确界定或者存在分歧的，可以提请机场管理联席会议研究解决。

**第二十六条** 本办法下列用语的含义：

机场管理机构，是指依法组建或者受委托负责机场安全和运营管理的具有法人资格的机构。

机场地区，是指本市城市总体规划中划定的民用运输机场用地的区域，包括机场控制区和机场公共区。

机场控制区，是指根据安全需要在机场内划定的进出受到限制的区域，包括候机隔离区、行李分检装卸区、航空器活动区、航空器维修区和货物存放区等。

机场公共区，是指机场控制区以外的机场地区。

**第二十七条** 本办法自 2015 年 1 月 1 日起施行。

(2) to supervise the legality and rationality of the acts of the airport authority in imposing administrative penalties;

(3) not to impose the administrative penalties which have already been authorized to the airport authority; and

(4) to shoulder legal liability for the administrative penalties imposed by the airport authority.

**Article 24** The airport authority to accept the authorization of relevant administrative department on imposing administrative penalties shall abide by the following provisions:

(1) to be equipped with law enforcement personnel who are familiar with relevant laws, regulations and rules as well as the airport's management business;

(2) the law enforcement personnel shall be qualified upon training and examination and have obtained law enforcement certificates;

(3) to impose administrative penalties strictly according to the contents of authorization and legal procedures; and

(4) to report the imposition of administrative penalties to relevant authorizing department, and accept the latter's supervision.

**Article 25** Where relevant administrative departments of the Municipal People's Government, the people's governments at the district or county level at the place where the airport is located and the airport authority cannot correctly define or have divergence in defining such issues as the legal basis, subject qualification, scope of law enforcement, limits of power in law enforcement and manners of law enforcement involved in the administrative law enforcement in airport areas, they may submit the issues to the joint conference for administration of airports for study and solution.

**Article 26** As used in these Measures, the following terms mean:

The airport authority refers to an organization with the status of a legal person which is lawfully established or authorized to be responsible for the safety and operation management of an airport.

The airport areas refer to the areas of land used for a civil transport airport delimited in the overall city planning of this Municipality, including the airport controlled areas and airport public areas.

The airport controlled areas refer to the areas with entrance and exit restrictions delimited in the airport according to the security needs, including the departure sterile area, baggage sorting, loading and unloading area, aircraft moving area, aircraft maintenance area and cargo storage area, etc..

The airport public areas refer to other areas of the airport other than the airport controlled areas.

**Article 27** These Measures shall be effective as of January 1, 2015.



## （四）信息通讯

### 北京市邮政通信条例

（1994年7月22日北京市第十届人民代表大会常务委员会第十一  
十一次会议通过）

#### 第一章 总 则

**第一条** 为保障邮政通信畅通，提高邮政通信服务水平，促进邮政通信事业发展，适应首都社会主义现代化建设和人民生活的需要，根据《中华人民共和国邮政法》和有关法律、法规的规定，结合本市实际情况，制定本条例。

**第二条** 本条例适用于本市行政区域内的邮政通信工作。

**第三条** 北京市邮政管理局是本市邮政通信工作的主管部门。

市区和远郊区的邮政（邮电）局按照市邮政管理局的授权，负责本辖区内的邮政通信管理工作。

**第四条** 各级人民政府应当加强对邮政通信工作的领导，把邮政通信建设纳入国民经济和社会发展规划，按照“统筹规划、条块结合、分层负责、联合建设”的方针，发展邮政通信事业。

**第五条** 邮政企业应当为用户提供迅速、准确、安全、方便的邮政通信服务。

**第六条** 通信自由和通信秘密受法律保护，除法律另有规定外，任何单位或者个人不得侵犯他人的通信自由和通信秘密。

**第七条** 任何单位或者个人都负有保护邮政设施和邮件安全的责任，并有权对破坏邮政设施、危害邮件安全的行为予以制止、检举和控告。

**第八条** 邮政企业应当不断采用先进的科学技术和现代化的管理手段，发展邮政

## iv. Information Communication

### Regulations of Beijing Municipality on Postal Communications

(Adopted at the 11<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup>  
People's Congress of Beijing Municipality on July 22, 1994)

#### Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of ensuring smooth postal communications, improving the service level of postal communications, promoting the development of postal communications undertakings, and meeting the needs of socialist modernization and the people's livelihood of the capital in accordance with the provisions of the Postal Law of the People's Republic of China and relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to the postal communications services within the administrative area of this Municipality.

**Article 3** Beijing Municipal Postal Administration is the competent department in charge of the postal communications services in this Municipality.

Post (and telecommunications) offices in urban areas and outer suburban areas shall be responsible for the administration of postal communications within their respective areas as authorized by the Municipal Postal Administration.

**Article 4** The people's governments at all levels shall strengthen their leadership over postal communications services, incorporate the construction of postal communications into the plans for national economic and social development, and develop postal communications undertakings in accordance with the principles of "overall planning, integration of departments and regions at different levels, taking responsibility at different levels and joint construction".

**Article 5** Postal enterprises shall provide users with prompt, accurate, safe and convenient postal communications services.

**Article 6** Freedom and privacy of communications shall be protected by law. Unless otherwise provided by law, no unit or individual may infringe upon the freedom and privacy of communications of others.

**Article 7** All units and individuals shall be responsible for protecting postal facilities and mail safety, and shall have the right to stop, report and charge against any act that damages postal facilities or endangers mail safety.

**Article 8** Postal enterprises shall constantly adopt advanced science and technology as well as modern management means to develop postal communications undertakings; units and individuals that have made creations and inventions in scientific and technological research on postal communications or achieved notable results in popularization

通信事业；对在邮政通信科学技术研究中有创造发明或者推广应用先进技术成效显著的，以及在邮政通信工作中成绩突出，在保护邮政设施和邮件安全等方面做出突出贡献的单位和个人，邮政通信主管部门应当给予表彰和奖励。

## 第二章 邮政设施的规划与建设

**第九条** 邮政通信主管部门应当根据北京城市总体规划和社会发展的需要，会同有关部门制定本市邮政通信专业规划和分期实施计划，并组织实施。

**第十条** 新建、改建、扩建居住区、工业区、商业区、开发区、机场、火车站等建设工程，应当同时规划和设置与之配套的邮政设施，并与主体工程同时设计、同时施工、同时验收。

**第十一条** 城市规划管理部门在审批居住区、工业区、商业区、开发区、机场、火车站等建设工程初步设计时，应当听取邮政通信主管部门对配套建设邮政设施的意见。

**第十二条** 建设单位应当按照批准的设计建设邮政设施，保证工程质量。设计需要变更的，必须报原审批部门批准。

**第十三条** 承担邮政工程施工勘察设计、施工和工程监理的单位，必须具备相应的资质等级，并严格执行国家和本市有关邮政设施建设的标准、定额和规范。邮政设施工程竣工验收时，应当有邮政通信主管部门参加。

**第十四条** 新建居民楼必须按照国家和本市的有关规定设置信报箱、间（群）或者收发室。

已建成的居民楼未按照规定设置信报箱、间（群）或者收发室的，必须按照有关规定补建。

**第十五条** 火车站、机场应当设有办理邮政业务的场所，并在邮件装卸、转运作业场所、邮政车辆出入通道等设施的配套建设方面为邮政企业提供方便。

大型宾馆、饭店等公共建筑应当设有办理邮政业务的场所。

and application of advanced technology, have made outstanding achievements in postal communications services, and have made outstanding contributions to the protection of postal facilities and mail safety shall be commended and rewarded by the competent departments for postal communications.

## **Chapter II Planning and Construction of Postal Facilities**

**Article 9** The competent departments for postal communications shall, in accordance with the needs of the overall urban planning of Beijing and social development, work with the relevant departments to formulate and organize the implementation of the professional planning and phased implementation plan for postal communications in this Municipality.

**Article 10** In the construction of new, reconstructed or expanded residential areas, industrial areas, commercial areas, development zones, airports, railway stations, etc., supporting postal facilities shall be planned and set up simultaneously, and designed, constructed and accepted simultaneously with the main works.

**Article 11** When examining and approving the preliminary design for construction projects such as residential areas, industrial areas, commercial areas, development zones, airports and railway stations, the urban planning departments shall listen to the opinions of the competent departments for postal communications on the construction of supporting postal facilities.

**Article 12** The development units shall construct postal facilities in accordance with the approved design to ensure project quality. If the design needs to be changed, it must be submitted to the original examination and approval department for approval.

**Article 13** Units undertaking survey, design, construction and supervision of postal construction projects must have corresponding qualification levels and strictly implement the standards, quotas and specifications of the State and this Municipality for construction of postal facilities. The competent departments for postal communications shall participate in the completion acceptance of postal facilities.

**Article 14** New residential buildings must have mail boxes or space for (or combinations of) mail boxes or mail rooms in accordance with relevant provisions of the State and this Municipality.

If a completed residential building does not have mail boxes or space for (or combinations of) mail boxes or mail rooms, supplementary construction shall be conducted in accordance with relevant provisions.

**Article 15** Railway stations and airports shall have places for handling postal business, and shall provide convenience for postal enterprises in the construction of supporting facilities such as mail handling and transfer operation places and access ways for postal vehicles.

Public buildings such as large hotels and restaurants shall have places for handling postal business.

**第十六条** 邮政通信主管部门应当在车站、机场、商场、旅游点等公共场所和其他方便群众的地方设置邮亭、邮政报刊亭、邮筒等邮政设施。

**第十七条** 市人民政府和远郊区的人民政府以及邮政通信主管部门应当对边远、贫困地区的邮政设施的建设在政策、资金、物资等方面予以扶持。

### 第三章 邮政通信的管理

**第十八条** 未经邮政企业委托，任何单位或者个人不得经营信函、明信片或者其他具有信件性质的物品的寄递业务，但国务院另有规定的除外。

**第十九条** 经营速递业务的非邮政企业，应当遵守邮政法律、法规和有关规定，并须接受邮政通信主管部门的监督检查。凡需使用邮政企业的通信网络经营速递业务的，应当到邮政通信主管部门备案并办理有关手续。

**第二十条** 邮政企业可以委托符合条件的单位或者个人代办邮政业务。代办的单位或者个人应当严格执行有关邮政业务规则、资费标准和服务标准，接受邮政通信主管部门的监督和指导。

**第二十一条** 任何单位或者个人不得印制未经邮政通信主管部门监制的明信片和通信使用的信封，不得销售自制的集邮品。

**第二十二条** 农村地区按行政村设置村邮站，负责投递本村邮政用户的邮件、报刊。邮政通信主管部门应当积极扶持村邮站的设置，并对其进行业务指导和监督。

**第二十三条** 邮政用户应当使用符合标准的信封和明信片；邮寄包裹、印刷品按照规定的规格标准封装，并按规定正确书写收件人、寄件人的姓名、地址和邮政编码；遵守禁止寄递或者限量寄递物品的规定。

**第二十四条** 居民楼的产权单位或者管理单位、新设置的单位应当到所在地邮政（邮电）局办理邮件、报刊投递登记手续。

邮件接收单位名称、地址、楼号、门牌号等变更的，应当到原登记的邮政（邮电）

**Article 16** The competent departments for postal communications shall set up postal kiosks, newspaper kiosks, mail boxes, etc. in public places such as stations, airports, shopping malls and tourist spots and other places convenient for the masses.

**Article 17** The Municipal People's Government, people's governments of outer suburban areas and competent departments for postal communications shall give support to the construction of postal facilities in remote and poverty-stricken areas in terms of policies, funds, materials, etc.

### **Chapter III Administration of Postal Communications**

**Article 18** Without the authorization of a postal enterprise, no unit or individual may engage in the business of mailing and delivering letters, postcards or other articles with the nature of letters, except as otherwise provided by the State Council.

**Article 19** Non-postal enterprises engaged in express delivery business shall abide by the laws, regulations and relevant provisions on postal services, and shall accept the supervision and inspection of the competent departments for postal communications. Where it is necessary to use the communications network of a postal enterprise to engage in express delivery business, they shall go to the competent departments for postal communications for handling the filing and other relevant formalities.

**Article 20** Postal enterprises may entrust qualified units or individuals to handle postal business on their behalf. Such units or individuals shall strictly implement the relevant rules, rates and service standards for postal business, and accept the supervision and guidance of the competent departments for postal communications.

**Article 21** No unit or individual may print postcards and envelopes used for communications without the supervision of the competent departments for postal communications, and may not sell self-made philatelic items.

**Article 22** In rural areas, a village post station shall be set up in each administrative village, which shall be responsible for delivering mail, newspapers and periodicals to postal users in the village. The competent departments for postal communications shall actively support the establishment of village post stations and give them operational guidance and supervision.

**Article 23** Postal users shall use envelopes and postcards that conform to the standards; parcels and printed materials to be mailed shall be sealed in accordance with the prescribed specifications and standards, and the names, addresses and postal codes of the addressees and senders shall be correctly written as stipulated; and the provisions on forbidding or limiting the mailing and delivery shall be observed.

**Article 24** The property right unit or management unit of a residential building or a newly established unit shall go to the local post (and telecommunications) office to complete registration formalities for the delivery of mail, newspapers and periodicals.

In the event of any change in the name, address, building number or house number of the mail receiving unit, the change registration formalities shall be completed at the post (and

局办理变更登记手续。

## 第四章 邮政设施的保护与邮政通信的社会保障

**第二十五条** 各级人民政府应当加强邮政设施保护工作的领导，开展邮政设施保护的宣传教育。邮政企业应当建立邮政设施保护的责任制度，加强对邮政设施的检查、维护和管理，保证邮政设施的完好。

**第二十六条** 居民楼设置的信报箱、间（群），由有关产权单位或者管理单位负责管理，发现损坏或者其他不能保证邮件安全等情况时，应当及时维修或者更换；也可以委托邮政企业维修或者更换，所需工料费由委托单位支付。

**第二十七条** 因建设需要拆除、迁移邮政设施的，建设单位或者施工作业单位应当事先征得邮政企业的同意，在保证邮政通信正常进行和方便用户用邮的情况下，与邮政企业签订协议，根据先建后拆的原则进行，有关费用由建设单位承担。

**第二十八条** 本市铁路、公路、航空、海关、公安交通等部门应当在邮件的收寄、投递、运输、邮政网点设置等方面提供便利条件。

**第二十九条** 任何单位或者个人不得有下列行为妨害邮政通信工作的正常进行：

- （一）损坏邮政信筒（箱）、邮亭、邮政报刊亭等邮政设施；
- （二）私开邮政信筒（箱）或者向邮政信筒（箱）内塞投易燃易爆或者腐蚀性等危险物品以及其他杂物；
- （三）在邮政局（所）门前、邮政信筒（箱）周围及邮车必经通道内堆物堆料、摆摊设点，妨害用户用邮或者影响邮车通行；
- （四）伪造或者冒用邮政专用标志、邮政标志服和邮政专用品；
- （五）阻碍邮政工作人员执行公务或者殴打、辱骂、伤害邮政工作人员；
- （六）非法检查、截留邮件或者拦截邮政运输工具。

telecommunications) office where original registration is done.

## **Chapter IV    Protection of Postal Facilities and Social Security for Postal Communications**

**Article 25**    The people's governments at all levels shall strengthen the leadership over the protection of postal facilities and carry out publicity and education on the protection of postal facilities. Postal enterprises shall establish a responsibility system for the protection of postal facilities, and strengthen the inspection, maintenance and management of postal facilities, so as to ensure that postal facilities are in good condition.

**Article 26**    The relevant property right units or management units shall be responsible for the management of the mail boxes or space for (or combinations of) mail boxes set up in residential buildings. In case of any damage or other circumstances in which mail safety cannot be guaranteed, prompt repair or replacement is required; the repair or replacement may also be entrusted to postal enterprises, and the cost of labor and materials required shall be paid by the entrusting units.

**Article 27**    If postal facilities need to be demolished or relocated due to construction, the development units or field operation units shall, with the prior consent of postal enterprises and under the condition of ensuring normal postal communications and facilitating the use of postal services, enter into an agreement with postal enterprises and conduct construction before demolition, with relevant expenses borne by the development units.

**Article 28**    The railway, highway, aviation, customs and traffic management departments of this Municipality shall provide convenience in terms of mail receiving and sending, delivery, transportation, establishment of postal outlets, etc.

**Article 29**    No unit or individual may commit any of the following acts that hinder normal postal communications services:

- (1) damaging postal facilities such as mail boxes, postal kiosks and newspaper kiosks;
- (2) opening mail boxes without authorization or throwing into mail boxes inflammable, explosive, corrosive or other dangerous articles and other sundries;
- (3) piling up articles or setting up stalls in front of the gate of post offices (or branches), around mail boxes and on the passage where mail trucks must pass, thus hindering the use of postal services or affecting the passage of mail trucks;
- (4) forging or falsely using special postal marks, postal uniforms and special postal articles;
- (5) hindering postal staff from performing their official duties or beating, abusing or injuring postal staff; or
- (6) illegally inspecting or intercepting mail or intercepting postal vehicles.



## 第五章 邮政通信的服务与社会监督

**第三十条** 邮政企业应当加强职工教育，不断提高职工队伍素质；邮政企业的工作人员应当忠于职守，廉洁奉公，信守职业道德，改善服务态度，提高服务质量。

**第三十一条** 邮政企业应当在营业场所公布服务范围、服务标准、业务程序、资费标准、营业时间和监督电话。

**第三十二条** 邮政企业除应当遵守国家邮政法律、法规和有关业务规则外，还应当遵守下列规定：

- （一）对符合接收邮件条件的新建居民楼和新建单位，在二个月内安排投递；
- （二）执行邮件、报刊、电报传递时限的规定，逐步扩大日报早投范围，保证邮件、报刊的投递质量；
- （三）在邮政信筒（箱）上标明开取信件的频次和时间，并按规定开取。对用户投入黄帽信筒的信件，优先处理。

**第三十三条** 邮政企业可以根据用户的要求和具体条件与用户签订协议，约定投递位置和方式及其他服务项目。

**第三十四条** 禁止邮政企业及其工作人员的下列行为：

- （一）利用工作之便索要财物、牟取私利或者故意刁难用户；
- （二）擅自中断正常的邮政业务；
- （三）擅自将邮政设施改作他用；
- （四）擅自出卖、出借邮政专用品；
- （五）擅自改变资费标准或者增加收费项目；
- （六）私拆、隐匿、毁弃邮件、电报或者从邮件中窃取财物。

本条规定适用于代办邮政业务的单位和个人。

**第三十五条** 邮政企业的服务应当接受有关部门和群众的监督。邮政通信主管部门对邮政用户的投诉应当及时调查处理，并答复用户。

## Chapter V Postal Communications Services and Social Supervision

**Article 30** Postal enterprises shall strengthen employee education and continuously improve the quality of their workforce; the employees of postal enterprises shall be devoted to their duties, be honest and upright, abide by professional ethics, and improve the service attitude and quality.

**Article 31** Postal enterprises shall publicize the scope of services, service standards, business procedures, rates, business hours and complaints hotlines in their business places.

**Article 32** Postal enterprises shall comply with the following provisions in addition to the laws, regulations and relevant business rules on postal services of the State:

(1) to arrange delivery within 2 months for new residential buildings and new units that meet the conditions for receiving mail;

(2) to implement the provisions on the time limit for delivery of mail, newspapers, periodicals and telegrams, gradually expand the scope of early delivery of daily newspapers, and ensure the quality of delivery of mail, newspapers and periodicals; and

(3) to indicate the time of opening mail boxes and taking out letters on mail boxes and do the same as required. Priority shall be given to letters put into yellow-cap mail boxes by users.

**Article 33** Postal enterprises may, according to the requirements and specific conditions of users, enter into an agreement with users to agree on the location and mode of delivery and other service items.

**Article 34** The following acts of postal enterprises and their staff are prohibited:

(1) taking advantage of their work to ask for benefit, seek personal gain or deliberately put in vexatious requests against users;

(2) interrupting normal postal services without authorization;

(3) diverting postal facilities for other purposes without authorization;

(4) selling or lending special postal articles without authorization;

(5) changing the rates standards or increasing charge items without authorization; or

(6) opening without authorization, concealing, destroying or discarding mail or telegrams or stealing property from mail.

The provisions of this article shall apply to the units and individuals that handle postal business upon entrustment.

**Article 35** The services of postal enterprises shall be subject to the supervision of the relevant departments and the masses. The competent departments for postal communications shall promptly investigate and handle the complaints of postal users and reply to users.

## 第六章 法律责任

**第三十六条** 违反本条例第十条、第十二条、第十三条规定，建设工程未按照规定配套建设邮政设施、擅自改变邮政设施设计或者配套建设的邮政设施不合格的，由邮政通信主管部门责令限期建设或者改正，并由责任单位承担邮政企业为解决用户用邮采取的临时措施所需的费用，直至配套建设的邮政设施验收合格。

**第三十七条** 违反本条例第十四条规定，已建成的居民楼未按照规定设置信报箱、间（群）或者收发室的，由邮政通信主管部门责令居民楼的产权单位或者管理单位限期补建。逾期不补建的，每逾期一天，处以 100 元罚款，直至补建合格。

**第三十八条** 违反本条例第十八条规定，未经邮政企业委托经营信函、明信片或者其他具有信件性质的物品的寄递业务的，由邮政通信主管部门提请工商行政管理部门责令其将收寄的信函、明信片或者其他具有信件性质的物品以及收取的资费退还寄件人，并处以罚款。

**第三十九条** 违反本条例第十九条规定，非邮政企业使用邮政企业的通信网络经营速递业务，不到邮政通信主管部门备案的，由邮政通信主管部门责令其限期补办备案手续。逾期不备案的，每逾期一天，处以 500 元罚款。

**第四十条** 违反本条例第二十一条规定，印制未经邮政通信主管部门监制的明信片和通信使用的信封或者销售自制集邮品的，由邮政通信主管部门责令其改正，没收物品和非法所得，并处以 1 万元以下罚款。

**第四十一条** 违反本条例第二十六条规定，居民楼设置的信报箱、间（群）以及邮件接收单位的邮政设施损坏，有关产权单位或者管理单位不及时维修或者更换的，由邮政通信主管部门责令其限期维修、更换。逾期不维修、更换的，每逾期一天，处以 100 元罚款。

**第四十二条** 违反本条例第二十七条规定，未征得邮政企业同意，擅自拆除、迁移邮政设施的，应当恢复原状或者赔偿损失，并可由邮政通信主管部门对责任单位处

## Chapter VI Legal Liability

**Article 36** Where a construction project, in violation of the provisions of Articles 10, 12 and 13 of the Regulations, fails to be equipped with supporting postal facilities as stipulated, has the design of postal facilities changed without authorization, or fails to be equipped with qualified supporting postal facilities, the competent department for postal communications shall order construction or correction within a specified time limit, and the responsible unit shall bear the cost of the temporary measures taken by postal enterprises to provide postal services until the acceptance of the supporting postal facilities.

**Article 37** Where a completed residential building, in violation of the provisions of Article 14 of the Regulations, fails to be equipped with mail boxes or space for (or combinations of) mail boxes or mail rooms as stipulated, the competent department for postal communications shall order the property right unit or management unit of the residential building to complete construction within a specified time limit. If the construction is not completed within the specified time limit, a fine of 100 yuan shall be imposed for each day overdue until qualified construction is completed.

**Article 38** Where a person, in violation of the provisions of Article 18 of the Regulations, engages in the business of mailing and delivering letters, postcards or other articles with the nature of letters without authorization of postal enterprises, the competent department for postal communications shall submit the matter to the administrative department for industry and commerce for ordering the person to return the letters, postcards or other articles with the nature of letters that have been picked up as well as the fees that have been collected to the senders, and a fine shall be imposed.

**Article 39** Where non-postal enterprises, in violation of the provisions of Article 19 of the Regulations, use the communications network of postal enterprises to engage in express delivery business without filing with the competent departments for postal communications, the competent departments for postal communications shall order them to go through the filing formalities within a specified time limit. If they fail to do so within the specified time limit, a fine of 500 yuan shall be imposed for each day overdue.

**Article 40** Whoever, in violation of the provisions of Article 21 of the Regulations, prints postcards and envelopes used for communications without supervision of the competent departments for postal communications or sells self-made philatelic items shall be ordered by the competent departments for postal communications to make corrections, have the articles and illegal income confiscated and be fined not more than 10,000 yuan.

**Article 41** Where the relevant property right units or management units, in violation of the provisions of Article 26 of the Regulations, fail to repair or replace the damaged mail boxes or space for (or combinations of) mail boxes in residential buildings as well as damaged postal facilities of mail receiving units in a timely manner, the competent departments for postal communications shall order them to repair or replace such facilities within a specified time limit. If they fail to do so within the time limit, they shall be fined 100 yuan for each day overdue.

**Article 42** Whoever, in violation of the provisions of Article 27 of the Regulations, dismantles or relocates postal facilities without the consent of postal enterprises shall restore

以1万元以下罚款。

**第四十三条** 违反本条例第二十九条第（一）、（二）、（五）、（六）项规定，造成经济损失的，应当赔偿经济损失；违反治安管理规定的，由公安机关依法处罚；构成犯罪的，依法追究刑事责任。

**第四十四条** 违反本条例第二十九条第（三）项规定，在邮政局（所）门前、邮政信筒（箱）周围及邮车必经通道内堆物堆料、摆摊设点，妨害用户用邮或者影响邮车通行的，由邮政通信主管部门给予警告、责令限期改正。逾期不改正的，由邮政通信主管部门会同工商行政、公安交通等部门采取措施予以清除，并按照有关规定予以处罚。

**第四十五条** 违反本条例第二十九条第（四）项规定，伪造或者冒用邮政专用标志、邮政标志服和邮政专用品的，由邮政通信主管部门处以1500元以下罚款，并没收有关物品。

**第四十六条** 新建居民楼和新建单位具备通邮条件，并办理了投递登记手续，逾两个月不通邮的，由邮政通信主管部门责令责任单位改正；逾期不改正的，对责任人给予行政处分或者罚款。

**第四十七条** 违反本条例第三十四条第（一）、（二）、（三）、（四）项规定，侵犯用户合法权益或者擅自出卖、出借邮政专用品的，由所在单位或者上级主管部门责令立即改正，没收非法所得，退还非法索要的财物，根据情节给予行政处分；并可由邮政通信主管部门对责任单位处以1万元以下罚款，对责任人处以1000元以下罚款；构成犯罪的，依法追究刑事责任。

**第四十八条** 违反本条例第三十四条第（五）项规定，擅自改变资费标准或者增加收费项目的，由物价部门依法处罚。

**第四十九条** 违反本条例第三十四条第（六）项规定，私拆、隐匿、毁弃邮件、电报的，依照《中华人民共和国刑法》第一百九十一条第一款规定追究刑事责任；从邮件中窃取财物的，依照《中华人民共和国刑法》第一百九十一条第二款规定，按贪

to the original state or compensate for the losses, and the competent departments for postal communications may impose a fine of not more than 10,000 yuan on the responsible units.

**Article 43** Whoever violates the provisions of Items (1), (2), (5) and (6) of Article 29 of the Regulations thus causing economic losses shall compensate for the economic losses; whoever violates the provisions on administration of public security shall be punished by the public security organs according to law; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 44** Whoever, in violation of the provisions of Item (3) of Article 29 of the Regulations, piles up articles or sets up stalls in front of the gate of post offices (or branches), around mail boxes and on the passage where mail trucks must pass thus hindering the use of postal services by users or affecting the passage of mail trucks shall be given a warning or ordered to make corrections within a specified time limit by the competent departments for postal communications. In case of failure to make corrections within the time limit, the competent departments for postal communication shall, together with the administrative departments for industry and commerce, the traffic management departments, etc., take measures to remove them and impose punishments in accordance with relevant provisions.

**Article 45** Whoever, in violation of the provisions of Item (4) of Article 29 of the Regulations, forges or falsely uses special postal marks, postal uniforms and special postal articles shall be fined not more than 1,500 yuan and have the relevant articles confiscated by the competent departments for postal communications.

**Article 46** Where no postal services are provided in newly-built residential buildings or newly-built units that meet the conditions for postal services for more than 2 months after the delivery registration formalities, the competent departments for postal communications shall order the responsible units to make corrections; if they fail to make corrections within the specified time limit, the person responsible shall be given administrative sanctions or a fine.

**Article 47** Whoever, in violation of the provisions of Items (1), (2), (3) and (4) of Article 34 of the Regulations, infringes the legitimate rights and interests of users or sells or lends special postal articles without authorization shall be ordered by the unit to which he belongs or the competent department at the next higher level to make corrections immediately, have the illegal gains confiscated, return the illegally claimed property, and be given administrative sanctions depending on the circumstances; the competent department for postal communications may impose a fine of not more than 10,000 yuan on the responsible unit and not more than 1,000 yuan on the person responsible; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 48** Whoever, in violation of the provisions of Item (5) of Article 34 of the Regulations, arbitrarily changes the rates standards or increases the charge items shall be punished by the price administration department according to law.

**Article 49** Whoever, in violation of the provisions of Item (6) of Article 34 of the Regulations, opens without authorization, conceals, destroys or discards mail or telegrams shall be held accountable for criminal responsibility in accordance with the provisions of

污罪从重处罚。

**第五十条** 当事人对行政处罚决定不服的，可以在接到处罚通知书之日起15日内，向作出处罚决定机关的上一级机关申请复议；对复议决定不服的，可以在接到复议决定书之日起15日内，向人民法院提起诉讼。当事人也可以在接到处罚通知书之日起15日内，直接向人民法院提起诉讼。当事人逾期不申请复议、也不向人民法院起诉、又不履行处罚决定的，由作出处罚决定的机关申请人民法院强制执行。

**第五十一条** 邮政通信主管部门的工作人员滥用职权、玩忽职守、徇私舞弊的，由所在单位或者上级主管部门给予行政处分；构成犯罪的，依法追究刑事责任。

## 第七章 附 则

**第五十二条** 本条例具体应用中的问题，由北京市邮政管理局负责解释。

**第五十三条** 本条例自1994年10月1日起施行。

Paragraph 1 of Article 191 of the Criminal Law of the People's Republic of China; whoever steals money or property from mail shall be given a heavier punishment based on the crime of corruption in accordance with the provisions of Paragraph 2 of Article 191 of the Criminal Law of the People's Republic of China.

**Article 50** If a party involved refuses to accept a decision of administrative penalty, he may, within 15 days from the date of receiving the notice of penalty, apply for reconsideration to the authority at the next higher level that made the decision of penalty; if he refuses to accept the reconsideration decision, he may, within 15 days from the date of receiving the reconsideration decision, bring a lawsuit in the people's court. The party involved may also directly bring a lawsuit in the people's court within 15 days from the date of receiving the notice of penalty. If the party involved fails to apply for reconsideration or bring a lawsuit in the people's court within the time limit, and fails to perform the decision of penalty, the authority that made the decision of penalty shall apply to the people's court for compulsory execution.

**Article 51** Any staff member of the competent departments for postal communications who abuses his power, neglects his duty or engages in malpractices for personal gains shall be given administrative sanctions by the unit to which he belongs or by the competent department at the next higher level; if a crime is constituted, criminal responsibility shall be investigated for according to law.

## **Chapter VII Supplementary Provisions**

**Article 52** Beijing Municipal Postal Administration shall be responsible for interpretation of specific issues in implementing the Regulations.

**Article 53** The Regulations shall come into force as of October 1, 1994.



# 北京市信息化促进条例

(2007年9月14日北京市第十二届人民代表大会常务委员会  
第三十八次会议通过)

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第二章	信息化工程建设
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## 第一章 总 则

**第一条** 为了规范信息化管理,加快信息化建设,促进经济发展和社会进步,根据有关法律和行政法规,结合本市实际情况,制定本条例。

**第二条** 本市信息化工程建设、信息资源开发利用、信息技术推广应用、信息安全保障以及相关管理活动,适用本条例。

**第三条** 本市信息化发展遵循统筹规划、资源共享、务求实效、保障安全的原则。

**第四条** 市和区、县人民政府应当将信息化发展工作纳入国民经济和社会发展规划,健全信息化工作领导协调机制,统筹协调解决本行政区域内信息化发展工作中的重要问题,加大信息化发展的经费投入。

乡镇人民政府和街道办事处应当推进本辖区内的信息化发展工作。

**第五条** 市和区、县信息化主管部门负责本行政区域内信息化发展的统一规划、组织协调和监督管理工作。

# Regulations of Beijing Municipality on Promotion of Informatization

(Adopted at the 38<sup>th</sup> Meeting of the Standing Committee of the 12<sup>th</sup>  
People's Congress of Beijing Municipality on September 14, 2007)

## Contents

Chapter I	General Provisions
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## Chapter I General Provisions

**Article 1** These Regulations are formulated in accordance with relevant laws and administrative regulations and by taking into account the particular situations of this Municipality for the purpose of standardizing the administration of informatization, speeding up the informatization construction, and promoting the economic development and social advancement.

**Article 2** These Regulations shall be applicable to the construction of informatization projects, exploitation and utilization of information resources, popularization and application of information technologies, safeguard of information security and relevant administration activities in this Municipality.

**Article 3** The informatization development in this Municipality shall follow such principles as integrated planning, share of resources, stressing actual results and ensuring security.

**Article 4** The municipal, district and county people's governments shall include the informatization development work into their respective plans for national economic and social development, maintain a sound leadership and coordination mechanism of the informatization work, resolve the key problems in the informatization development work within their respective administrative regions in an integrated and coordinative way, and increase the input of fund into the informatization development.

The township and town people's governments and sub-district offices shall promote the informatization development work within their respective administration regions.

**Article 5** The competent municipal, district and county departments for informatization shall be responsible for the overall planning, organization, coordination, supervision and administration of the informatization development within their respective administration regions.

发展改革、财政、科技、通信管理、质量技术监督、工商、公安、保密等行政管理部门按照职责分工负责信息化发展的相关工作。

**第六条** 市信息化主管部门会同有关部门依照国家信息化发展规划和本市国民经济和社会发展规划，组织编制本市信息化发展规划，报市人民政府批准后公布实施。

区、县信息化主管部门会同有关部门依据本市信息化发展规划，结合本区、县实际情况组织编制本行政区域的信息化发展规划，经市信息化主管部门审核后，报同级人民政府批准后公布实施。

本市国家机关编制的本部门和本行业、本系统的信息化发展规划，应当符合本市信息化发展规划。

**第七条** 市质量技术监督行政主管部门应当会同信息化主管部门及其他有关部门，根据信息化发展趋势和要求以及职责权限，制定并及时完善有关信息化标准。

单位和个人从事信息化工程建设、信息资源开发利用、信息技术推广应用、信息安全保障等活动应当执行国家和本市有关信息化标准。

市和区、县质量技术监督、信息化及其他有关部门对有关信息化标准的执行情况进行监督。

**第八条** 市和区、县人民政府应当制定优惠政策和措施推动现代信息技术创新，并通过政府采购、宣传教育、培训考核等活动促进具有自主知识产权的信息技术应用。

市和区、县人民政府应当对在信息化工作中作出突出贡献的单位和个人给予表彰。

**第九条** 本市鼓励信息化人才的培养和引进，加强市民的信息化知识和技能普及，提高信息技术应用能力。

本市建立并完善基础课程体系，在中小学校普及信息技术教育。

广播、电视、报刊、网站等应当开展信息化宣传、教育和科普活动。

The administrative departments for development and reform, finance, science and technologies, communications administration, quality and technology supervision, industry and commerce, public security, secret-guarding, and so on shall, according to the division of their duties, be responsible for the work related to the informatization development.

**Article 6** The competent municipal department for informatization shall, together with other departments concerned and in accordance with the national informatization development planning and the plan of this Municipality for national economic and social development, make arrangements for working out the informatization development planning of this Municipality, which shall be promulgated for implementation after being submitted to and approved by the municipal people's government.

The competent district and county departments for informatization shall, together with other departments concerned and in accordance with the informatization development planning of this Municipality and by taking into account their respective particular situations, make arrangements for working out the informatization development planning of their respective administrative regions, which, upon examination by the competent municipal department for informatization, shall be promulgated for implementation after being submitted to and approved by the people's governments at the same level.

The informatization development planning worked out by the State organs of this Municipality for their own departments, industries and sectors shall be in compliance with the informatization development planning of this Municipality.

**Article 7** The competent municipal department for quality and technology supervision shall, together with the competent department for informatization and other departments concerned, fix and timely improve informatization standards in accordance with the trends and demands of informatization development and with their duties and authorities.

All organizations and individuals shall implement the informatization standards of the State and this Municipality when engaging in such activities as the construction of informatization projects, development and utilization of information resources, popularization and application of information technologies and safeguard of information security.

The municipal, district and county departments for quality and technology supervision and informatization as well as other departments concerned shall supervise the implementation of the informatization standards.

**Article 8** The municipal, district and county people's governments shall make preferential policies and measures to promote the innovation of modern information technologies and push forward the application of information technologies with self-owned intellectual property rights through such activities as government procurement, publicity and education, training and assessment.

The municipal, district and county people's governments shall commend the organizations and individuals who make outstanding contributions in the informatization work.

**Article 9** This Municipality shall encourage the cultivation and bringing in of informatization talents, enhance the popularization of informatization knowledge and skills among citizens and improve their application ability of information technologies.

This Municipality shall establish and improve the basic curriculum system and popularize the education of information technologies in middle and primary schools.

The radio, TV, newspapers and websites shall be used to carry out the publicity and education of information science as well as its popularization.

## 第二章 信息化工程建设

**第十条** 信息化工程建设需要进行招标投标的，应当依法进行，并按照国家和本市有关规定实施监理；政府投资的信息化工程建设，应当符合政府采购等有关法律、法规的规定。

**第十一条** 从事信息化工程建设的单位依照国家有关规定需要经过资质认证的，应当依法取得资质认证。未经资质认证的单位，不得承揽或者以其他单位名义承揽相应领域内的信息化工程；已经资质认证的单位，不得超越本单位资质等级承揽信息化工程。

**第十二条** 本市政府投资建设的信息化工程年度计划，由市和区、县信息化主管部门会同同级发展改革、财政等相关部门制定并监督落实。

**第十三条** 使用政府投资新建信息化工程的，建设单位在报发展改革部门或者其他有关部门立项审批前，应当通过同级信息化主管部门的审查；使用政府投资对信息化工程进行改建、扩建、运行维护的，建设单位在报财政部门审批经费前，应当通过同级信息化主管部门的审查。

信息化主管部门对报审的信息化工程的需求效益、规划布局、技术标准、网络与信息安全、信息资源共享以及其他相关内容组织审查并出具审查意见。

信息化主管部门、发展改革部门、财政部门及其他有关部门对于不符合信息化发展规划和本条所规定审查要求的信息化工程，不予审查和审批通过。

信息化主管部门应当会同有关部门采取措施，积极推进已建信息化工程的整合工作。

**第十四条** 建设单位应当组织进行信息化工程竣工验收。未经验收或者验收不合格的信息化工程，不得投入使用。

建设单位对使用政府投资的信息化工程进行竣工验收时，应当邀请信息化及其他有关主管部门参加。

## Chapter II Construction of Informatization Projects

**Article 10** Should the construction of an informatization project be subject to bidding and tendering, the process shall be gone through according to law and the supervision shall be exercised in accordance with the relevant regulations of the State and this Municipality; the construction of an informatization project with government investments shall comply with the provisions of such laws and regulations on government procurement.

**Article 11** Should an organization engaged in construction of informatization projects be subject to qualification authentication as required by the relevant regulations of the State, it shall be authenticated as qualified according to law. The organization not authenticated as qualified shall neither contract for, nor contract for in the name of any other organization, any informatization projects in the corresponding field; the organization authenticated as qualified shall not contract for any informatization projects beyond the grade of its qualification.

**Article 12** The competent municipal, district and county departments for informatization shall, together with the departments for development and reform, finance, and so on at the corresponding level, make their respective annual plans for informatization projects constructed with government investments of this Municipality and shall supervise the implementation of such plans.

**Article 13** Where government investments are used to construct a new informatization project, the project shall, before the project owner reports it to the department for development and reform or to other departments concerned for examination and approval, pass the examination by the competent department for informatization at the same level; where government investments are used to reconstruct or expand an informatization project or to conduct operational maintenance, the project shall, before the project owner reports it to the de- maintenance for examination and approval of funds, pass the examination by the competent department for informatization at the same level.

The competent department for informatization shall organize the examination of an information project reported for examination from the perspective of its benefits, planed layout, technological standards, network and information security, share of information resources and other related aspects, and shall issue its examination opinions.

The competent department for informatization, the department for development and reform, the department for finance and other departments concerned shall not examine and approve any informatization projects not in compliance with the informatization development planning and the examination requirements provided for in this Article.

The competent department for informatization shall, together with other departments concerned, take measures to actively promote the integration of constructed informatization projects.

**Article 14** The project owner shall organize the inspection for acceptance of an informatization project upon its completion. An informatization project that is not inspected for acceptance or fails to pass such an inspection shall not be put into use.

When carrying out the inspection for acceptance of an informatization project constructed with government investments, the project owner shall invite the competent department for informatization and other competent departments concerned to participate in.

**第十五条** 本市实行信息化工程质量保修制度。承揽信息化工程的单位应当对信息化工程承担保修责任。

使用政府投资的信息化工程的保修期，自工程竣工验收合格之日起不得少于两年。

**第十六条** 信息化工程建设和运行维护过程中，建设单位应当建立规范的管理制度，做好信息内容更新，加强信息资源管理、知识产权保护和信息安全保障工作。

本市信息化工程建设中应当使用合法授权的软件，鼓励使用国产信息技术和产品。

### 第三章 信息资源开发利用

**第十七条** 本市加强对政务信息资源采集工作的管理。

本市国家机关应当依法采集政务信息，加强对政务信息的管理，定期进行信息更新，保证政务信息的真实准确，并采取安全措施防止政务信息丢失、泄露或者被滥用。

市信息化主管部门组织建立政务信息资源目录，规范市和区、县两级行政机关采集政务信息的活动，避免重复采集政务信息资源目录内的信息。

**第十八条** 本市统一建设人口、法人、自然资源和地理空间、宏观经济等基础数据库。基础数据库的建设和使用按照国家和本市有关规定执行。

本市各级国家机关应当充分利用基础数据库建设本行业、本部门的业务数据库；除涉及国家秘密或者法律、法规另有规定外，基础数据库的建设单位应当为本市国家机关提供信息共享服务。

**第十九条** 本市各级国家机关和法律、法规授权的具有管理公共事务职能的组织应当建立健全政务信息公开工作制度，依法编制并公布本单位的政务信息公开指南和政务信息公开目录，按照国家和本市的规定通过公报、网站、新闻发布会以及报刊、广播、电视等便于公众知晓的方式公开政务信息。

本市各级国家机关和法律、法规授权的具有管理公共事务职能的组织应当依法建

**Article 15** The system of warranty of quality of informatization projects shall be practiced in this Municipality and the organizations contracting for informatization projects shall assume the warranty responsibility.

The period of warranty of quality of an informatization project with government investments shall not be shorter than two years starting from the date when the project passes the inspection for acceptance upon its completion.

**Article 16** In construction and operational maintenance of an informatization project, the project owner shall establish standardized management systems, bring success to the updating of the information, and strengthen the administration of information resources, the protection of intellectual property rights and the safeguard of information security.

Software used in construction of informatization projects of this Municipality shall be those lawfully authorized; the use of domestically made information technologies and products is encouraged.

### **Chapter III Exploitation and Utilization of Information Resources**

**Article 17** This Municipality shall strengthen administration of the collection of government information.

State organs of this Municipality shall collect government information according to law, strengthen administration of government information, update the information regularly, ensure the authenticity and accuracy of government information, and take security measures to prevent the loss, disclosure or abuse of government information.

The competent municipal department for informatization shall organize the establishment of the catalogue of government information resources, regulate the collection of government information by administrative organs at the municipal, district and county levels, and avoid repeated collection of the information in the catalogue of government information resources.

**Article 18** This Municipality shall uniformly establish such basic databases as the ones of population, legal persons, natural resources, geographic spaces, and macro economy. These basic databases shall be constructed and used in accordance with the relevant regulations of the State and this Municipality.

State organs at all levels of this Municipality shall make full use of the basic databases to construct business databases for their own industries and departments ; apart for the circumstances where national secrets are involved or where the laws or regulations have otherwise provided, the owners of these basic databases shall offer information sharing service to the State organs of this Municipality.

**Article 19** State organs at all levels of this Municipality and organizations that are authorized by laws and regulations to exercise the power of administration of public affairs shall establish and improve the system for openness of government information, draw up and make public the guidebooks and catalogues for the openness of government information of their own according to law, and disclose the government information through gazettes, websites, press conferences, newspapers, radio and TV programs, and other manners that are convenient for awareness of the public in accordance with the regulations of the State and this Municipality.

State organs at all levels of this Municipality and organizations that are authorized by



立政务信息公开的申请受理和处理机制，为市民提供信息公开服务。

**第二十条** 本市教育、医疗卫生、供水、供气、供热、公共交通、环保等公共企事业单位，应当将服务承诺、收费标准、办事过程等信息通过网站及其他方式及时向社会公开，并逐步采用信息化手段开展业务办理工作。

市有关行业主管部门应当对公共企事业单位的信息公开和服务情况进行指导和监督。

**第二十一条** 市和区、县人民政府统一建设政务信息共享交换平台，为各国家机关共享交换政务信息提供服务。

国家机关可以使用政务信息资源目录中的其他国家机关的政务信息。政务信息需求单位应当就需要共享的信息内容、范围、用途和方式与提供单位主动协商。协商未达成一致的，政务信息需求单位应当将有关情况报请同级信息化主管部门协调解决。

**第二十二条** 市和区、县人民政府应当引导和规范对政务信息资源的增值开发利用，鼓励单位和个人进行信息资源公益性开发利用。

**第二十三条** 信用服务中介机构开展征信活动时，应当遵循独立、客观、公正的原则，保守商业秘密，尊重个人隐私，维护被征信企业及个人的合法权益和社会公共利益。

信用服务中介机构对采集的信息应当在信息提供者许可的范围内使用。

鼓励在政府采购、市场监管、信贷、商务等活动中使用信用服务中介机构提供的信用产品。

## 第四章 信息技术推广应用

**第二十四条** 市和区、县人民政府应当采取措施推动企业和个人利用信息网络从事商务活动，引导社会逐步建立、完善信用体系和网上支付、物流配送系统，鼓励电子商务服务提供商的发展。

市人民政府有关部门应当制定以中小企业为主的企业信息化发展指南，建设面向中小企业的公共信息服务平台。

laws and regulations to exercise the power of administration of public affairs shall establish according to law the mechanism for accepting and handling applications for making public government information, and offer services to citizens in terms of openness of government information.

**Article 20** Such public enterprises and public institutions of this Municipality as the ones for education, medical and health services, water supply, gas supply, heating supply, public traffic and environmental protection shall timely make public such information as service commitments, charging standards and working procedures through websites and other manners, and shall gradually take informatization measures to handle their businesses.

The competent industrial departments of this Municipality shall guide and supervise the openness of information and services in this regard of the public enterprises and public institutions.

**Article 21** The municipal, district and county people's governments shall uniformly construct the platform for the share and exchange of government information and offer services to all State organs in the share and exchange of such information.

A State organ may use the government information of other State organs included in the catalogue of government information resources. An organization needing any government information shall proactively consult with the providing organization in terms of the contents, scope, usage and manner of share of the information needs to be shared. Where no agreement is reached through consultation, the organization needing the government information shall report the case to the competent department for informatization at the same level for coordination and settlement.

**Article 22** The municipal, district and county people's governments shall guide and standardize value-added exploitation and utilization of government information resources and encourage all organizations and individuals to carry out exploitation and utilization of information resources for purpose of public welfare.

**Article 23** When carrying out credit investigation activities, an intermediary agency of creditability service shall follow such principles as independence, objectiveness and justice, keep commercial secrets, respect personal privacy, and safeguard the lawful rights and interests of the enterprises and individuals being investigated as well as the public interests.

An intermediary agency of creditability service shall use the information it has collected within the scope permitted by information providers.

It is encouraged to use the creditability products provided by intermediary agencies of creditability service in such activities as government procurement, market regulation, credit, business and commerce.

## **Chapter IV Popularization and Application of Information Technologies**

**Article 24** The municipal, district and county people's governments shall take measures to promote enterprises and individuals to use the information network in their commercial activities, guide the gradual establishment in our society and improvement of the creditability system and the on-line payment and logistics distribution systems, and encourage the development of e-commerce service providers.

The relevant departments under the municipal people's government shall work out the guide for the development of enterprise informatization with medium and small enterprises as the main target and construct a public information service platform for medium and small enterprises.

**第二十五条** 本市统筹城乡信息化发展，加大公共财政投入，支持农村信息基础设施和农村综合信息平台建设和运行维护，推进农村现代远程教育；鼓励通过信息化手段为农民提供生产、生活实用信息服务，开发、利用涉农信息资源，开展面向农民的信息化知识和技能培训。

电信、广播、电视等公共服务单位应当采取措施加强农村信息网络服务。

**第二十六条** 在本市从事互联网信息服务活动的，应当按照国家规定办理相应许可或者履行备案手续。

利用互联网从事经营活动的单位和个人应当依法取得营业执照，并在网站主页面上公开经营主体信息、已取得相应许可或者备案的证明、服务规则和服务流程等相应信息。

**第二十七条** 电子商务服务提供商应当对利用其网站从事经营活动的经营主体的身份信息、合法经营凭证和反映交易信用状况的材料进行核查，并对相关信息做好数据备份，便于当事人和有关部门查询、核对。

电子商务服务提供商应当建立投诉受理机制，对利用其网站从事的经营活动进行监督，配合政府有关部门的管理活动，但不得妨碍相关经营主体开展正常交易活动。

**第二十八条** 本市各级国家机关应当定期组织本单位工作人员学习电子政务相关知识，开展电子政务技能培训。

**第二十九条** 本市建设统一的电子政务网络，促进相关业务应用系统的互连互通。

本市各级国家机关的业务应用系统，凡不宜通过互联网实现的，必须依托全市统一的电子政务网络；需要接入全市统一的电子政务网络的，应当符合有关规范，并经市或者区、县信息化主管部门审查同意。

各级国家机关不得新建专用网络，已经建成的专用网络应当按照规划和标准逐步调整，接入电子政务网络。

**第三十条** 本市国家机关的网站应当按照规定与本市政务门户网站建立链接，统一网站风格、标识和建设运行维护技术标准。

**Article 25** This Municipality shall plan the informatization development in urban and rural areas in an integrated way, increase the input of public fiscal, support the construction and operational maintenance of the information infrastructure and comprehensive information platform in rural areas, promote the modem long-distance education in rural areas, encourage the provision of practical information services for the production and daily lives of farmers through informatization measures, exploit and utilize agriculture-related informatization resources , and offer informatization knowledge and skills training for farmers.

Such public service organizations as the ones of telecommunications, radio and TV shall take measures to strengthen information network service in rural areas.

**Article 26** Those who engage in internet information service activities in this Municipality shall go through appropriate licensing procedures or registration procedures in accordance with the regulations of the State.

The organizations and individuals who engage in commercial activities by using the internet shall acquire their business licenses according to law and make public in the homepages of their websites such information as the information about the operational entities, certificates of acquisition of licenses or registration, service rules and service processes.

**Article 27** Providers of e-commerce services shall verify the identity information, lawful operation certificates and materials reflecting trade and creditability conditions of the operational entities who engage in operational activities by using their websites and well do the data backup of the relevant information, so as to facilitate the inquiry and check by the interested parties and relevant departments.

Providers of e-commerce services shall establish a mechanism of accepting complaints, exercise supervision over the operational activities by using their websites, and cooperate with the relevant government departments in their regulatory activities; however, they shall not hinder operational entities from carrying out normal trade activities.

**Article 28** State organs at all levels of this Municipality shall, at regular intervals, make arrangements for their staff members to learn the knowledge about e-administration and organize training in skills of e-administration.

**Article 29** This Municipality shall construct a uniform e-administration network and promote the interconnection of related business application systems.

The business application system of a state organ at any level of this Municipality must be operated via the uniform e-administration network of this Municipality if it cannot be operated via the Internet. Should it be necessary to have such a system interconnected into the uniform e-administration network of this Municipality, this system shall comply with the standards and the interconnection shall be subject to the examination and approval by the competent municipal, district or county department for informatization.

State organs at all levels shall not construct new networks for exclusive use and such networks already constructed shall be gradually adjusted in accordance with the planning and standards and interconnected into the e-administration network.

**Article 30** The websites of State organs of this Municipality shall be linked to the e-administration portal website of this Municipality in accordance with the relevant regulations, and the website style, logo and technological standards for the construction, operation and maintenance shall be unified.

本市国家机关在互联网上注册域名的，应当遵守国家和本市的相关规定，并经过市信息化主管部门的审核。

**第三十一条** 市和区、县信息化主管部门组织开展信息化成果展示和交流，对先进的信息技术、产品进行示范推广。

## 第五章 信息安全保障

**第三十二条** 本市对网络与信息系统按照国家和本市有关规定实行安全等级保护制度。

网络与信息系统的建设单位和运行维护单位应当按照国家信息安全等级保护管理规范和技术标准确定本单位网络与信息系统的保护等级，并按照国家和本市有关规定进行备案、审批。

**第三十三条** 网络与信息系统的建设单位和运行维护单位应当根据确定的保护等级，按照国家信息安全等级保护管理规范和技术标准，保证相应投入，同步开展网络与信息系统安全建设或者改建工作；建设完成后，建设单位和运行单位应当按照国家有关规定开展安全等级技术测评工作，并根据结果采取措施保障网络与信息系统的的功能。

**第三十四条** 本市网络与信息系统的建设单位和运行维护单位应当加强安全管理，并制定网络与信息系统安全事件应急预案，定期进行演练。

发生网络与信息系统安全事件后，相关单位应当迅速采取措施降低损害程度，防止事件扩大，保存相关记录，并按照规定及时向同级信息化主管部门报告。

市和区、县人民政府有关部门应当组织制定相关行业的网络与信息系统安全事件应急预案，组织、协调有关单位做好应急预案的落实工作。

**第三十五条** 本市组建公共服务网络与信息系统信息安全应急救援服务体系，建立信息安全情况通报和协调机制，为发生公共服务信息安全事件的单位提供救援服务，为全市应急指挥体系提供网络与信息系统安全保障。

If a State organ of this Municipality registers a domain name in the Internet, it shall abide by the relevant regulations of the State and this Municipality and be subject to the examination and approval by the competent municipal department for informatization.

**Article 31** The competent municipal, district and county departments for informatization shall organize and carry out display and exchange of informatization results and carry out demonstration and extension of advanced informatization technologies and products.

## **Chapter V Safeguard of Information Security**

**Article 32** This Municipality shall, in accordance with the relevant regulations of the State and this Municipality, practice a security grading protection system for networks and information systems.

Owners as well as operation and maintenance organizations of networks and information systems shall, in accordance with the management rules and technological standards of the State for information security grading protection, determine the security protection grades of their own networks and information systems, and go through the formalities of registration, examination and approval in accordance with the relevant regulations of the State and this Municipality.

**Article 33** Owners as well as operation and maintenance organizations of networks and information systems shall, in light of determined security protection grades and in accordance with the management rules and technological standards of the State for information security grading protection, ensure appropriate input and carry out simultaneous construction or reconstruction for security of networks and information systems. Upon completion of the construction, the said owners and operation organizations shall carry out technological assessment of security grades in accordance with the relevant regulations of the State, and take measures to safeguard the security of networks and information systems based on the results.

**Article 34** Owners as well as operation and maintenance organizations of networks and information systems of this Municipality shall strengthen security management, make emergency plans for security accidents of networks and information systems and organize regular drills.

When any security accidents of networks and information systems happen, the organizations concerned shall take prompt measures to reduce the damage, prevent the accidents from expanding, keep appropriate records, and timely report to the competent department for informatization at the same level in accordance with the relevant regulations.

The relevant departments of the municipal, district and county people's governments shall organize the preparation of emergency plans for security accidents of networks and information systems of the relevant industries, and organize and coordinate the organizations concerned to bring success to the implementation of these emergency plans.

**Article 35** This Municipality shall establish an emergency rescue service system for information security of public service networks and information systems, set up a mechanism for circulation and coordination of information security situations, provide rescue service to the organizations where public service information security accidents happen, and provide security safeguard of networks and information systems for the emergency commanding

**第三十六条** 任何单位和个人不得利用网络与信息系统从事危害国家安全，扰乱公共秩序，损害公民、法人和其他组织的合法权益，危害网络与信息系统安全以及散布、传播违法信息等活动。

**第三十七条** 涉及国家秘密的信息化工程的管理，按照国家保密有关规定执行。

## 第六章 监督管理

**第三十八条** 市和区、县信息化主管部门对信息化发展规划和政府投资建设信息化工程年度计划的落实情况进行监督检查，并组织开展对国家机关的电子政务绩效考核工作。

**第三十九条** 市和区、县发展改革、财政、审计、信息化等部门对使用政府投资的信息化工程的资金使用情况 and 工程运行维护情况进行监督检查；统计、监察、信息化及政府信息公开主管部门对有关国家机关政务信息采集、公开、共享和信息服务工作进行监督检查。

**第四十条** 本市各级国家机关应当加强对本单位政务信息采集、管理、公开、共享等工作的内部管理，并明确主管负责人和内部机构，负责本单位电子政务的规划、协调和管理工作，建立对本单位工作人员信息化知识、技能的定期考核制度。

**第四十一条** 市和区、县人民政府的相关行业主管部门应当组织对本行业公共企事业单位的信息化服务水平进行检查和评估，并将有关情况向社会公布。

**第四十二条** 市和区、县人民政府有关部门根据职责分工，做好信息化相关领域的监督检查工作，并将相关信息向同级信息化主管部门通报。

企事业单位和个人的违法行为可以依法纳入相关信用信息系统。

## 第七章 法律责任

**第四十三条** 违反本条例第十一条规定，未经资质认证的单位承揽、以其他单位



system of this Municipality.

**Article 36** No organization or individual shall make use of networks and information systems to engage in any activities harming State security, disturbing public order, damaging the lawful rights and interests of citizens , legal persons and other organizations, harming the security of networks and information systems, or spreading or disseminating illegal information.

**Article 37** The management of informatization projects in which State secrets are involved shall be regulated in accordance with the relevant regulations on keeping State secrets.

## **Chapter VI Supervision and Administration**

**Article 38** The competent municipal, district and county departments for informatization shall exercise supervision and examination over the implementation of the informatization development planning and the annual plans for construction of informatization projects with government investment, and organize and carry out assessment of e-administration performance by State organs.

**Article 39** The municipal, district and county departments for development and reform, finance, auditing and informatization shall exercise supervision and examination over the use of funds in informatization projects with government investment and over the operation and maintenance of such projects; the departments for statistics, supervision, informatization and openness of government information shall exercise supervision and examination over the collection, openness, share of government information and information service work of the relevant State organs.

**Article 40** State organs at all levels of this Municipality shall strengthen their internal management of the collection, management, openness and share of government information, designate persons-in-charge and internal institutions responsible for the planning, coordination and management of e-administration in their respective organizations, and establish a system for regular assessment of their staff members' informatization knowledge and skills.

**Article 41** The competent industrial departments of the municipal, district and county people's governments shall organize examination and evaluation of the informatization service levels of the public enterprises and public institutions of their respective industries, and make public the relevant situations.

**Article 42** The relevant departments of the municipal, district and county people's governments shall, in light of the division of their duties, bring success to the supervision and examination work in the fields related to informatization, and report the relevant information to the competent departments for informatization at the same level.

The illegal acts committed by enterprises, public institutions and individuals may be included in their creditability information systems according to law.

## **Chapter VII Legal Liabilities**

**Article 43** Where, in violation of the provisions of Article 11 of these Regulations, an organization not authenticated as qualified contracts for or contracts for in the name



名义承揽相应领域的信息化工程，或者已经资质认证的单位超越本单位资质等级承揽信息化工程的，由市或者区、县信息化主管部门给予警告，责令限期改正；情节严重的，处以1万元以上10万元以下罚款。

**第四十四条** 违反本条例第三十四条规定，未按要求制定网络与信息系统安全事件应急预案，或者对网络与信息系统安全事件情况隐瞒不报、谎报或者拖延不报的，由市或者区、县信息化主管部门责令限期改正，并可处3万元以下罚款。

**第四十五条** 违反本条例规定，有下列行为之一的，由有关部门依照《中华人民共和国政府信息公开条例》、《中华人民共和国计算机信息系统安全保护条例》等有关规定责令改正，给予警告或者责令停机整顿，并对直接负责的主管人员和其他直接责任人员依法处理：

（一）违反第十九条规定，未按照国家和本市的规定公开政务信息的；

（二）违反第三十二条规定，网络与信息系统的建设单位和运行维护单位未依法进行安全保护等级备案、审批的；

（三）违反第三十三条规定，未进行网络与信息系统安全建设或者改建工作，或者未进行网络与信息系统安全等级技术测评的。

**第四十六条** 违反本条例规定，有下列行为之一的，市或者区、县信息化主管部门可以对责任单位给予通报批评；造成重大损失的，依照有关法律、法规予以处理：

（一）违反第十七条规定，没有正当理由，重复采集政务信息资源目录内信息的；

（二）违反第二十九条第二款规定，未经审查同意擅自接入电子政务网络的。

**第四十七条** 对于信息化发展过程中有危害国家安全，扰乱公共秩序，损害公民、法人和其他组织的合法权益，危害网络与信息系统安全以及散布、传播违法信息等活动的，

由国家安全、公安、保密、工商以及其他部门依法处理；构成犯罪的，依法追究刑事责任。

**第四十八条** 市和区、县信息化主管部门以及其他有关部门的工作人员在信息化

of any other organization any informatization projects in the corresponding field, or an organization authenticated as qualified contracts for any informatization projects beyond the grade of its qualification, the competent municipal, district or county department for informatization shall give it a warning and order it to make corrections within a specified time limit; if the circumstances are serious, a fine of not less than 10, 000 yuan but not more than 100, 000 yuan shall be imposed.

**Article 44** Where, in violation of the provisions of Article 34 of these Regulations, an organization concerned fails to make emergency plans for security accidents of networks and information systems, or conceals facts, gives a false report or delays the report of any security accidents of networks and information systems ;, the competent municipal, district or county department for informatization shall order it to make corrections within a specified time limit and may impose a fine of not than 30, 000 yuan upon it.

**Article 45** Where one of the following acts is committed in violation of the provisions of these Regulations, the relevant department shall, in accordance with the Regulations of the People's Republic of China on Disclosure of Government Information, the Regulations of the People's Republic of China on Security Protection of Computer Information System and other regulations concerned, order it to make corrections, give it a warning or order it to shut down computers for rectification, and impose penalties according to law upon the persons who are directly in charge and the other persons who are directly responsible ;

(1) violating the provisions of Article 19 by failing to make public government information in accordance with the regulations of the State and this Municipality;

(2) owners as well as operation and maintenance organizations of networks and information systems violate the provisions of Article 32 by failing to go through the formalities of registration, examination and approval of security protection grades in accordance with the law; or

(3) violating the provisions of Article 33 by failing to carry out construction or reconstruction for security of networks and information systems or failing to carry out technological assessment of security grades of networks and information systems.

**Article 46** Where one of the following acts is committed in violation of the provisions of these Regulations, the competent municipal, district or county department for informatization may circulate a notice of criticism on the responsible organization ; where any major losses are caused, the violation shall be dealt with in accordance with the relevant laws and regulations:

(1) violating the provisions of Article 17 by repeatedly collecting the information in the catalogue of government information resources; or

(2) violating the provisions of Paragraph 2 of Article 29 by having a system interconnected into the e-administration network without examination and approval.

**Article 47** As to any activities harming State security, disturbing public order, damaging the lawful rights and interests of citizens, legal persons and other organizations, harming the security of networks and information systems, or spreading or disseminating illegal information in development of informatization, the departments for State security, public security ,secrecy, industry and commerce and other departments concerned shall deal with such activities according to law; if a crime is constituted, criminal liability shall be investigated for according to law.

**Article 48** Where any staff members of the competent municipal, district and

工作中徇私舞弊、滥用职权、玩忽职守的，由有关部门依法给予行政处分；构成犯罪的，依法追究刑事责任。

## 第八章 附 则

**第四十九条** 本条例自 2007 年 12 月 1 日起施行。

county departments for informatization and other departments concerned commit illegalities for personal gains or by fraudulent, abuse their power, or neglect their duties in the informatization work, the departments concerned shall give them an administration sanction; if a crime is constituted, criminal liability shall be investigated for according to law.

## **Chapter VIII Supplementary Provisions**

**Article 49** These Regulations shall be effective as of December 1, 2007.

# 北京市人民政府关于居民楼邮政工作的若干规定

(1992 年 12 月 8 日北京市人民政府第 21 号令发布 根据 2007 年 11 月 23 日北京市人民政府第 200 号令第一次修改 根据 2018 年 2 月 12 日北京市人民政府第 277 号令第二次修改)

**第一条** 为了保障本市居民楼住户正常接收邮件，保护邮政用户的合法权益，为邮政企业创造邮递服务条件，根据《中华人民共和国邮政法》、《中华人民共和国邮政法实施细则》等有关规定，结合本市实际情况，制定本规定。

**第二条** 凡邮政企业向本市城区、近郊区、远郊区人民政府所在地的城镇、建制镇及工矿区的居民楼住户投递邮件工作，均按本规定管理。

**第三条** 市邮政管理局主管居民楼邮政工作。

城乡规划、住房城乡建设、公安、公安交通、城市管理等有关部门应当按照各自的职责，在邮政信报箱、间（群）的规划设计、施工和验收、居民楼号和门牌号的确定及邮件投递的道路通行等方面加强监督管理，保障居民楼邮件投递工作的顺利进行。

新建居民楼（含危旧房改造新建楼房，下同），须按本市有关规定安装信报箱或设置信报箱、间（群）或设立收发室。已建成的楼房未按规定安装或设置信报箱、间（群）或收发室的，须按有关规定补设。

**第四条** 居民楼应具备下列接收邮件的条件：

- （一）楼内安装与住户房号相适应的信报箱，或者在楼房集中处设置信报箱、间（群）或设立收发室；
- （二）有经公安部门、市地名管理部门核定的地名、楼号、门牌号，并装有明显的楼号、门牌号标志；

# Several Provisions of the People's Government of Beijing Municipality on Postal Services in Residential Buildings

(Promulgated by Decree No. 21 of the People's Government of Beijing Municipality on December 8, 1992, revised for the first time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the second time in accordance with Decree No. 277 of the People's Government of Beijing Municipality on February 12, 2018)

**Article 1** The Provisions are formulated for the purposes of ensuring the normal receipt of mails by residents of residential buildings in this Municipality, protecting the legitimate rights and interests of postal users, and creating postal service conditions for postal enterprises in accordance with the Postal Law of the People's Republic of China, the Detailed Rules for Implementing the Postal Law of the People's Republic of China and other relevant provisions and in light of actual circumstances of this Municipality.

**Article 2** The Provisions shall apply to the mail delivery services of postal enterprises to residents of residential buildings in urban areas, suburban areas, towns or designated towns where the people's governments of outer suburban areas are located, as well as industrial and mining areas in this Municipality.

**Article 3** The Municipal Postal Administration shall be in charge of the postal services in residential buildings.

The relevant departments of urban and rural planning, housing and urban-rural development, public security, traffic management, city management, etc. shall, within the scope of their respective functions and duties, strengthen supervision and management in terms of the planning, design, construction and acceptance of mail boxes or space for (or combinations of) mail boxes, determination of residential building number and house number, as well as road passage for mail delivery, so as to ensure smooth mail delivery in residential buildings.

New residential buildings (including new buildings from reconstruction of old and dilapidated buildings, the same below) shall have mail boxes or space for (or combinations of) mail boxes or mail rooms in accordance with relevant provisions of this Municipality. If a completed building does not have mail boxes or space for (or combinations of) mail boxes or mail rooms as stipulated, supplementary construction shall be conducted in accordance with relevant provisions.

**Article 4** Residential buildings shall meet the following conditions for receiving mail:

(1) installing mail boxes corresponding to residents' house numbers inside the buildings, or setting up mail boxes or space for (or combinations of) mail boxes or mail rooms at the centralized place of the buildings;

(2) having the place name, building number and house number approved by the public security departments and the municipal administrative department of place names, and

（三）具备邮政车辆和邮政工作人员投递邮件的道路通行条件。

**第五条** 居民楼接收邮件，应由楼房管理单位或产权单位持本单位介绍信和地址证明到所在地邮政支局进行登记。邮政支局应在 15 日内作出同意或不同意的答复。符合条件的，应予登记并按规定期限安排投递；不符合条件的，不安排投递并说明理由。

**第六条** 邮件接收单位地址、楼号、门牌号等变更的，应当办理变更登记手续。邮件接收单位分立的，应当补办邮件投递登记手续。

**第七条** 邮政支局投递邮件可以与邮政用户协商签订协议，约定投递位置和方式。邮政用户要求提供超出规定范围的投递服务的，邮政支局可以根据具体条件与邮政用户签订协议，按照协议提供投递服务并收取特殊服务费。

**第八条** 邮政支局可以委托居民委员会及其他符合条件的单位或个人代办邮件投递业务。委托代办邮件投递业务，应当按照协商一致、监督指导、保证质量和有偿服务的原则进行，并由邮政支局与代投单位或个人签订代办合同。

代办邮件投递的单位或个人应当遵守邮政法律、法规、规章和有关邮件投递的规则。

**第九条** 居民楼管理单位或产权单位应当加强对信报箱、间（群）的管理和维护，发现损坏的，应及时维修或更换。居民楼管理单位或产权单位也可以委托邮政支局管理和维护，所需工料费由委托单位支付。

**第十条** 保护邮政投递设施，人人有责。任何单位或个人不得损坏信报箱、间（群），不得擅自改变其位置、结构和功能，不得向信报箱、间（群）内塞投与邮件无关的杂物、危险物品，不得私自开启他人信报箱，不得在信报箱、间（群）周围堆置杂物妨碍投递邮件。

**第十一条** 邮政局和邮政支局应当加强对居民楼投递邮件和邮政用户接收邮件工作的管理和服务，为邮政用户提供迅速、准确、安全、方便的邮政服务。及时了解和掌握新建居民楼通邮情况，并主动与楼房管理单位或产权单位加强联系，保障用户的

having obvious building number and house number signs; and

(3) having the road passage conditions for postal vehicles and postal staff to deliver mail.

**Article 5** To receive mail in a residential building, the building management unit or the property right unit shall register with the local branch post office with the letter of introduction and address certificate of the unit. The branch post office shall give a reply of consent or objection within 15 days. If the conditions are met, the branch post office shall grant registration and arrange delivery within a specified time limit; if the conditions are not met, the branch post office shall not arrange delivery and explain the reasons therefor.

**Article 6** In the event of any change in the address, building number, house number, etc. of the mail receiving unit, the change registration formalities shall be completed. In the case of separation of the mail receiving unit, the registration formalities for mail delivery shall be completed afterwards.

**Article 7** For mail delivery, the branch post office may negotiate and enter into an agreement with postal users to agree on the location and mode of delivery.

If postal users request delivery services beyond the prescribed scope, the branch post office may enter into an agreement with postal users according to specific conditions, and provide delivery services and charge special service fees according to the agreement.

**Article 8** The branch post office may entrust residents' committees and other qualified units or individuals to provide mail delivery services on its behalf. The mail delivery services provided upon entrustment shall be carried out in accordance with the principles of consensus, supervision and guidance, quality assurance and paid service, and the branch post office shall enter into an entrustment contract with the entrusted units or individuals.

The units or individuals providing mail delivery services upon entrustment shall abide by postal laws, regulations and rules, as well as the rules on mail delivery.

**Article 9** The management units or property right units of residential buildings shall strengthen the management and maintenance of mail boxes or space for (or combinations of) mail boxes, and promptly repair or replace the damaged ones. The management units or property right units of residential buildings may also entrust the branch post office to conduct the management and maintenance, and the cost of labor and materials required shall be paid by the entrusting units.

**Article 10** It is the duty of everyone to protect postal delivery facilities. No unit or individual may damage mail boxes or space for (or combinations of) mail boxes, change the position, structure and function thereof without authorization, throw sundries and dangerous articles irrelevant to mail into mail boxes or space for (or combinations of) mail boxes, open others' mail boxes without authorization, or pile up sundries around mail boxes or space for (or combinations of) mail boxes to hinder mail delivery.

**Article 11** Post offices and branch post offices shall strengthen the management and service of the work of delivering mail in residential buildings and receiving mail by postal users, so as to provide postal users with prompt, accurate, safe and convenient postal services, as well as timely understand and master the postal situation of new residential



合法权益。

**第十二条** 违反本规定，按以下规定处理：

（一）楼房管理单位或产权单位不按规定办理邮件投递登记手续的，邮政支局不予投递邮件，并通知其限期办理登记手续。对寄往该居民楼的邮件，由邮政部门按有关业务规则处理；

（二）对信报箱、间（群）管理和维护不善，造成损坏，不能保证邮件安全的，由邮政支局通知责任单位在限期内维修或更换。逾期不维修或更换的，由邮政支局组织维修或更换，所需工料费由责任单位承担。

**第十三条** 损坏信报箱、间（群）或其他邮政投递设施的，由责任单位或直接责任人赔偿经济损失，构成违反治安管理行为的，由公安机关依法处理。

**第十四条** 本规定自 1993 年 1 月 1 日起施行。

buildings, and take the initiative to strengthen contact with building management units or property right units, so as to protect the legitimate rights and interests of users.

**Article 12** Whoever violates the Provisions shall be handled according to the following provisions:

(1) Where building management units or property right units fail to go through registration formalities for mail delivery as stipulated, branch post offices will not deliver the mail and shall notify the units to go through the registration formalities within a specified time limit. Mail sent to the residential buildings shall be handled by the postal departments in accordance with relevant business rules; and

(2) In case of any damage caused by poor management and maintenance of mail boxes or space for (or combinations of) mail boxes, and the safety of the mail cannot be guaranteed, branch post offices shall notify the responsible units to repair or replace them within a specified time limit. If the responsible units fail to do so within the time limit, branch post offices shall organize the repair or replacement, and the cost of labor and materials required shall be borne by the responsible units.

**Article 13** In case of any damage to mail boxes or space for (or combinations of) mail boxes or other postal delivery facilities, the responsible units or the person directly responsible shall compensate for the economic losses, and violations of the administration of public security shall be dealt with by public security organs according to law.

**Article 14** The Provisions shall come into force as of January 1, 1993.

# 北京市邮政通信设施建设与使用管理规定

(2002年9月13日北京市人民政府第108号令公布 根据  
2007年11月23日北京市人民政府第200号令修改)

**第一条** 为加强邮政通信设施建设与使用的管理,根据《北京市邮政通信条例》,结合本市实际情况,制定本规定。

**第二条** 在本市行政区域内进行邮政通信设施的建设、使用、维护和管理,应当遵守本规定。

**第三条** 北京市邮政管理局主管本市邮政通信设施建设与使用的管理工作,负责组织实施本规定。

有关行政主管部门应当按照各自职责,依法对邮政通信设施建设与使用的管理实施监督。

**第四条** 邮件处理枢纽、仓储转运场站、邮政营业投递局(所)、邮政信筒等邮政通信设施属于城市基础设施,依法应当受到保护。

**第五条** 邮政通信行政主管部门应当会同城市规划行政主管部门,组织编制并实施本市邮政通信设施专业规划和分期实施计划,实现邮政通信设施的合理布局。

**第六条** 新建、改建、扩建居住区的,建设单位应当按照本市规定的标准配套建设邮政通信设施,并接受邮政通信行政主管部门的监督。

**第七条** 新建、改建、扩建工业区、商业区、开发区、机场、车站的,应当按照邮政通信设施专业规划确定的服务半径和服务人口,配套建设相应规模的邮政通信设施。

**第八条** 城市规划行政主管部门应当严格按照规定的邮政通信设施配套建设标准,审查公共建设项目和新建、改建、扩建居住区的规划设计方案。

# Provisions of Beijing Municipality on the Management of Construction and Utilization of Postal Communications Facilities

(Promulgated by Decree No. 108 of the People's Government of Beijing Municipality on September 13, 2002, and revised in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

**Article 1** The Provisions are formulated for the purpose of strengthening the management of construction and utilization of postal communications facilities in accordance with the Regulations of Beijing Municipality on Postal Communications and in light of actual circumstances of this Municipality.

**Article 2** The Provisions shall apply to the construction, utilization, maintenance and management of postal communications facilities within the administrative area of this Municipality.

**Article 3** Beijing Municipal Postal Administration shall be in charge of the construction and utilization management of postal communications facilities in this Municipality, as well as the implementation of the Provisions.

Relevant administrative departments shall, within the scope of their respective functions and duties, carry out supervision over the construction and utilization management of postal communications facilities according to law.

**Article 4** Postal communications facilities such as mail handling hubs, storage and transfer stations, postal delivery offices (or branches) and mail boxes belong to urban infrastructure, which shall be protected according to law.

**Article 5** The competent departments for postal communications shall, together with the competent departments for urban planning, organize the formulation and implementation of the specialized planning and phased implementation plan for postal communications facilities in this Municipality, so as to realize rational distribution of postal communications facilities.

**Article 6** In newly-constructed, reconstructed or expanded residential areas, the development units shall construct supporting postal communications facilities according to the standards established by this Municipality and accept the supervision of the competent departments for postal communications.

**Article 7** In newly-constructed, reconstructed or expanded industrial areas, commercial areas, development zones, airports and stations, supporting postal communications facilities of the corresponding scale shall be constructed in accordance with the service radius and service population determined by the specialized planning for postal communications facilities.

**Article 8** The competent departments for urban planning shall examine the planning and design schemes for public construction projects as well as newly-constructed,

经审查批准的规划设计方案，建设单位不得擅自变更；确需变更的，应当按照前款规定，重新报原审查机关审查批准后，方可变更。

**第九条** 按照规定应当配套建设邮政通信设施，但因客观条件的限制确实不能配套建设的，应当在征得城市规划行政主管部门和邮政通信行政主管部门同意后，在规定的期限内就近补建具有相同使用效能的邮政通信设施，长期不予补建的，由责任单位承担邮政企业为解决用户用邮采取措施所需的费用。

**第十条** 任何单位和个人不得擅自拆除邮政通信设施。确需拆除的，由拆除单位与邮政企业签订协议，在保证邮政通信服务正常进行和方便用户用邮的前提下，由拆除单位负责补建不低于原有规模和使用效能的邮政通信设施。

**第十一条** 按照规划建成的邮政通信设施，应当及时交付给邮政企业使用，任何单位和个人不得擅自改变其使用性质。

**第十二条** 邮政企业可以根据用邮需求在社区设置邮政服务站、代办点、邮亭、报刊亭等邮政通信设施，方便社区用户用邮。

社区的有关管理单位应当为邮政企业开展邮政通信服务工作提供应有的便利。

**第十三条** 企业事业单位需要在其单位内部设置邮政通信服务网点的，可以与邮政企业协商，由邮政企业提供邮政通信服务。

**第十四条** 本市鼓励邮政企业与国内企事业单位、个人以多种方式合作，建设邮政通信设施，增加邮政通信服务网点。

**第十五条** 邮政通信行政主管部门应当建立、健全邮政通信设施使用、维护和管理制度，保证邮政通信设施的正常使用。

**第十六条** 邮政企业应当加强内部管理，增强服务功能，提高服务质量，为用户提供迅速、准确、安全、方便的邮政普遍服务。

**第十七条** 邮政通信行政主管部门应当加强对邮政企业服务的监督检查，并依法处理违反规定的行为。

reconstructed or expanded residential areas in strict compliance with the prescribed standards for supporting postal communications facilities.

The development units shall not alter the examined and approved planning and design schemes without authorization; in the event of necessary alteration, the alteration may be done only after a new application is filed to the original examination department for examination and approval according to the provisions in the preceding paragraph.

**Article 9** Where supporting postal communications facilities shall be constructed as stipulated but cannot be constructed due to the limitation of objective conditions, with the consent of the competent departments for urban planning and postal communications, supplementary postal communications facilities with similar service performance shall be constructed nearby within a specified time limit. Where supplementary postal communications facilities have not been constructed for a long time, the responsible units shall bear the expenses required for taking measures by postal enterprises to meet the postal users' demand.

**Article 10** No unit or individual may demolish postal communications facilities without authorization. Where it is indeed necessary to demolish such facilities, the demolishing units shall enter into an agreement with postal enterprises. Under the conditions of ensuring normal postal communications services and providing convenience for use of postal services by users, supplementary postal communications facilities with the scale and service performance no less than the original ones shall be constructed by the demolishing units.

**Article 11** Postal communications facilities constructed as planned shall be handed over to postal enterprises for use in a timely manner. No unit or individual may change their nature of use without authorization.

**Article 12** Postal enterprises may, according to users' demand, set up postal communications facilities such as postal stations, postal agencies, postal kiosks and newspaper kiosks in communities for the convenience of users.

Relevant administrative units of the communities shall provide postal enterprises with necessary convenience to carry out postal communications services.

**Article 13** Where enterprises and institutions need postal communications service outlets in their units, they may consult with postal enterprises so that postal communications services may be provided by the latter.

**Article 14** This Municipality shall encourage postal enterprises to cooperate with domestic enterprises, institutions and individuals in various ways to construct postal communications facilities and increase postal communications service outlets.

**Article 15** The competent departments for postal communications shall establish and improve the utilization, maintenance and management system for postal communications facilities to ensure normal use of postal communications facilities.

**Article 16** Postal enterprises shall strengthen internal management, enhance service functions, improve service quality and provide users with prompt, accurate, safe, convenient and universal postal services.

**Article 17** The competent departments for postal communications shall strengthen the supervision and examination of the services provided by postal enterprises, and deal

**第十八条** 违反本规定第十条规定，擅自拆除邮政通信设施的，由邮政通信行政主管部门责令恢复原状或者赔偿损失，并可处1万元以下罚款。

**第十九条** 违反本规定第十一条规定，擅自改变邮政通信设施使用性质的，由邮政通信行政主管部门给予警告，责令限期改正；逾期不改正的，处1万元以下罚款。

**第二十条** 其他违反本规定，属于违反《北京市邮政通信条例》规定应当给予行政处罚的，依照《北京市邮政通信条例》的规定处理。

**第二十一条** 本规定自2002年11月1日起施行。

with violations of relevant provisions according to law.

**Article 18** Whoever, in violation of the provisions of Article 10 of the Provisions, demolishes postal communications facilities without authorization, shall be ordered by the competent departments for postal communications to restore to the original state or compensate for the loss and may be fined not more than 10,000 yuan.

**Article 19** Whoever, in violation of the provisions of Article 11 of the Provisions, changes the nature of use of postal communications facilities without authorization shall be given a warning and ordered to make corrections within a specified time limit by the competent departments for postal communications; in case of failure to make corrections within the time limit, a fine of not more than 10,000 yuan shall be imposed.

**Article 20** Other violations of the Provisions which also belong to violations of the Regulations of Beijing Municipality on Postal Communications shall be dealt with in accordance with the Regulations of Beijing Municipality on Postal Communications.

**Article 21** The Provisions shall come into force as of November 1, 2002.



# 北京市无线电管理办法

(2006年10月11日北京市人民政府第175号令公布)

**第一条** 为了维护本市空中电波秩序，有效利用无线电频谱资源，保障各种无线电业务的正常进行，根据《中华人民共和国无线电管理条例》（以下简称《无线电管理条例》），结合本市实际情况，制定本办法。

**第二条** 在本市行政区域内使用无线电频率，设置、使用无线电台（站），研制、生产、进口、销售和维修无线电发射设备，使用辐射无线电波的非无线电设备，应当遵守《无线电管理条例》和本办法。

军事系统的无线电管理，依照国家和军队的有关规定执行。

**第三条** 市无线电管理机构在国家无线电管理机构和市人民政府的领导下，负责本市无线电管理工作。

公安、工商行政管理、质量技术监督、规划、环境保护、广播电视等部门，按照职责分工做好相关监督检查工作。

区、县人民政府确定的负责无线电管理工作的部门，配合市无线电管理机构实施监督检查。

**第四条** 市无线电管理机构应当按照国家无线电频率管理的相关规定，制定本市无线电频率、呼号使用方案；并根据国家无线电频率调整的规定，及时做出调整。

**第五条** 申请使用无线电频率、呼号的，应当向市无线电管理机构提出书面申请，并提交无线电频率使用方案及可行性报告。

市无线电管理机构根据审批权限，对符合条件的无线电频率、呼号使用申请，依法进行指配。

**第六条** 取得无线电频率使用权的单位和个人（以下简称频率使用人）应当按照

# Measures of Beijing Municipality for Radio Administration

(Promulgated by Decree No.175 of the People's Government of Beijing  
Municipality on October 11, 2006)

**Article 1** These Measures are formulated for the purposes of maintaining the order of radio waves in the air of this Municipality, efficiently utilizing the resources of radio frequency spectrum and ensuring the proper operation of radio communication services in accordance with the Regulations Concerning Radio Administration of the People's Republic of China (hereinafter referred to as the Regulations Concerning Radio Administration) and in light of the actual circumstances of this Municipality.

**Article 2** The Regulations Concerning Radio Administration and these Measures apply to the utilization of any radio frequency, the establishment and operation of any radio station, the development, manufacture, import, sale and maintenance of any radio transmission equipment and the use of non-radio equipment radiating radio waves in the administrative area of this Municipality.

Radio administration in the military system shall be subject to relevant provisions of the State and the armed forces.

**Article 3** The municipal radio administration organ shall, under the leadership of the State radio administration organ and the Municipal People's Government, be responsible for the work of radio administration in this Municipality.

The departments for public security, industrial and commercial administration, quality and technical supervision, planning, environmental protection, radio and television, etc. shall, according to their respective functions and duties, bring to success the work of related supervision and inspection.

The departments responsible for the work of radio administration designated by the district or county people's governments shall cooperate with the municipal radio administration organ to carry out supervision and inspection.

**Article 4** The municipal radio administration organ shall, in accordance with relevant provisions of the State on administration of radio frequencies, work out the plans for use of radio frequencies or call signs in this Municipality; and timely make the adjustment based on the provisions of the State on adjustment of radio frequencies.

**Article 5** Anyone who applies for using a radio frequency or call sign shall submit a written application to the municipal radio administration organ and present a plan for use of the radio frequency and a feasibility report.

The municipal radio administration organ shall, according to law, assign the radio frequency or call sign with respect to the qualified application for a radio frequency or call signs according to its examination and approval authority.

**Article 6** A unit or individual that has acquired the right to use a radio frequency

市无线电管理机构批准的范围和用途使用频率，并按规定向市无线电管理机构缴纳频率占用费。

未经批准，任何单位和个人不得编制、使用电台呼号，不得扩大频率的使用范围或者改变使用用途，不得转让、出租或者变相出租无线电频率。

**第七条** 市无线电管理机构指配无线电频率时，应当按照国家要求明确无线电频率的使用期限。

使用期限届满需要继续使用的，频率使用人应当在使用期限届满 30 日前向市无线电管理机构提出延期申请。

**第八条** 经市无线电管理机构指配的无线电频率，除因不可抗拒原因外，超过一年不使用或者使用未达到原指配规定要求的，由市无线电管理机构全部或者部分收回已指配的无线电频率使用权，并书面告知频率使用人。

**第九条** 频率使用期限内需要提前终止使用的，频率使用人应当在终止使用之日起 30 日内到市无线电管理机构办理注销手续。

**第十条** 因国家调整无线电频率规划、分配方案以及因国家利益或者公共利益需要，市无线电管理机构可以对已经指配的无线电频率进行调整或者收回。

市无线电管理机构做出调整或者收回无线电频率决定时，应当及时发布公告，告知频率使用人。频率使用人应当按照有关规定执行。

**第十一条** 申请设置、使用无线电台（站）的，应当向市无线电管理机构提交书面申请和相关材料。

市无线电管理机构应当在法定时间内进行审查，对符合条件的，颁发无线电台执照；不符合条件的，应当书面告知当事人，并说明理由。

禁止转让、伪造或者变造无线电台执照。

**第十二条** 在本市公布的高山、高塔、高楼和机场等重要地区设置的无线电台（站），应当进行电磁兼容分析测试，符合电磁兼容要求。

**第十三条** 持外地无线电台执照进入本市的无线电台，应当持无线电台执照到市无线电管理机构办理进入本市使用的有关手续，并按要求使用无线电台。

**第十四条** 取得无线电台执照的单位或者个人，应当按照核定的项目和技术参数

(hereinafter referred to as a frequency user) shall use the frequency within the scope and usage approved by the municipal radio administration organ and pay the frequency-using fee to the municipal radio administration organ in accordance with provisions.

Without approval, no unit or individual may compile or use call signs of radio stations, enlarge the scope of frequency-using or change the usage of frequency-using, transfer, lease radio frequencies or lease radio frequencies in a disguised way.

**Article 7** The municipal radio administration organ shall, when assigning a radio frequency, define the term for frequency-using.

Where the frequency-user needs to continue the frequency-using upon expiration of its term of use, it shall submit an application for extending the term of use to the municipal radio administration organ 30 days prior to expiration of the term.

**Article 8** Where a radio frequency already assigned by the municipal radio administration organ has not been used for more than one year or its use has failed to meet the requirements specified in the original assignment, the municipal radio administration organ shall wholly or partly withdraw the assigned frequency-using right and notify the frequency-user in writing, with the exception of force majeure.

**Article 9** Where a frequency-user needs to terminate the frequency-using prior to expiration of the term of frequency-using, it shall go to the municipal radio administration organ to handle the cancellation formalities within 30 days as of the date of terminating using.

**Article 10** The municipal radio administration organ may adjust or withdraw the frequencies already assigned due to the adjustment of radio frequency plans or assignment plans by the State, or the needs of State interests or public interests.

The municipal radio administration organ shall, when making a decision to adjust or withdraw a frequency, make an announcement in time and notify the frequency-user. The frequency-user shall implement the decision in accordance with relevant provisions.

**Article 11** Anyone who applies to establish or operate a radio station shall submit a written application and related materials to the municipal radio administration organ.

The municipal radio administration organ shall carry out examination within the statutory time period and issue a radio station license to the one who is qualified; and notify the party concerned who is disqualified in writing and explain the reasons as well. It is forbidden to transfer, forge or alter the radio station licenses.

**Article 12** For establishment of a radio station in such important places as high mountains, high towers, high buildings and airports published in this Municipality, electromagnetic compatibility analysis and test shall be made and the requirements of electromagnetic compatibility shall be met.

**Article 13** Where a radio station with a radio station license issued by other localities moves to this Municipality, its user shall, on the strength of the radio station license, go to the municipal radio administration organ to handle relevant formalities for moving to this Municipality and operate the radio station according to requirements.

**Article 14** Any unit or individual that has obtained a radio station license shall

工作。需要变更核定项目或者技术参数的，应当事前向市无线电管理机构申请办理变更手续。

**第十五条** 停用、报废或者依法被撤销无线电台（站）的，应当及时办理注销手续，收回无线电台执照。使用人应当采取措施对无线电台及其相关设备予以拆除、封存或者销毁。

**第十六条** 设置、使用无线电台（站）的，应当符合国家和本市城市规划、市容、环境保护等方面规定，与提供设台场所的产权人签订协议，明确无线电台（站）及其相关配套设施的维护管理责任。

提供设台场所的单位和个人，应当到市无线电管理机构对场地情况进行备案，配合市无线电管理机构的电磁兼容分析测试，并不得为未经批准的无线电台（站）提供设台场所。

提供设台场所的单位和个人应当遵守无线电管理相关规定，配合无线电管理机构的监督检查。

**第十七条** 市无线电管理机构应当根据本市无线电管理工作的需要，编制无线电监测设施的专项规划。市规划部门应当将无线电监测设施建设纳入城市规划。

规划部门在无线电监测设施电磁环境保护范围内审批有可能影响无线电监测效果的建筑物、构筑物建设项目时，应当听取市无线电管理机构的意见。

**第十八条** 在本市进行无线电电磁环境测试，应当至少提前 7 日向市无线电管理机构报告，并在市无线电管理机构的监督下进行。任何单位和个人不得擅自进行无线电电磁环境测试。

环境保护和政府其他有关部门履行职责过程中开展电磁环境测试的，按照国家有关规定执行。

**第十九条** 研制无线电发射设备所需要的工作频率和频段，应当符合技术标准和国家无线电管理有关规定。研制申请人应当按规定向市无线电管理机构提交书面申请及相关资料。

operate the station according to the verified items and technical parameters. Where there is a need to alter the verified items or technical parameters, an application for handling the formalities for alteration shall be submitted to the municipal radio administration organ in advance.

**Article 15** Where a radio station is not used, discarded as useless or cancelled according to law, the formalities for cancellation shall be handled in time and the radio station license shall be withdrawn. The user shall take measures to dismantle, seal up or destroy the radio station and its related equipment.

**Article 16** Anyone who intends to establish or operate a radio station shall comply with the provisions of the State and this Municipality on city planning, city appearance, environmental protection, etc., and conclude an agreement with the property owner providing a site for the radio station to define the responsibility of maintenance and management of the radio station and its supporting facilities.

A unit or individual providing a site for a radio station shall go to the municipal administration organ to report the circumstances of the site for the record, cooperate with the municipal administration organ to carry out the electromagnetic compatibility analysis and test and shall not provide a site for a radio station disapproved.

A unit or individual providing a site for a radio station shall obey relevant provisions on radio administration and cooperate with the radio administration organs in supervision and inspection.

**Article 17** The municipal radio administration organ shall, based on the needs of the work of radio administration of this Municipality, work out a special plan of radio monitoring facilities. The municipal department for planning shall incorporate the construction of radio monitoring facilities into the city planning.

The departments for planning shall, when examining and approving any project of building or structure that might affect the radio monitoring effect within the electromagnetic environment protection scope of radio monitoring facilities, listen to the opinions of the municipal radio administration organ.

**Article 18** Anyone who intends to conduct a radio electromagnetic environment test in this Municipality shall report to the municipal radio administration organ at least seven days in advance and conduct it under the supervision of the municipal radio administration organ. No unit or individual may conduct a radio electromagnetic environment test without authorization.

The departments for environmental protection and other relevant departments of governments shall, when carrying out the radio electromagnetic environment tests during performing their functions and duties, comply with relevant provisions of the State.

**Article 19** The working frequencies and frequency bands needed for the development of radio transmission equipment shall be in conformity with the technical standards and relevant provisions of the State on radio administration. The applicants for such development shall submit written applications and related materials to the municipal radio administration organ according to provisions.

经核准的单位和个人，应当按照核准的频率、频段和发射功率等技术指标进行研制；需要变更技术指标时，应当重新提出申请。

**第二十条** 生产无线电发射设备，其工作频率、频段和技术指标应当符合国家无线电管理的有关规定，并按规定报国家无线电管理机构或者市无线电管理机构备案。

不符合技术标准和国家无线电管理有关规定的无线电发射设备，不得投入生产。

**第二十一条** 研制、生产无线电发射设备时，应当采取有效措施抑制电波辐射。需要进行实效发射试验的，应当经市无线电管理机构批准。

**第二十二条** 进口的无线电发射设备，其工作频率、频段和技术指标应当符合国家无线电管理的有关规定。

需要进口或者临时进口无线电发射设备（含整机组装件和安装在其他进口设备上的无线电发射设备）的，应当向市无线电管理机构提出书面申请；经批准后，按照国家有关规定办理入关手续。

**第二十三条** 销售和维修无线电发射设备的，应当遵守国家和本市有关管理规定。市无线电管理机构应当配合工商行政管理部门依法做好对销售无线电发射设备的监督检查。

不得销售不符合国家有关无线电管理规定和技术标准的无线电发射设备；维修无线电发射设备，不得改变已核准的技术参数。

**第二十四条** 生产、使用辐射无线电波的非无线电设备的，必须符合国家有关规定，不得对无线电业务产生有害干扰。

辐射无线电波的非无线电设备对无线电台（站）产生有害干扰时，设备所有人或者使用人必须及时采取措施予以消除。

**第二十五条** 在用的无线电发射设备应当定期进行维护，保证其性能指标符合国家相关技术标准。

**第二十六条** 市无线电管理机构应当依法加强对本市无线电电磁环境和无线电台（站）的监测，并对监测中发现的问题责令有关单位和个人限期整改。



The unit or individual that has obtained the approval shall carry out the development in accordance with the approved frequency, frequency bands and transmission powers and other technical specifications; when there is a need to alter the technical specifications, an application shall be submitted again.

**Article 20** The working frequencies, frequency bands and related technical specifications of the radio transmission equipment to be manufactured shall be in conformity with relevant provisions of the State on radio administration and be reported to the State radio administration organ or the municipal radio administration for the record.

No radio transmission equipment that is not in conformity with the technical standards and relevant provisions of the State on radio administration may be put into production.

**Article 21** In the process of development and manufacture of radio transmission equipment, effective measures shall be taken to suppress radio radiation. Field emission trials shall be subject to the approval of the municipal radio administration organ.

**Article 22** The working frequencies, frequency bands and technical specifications of the radio transmission equipment to be imported shall be in conformity with relevant provisions of the State on radio administration.

Anyone who needs to import or temporarily import radio transmission equipment (including assembled parts for whole sets and radio transmission equipment installed on other imported equipment) shall submit a written application to the municipal radio administration organ; and handle the customs declaration formalities in accordance with relevant provisions of the State after obtaining the approval.

**Article 23** Anyone selling and repairing radio transmission equipment shall obey relevant administration provisions of the State and this Municipality. The municipal radio administration organ shall cooperate with the department for industrial and commercial administration to bring to success the supervision and inspection of selling of radio transmission equipment according to law.

Selling of radio transmission equipment that is not in conformity with the provisions of the State on radio administration and the technical standards is prohibited. The approved technical parameters shall not be altered in repairing radio transmission equipment.

**Article 24** Anyone manufacturing or using non-radio equipment generating radio radiation must comply with relevant provisions of the State and shall not cause harmful interferences to radio operation.

When non-radio equipment generating radio radiation causes harmful interference to a radio station, its owner or user shall take measures to eliminate the interferences in time.

**Article 25** Radio transmission equipment being used shall be maintained regularly to ensure its functional specifications in conformity with relevant standards of the State.

**Article 26** The municipal radio administration organ shall, according to law, strengthen monitoring the electromagnetic environment and radio stations in this Municipality and order relevant unit or individual to rectify or correct time problems found in monitoring within a prescribed time period.



市无线电管理机构应当按照国家有关规定对无线电发射设备进行检测。经检测不符合国家技术标准的无线电发射设备，有关单位和个人应当停止使用。

**第二十七条** 市无线电管理机构进行监督检查时，有权采取下列措施：

- （一）进行现场检查、勘验、取证；
- （二）要求被检查的单位和个人提供有关材料和文件；
- （三）对擅自占用无线电频率、设置无线电台（站）的，实施技术措施予以制止；
- （四）对非法使用的无线电发射设备等证据依法采取先行登记保存。

**第二十八条** 市人民政府可以依法在特定的时间、区域、频段范围内实行无线电管制，对无线电发射设备以及辐射无线电波的非无线电设备的使用实行强制性管理。

实行无线电管制期间，管制区域内所有设置、使用无线电发射设备以及辐射无线电波的非无线电设备的单位和个人，必须遵守管制的有关规定。

**第二十九条** 未按规定缴纳无线电频率占用费的，由市无线电管理机构责令限期缴纳；逾期不缴纳的，按照规定加收滞纳金。

**第三十条** 违反本办法规定，有下列情形之一的，市无线电管理机构可以依据《无线电管理条例》给予警告、查封或者没收设备、没收非法所得的处罚；情节严重的，可以并处 1000 元以上 5000 元以下的罚款或者吊销其电台执照：

- （一）擅自改变无线电台站址、天线高度、发射功率、使用频率等核定项目的；
- （二）擅自扩大无线电频率使用范围、改变用途的；
- （三）擅自编制、使用电台呼号的；
- （四）研制、生产无线电发射设备，没有采取有效措施抑制电波发射，并对合法无线电台（站）产生有害干扰的；
- （五）研制、生产无线电发射设备时，擅自进行实效发射试验的；
- （六）设置、使用不符合国家规定或者技术标准的无线电发射设备，对无线电业务造成干扰的；
- （七）使用辐射无线电波的非无线电设备对合法无线电用户造成有害干扰，经责

The municipal radio administration organ shall test radio transmission equipment in accordance with relevant provisions of the State. Relevant unit or individual shall stop using the radio transmission equipment that is tested not in conformity with relevant standards of the State.

**Article 27** The municipal radio administration organ may have the power to take the following measures when conducting supervision and inspection:

- (1) to conduct on-the-spot inspection, examination or collection of evidences;
- (2) to require the units or individuals under inspection to provide related materials and documents;
- (3) to take technical measures to stop the occupation of radio frequencies or establishment of radio stations without authorization; or
- (4) to first register for preservation such evidence as radio transmission equipment illegally used according to law.

**Article 28** The Municipal People's Government may, according to law, conduct control over radio communication within a specified time period, area and frequency band and carry out compulsory administration of the use of radio transmission equipment and non-radio equipment generating radio radiation.

During the radio controlled period, all units and individuals that have established or operated radio transmission equipment and non-radio equipment generating radio radiation in the controlled area must abide by relevant provisions on control.

**Article 29** Whoever fails to pay the frequency using fee in accordance with provisions shall be ordered to make payment within a prescribed time period; whoever fails to make such payment in the prescribed time period shall be ordered to pay a overdue fine.

**Article 30** Whoever, in violation of the provisions of these Measures, falls into one of the following circumstances, may be given a warning or a penalty of sealing up or confiscating equipment or illegal gains by the municipal radio administration organ in accordance with the Regulations Concerning Radio Administration; or may be fined not less than 1000 Yuan but not more than 5000 Yuan or cancelled the radio station license concurrently where the circumstances are serious:

- (1) altering the site for a radio station, the height of antenna, the transmission power, the frequency used or other approved items without authorization;
- (2) enlarging the using scope of frequency or altering the usage without authorization;
- (3) compiling or using a call sign without authorization;
- (4) failing to take effective measures to suppress radio radiation with a result of causing harmful interference to a radio station legally established in the process of development and manufacture of radio transmission equipment;
- (5) conducting a field emission trial without authorization in the process of development and manufacture of radio transmission equipment;
- (6) establishing or operating radio transmission equipment that is not in conformity with the State provisions or technical standards with a result of causing interference to radio operation; or
- (7) using non-radio transmission equipment generating radio radiation with a result of causing harmful interference to legal radio users and refusing to make corrections after an

令停止使用后拒不执行的。

**第三十一条** 违反本办法规定，为他人设置无线电台（站）提供场所的单位和个人未对场地情况进行备案，或者在查处违法设置无线电台（站）工作过程中拒不履行配合义务，造成严重影响的，由市无线电管理机构给予警告，可以并处2万元以下的罚款。

**第三十二条** 违反本办法规定，开展无线电电磁环境测试未进行报告或者拒不接受监督的，由市无线电管理机构责令限期改正，给予警告，可以并处5000元以下的罚款。

**第三十三条** 对有下列违法行为之一的，由市无线电管理机构责令限期改正，给予警告，可以并处3万元以下的罚款：

- （一）转让、伪造或者变造无线电台执照的；
- （二）停用、撤销无线电台（站），未采取拆除、封存或者销毁措施的；
- （三）拒不执行国家或者本市调整、收回指配频率决定的；
- （四）不遵守无线电管制规定的。

**第三十四条** 销售不符合国家无线电管理有关规定或者技术标准的无线电发射设备的，由工商行政管理部门依法进行处罚。

**第三十五条** 违反国家规定，故意干扰无线电业务正常进行的，或者对正常运行的无线电台（站）产生有害干扰，经市无线电管理机构依法给予行政处罚后，拒不采取有效措施消除的，由公安机关依照《中华人民共和国治安管理处罚法》第二十八条的规定给予相应处罚。

**第三十六条** 违反国家规定，擅自设置、使用无线电台（站），或者擅自占用频率，经责令停止使用后不停止使用，干扰无线电通讯正常进行，造成严重后果，构成犯罪的，依法追究刑事责任。

**第三十七条** 设置、使用业余无线电台的，按照国家有关业余无线电台（站）管理的规定办理。

**第三十八条** 本办法自2006年12月1日起施行。1993年4月17日北京市人民

order to stop using is given.

**Article 31** Any unit or individual providing a site for a radio station that, in violation of the provisions of these Measures, fails to report the circumstances of the site for the record, or refuses to perform the cooperation obligation in the process of investigating and dealing with the radio station illegally established shall be given a warning and may be fined not more than 20,000 Yuan concurrently by the municipal administration organ.

**Article 32** Whoever, in violation of the provisions of these Measures, conducts a radio electromagnetic environment test without submitting a report or refuses to accept supervision, shall be ordered to make corrections within a prescribed time period, given a warning and may be fined not more than 5000 Yuan concurrently by the municipal administration organ.

**Article 33** Whoever commits one of the following acts shall be ordered to make corrections, given a warning and may be fined not more than 30,000 Yuan concurrently by the municipal administration organ:

- (1) transferring, forging or altering a radio station license;
- (2) failing to take measures to dismantle, seal up or destroy the radio station which is not used or cancelled;
- (3) refusing to comply with the decision of the State or this Municipality to adjust or withdraw the assigned frequencies; or
- (4) failing to abide by the provisions on radio control.

**Article 34** Whoever sells radio transmission equipment that is not in conformity with the provisions of the State on radio administration or the technical standards shall be penalized by the department for industrial and commercial administration according to law.

**Article 35** Whoever, in violation of the State provisions, intentionally interferes with the normal radio communication or causes harmful interference to a radio station in normal operation and refuses to take effective measures to eliminate such interference after being penalized by the municipal administration organ according to law, shall be penalized correspondingly by the department for public security in accordance with the provisions of Article 28 of the Law of the People's Republic of China on Administrative Penalties for Public Security.

**Article 36** Whoever, in violation of the State provisions, establishes or operates a radio station without authorization or occupies a frequency without authorization and refuses to stop the use after being ordered to stop such use and interferes with the radio communication causing serious results, shall be investigated for criminal liability where a crime is constituted.

**Article 37** The establishment or operation of an amateur radio station shall be subject to the provisions of the State on administration of amateur radio stations.

**Article 38** These Measures shall be effective as of December 1, 2006. The Provisions of Beijing Municipality on Administration of Establishment and Operation of Radio Stations promulgated by Decree No.4 of the People's Government of Beijing Municipality on April 17, 1993 and revised in accordance with Decree No. 12 of the People's Government of

政府第 4 号令发布、根据 1997 年 12 月 31 日北京市人民政府第 12 号令修改的《北京市无线电台设置使用管理规定》，以及 1995 年 7 月 1 日北京市人民政府批准、1995 年 8 月 1 日北京市无线电管理局发布、根据 1997 年 12 月 31 日北京市人民政府第 12 号令第一次修改、根据 2002 年 2 月 11 日北京市人民政府第 92 号令第二次修改的《北京市研制、生产、进口无线电发射设备管理规定》同时废止。

Beijing Municipality on December 31, 1997, and the Provisions of Beijing Municipality on Administration of Research, Manufacture and Import of Radio Transmission Equipment approved by the People's Government of Beijing Municipality on July 1, 1995 and promulgated by the Beijing Municipal Radio Administration Bureau on August 1, 1995 and revised for the first time in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997 and for the second time in accordance with Decree No. 92 of the People's Government of Beijing Municipality on February 11, 2002, shall be repealed simultaneously.

# 北京市快递安全管理办法

(2013 年 12 月 5 日北京市人民政府第 253 号令公布 根据  
2018 年 2 月 12 日北京市人民政府第 277 号令修改)

**第一条** 为规范快递经营行为,保障快件寄递安全、信息安全、公共安全,促进本市快递行业健康发展,根据《中华人民共和国邮政法》以及其他法律、法规,结合本市实际,制定本办法。

**第二条** 本市行政区域内快递活动的安全管理,适用本办法。

**第三条** 快递安全管理按照预防为主、规范经营的原则,建立企业负责、行业自律、政府监管、社会监督的机制。

**第四条** 市邮政管理部门及其所属管理机构负责本市快递经营活动的监督管理和快递安全管理统筹协调工作。

公安、国家安全、海关等部门按照职责做好快递安全的监督管理工作。

交通、工商、商务等部门按照职责做好相关管理工作。

**第五条** 从事快递经营业务的企业(以下简称“快递企业”),应当符合《中华人民共和国邮政法》规定的条件,依法取得快递业务经营许可。未经许可,任何单位和个人不得经营快递业务。

从事国际快递经营业务的,还应当遵守有关海关法律法规的规定。

**第六条** 在本市申请快递业务经营许可,应当具备下列服务能力:

- (一)符合标准的快件处理场所;
- (二)符合标准的快递营业场所,面积不少于 50 平方米;

# Measures of Beijing Municipality for the Safe Administration of Express Delivery

(Promulgated by Order No.253 of the Beijing Municipal People's Government on December 5, 2013; modified according to Order No.277 of the Beijing Municipal People's Government on February 12, 2018)

**Article 1** For the purpose of regulating the business activities of express delivery, ensuring the security of the mail or delivery of express mails, information security and public security, and promoting healthy development of the express delivery industry in this Municipality, these Measures are formulated in accordance with the Postal Law of the People's Republic of China and other laws and regulations, and in the light of the actual circumstances of this Municipality.

**Article 2** Safety management of express delivery business within the administrative area of this Municipality's shall be governed by these Measures.

**Article 3** Safety management of express delivery shall follow the guidelines of giving priority to prevention and regulating business activities, with a mechanism of enterprise responsibility, industry self-discipline, government regulation, and social supervision.

**Article 4** Municipal postal administrative department and the authorities affiliated thereto shall be in charge of the supervision and administration of the operations of express delivery and safety management coordination.

Departments of public security, national security, customs and others shall accomplish the supervision and administration of express delivery security according to their respective functions and duties.

Departments of transportation, industry and commerce, business and others shall accomplish relevant administration in accordance with their respective functions and duties.

**Article 5** An enterprise engaging in the express delivery business (hereinafter referred to as "express delivery enterprise") shall meet the provisions stipulated in the Postal Law of the People's Republic of China, and obtain a permit for express delivery business operation. No entity or individual shall engage in express delivery business without a permit.

Express delivery enterprises engaging in international express delivery business shall also abide by the provisions of relevant customs laws and regulations.

**Article 6** An applicant for the express delivery business permit shall have the following service capabilities:

1. Standard express mail processing premises;
2. Standard offices for express delivery business with an area of not less than 50 square



(三) 符合本市运输标准的机动车辆;

(四) 能够提供寄递快件的电话查询服务, 具备快件跟踪查询的信息网络系统。

**第七条** 采用商业特许经营形式从事快递经营业务的企业, 应当取得快递业务经营许可, 并签订书面特许协议, 特许人应当在协议签订后 15 日内到邮政管理部门备案。

**第八条** 快递企业应当按照规定建立快递安全保障和协查通报制度。

快递企业和用户应当遵守国家关于信件专营和禁止、限制寄递物品的相关规定, 不得寄递易燃、易爆、易腐蚀、放射性等危险物品, 不得寄递国家机关公文, 不得寄递国家涉密载体。

**第九条** 快递企业应当按照规定对快件进行验视、机检、巡检、抽检等形式的安全检查。具体办法由市邮政管理部门会同公安、国家安全等部门制定。

**第十条** 快递企业在收寄快件时, 应当提示用户如实填写快递运单, 对信件以外的快件, 应当当场开拆包装验视内件, 符合寄递规定的, 加盖收寄验视戳记。用户拒绝验视的, 不予收寄。

快递企业接受网络购物、电视购物和邮购等经营者委托提供长期、大量、多次快递服务时, 可以与经营者签订安全保障协议, 采取其他方式验视内件, 保证快件寄递安全。

**第十一条** 从事跨省、自治区、直辖市经营快递业务的快递企业, 应当在快件处理场所配备安全检查设备, 安排具备专门知识和技能的人员, 对从外埠进入本市的快件按照规定进行安全检查。

**第十二条** 本市行政区域内举行重大活动期间或者发生突发事件时, 快递企业应当按照规定寄递快件、对快件进行集中安全检查。

**第十三条** 快递营业场所、快件处理场所应当按照国家快递服务标准的规定设置, 并应当安装符合国家标准的视频监控系统, 覆盖交寄、分拣、储存等环节, 并保证监控设备的正常运转, 监控资料保存时间不得少于 30 日。

meters;

3. Motor vehicles meeting the standards for transportation of this Municipality;

4. Capable of providing inquiry service by telephone for mailing and delivering express mails, and equipped with an information network system for tracking express mails.

**Article 7** An express delivery enterprise in the form of commercial franchise shall obtain the permit for express delivery business and sign a written franchise agreement. The franchiser shall file with the postal administrative department within 15 days of signing the agreement.

**Article 8** Express delivery enterprises shall establish a system of express delivery safety guarantee and coordinated inquiry and notification as required.

Express delivery enterprises and their clients shall abide by relevant regulations of the State on monopoly of letters and prohibitions and restrictions of the mail and delivery of articles, and shall not deliver inflammable, explosive, corrosive, radioactive and other hazardous substances, or official documents of state organs, or state confidentiality related carriers.

**Article 9** Express delivery enterprises shall carry out safety inspection in the form of visual check, machine inspection, patrol inspection and sampling inspection on express mails as required. The specific measures shall be formulated by the municipal postal administrative department in conjunction with the departments of public security and national security and others.

**Article 10** When receiving and delivering express mails, express delivery enterprises shall prompt clients to fill in express waybills truthfully; for express mails other than letters, shall unpack the express mails on the spot for visual check on the contents, and stamp the contents that conform with the delivery requirements for acceptance and check. Express mails shall not be accepted for delivery in case of client refusing the visual check.

Where an express delivery enterprise accepts any entrustment from online shopping, television shopping and mail order operators to provide long-term, large and multiple express delivery services, a safety guarantee agreement shall be signed with the entrusting party and check the contents by other means to ensure the safety of express mail and delivery.

**Article 11** Express delivery enterprises engaging in express delivery business across provinces, autonomous regions and municipalities shall be equipped with safety inspection equipment at the processing premises for express mails, arrange personnel with special knowledge and skills, and carry out safety inspection on express mails entering this Municipality from other ports as required.

**Article 12** During the period of holding important events or emergencies within the administrative area of this Municipality, express delivery enterprises shall, in accordance with the regulations, receive and deliver express mails, and carry out centralized security inspection on express mails.

**Article 13** Offices for express delivery business and processing premises for express mails shall be established pursuant to the provisions of national express delivery service standards, and shall be installed with video monitoring system conforming to the national standards, covering delivery, sorting, storage and other links, and shall ensure the normal operation of the monitoring equipment. The storage time of monitoring data shall not be less

**第十四条** 快递从业人员应当按照国家和本市规定具备快递业务员职业技能。快递企业应当加强对快递从业人员的职业技能培训、职业素质教育和从业考核，建立快递从业人员档案制度，完善快递从业人员信息登记。

**第十五条** 快递企业应当制定快递安全操作标准和流程，定期组织开展安全生产教育和专业培训，提高快递从业人员对危险性物品的识别能力和处理能力。

公安、国家安全等部门按照职责对快递企业进行业务指导。

**第十六条** 快递企业应当建立突发事件应急机制，制定突发事件应急预案和专项预案，并报邮政管理部门备案。快递企业应当每年至少组织一次处置突发事件的应急演练。

发生突发事件时，快递企业应当启动应急预案，并按照规定向有关行政部门报告。影响快递时限或者涉及快件寄递安全的，应当及时告知用户。

**第十七条** 快递企业应当按照操作标准分拣快件，不得在露天场地分拣快件。

**第十八条** 运输快件的车辆应当符合本市道路交通运输和货物运输的技术规范和要求，并采用统一的快递运输专用标识。公安交通管理部门应当根据城市交通状况，为快递运输车辆提供通行便利。

收寄和投递快件的车辆应当封闭，标明快递企业标识，并符合本市道路通行要求。

**第十九条** 快递企业寄递快件需要进入社区、高等院校时，相关单位应当提供车辆通行和临时停放、快件派送等便利条件，快递企业应当遵守社区、校区管理相关规定。

**第二十条** 快递企业应当建立快递运单实物及电子数据档案管理制度，采取技术措施确保用户信息安全，不得泄露用户信息。

快递运单的实物保存应当满足快递服务标准规定的档案保管期限。保存期满后，按照规定集中销毁。

**第二十一条** 快递企业应当诚信经营，妥善处理用户对服务质量提出的投诉意见。用户对处理结果不满意的可以向邮政管理部门申诉，邮政管理部门应当依法处理，并

than 30 days.

**Article 14** Practitioners of express delivery shall possess professional express service skills required by the provisions of the State and this Municipality. Express delivery enterprises shall strengthen professional skills training, professional quality education and employment assessment of their practitioners, establish archives system of express practitioners, and improve information registration of express practitioners.

**Article 15** Express delivery enterprises shall formulate standards and procedures of safe practice of express delivery, regularly organize and carry out safe operation education and professional training, so as to improve the ability of practitioners of express delivery to identify and handle hazardous materials;

Departments of public security, national security and others shall provide operational guidance to express delivery enterprises according to their respective functions and duties.

**Article 16** Express delivery enterprises shall establish emergency response mechanism, develop contingency plans and special plans for emergencies, and file with the postal administrative department. Express delivery enterprises shall organize at least one emergency response drill each year.

On occurring an emergency, an express delivery enterprise shall activate the contingency plan, and report to relevant administrative departments as required. Where the time limit of express delivery is affected or the safety of mail or delivery of express mails is involved, the clients shall be informed by the express enterprise in time.

**Article 17** Express enterprises shall sort expresses mails in accordance with standards of practice, and shall not sort express mails in the open fields.

**Article 18** Vehicles for express delivery shall comply with the technical specifications and requirements of transportation of road and freight of this Municipality, and shall adopt unified special identifiers for express delivery transportation. Public security and traffic administrative departments shall, according to the urban traffic conditions, provide convenience for express transport vehicles.

Vehicles for receiving and delivering express mails shall be sealed, marked with the identifiers of the express enterprises, and comply with requirements of road traffic in this Municipality.

**Article 19** When express delivery enterprises need to enter the community and colleges to receive and deliver express mails, relevant entities shall provide convenience such as vehicle access and temporary parking, delivery of express mails, etc., and the express delivery enterprises shall comply with relevant regulations on the community and campus management.

**Article 20** Express delivery enterprises shall establish physical and electronic data archives management system of express waybills, take technical measures to ensure security of client information which shall not be disclosed.

The physical storage of express waybill shall meet the storage period of archives specified in the standards of express delivery service, and shall be destroyed in a centralized manner as required after the expiration of the storage period.

**Article 21** Express delivery enterprises shall operate in good faith and properly handle the complaints raised by clients on service quality. For appeals brought by clients

自接到申诉之日起 30 日内做出答复。

**第二十二条** 邮政、公安、国家安全、海关、保密等部门应当建立本市快递安全保障机制，加强对快递安全的监督检查。快递企业及其从业人员对行政部门的监督检查应当予以配合。

**第二十三条** 邮政管理部门应当建立本市快递监管信息平台，加强对快递企业经营行为的监督管理，并纳入本市企业信用信息系统，依法向社会公布。

邮政、公安、国家安全、海关、交通等部门应当加强信息沟通，建立快递安全信息共享机制。

**第二十四条** 快递行业协会应当加强行业自律，制定快递行业安全规范，为企业提供快递安全培训服务，提高快递企业安全管理能力，促进快递行业健康发展。

**第二十五条** 因经营纠纷或者发生治安案件造成快件滞留的，快递企业应当及时处理，避免快件寄递延误；未及时处理的，邮政管理部门应当督促快递企业及时处理；涉及治安案件的，公安部门应当予以配合。

**第二十六条** 违反本办法第七条，特许人未办理备案的，由邮政管理部门责令改正，处 2000 元罚款。

**第二十七条** 违反本办法第九条、第十一条，未按照规定进行安全检查的，由邮政管理部门责令改正，可处 5000 元以上 1 万元以下罚款；造成严重后果的，处 1 万元以上 3 万元以下罚款。

**第二十八条** 违反本办法第十条，未执行收寄验视制度的，由邮政管理部门按照《中华人民共和国邮政法》的规定进行处理；未按照规定加盖收寄验视戳记的，由邮政管理部门责令改正，可处 2000 元以上 5000 元以下罚款。

**第二十九条** 违反本办法第十二条，未按规定进行集中安全检查的，由邮政管理部门责令改正，处 1 万元以上 3 万元以下罚款；造成严重后果的，处 10 万元以下罚款。

who are not satisfied with the handling results, the postal administrative department shall handle in accordance with the law, and response within 30 days from the date of receiving such complaints.

**Article 22** Departments of postal, public security, national security, customs, confidentiality and others shall establish the mechanism for express delivery security in this Municipality, and strengthen supervision and inspection of express delivery security. Express enterprises and their practitioners shall cooperate with the supervision and inspection of such administrative departments.

**Article 23** Postal administrative department shall establish a supervision information platform of express delivery of this Municipality, strengthen the supervision and administration of the operation behavior of express enterprises, which shall be incorporated into the credit information system of enterprises in this Municipality, and published to the public according to law.

Departments of postal, public security, national security, customs, transportation and others should strengthen information communication and establish a mechanism for sharing express security information.

**Article 24** Express delivery industry association should strengthen industry self-discipline, formulate safety standards for express delivery industry, provide safety training services of express delivery for enterprises, improve the safety management ability of express enterprises, and promote the healthy development of express industry.

**Article 25** Where express mails are detained due to business disputes or public security cases, the express enterprise shall deal with it in a timely manner to avoid delay in the express receipt and delivery; otherwise the postal administrative department shall urge the express enterprise to handle it in a timely manner; if public security cases are involved, the public security department shall cooperate.

**Article 26** In violation of Article 7 herein, the franchisor that fails to go through the filing procedures shall be ordered by the postal administrative department to make corrections and fined 2000 yuan.

**Article 27** In violation of Article 9 and Article 11 herein, any express delivery enterprise that fails to carry out safety inspection as required shall be ordered by the postal administrative department to make corrections, and may be fined 5000 yuan up to 10000 yuan; if serious consequences are caused, a fine 10,000 yuan up to 30,000 yuan shall be imposed.

**Article 28** In violation of Article 10 herein, any express delivery enterprise that fails to implement the visual check of receipt and delivery shall be dealt by the postal administrative department in accordance with the provisions of the Postal Law of the People's Republic of China; the enterprise that fails to affix the visual check stamp of acceptance as required shall be ordered by the postal administrative department to make corrections and may be fined 2000 yuan up to 5000 yuan.

**Article 29** In violation of Article 12 herein, any express delivery enterprise that fails to carry out centralized security inspection as required shall be ordered by the postal administrative department to make corrections and be fined 10,000 yuan up 30,000 yuan; if serious consequences are caused, a fine of no more than 100,000 yuan shall be imposed.

**第三十条** 违反本办法第十三条，未安装视频监控系统或者监控设备未正常运转的，由邮政管理部门责令改正，处 2000 元以上 1 万元以下罚款；逾期未改正的，处 1 万元以上 3 万元以下罚款。

**第三十一条** 违反本办法第十七条，在露天场地分拣快件的，由邮政管理部门责令改正，处 2000 元罚款。

**第三十二条** 违反本办法第二十条第一款，快递企业违法提供用户信息的，由邮政管理部门按照《中华人民共和国邮政法》的规定进行处理。

违反本办法第二十条第二款，未按照规定集中销毁的，由邮政管理部门责令改正，处 5000 元以上 1 万元以下罚款；造成严重后果的，处 3 万元以下罚款。

**第三十三条** 快递企业及其从业人员在经营活动中有危害国家安全行为的，公安、国家安全等部门依法追究法律责任；邮政管理部门依法吊销其快递业务经营许可证。

**第三十四条** 本办法自 2014 年 3 月 1 日起施行。

**Article 30** In violation of Article 13 herein, any express enterprise who fails to install the video monitoring system or monitoring equipment is not in normal condition, the postal administrative department shall order them to make corrections and impose a fine of not less than 2000 yuan but not more than 10,000 yuan; if the correction is overdue, the enterprise shall be fined 10,000 yuan up to 30,000 yuan.

**Article 31** In violation of Article 17 herein, any express delivery enterprise that has its express mails sorted on the open fields shall be ordered by the postal administrative department to make corrections and be imposed a fine of 2000 yuan.

**Article 32** In violation of the first paragraph of Article 20 herein, any express delivery enterprise that illegally provides client information shall be dealt with by the postal administrative department according to the Postal Law of the People's Republic of China.

In violation of the second paragraph of Article 20 herein, any express delivery enterprise that fails to destroy physical storage of express waybills in a centralized manner as required shall be ordered by the postal administrative department to make corrections and be fined 5,000 yuan up to 10,000 yuan; if serious consequences are caused, a fine of no more than 30,000 yuan shall be imposed.

**Article 33** If the behavior of the express delivery enterprises and their practioners in the business activities endangers national security, departments of public security, national security and others shall investigate legal responsibilities according to law; the postal administrative department shall revoke the business license of express business.

**Article 34** These Measures shall be effective as of March 1, 2014.



## （五）城乡规划建设

### 北京市招标投标条例

（2002 年 9 月 6 日北京市第十一届人民代表大会常务委员会第三十六次会议通过 根据 2010 年 12 月 23 日北京市第十三届人民代表大会常务委员会第二十二次会议《关于修改部分地方性法规的决定》修正）

#### 第一章 总 则

**第一条** 为了规范招标投标活动，保护国家利益、社会公共利益和招标投标活动当事人的合法权益，根据《中华人民共和国招标投标法》（以下简称《招标投标法》）和其他有关法律、法规的规定，结合本市实际情况，制定本条例。

**第二条** 本市的工程建设、货物和服务采购以及其他项目的招标投标活动，适用本条例。

**第三条** 招标投标活动遵循公开、公平、公正和诚实信用的原则。

**第四条** 下列工程建设项目包括项目的勘察、设计、施工、监理以及与工程建设有关的重要设备、材料等的采购，符合市人民政府按照国家规定制定的招标范围和规模标准的，必须进行招标：

- （一）基础设施和公用事业等关系社会公共利益、公众安全的项目；
- （二）全部或者部分使用国有资金投资或者政府融资的项目；
- （三）使用国际组织或者外国政府贷款、援助资金的项目。

法律、法规或者市人民政府对必须进行招标的货物和服务采购以及其他项目有规定的，依照其规定。

## v. Urban and Rural Planning and Construction

### Regulations of the Beijing Municipality on Tendering and Bidding

(Adopted at the 36<sup>th</sup> Session of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on September 6, 2002; and amended in accordance with the Decision on Amending Partial Local Regulations at the 22<sup>nd</sup> Session of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on December 23, 2010)

#### Chapter I General Provisions

**Article 1** These Regulations are formulated in accordance with the Tendering and Bidding Law of the People's Republic of China (hereinafter referred to as the Tendering and Bidding Law) in order to regulate tendering and bidding activities, protect national and public interests, as well as the legitimate rights and interests of the parties involved in tendering and bidding activities.

**Article 2** These Regulations applies to the tendering and bidding activities of construction projects, the procurement of goods and services as well as other projects within the territory of Beijing Municipality.

**Article 3** The principles of openness, fairness, justice, honesty and credit-worthiness shall be applied to tendering and bidding activities.

**Article 4** The following construction projects in line with requirements on tendering scope and scale formulated by the Municipal Government in accordance with national regulations, including the surveying and investigation, design, construction and construction supervisions of such projects as well as the procurement of relevant major equipment and materials for such projects, shall be carried out through tendering procedures:

- (1) infrastructure projects and public utility projects concerning public interests and security;
- (2) projects invested completely or partially by government or funded through state financing;
- (3) projects using loans and aid funds from international organizations and foreign governments.

Where other laws, regulations or the Municipal Government have provisions on the scope of procurement of goods and services and other projects which must be subject to tender, such provisions shall be followed.

**第五条** 任何单位和个人不得将依法必须进行招标的项目化整为零或者以其他方式规避招标。

**第六条** 市和区、县人民政府及其所属部门不得对招标投标活动实行地区封锁和部门限制。

**第七条** 市发展改革部门指导和协调全市招标投标工作，会同有关行政主管部门拟定有关招标投标规定，报市人民政府批准后实施。

市和区、县人民政府有关行政主管部门按照各自职责对招标投标活动实施监督。

有关行政主管部门对招标投标活动实施监督的具体职权划分，由市人民政府规定。

## 第二章 招标和投标

**第八条** 招标项目依照国家有关规定需要履行项目审批手续的，应当先履行审批手续，取得批准。

依法必须进行招标的项目，需要履行项目审批手续的，招标人应当同时将招标范围和方式等有关招标的内容报送项目审批部门核准。项目审批后，审批部门应当在 5 个工作日内向有关行政主管部门通报所确定的招标范围和方式等情况。

招标人对经核准的招标范围和方式等作出改变的，应当到原项目审批部门重新办理核准手续。

**第九条** 招标人应当有进行招标项目的相应资金或者资金来源已经落实，并应当在招标文件中如实载明，但是选择投资主体、经营主体等不需要落实资金来源的招标项目除外。

**第十条** 招标分为公开招标和邀请招标。

**第十一条** 依法必须进行招标的项目中，全部使用国有资金投资或者国有资金投资占控股或者主导地位的，以及国务院发展改革部门确定的国家重点项目和市人民政府确定的地方重点项目，应当依法公开招标。其中有下列情形之一的，经批准，可以

**Article 5** No units or persons may break a project subject to tender by law into several smaller parts or by any other means try to dodge tendering.

**Article 6** No local or departmental limits shall be imposed on tendering and bidding activities of the projects subject to tender by law.

**Article 7** Municipal development and reform departments shall guide and coordinate tendering and bidding activities in the city, and make tendering and bidding provisions together with relevant administrative departments before submitting it for approval to the People's Government of Beijing Municipality.

Relevant departments for administrative supervision of the people's governments of counties, districts and the Municipality shall undertake supervision of tendering and bidding activities based on their respective responsibilities.

The division of specific duties and powers of the administrative supervision of tendering and bidding activities shall be determined by the People's Government of Beijing Municipality.

## **Chapter II Tendering and Bidding**

**Article 8** Where a project subject to tender is required to go through the procedures of examination and approval in accordance with relevant regulations, it shall firstly proceed with such procedures and obtain the approval.

Regarding projects subject to tender by law that need to go through examination and approval formalities, a tenderer shall report tendering scope, methods, and other relevant issues to departments in charge of project examination and approval for verification. After examination and approving, the departments need to report the confirmed tendering scope and methods and other relevant issues to relevant administrative departments within 5 workdays.

Where a tenderer changes the tendering scope and methods and other items verified, verification shall be rehandled by the original department in charge of examination and approval.

**Article 9** A tenderer shall possess sufficient funds for the project, or have definite resources of funds for the project, and shall truthfully state related facts in tendering documents, except for those projects for which definite resources of funds are not required by investors or managers.

**Article 10** Tendering is classified into two categories: open tendering and selective tendering.

**Article 11** Among the projects subject to tenders by law for those that are fully invested by national capital or whose funds for investment are held by national capital, and those national key construction projects determined by the development planning

邀请招标：

- （一）技术复杂或者有特殊要求，只有少数潜在投标人可供选择的；
- （二）受资源和环境条件限制，只有少数潜在投标人可供选择的；
- （三）其他不适宜公开招标的。

有前款规定情形之一，招标人拟邀请招标的，应当经项目审批部门批准；其中国务院发展改革部门确定的国家重点项目和市人民政府确定的地方重点项目，应当经国务院发展改革部门或者市人民政府批准。

**第十二条** 招标人可以委托招标代理机构办理招标事宜或者依法自行办理招标事宜。

依法必须进行招标的项目，招标人自行办理招标事宜的，应当具有编制招标文件和组织评标的能力，并应当向有关行政监督部门备案。

**第十三条** 招标代理机构的资格认定按照国家有关规定执行。本市有关行政主管部门应当将通过资格认定的招标代理机构名单向社会公布。

招标代理机构与行政机关和其他国家机关不得存在任何隶属关系或者其他利益关系。

**第十四条** 招标代理机构应当在招标人委托的范围内办理招标事宜，并遵守《招标投标法》和本条例关于招标人的规定。未经招标人同意，招标代理机构不得转让代理业务。

招标代理机构不得为投标人提供其所代理的招标项目的咨询服务。

**第十五条** 招标人公开招标的，应当发布招标公告。

依法必须进行招标项目的招标公告，应当按照国家有关规定在国家或者本市指定的报刊、信息网络或者其他媒介发布。

**第十六条** 招标人对投标人进行资格预审的，应当根据招标项目的性质、特点和要求，编制资格预审的条件和方法，并在招标公告或者资格预审公告中载明。

招标人拟限制投标人数量的，应当在招标公告或者资格预审公告中载明预审后投

department of the State Council or a local key construction project determined by the People's Government of Beijing Municipality, selective tendering can be pursued if one of the following conditions is met:

1. due to complex technologies or special requirements, only a limited few potential tenderers can be chosen from;
2. due to resource and environmental limitations, only a limited few potential tenderers can be chosen from;
3. there are other circumstances unsuitable for open tendering.

Where a tenderer intends to adopt selective bidding as stated in the preceding paragraph, he shall go through procedures for approval by the department in charge of examination and approval; for national key construction projects determined by the development planning department of the State Council or a local key construction project determined by the People's Government of Beijing Municipality, approval from the development planning department of the State Council or the People's Government of Beijing Municipality must be sought.

**Article 12** A tenderer may entrust a tendering agency with tendering operations or handle them on its own initiative.

A project subject to tendering by law, a tenderer shall have the capability of compiling tender documents and organizing bid evaluation before he carries out the tender himself. In this case, a tenderer shall file a record to relevant department for administrative supervision.

**Article 13** The qualification of tendering agencies shall be carried out in accordance with relevant national regulations. The list of tendering agencies that have obtained such qualification shall be announced to the public by relevant administrative departments of the Municipality.

There shall be no subordination or other relationship of interest between bidding agencies and administrative departments and other state organizations.

**Article 14** A tendering agency shall conduct tendering work within the scope authorized by the tenderer and shall comply with the provisions of the Tendering and Bidding Law and provisions on tenderers in these regulations. Without consent from tenderers, a tendering agency shall not transfer its tendering work to others.

A tendering agency shall not offer consulting services on the tender to tenderers.

**Article 15** Where an open tendering is adopted by a tenderer, a tender notice shall be issued.

The tender notice for a project subject to tender by law shall be published in newspapers, information networks or other kinds of media designated by the Municipality or the State.

**Article 16** A tenderer shall compile the conditions and methods of prequalification based on the nature and characteristics of and requirement from a tender and present such particulars on tender or prequalification notices.

Where a tenderer plans to limit the number of bidders, he shall indicate in the tender

标人的数量，并按照招标公告或者资格预审公告中载明的资格预审的条件和方法选择投标人。招标公告或者资格预审公告中没有载明预审后投标人数量的，招标人不得限制达到资格预审标准的投标人进行投标。

**第十七条** 招标人应当根据招标项目的特点和需要编制招标文件。招标文件一般由下列部分组成：

（一）投标人须知：包括评标方法和标准、编制投标文件的要求、投标方式、投标截止时间、开标地点和投标有效期；

（二）合同主要条款及协议书格式；

（三）要求投标人提供的资格和资信证明、投标函及附件、履约担保证件、授权委托书的格式和说明；

（四）投标价格要求及其计算方法；

（五）技术条款：包括招标项目范围、性质、规模、数量、标准和主要技术要求及交货或者提供服务时间；

（六）图纸或者其他应当提供的资料；

（七）其他应当说明的问题。

国际招标的项目，招标文件可以规定投标文件使用多种语言文字。投标文件不同文本之间有歧义的，应当以中文文本为准。

**第十八条** 政府投资和政府融资项目的招标人，应当严格按照批准的初步设计方案和投资总额编制招标文件。

**第十九条** 招标项目设置标底的，标底应当保密；在开标前，任何单位和个人不得以任何形式审查标底。

政府投资和政府融资的项目一般不设置标底。

**第二十条** 招标人不得以获得本地区、本行业奖项作为投标条件或者以不合理的地域、行业、所有制等条件限制、排斥潜在投标人投标；不得强制投标人组成联合体共同投标；不得向他人透露可能影响公平竞争的有关招标投标的情况。

**第二十一条** 投标人在投标截止时间之前撤回投标的，应当书面通知招标人。招标人接到通知后，收取投标保证金的，应当返还其投标保证金。

notice or prequalification notice the number of bidders after prequalification and select bidders by following the items and methods stated in the tender notice or prequalification notice. A tenderer shall not restrict or exclude any potential bidders that meet the prequalification standards where the tender notice or prequalification notice does not contain such items.

**Article 17** A tenderer shall formulate tendering documents in accordance with requirements and based on features of a tender.

Tender documents shall contain the following items:

1. instructions to tenderers: bid evaluation methods and criteria, requirements for bidding document compilation; bidding methods, bidding deadline, places for bid opening, and validity period of bidding.
2. primary clauses of a contract and the format of an agreement;
3. qualification and credit certification, letters of bidding and its attachments, guarantee papers, format, and statement of letter of authorization that shall be provided by bidders;
4. requirement on bidding price and its calculation methods;
5. technology clauses: including the scope, nature, scale, number and criteria of a tender, requirements on the main technologies and the time of delivery or offer of service;
6. drawings and other materials required;
7. other explanations required.

Regarding international tenders, tender provisions may allow the use of multiple languages in bidding documents.

Where there is any discrepancy among different versions thereof, the Chinese version shall prevail.

**Article 18** Tenderers of projects invested and financed by the government shall compile tendering documents by strictly following the preliminary plans and based on the verified total sum of investment.

**Article 19** Where there is a minimum bid, it shall be kept confidential; no units or individuals shall examine it in any manner before the opening of the bid.

There is no minimum bid for projects invested or financed by the government.

**Article 20** A tenderer shall not restrict or exclude potential bidders by setting forth requirements for obtaining of awards within the region and the industry, or unreasonable conditions such as regions, industries, and ownership.

A tenderer shall not force bidders to bid jointly; nor shall he disclose any information on the tendering and bidding that may damage fair competition.

**Article 21** The withdrawal of bidding by a bidder prior to deadlines shall be informed in written notice to the tenderer; after the receipt of the notice, the tenderer who has collected tender bond shall return the bond.



**第二十二条** 投标截止时间届满时，投标人少于3个的，招标人应当依法重新招标。

**第二十三条** 投标人不得相互约定抬高或者压低投标报价；不得与招标人串通投标；不得以向招标人或者评标委员会成员行贿的手段谋取中标；不得以他人名义投标或者以投标报价低于成本价等方式弄虚作假，骗取中标。

### 第三章 开标、评标和中标

**第二十四条** 开标应当在招标文件确定的提交投标文件截止时间的同一时间公开进行；开标地点应当为招标文件中预先确定的地点。

**第二十五条** 评标活动应当遵循公平、公正、科学和择优的原则依法进行。任何单位和个人不得非法干预、影响评标过程及结果。

**第二十六条** 评标由招标人依法组建的评标委员会负责。

依法必须进行招标项目的评标委员会，由招标人的代表和有关技术、经济等方面的专家组成，成员人数为5人以上单数，其中技术、经济等方面的专家不得少于成员总数的三分之二。

前款专家应当由招标人从国务院有关部门或者市人民政府有关部门提供的评标专家名册或者招标代理机构的专家库内的相关专业的专家名单中采取随机抽取方式确定；技术特别复杂、专业性要求特别高或者国家有特殊要求的招标项目，采取随机抽取方式确定的专家难以胜任的，可以由招标人直接确定。

评标委员会成员的名单在中标结果确定前应当保密。

本市逐步建立全市统一的评标专家名册。

**第二十七条** 评标委员会设负责人的，评标委员会负责人由评标委员会成员推举产生或者由招标人直接确定。评标委员会负责人与评标委员会其他成员有同等的表决权。

**第二十八条** 有下列情形之一的，不得担任相关项目的评标委员会成员：

（一）投标人或者投标人的主要负责人的近亲属；

**Article 22** By the bidding deadline, where the number of bidders is less than three, the tenderer shall retender in accordance with law.

**Article 23** Bidders shall not collude with each other in raising or lowering bidding prices; nor shall they collude with tenderers; they shall be forbidden to win any bid by paying bribes to tenderers or members of bid evaluation committees; nor shall they be allowed to win the bid in the name of other persons or through such fraudulent means as bidding at a price lower than cost.

### **Chapter III Opening, Evaluation and Winning of Bids**

**Article 24** Opening of bids shall be carried out openly at the same time as the deadline for submission of bid documents stipulated in the tender documents, and the place of opening of bids shall be the one predetermined in the tender documents.

**Article 25** Bid evaluation shall be carried out on the principles of fairness, impartiality, science and selective admission. No entity or individual shall unlawfully interfere with or change the process or result of any bid evaluation.

**Article 26** A legally established bid evaluation committee established by a tenderer shall be responsible for bid evaluation.

For projects subject to tender by law, the bid evaluation committee shall be composed of representatives of the tenderer and experts in the relevant technological, economic, and other fields. The number of members shall be an odd number at or above 5, among whom no less than two thirds shall be experts on the technology, economics, and other fields.

The expert as mentioned in the previous paragraph shall be randomly selected by a tenderer from the lists of experts provided by the relevant departments of the State Council or the Municipal Government, or from the name list of related experts from the pool of experts of the tendering agency. Where the experts selected randomly are unqualified for the projects that require complex technologies, special professional skills or the projects that are particularly required by the State, the experts may be chosen directly by the tenderer.

The name list of the members of the bid evaluation committee shall be kept confidential before the result of the bid is determined.

A city-wide name list of experts for bid evaluation is being gradually established.

**Article 27** Where the bid evaluation committee appoints someone in charge, the person shall be elected by the members of the committee or be determined by the tenderer the person-in-charge and other members of the committee shall have equal voting rights.

**Article 28** Where a person falls under any of the following circumstances, such a person shall not be a member of the bid evaluation committee of relevant projects:

1. being a relative of any bidder or of any person in charge of a tender;

(二) 与投标人有利害关系的;

(三) 与投标人有其他关系, 可能影响公正评审的。

评标委员会成员有前款规定情形之一的, 应当主动提出回避。

招标人发现评标委员会成员有本条第一款规定情形之一的, 应当予以更换。

**第二十九条** 评标可以采用经评审的最低投标价法或者综合评估法以及法律、法规允许的其他评标方法。

采用招标方式确定基础设施和公用事业项目的投资主体、经营主体以及政府投资和政府融资项目的项目法人的, 应当采用综合评估法评标。

**第三十条** 评标委员会应当按照招标文件确定的评标标准和方法, 对投标文件进行评审和比较。招标项目设置标底的, 标底作为评标参考。评标委员会完成评标后, 应当向招标人提出书面评标报告, 并推荐 1 至 3 名合格的中标候选人。

招标人根据评标委员会提出的书面评标报告和推荐的中标候选人确定中标人。招标人也可以授权评标委员会直接确定中标人。

评标委员会不得改变招标文件确定的评标标准和方法。

**第三十一条** 中标人的投标应当符合下列条件之一:

(一) 能够最大限度地满足招标文件中规定的各项综合评价标准;

(二) 能够满足招标文件的实质性要求, 并且经评审的投标价格最低; 但是投标价格低于成本的除外。

**第三十二条** 在评标过程中, 有下列情形之一的, 评标委员会可以认定为废标:

(一) 投标人的报价明显低于其他投标报价或者在设有标底时明显低于标底, 投标人不能合理说明或者不能提供相关证明材料证明其投标报价不低于其成本的;

(二) 投标文件未能在实质上响应招标文件提出的所有实质性要求和条件的;

(三) 符合招标文件规定的其他废标条件的。

投标人以他人的名义投标、串通投标、以行贿手段谋取中标或者以其他弄虚作假方式投标的, 应当作废标处理。

2. being an interested person of a bidder;
3. being a person in other relation with a bidder, which might likely affect the impartiality of bid evaluation;

Where any member of the bid evaluation committee falls under any items in the preceding paragraph, such a member shall voluntarily withdraw.

Where a tenderer discovers any member of the bid evaluation committee falling under the conditions stated in the first paragraph of this Article, such a member shall be replaced.

**Article 29** The lowest bid price method, comprehensive evaluation method or other bid evaluation methods permitted by laws and regulations may be applied in the bid evaluation.

The comprehensive evaluation method shall be applied in evaluation of bids, where tenders are adopted to determine the investors, managers of infrastructure and public utilities and the legal persons of projects invested and funded by the government.

**Article 30** The bid evaluation committee shall make evaluate and compare bid documents based on the criteria and methods as specified in the tendering documents. Where a base price is set in tender documents, the base price shall be referred to in evaluation.

After the conclusion of evaluation, the committee shall render a written bid evaluation report to the tenderer and recommend one to three candidates.

A tenderer can either determine a winner based on the report and recommendation or authorize the committee to directly determine a winner.

The committee shall not change the criteria and methods of bid evaluation established by tender documents.

**Article 31** The bid of a winning bidder shall meet at least one of the following requirements:

1. it can meet, to the maximum extent, all the comprehensive evaluation criteria specified in the tender documents;
2. it can meet the substantive requirements stipulated in the tender documents and has the lowest bid price of the bids evaluated, except for the bid price below cost.

**Article 32** Where any of the circumstances mentioned below occurs in the process of the bid evaluation, the committee may hold the tender as invalid:

1. the bid price of a bidder is evidently lower than that of others, or than the base price, and the bidder cannot provide a reasonable explanation or relevant proof materials to prove that its price is no lower than cost;
2. bid documents fail to satisfy all the substantive requirements and conditions stated in the tendering documents;
3. Other circumstances of invalid bids stated by the tendering documents.

Where a bidder bids in the name of other persons, colludes with others, wins the bid by paying bribes, or bids through other fraudulent means, the bid shall be invalid.

**第三十三条** 投标人资格条件不符合国家有关规定和招标文件要求的，或者不按  
照要求对投标文件进行澄清和说明的，评标委员会可以否决其投标。

**第三十四条** 评标委员会根据本条例第三十二条、第三十三条规定否决不合格投  
标或者认定为废标后，有效投标不足 3 个的，可以否决全部投标。

依法必须进行招标的项目所有投标被否决的，招标人应当依法重新招标。

**第三十五条** 依法必须进行招标的项目，招标人应当自确定中标人之日起 15 日内，  
向有关行政监督部门提交招标投标情况的书面报告。

提交书面报告时，应当同时附送下列文件或者文件的复制件：

- （一）招标文件；
- （二）招标公告及发布媒介或者投标邀请书；
- （三）实行资格预审的，资格预审文件和资格预审结果；
- （四）评标委员会成员和评标报告；
- （五）中标结果及中标人的投标文件。

**第三十六条** 中标人确定后，招标人应当向中标人发出中标通知书，同时将中标  
结果书面通知所有未中标的投标人。中标通知书对招标人和中标人具有法律效力。

政府投资和政府融资项目的中标结果应当向社会公告。

**第三十七条** 招标人和中标人应当在规定时间内，按照招标文件和中标人的投标  
文件订立书面合同，不得再行订立背离合同实质性内容的其他协议。

政府投资和政府融资的项目签订合同后，招标人应当向有关行政监督部门备案。

**第三十八条** 招标人收取投标保证金的，在与中标人签订合同后 5 个工作日内，  
应当向中标人和未中标的投标人退还投标保证金。

**第三十九条** 中标人应当按照合同约定履行义务，完成中标项目。中标人不得向  
他人转让中标项目，也不得将中标项目肢解后转让。

中标人按照合同约定或者经招标人同意，可以将中标项目的部分非主体、非关键  
性工作分包给他人完成。接受分包的人应当具备相应的资格条件，并不得再次分包。

**Article 33** Where the qualification of a bidder does not meet the requirements of the relevant state provisions and tendering documents, or fails to make clarifications and explanations about the bid documents as required, the committee may reject the bid.

**Article 34** The committee may reject all the bids where the number of effective bids is less than 3 after the committee determine unqualified bids as invalid in accordance with the Article 32 and Article 33 of these Regulations.

Where all the bids legally adopted for a project are rejected, a tenderer shall rebid in accordance with the law.

**Article 35** With regard to projects subject to tender by law, a tenderer shall submit a written report on the tendering and bidding to relevant administrative supervision departments within 15 days after the determination of the bid winner.

The originals or copies of the following documents shall be attached to the written report:

1. tender documents;
2. tender notices, mass media thereof and invitation for bid;
3. prequalification documents and results where a prequalification is required;
4. the members of a bid evaluation committee and bid evaluation reports;
5. the results of bid winning and bid documents of a bid winner.

**Article 36** After the determination of a bid winner, a tenderer shall issue a bid winning notice to the winner, and at the same time inform all the other tenderers of the result. The notice shall be of legal effect to both the tenderer and the bid winner.

The results of bid winning for government-invested and-funded projects shall be announced openly.

**Article 37** A written contract shall be signed between a tenderer and a bid winner within the time stipulated according to the tender documents and the winner's bid documents. The two parties shall not conclude agreements deviating from any substantial provision of the contract.

After the conclusion of the contract for projects invested and funded by the government, the tenderer shall report to relevant administrative supervision departments.

**Article 38** Where a tenderer has collected a bid bond, the tender shall return the bond to the bid winner and other tenderers within 5 workdays after the signing of the contract with the bid winner.

**Article 39** The bid winner shall perform duties and complete the bidding project, as specified in the contract. The bid winner shall neither assign the project to others nor break the project into several parts and then transfer them to others.

The bid winner may, in accordance with the provisions of the contract or with the consent of the tenderer, subcontract to others parts of the project that are not vital or key to the project. The subcontractor shall satisfy the corresponding qualification requirements and

中标人应当就分包项目向招标人负责，接受分包的人就分包项目承担连带责任。

## 第四章 监 督

**第四十条** 市和区、县人民政府有关行政监督部门应当加强对招标投标活动的监督检查，市发展改革部门应当加强对政府投资和政府融资项目招标投标活动的监督，协调有关监督检查工作。

**第四十一条** 行政监督部门应当依法履行监督职责，不得任意增加招标投标审批事项，不得非法干涉或者侵犯招标人选择招标代理机构、编制招标文件、组织投标资格审查、确定开标的时间和地点、组织评标、确定中标人等事项的自主权。

**第四十二条** 有关行政监督部门可以采取执法专项检查、重点抽查、成立调查组进行专项调查等方式对招标投标活动监督检查，依法查处违法行为。

有关行政监督部门进行执法监督检查时，有权调取和查阅有关文件，调查、核实有关情况。

**第四十三条** 本市对地方重点项目的招标投标活动进行专项稽察。专项稽察包括以下内容：

（一）招标投标当事人和行政监督部门有关招标投标的行为是否符合法律、法规规定的权限和程序；

（二）对招标投标的有关文件、资料的合法性、真实性进行核实；

（三）对资格预审、开标、评标、定标过程是否合法和符合招标文件、资格审查文件规定进行调查核实；

（四）招标投标结果的执行情况；

（五）其他需要专项稽察的内容。

**第四十四条** 任何单位和个人认为招标投标活动违反《招标投标法》和本条例规定的，可以向有关行政监督部门举报。有关行政监督部门应当及时调查处理，将处理

shall not subcontract his part.

The bid winner shall be responsible to the tenderer for the assigned part of the project, and the person who accepts the subcontracted part of the project shall take joint and several liabilities.

## Chapter IV Supervision

**Article 40** The relevant administrative supervision departments of the people's government of counties, districts and the Municipality shall strengthen supervision and inspection over tendering and bidding activities, and the development and reform department of the Municipality shall strengthen supervision over the bidding activities of projects invested and funded by the government and shall coordinate relevant work of supervision and inspection.

**Article 41** The administrative supervision department shall perform supervision duties in accordance with the law, shall not add items requiring examination and approval at will, and shall not illegally interfere with or infringe on tenderer's autonomous rights on such matters as the selection of tendering agencies, the compilation of tender documents, organization of tender qualification inspection, the determination of the place and time for tender opening, organization of bid evaluation, and the determination of the bid winner.

**Article 42** Relevant administrative supervision departments may adopt supervision and inspection of the bidding activities by conducting special inspection, key selective examination, and special investigation by the establishment of an investigation group and may legally investigate into and deal with violations.

When relevant administrative supervision departments conduct supervision and inspection over law enforcement, they are entitled to access relevant documents, and investigate into and verify circumstances concerned.

**Article 43** The Municipality shall conduct special inspections for tendering and bidding activities of local key projects. The special inspection shall include the following matters:

1. whether tendering and bidding activities conducted by the parties involved and the administrative supervision departments meet and the requirements or follow the procedures stipulated by laws and regulations;
2. verification of the legality and authenticity of documents and materials concerning tendering and bidding;
3. investigation into and verification of the legality and conformity to the provisions stipulated in the tender and qualification examination documents of the process of prequalification, bid opening, bid evaluation and determination of bid winning;
4. the implementation of the bidding results;
5. other matters required for special inspection.

**Article 44** Where any units or individuals deem a tendering and bidding activity



情况告知举报人，并为举报人保密。

投标人和其他利害关系人认为招标投标活动违反《招标投标法》和本条例规定的，有权向有关行政监督部门投诉。有关行政监督部门应当在收到投诉后 10 个工作日内，作出是否受理的决定；决定受理的，应当及时调查处理，并将处理情况告知投诉人。投诉人对有关行政监督部门逾期未作出受理决定或者对投诉处理决定不服的，可以依法申请行政复议或者提起行政诉讼。

**第四十五条** 本市建立招标投标活动违法行为记录系统，记载招标人、招标代理机构、投标人、评标委员会成员等招标投标活动当事人的违法行为及处理结果。

单位和个人有权查询违法行为处理结果记录。

## 第五章 法律责任

**第四十六条** 违反本条例的行为，法律、行政法规有规定的，依照其规定追究法律责任；没有法律、行政法规规定的，适用本条例规定。

**第四十七条** 本章规定的行政处罚，由市人民政府规定的有关行政监督部门决定。

**第四十八条** 招标人违反本条例第十一条规定，应当公开招标的项目未经批准擅自邀请招标的，由项目审批部门责令限期改正，可以处 1 万元以上 5 万元以下罚款；有关部门可以对单位直接负责的主管人员和其他责任人员依法给予行政处分；其中使用政府投资的项目，可以暂停项目执行或者暂停资金拨付。

**第四十九条** 招标人违反本条例第十五条第一款规定，对依法必须进行招标的项目，应当发布招标公告而不发布的，由有关行政监督部门责令限期改正，可以处项目合同金额 5% 以上 10% 以下罚款；违反本条例第十五条第二款规定，对依法必须进行招标的项目不在指定媒介发布招标公告的，或者违反本条例第二十条规定，在招标公告中以不合理的条件限制或者排斥潜在投标人的，由有关行政监督部门责令限期改正，可以处 1 万元以上 5 万元以下罚款。

violates the provisions stipulated in the Tendering and Bidding Law and these Regulations, they may report it to relevant administrative supervision departments. The departments shall investigate into and handle it in a timely manner, inform the informant of the handling result and keep confidential the information of the informant.

Where a tenderer and other interested parties deem that a tendering and bidding activity violates the provisions of the Tendering and Bidding Law and these Regulations, they may file a complaint to relevant administrative supervision departments. The departments shall make decisions about whether to handle the complaint within 10 workdays. If it decides to handle it, it shall investigate into and deal with it in a timely manner, and inform the informant of the handling result. Where the complainant is dissatisfied with the department's failure to make a decision within the time limit or with the handling result, he may apply for administrative reconsideration or file an administrative lawsuit in accordance with the law.

**Article 45** The Municipality shall establish a record system for illegal tendering and bidding activities to record the illegal activities of concerned parties such as tenderers, tendering agencies, bidders, and members of bid evaluation committee and handling results.

Units and individuals are entitled to access the records of the handling results of illegal activities.

## Chapter V Legal Liabilities

**Article 46** Where there are provisions in laws and administrative regulations for violations of this Regulation, concerned parties shall be held accountable in accordance with the provisions; where there are no laws or administrative regulations, the provisions of these Regulations shall apply.

**Article 47** Administrative penalties under this chapter shall be determined by the relevant supervision departments stipulated by the People's Government of Beijing Municipality.

**Article 48** Where a tenderer, in violation of the provisions of Article 11 of these Regulations, adopts an open bidding without approval, department responsible for project examination and approval shall order it to make corrections within a time limit, and may impose a fine of 10,000 to 50,000 yuan; relevant departments may impose administrative sanctions in accordance with the law on the person-in-charge and other persons directly responsible; among those projects, projects using government funds may be suspended for project execution or fund allocation.

**Article 49** Where a tenderer, in violation of the provisions of the first paragraph of Article 15 of this Regulation, fails to publish a tender notice for a project subject to tender by law, relevant administrative supervision departments shall order it to make corrections within a time limit, and may impose a fine of not less than 5‰ and not more than 10‰ of the project contract amount; where a tenderer, in violation of the second paragraph of Article 15 of these Regulations, does not publish bidding notice in the designated mass media for projects subject to tender in accordance with the law, or in violation of Article 20 of this Regulations, restricts or excludes potential bidders on unreasonable conditions in the tender notice, the department shall order them to make corrections within a time limit, and

**第五十条** 违反本条例第二十三条规定，政府投资和政府融资项目的投标人以投标报价低于成本价的方式骗取中标，导致合同不能全部履行的，取消其 3 年至 5 年参加政府投资和政府融资项目的投标资格并予以公告。

**第五十一条** 违反本条例第四十一条、第四十四条规定，有关行政监督部门擅自增加审批事项和非法干涉或者侵犯招标人自主权的，对于举报或者投诉不及时处理，或者不为举报人保密的，由有关部门对单位直接负责的主管人员和其他直接责任人员依法给予警告、记过、记大过的处分；情节较重的，依法给予降级、撤职、开除的处分。

行政监督部门的工作人员利用职权，非法干涉或者侵犯招标人自主权的，依照前款规定追究责任。

## 第六章 附 则

**第五十二条** 本条例自 2002 年 11 月 1 日起施行。

may impose a fine of 10,000 to 50,000 yuan.

**Article 50** Where a bidder for a project invested or funded by the government wins a bid by offering a price lower than the cost, which leads to the failure of full fulfillment of the contract, the bidder shall be disqualified from participation in bidding for projects invested or funded by the government for 3 to 5 years and the result shall be announced to the public.

**Article 51** Where a relevant administrative supervision department, in violation of the provisions under Article 41 and Article 44 of these Regulations, adds arbitrarily matters requiring examination and approval and illegally interferes with or infringe on a tenderer's autonomous right, fails to handle the report or complaint in a timely manner, or fails to keep confidential the information of the informant, the person-in-charge in the unit and other people directly responsible for the unit shall be warned, given a demerit, or a serious demerit; where the circumstances are serious, the people shall be given such punishments as by demotion, removal from his post, or dismissal from work.

Where a member of the administrative supervision department illegally interferes with or infringes on a tenderer's autonomous right by abusing its power, it shall be held accountable under the provisions of the preceding paragraph.

## **Chapter VI Supplementary Provisions**

**Article 52** The Regulation shall be effective as of November 1, 2002.

# 北京市城市基础设施特许经营条例

(2005年12月1日北京市第十二届人民代表大会常务委员会  
第二十四次会议通过)

## 第一章 总 则

**第一条** 为了规范本市城市基础设施特许经营活动，扩大融资渠道，保障社会公共利益和公共安全，保证公共产品和服务的质量，保护经营者的合法权益，根据有关法律、法规，制定本条例。

**第二条** 本条例所称城市基础设施特许经营，是指中华人民共和国境内外的企业和其他经济组织依法取得政府授予的特许经营权，在一定期限和范围内经营城市基础设施，提供公共产品或者公共服务。

**第三条** 本市城市基础设施实施特许经营的，适用本条例。下列城市基础设施项目可以实施特许经营：

- (一) 供水、供气、供热；
- (二) 污水和固体废物处理；
- (三) 城市轨道交通和其他公共交通；
- (四) 市人民政府确定的其他城市基础设施。

**第四条** 城市基础设施特许经营可以采取下列方式：

- (一) 在一定期限内，城市基础设施项目由特许经营者投资建设、运营，期限届满无偿移交回政府；
- (二) 在一定期限内，城市基础设施由政府移交特许经营者运营，期限届满无偿移交回政府；
- (三) 市人民政府同意的其他方式。

**第五条** 城市基础设施实施特许经营，应当遵循公平、诚信和公共利益优先原则。

# Regulations of Beijing Municipality on Concessions for Urban Infrastructure

(Adopted at the 24<sup>th</sup> Meeting of the Standing Committee of the 12<sup>th</sup>  
People's Congress of Beijing Municipality on December 1, 2005)

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of standardizing the concessions for urban infrastructure in this Municipality, expanding financing channels, ensuring public interests and public security, guaranteeing the quality of public goods and services and protecting the legitimate rights and interests of concessionaires in accordance with relevant laws and regulations.

**Article 2** The term “concessions for urban infrastructure” as mentioned in the Regulations means the concessions obtained by enterprises and other economic organizations within or outside the territory of the People's Republic of China from the government according to law to operate urban infrastructure within a certain period and scope and to provide public goods or public services.

**Article 3** The Regulations shall apply to concessions for urban infrastructure in this Municipality. Concessions may be granted with respect to the following urban infrastructure projects:

- (1) water, gas and heat supply;
- (2) disposal of sewage and solid wastes;
- (3) urban rail transport and other public transport; and
- (4) other urban infrastructure defined by the Municipal People's Government.

**Article 4** The following forms may be adopted with respect to concessions for urban infrastructure:

- (1) urban infrastructure projects to be financed, constructed and operated by concessionaires within a certain period of time, and transferred to the government without compensation upon expiration of such period;
- (2) urban infrastructure projects to be handed over by the government to concessionaires for operation within a certain period of time, and transferred to the government without compensation upon expiration of such period; or
- (3) other forms approved by the Municipal People's Government.

**Article 5** The principles of fairness, good faith and public interest first shall be followed in granting concessions for urban infrastructure.

**第六条** 市发展改革部门负责本市城市基础设施特许经营的总体规划、综合平衡、协调和监督。

市城市基础设施行业主管部门，区、县人民政府，以及市或者区、县人民政府指定的部门（以下统称实施机关）负责本市城市基础设施项目的具体实施和监督管理工作。

规划、土地、建设、环保、财政、审计、监察等相关行政部门在各自职责范围内依法履行监督管理职责。

## 第二章 特许经营权的授予

**第七条** 拟实施特许经营的城市基础设施项目，可以由市发展改革部门、市城市基础设施行业主管部门或者区、县人民政府提出。

**第八条** 城市基础设施特许经营项目应当符合本市经济和社会发展规划、城市总体规划、城市基础设施行业发展规划和城市发展的需要。

市发展改革部门确定市级实施特许经营的城市基础设施项目。重大项目应当报市人民政府批准。

区、县人民政府在固定资产投资项目审批权限范围内确定本区、县实施特许经营的城市基础设施项目。

**第九条** 城市基础设施特许经营项目确定后，实施机关应当拟定实施方案。

城市基础设施特许经营项目实施方案应当包括下列内容：

- （一）项目名称；
- （二）项目的实施机关；
- （三）特许经营者应当具备的条件及选择方式；
- （四）项目基本经济技术指标；
- （五）选址和其他规划条件；
- （六）特许经营权条款及特许经营期限；
- （七）投资回报和价格的测算；
- （八）特许经营权使用费及其减免；

**Article 6** The municipal development and reform department shall be responsible for the overall planning, comprehensive balance, coordination and supervision of concessions for urban infrastructure in this Municipality.

The competent department for urban infrastructure at the municipal level, the district or county people's governments and the departments designated by the municipal, district or county people's governments (hereinafter referred to as implementation agencies) shall be responsible for the specific implementation, supervision and administration of urban infrastructure projects in this Municipality.

The relevant administrative departments of planning, land, construction, environmental protection, finance, auditing, supervision, etc. shall perform the responsibilities of supervision and administration according to law within the scope of their respective functions and duties.

## **Chapter II Granting of Concessions**

**Article 7** Urban infrastructure projects to be operated under concessions may be proposed by the municipal development and reform department, the competent department for urban infrastructure at the municipal level or the district or county people's governments.

**Article 8** Urban infrastructure projects subject to concessions shall conform to the economic and social development planning, the overall urban planning, the industrial development planning for urban infrastructure and the needs of urban development of this Municipality.

The municipal development and reform department shall determine the urban infrastructure projects subject to concessions at the municipal level. Major projects shall be reported to the Municipal People's Government for approval.

The district or county people's governments shall determine the urban infrastructure projects subject to concessions in respective districts or counties within the scope of their authorities of examining and approving fixed asset investment projects.

**Article 9** After urban infrastructure projects subject to concessions are determined, the implementation agencies shall work out an implementation plan.

The implementation plan for an urban infrastructure project subject to concessions shall include the following contents:

- (1) project name;
- (2) implementation agency of project;
- (3) conditions that concessionaires shall possess and methods for choosing concessionaires;
- (4) basic economic and technical indexes of project;
- (5) site selection and other planning conditions;
- (6) terms and period of concessions;
- (7) estimation of investment return and price;
- (8) royalties and the reduction or exemption thereof;



（九）保障措施；

（十）其他政府承诺。

**第十条** 市发展改革部门组织市规划、土地、建设、环保、财政等有关行政主管部门依照各自职责对市级城市基础设施特许经营项目的实施方案进行审查，有关行政主管部门应当分别出具审定意见。市发展改革部门会同实施机关将修改审定的实施方案报市人民政府批准。

区、县城市基础设施特许经营项目的实施方案由区、县人民政府确定。重大的城市基础设施特许经营项目的实施方案，应当组织专家进行可行性论证。

**第十一条** 实施机关按照实施方案，通过招标等公平竞争方式确定特许经营者并与之签订特许经营协议。

**第十二条** 特许经营协议应当包括下列内容：

（一）项目名称、内容；

（二）特许经营方式、区域、范围、期限；

（三）是否成立项目公司以及项目公司的经营范围、注册资本、股东出资方式、出资比例、股权转让等；

（四）产品或者服务的数量、质量和标准；

（五）投融资期限和方式；

（六）投资回报方式以及确定、调整机制；

（七）特许经营权使用费及其减免；

（八）特许经营者的权利和义务；

（九）履约担保；

（十）特许经营期内的风险分担；

（十一）政府承诺和保障；

（十二）应急预案；

（十三）特许经营期满后，项目移交的方式、程序；

（十四）违约责任；

（十五）争议解决方式；

（十六）需要约定的其他事项。

- (9) safeguard measures; and
- (10) other government commitments.

**Article 10** The municipal development and reform department shall organize relevant competent departments for planning, land, construction, environmental protection, finance, etc. at the municipal level to examine the implementation plans for urban infrastructure projects subject to concessions at the municipal level within the scope of their respective functions and duties, and the latter shall issue their examination and approval opinions respectively. The municipal development and reform department shall, together with the implementation agencies, report the revised and finalized implementation plans to the Municipal People's Government for approval.

The implementation plans for urban infrastructure projects subject to concessions at the district or county level shall be determined by the district or county people's governments. Experts shall be organized to conduct feasibility demonstration of the implementation plans for major urban infrastructure projects subject to concessions.

**Article 11** The implementation agencies shall, in accordance with the implementation plans, determine concessionaires by bid invitation or other fair competition means and enter into a concession agreement with them.

**Article 12** A concession agreement shall include the following contents:

- (1) project name and contents;
- (2) way, area, scope and period of concessions;
- (3) whether to establish a project company, and the business scope, registered capital, way and proportion of shareholders' contributions, equity transfer, etc. of the project company;
- (4) product or service quantity, quality and standards;
- (5) period and means of investment and financing;
- (6) forms of investment return and the determination and adjustment mechanism thereof;
- (7) royalties and the reduction or exemption thereof;
- (8) rights and obligations of concessionaires;
- (9) performance guarantee;
- (10) risk sharing within the concession period;
- (11) government commitments and guarantee;
- (12) contingency plans;
- (13) way of and procedures for project transfer upon expiration of the concession period;
- (14) liability for breach of contract;
- (15) ways of dispute settlement; and
- (16) other matters that need to be agreed upon.

特许经营协议内容应当符合城市基础设施特许经营项目实施方案。

**第十三条** 特许经营协议中约定的特许经营期限根据行业特点、经营规模、经营方式等因素确定，但最长不得超过三十年。

**第十四条** 依据特许经营协议需要成立项目公司的，特许经营者应当在规定的期限内注册成立项目公司，并由实施机关确认其承担特许经营者的权利和义务。

特许经营协议可以约定限制项目公司的股权变更。

**第十五条** 特许经营协议可以约定特许经营者通过下列方式取得回报：

- （一）对提供的公共产品或者服务收费；
- （二）政府授予与城市基础设施相关的其他开发经营权益；
- （三）政府给予相应补贴；
- （四）市人民政府同意的其他方式。

**第十六条** 对于微利或者享受财政补贴的项目，特许经营协议中可以约定减免特许经营权用费。

**第十七条** 特许经营协议中政府承诺的内容可以涉及与特许经营项目有关的土地使用、相关城市基础设施的提供、防止不必要的重复性竞争项目建设、必要合理的补贴、产品或者服务的政府采购，但政府不承诺商业风险分担、固定投资回报率及法律、法规禁止的其他事项。

**第十八条** 特许经营协议签订后，特许经营者应当持特许经营协议和其他有关文件到有关行政主管部门办理相关手续。有关行政主管部门在办理特许经营项目相关手续时，对已经出具审定意见的内容，不再作重复审查；对其他内容的审查结果不应当导致特许经营协议内容的实质性变更。

### 第三章 权利和义务

**第十九条** 实施机关应当按照特许经营协议履行相关义务。

有关行政主管部门按照各自职责范围履行特许经营协议中的相关政府承诺。

特许经营者应当按照特许经营协议提供安全、合格的产品和优质、持续、高效的服务。

The contents of a concession agreement shall conform to the implementation plans for urban infrastructure projects subject to concessions.

**Article 13** The concession period agreed on in a concession agreement shall be determined based on such factors as the industrial characteristics, scale of operation and mode of operation, but the maximum period shall not exceed 30 years.

**Article 14** Where it is necessary to establish a project company according to the concession agreement, the concessionaire shall, within the specified time limit, establish and register a project company, which shall enjoy the rights and assume the obligations of the concessionaire as determined by the implementation agencies.

It may be agreed in the concession agreement to restrict the equity change of the project company.

**Article 15** It may be agreed in the concession agreement that the concessionaire may get returns in the following ways:

- (1) to charge for the public goods or services provided;
- (2) the government to grant other development and operation rights and interests related to urban infrastructure;
- (3) the government to give corresponding subsidies; and
- (4) other ways approved by the Municipal People's Government.

**Article 16** As to projects with low profit or having financial subsidies, it may be agreed in the concession agreement on reduction or exemption of royalties.

**Article 17** Government commitments in concession agreements may involve the land use related to projects subject to concessions, provision of related urban infrastructure, prevention of unnecessary and repeated competitive project construction, necessary and reasonable subsidies, as well as government procurement of goods and services, but the government will not make commitments on sharing of commercial risks, fixed return on investment and other matters prohibited by laws and regulations.

**Article 18** After a concession agreement is concluded, the concessionaire shall, with the concession agreement and other relevant documents, go to relevant competent departments to handle relevant procedures. When handling procedures related to projects subject to concessions, the relevant competent departments shall not repeatedly examine the contents on which the opinions of examination and approval have been given; and the examination results of other contents shall not lead to substantial changes of the contents of the concession agreement.

### Chapter III Rights and Obligations

**Article 19** The implementation agencies shall fulfill their relevant obligations in accordance with the concession agreements.

The relevant competent departments shall fulfill the relevant government commitments in the concession agreements within the scope of their respective functions and duties.

The concessionaires shall, in accordance with the concession agreements, provide safe and conforming products as well as high-quality, consistent and efficient services.

**第二十条** 特许经营者应当按照规划，在特许经营协议约定的服务区域内向消费者普遍地、无歧视地提供公共产品或者服务。

特许经营者不得对新增用户连接特许经营的供水、供气、供热、污水处理等设施收取设施投资补偿费等接入费用。

**第二十一条** 按照市和区、县人民政府的决定或者特许经营协议约定由实施机关接管城市基础设施的，特许经营者应当在完成接管前善意履行看守职责，维持正常的经营服务。

**第二十二条** 特许经营期限届满一年前，特许经营者可以向实施机关申请延期，经实施机关组织评审并报本级人民政府批准后，可以延期。

**第二十三条** 特许经营者向公众提供产品或者服务的价格应当执行由价格主管部门制定的政府定价或者政府指导价。

**第二十四条** 特许经营者应当按照特许经营协议的约定缴纳特许经营权使用费。

**第二十五条** 未经实施机关同意，特许经营者不得擅自转让、出租、质押、抵押或者以其他方式处分特许经营权和特许经营项目资产。

在特许经营期限内，特许经营者不得将特许经营项目的设施及相关土地用于特许经营项目之外。

**第二十六条** 特许经营者应当对城市基础设施定期检修保养和更新改造，保证设施良好运转，并将运行情况报告实施机关。

**第二十七条** 特许经营者应当对城市基础设施建设、运营、维修、保养过程中的有关资料进行收集、归类、整理和归档，并按照协议约定的方式、程序和期限完整移交给实施机关。

**第二十八条** 特许经营者应当将年度经营报告、年度财务报告以及其他重大事项的报告，及时、完整地报送实施机关备案。

**第二十九条** 实施机关及其工作人员对在实施特许经营活动和监督管理工作中知悉的特许经营者的商业秘密、技术秘密负有保密义务。

**第三十条** 因政策调整损害特许经营者预期利益的，政府应当给予相应补偿。

**Article 20** The concessionaires shall, in accordance with the planning, universally and indiscriminately provide consumers with public goods or services within the service areas as agreed in the concession agreements.

The concessionaires shall not charge facility investment compensations and other access fees for the water supply, gas supply, heat supply and sewage disposal facilities shared by new users and the concessionaires.

**Article 21** Where the implementation agencies are to take over urban infrastructure in accordance with the decisions of the municipal, district and county people's governments or the provisions in the concession agreements, the concessionaires shall fulfill the duty of guard in good faith and maintain the normal business and service before completion of the take-over.

**Article 22** The concessionaires may apply to the implementation agencies for extension one year before the concession period expires. The extension may be granted after the implementation agencies organize an appraisal and report to the government at the same level for approval.

**Article 23** The concessionaires shall implement the government price or government guidance price set by the competent price department when providing goods or services to the public.

**Article 24** The concessionaires shall pay royalties as agreed in the concession agreements.

**Article 25** Without the consent of the implementation agencies, the concessionaires shall not arbitrarily transfer, rent out, pledge, mortgage or otherwise dispose of concessions and assets of projects subject to concessions.

Within the concession period, the concessionaires shall not use the facilities and the land concerned for the projects subject to concessions for other purposes than the projects subject to concessions.

**Article 26** The concessionaries shall carry out regular repair, maintenance, transformation and renovation of urban infrastructure to ensure that it is in good operation and report its operation to the implementation agencies.

**Article 27** The concessionaries shall collect, classify, sort out and file the relevant materials in the process of construction, operation, repair and maintenance of urban infrastructure, and transfer them completely to the implementation agencies in conformity with the ways, procedures and period as agreed.

**Article 28** The concessionaires shall timely and completely submit the annual operation reports, annual financial reports and reports of other important matters to the implementation agencies for the record.

**Article 29** The implementation agencies and the staff thereof shall be obliged to keep confidential the trade secrets and know-how of the concessionaires acquired in carrying out concession-related activities and relevant supervision and management activities.

**Article 30** Where policy adjustments do harm to the benefits expected by the concessionaries, the government shall make corresponding compensation.

**第三十一条** 特许经营期限内，特许经营协议的任何一方不得擅自变更或者解除原协议。一方认为需要变更或者解除协议的，应当与另一方进行协商。经双方协商一致的，可以变更或者解除协议；协商不一致产生争议的，可以按照协议约定的争议解决方式处理。

**第三十二条** 任何单位或者个人不得违反法律、法规以及本条例的规定收回或者限制特许经营者的特许经营权。

确因公共利益需要，政府可以收回特许经营权、终止特许经营协议、征用实施特许经营的城市基础设施、指令特许经营者提供公共产品或者服务，但是应当按照特许经营协议的约定给予相应补偿。

**第三十三条** 特许经营者对市和区、县人民政府及其有关行政主管部门作出的具体行政行为，认为侵犯其合法权益的，有陈述、申辩的权利，并可以依法申请行政复议或者提起行政诉讼。

**第三十四条** 实施机关与特许经营者应当制定应急预案，在突发自然灾害、战争灾害、事故灾害以及公共卫生、社会治安等公共事件时，最大限度保证城市基础设施的正常运转。

## 第四章 监督管理

**第三十五条** 特许经营期限内，有关行政主管部门应当按照各自职责对特许经营项目进行检查、评估、审计，对特许经营者违反法律、法规、规章规定的行为予以纠正并依法处理。

**第三十六条** 实施机关应当建立并保存城市基础设施特许经营项目档案。

实施机关应当及时监测、分析城市基础设施特许经营项目实施情况，并定期会同有关部门组织专业机构对项目实施情况进行综合评估。评估周期一般不短于两年，必要时可以实施年度评估。

监测、评估不得妨碍特许经营项目的正常经营活动。

**第三十七条** 政府价格主管部门制定的特许经营项目政府定价或者政府指导价应当遵循补偿成本、合理收益、节约资源和与社会承受力相适应的原则。与特许经营产品、

**Article 31** Within the concession period, neither party of a concession agreement shall arbitrarily alter or terminate the original agreement. Where either party deems it necessary to alter or terminate the agreement, it shall consult with the other party. Upon agreement through negotiation, the agreement may be altered or terminated; where the negotiation fails and a dispute arises, the dispute may be resolved according to the way of dispute settlement prescribed in the agreement.

**Article 32** No unit or individual may, in violation of laws, regulations and the provisions of the Regulations, revoke or restrict the concessionaires' concessions.

The government may revoke the concessions, terminate the concession agreements, expropriate the urban infrastructure subject to concessions, or designate the concessionaires to provide public goods or services due to public interests, but corresponding compensations shall be made according to the provisions in the concession agreements.

**Article 33** Where the concessionaires consider that the specific administrative acts of the municipal, district and county people's governments as well as their relevant competent departments infringe upon the legitimate rights and interests thereof, they shall have the right to explain or defend themselves and may apply for administrative reconsideration or bring administrative lawsuits according to law.

**Article 34** The implementation agencies and the concessionaires shall work out contingency plans to ensure the normal operation of urban infrastructure to the maximum extent in the case of sudden natural disasters, wars, accidents, as well as public sanitation, public security and other public incidents.

## **Chapter IV Supervision and Administration**

**Article 35** Within the concession period, the relevant competent departments shall, within the scope of their respective functions and duties, examine, assess and audit the projects subject to concessions and rectify and deal with the concessionaires' violations of laws, regulations or rules according to law.

**Article 36** The implementation agencies shall establish and preserve archives of urban infrastructure projects subject to concessions.

The implementation agencies shall timely monitor and analyze the implementation of urban infrastructure projects subject to concessions, and together with relevant departments, organize professional institutions to carry out comprehensive assessments on the implementation of urban infrastructure projects subject to concessions regularly. Generally, the assessment cycle shall not be less than 2 years, and an annual assessment may be carried out where necessary.

The monitoring and assessment shall not hinder the normal business activities of the projects subject to concessions.

**Article 37** The competent price administration departments shall follow the principles of compensating for the cost, receiving reasonable proceeds, saving resources and adapting to social tolerance in determining the government price or government guidance price



服务无关的费用，不得列入特许经营成本。

**第三十八条** 价格主管部门应当建立定期审价制度，建立成本资料数据库，对产品和服务价格进行有效的监督管理。

**第三十九条** 特许经营者应当将城市基础设施特许经营项目的质量、技术标准以及其他关系公共利益、公共安全的信息及时向社会公告。

## 第五章 法律责任

**第四十条** 特许经营者有下列情形之一的，由实施机关责令限期改正；拒不改正的，可以收回特许经营权、终止特许经营协议，并实施临时接管：

- （一）违反法律、法规的规定或者特许经营协议的约定，情节严重的；
- （二）不履行检修保养和更新改造义务，危害公共利益和公共安全的；
- （三）擅自转让、出租、质押、抵押或者以其他方式擅自处分特许经营权或者特许经营项目资产的；
- （四）擅自停业、歇业的；
- （五）法律、法规规定或者特许经营协议约定的其他情形。

**第四十一条** 以欺骗、贿赂等不正当手段获得特许经营权的，实施机关应当撤销特许经营权，终止特许经营协议。

被撤销特许经营权的企业或者其他经济组织，三年内不得参与竞争本市城市基础设施特许经营权。

**第四十二条** 有关行政主管部门及其工作人员违反本条例规定，不履行法定职责、干预特许经营者正常经营活动、徇私舞弊、滥用职权的，由监察机关依法追究有关责任人员的行政责任；构成犯罪的，依法追究刑事责任。

## 第六章 附 则

**第四十三条** 本条例自 2006 年 3 月 1 日起施行。2003 年 8 月 28 日市人民政府公布的《北京市城市基础设施特许经营办法》同时废止。

related to projects subject to concessions. The expenses irrelevant to products or services subject to concessions shall not be included into the cost of concessions.

**Article 38** The competent price administration departments shall establish a regular price examination system and set up a cost database to carry out effective supervision and administration of product and service prices.

**Article 39** The concessionaires shall timely make public the quality of and technical standards for urban infrastructure projects subject to concessions and other information related to public interests and public security.

## **Chapter V Legal Liability**

**Article 40** Under one of the following circumstances, the concessionaires shall be ordered to make corrections within a specified time limit by the implementation agencies; where they refuse to make corrections, the implementation agencies may revoke the concessions, terminate the concession agreements, and carry out temporary take-over:

- (1) seriously violating the provisions of laws or regulations or the provisions in the concession agreements;
- (2) failing to fulfill the obligations of repair, maintenance, transformation and renovation, which endangers public interests and public security;
- (3) transferring, renting out, pledging, mortgaging or otherwise disposing of the concessions or assets of projects subject to concessions without authorization;
- (4) stopping or suspending business without authorization; or
- (5) other circumstances provided by laws and regulations or in the concession agreements.

**Article 41** Where concessions are acquired by improper means such as fraud and bribery, the implementation agencies shall revoke the concessions and terminate the concession agreements.

The enterprises or other economic organizations whose concessions are revoked shall not participate in the competition for concessions for urban infrastructure in this Municipality within 3 years.

**Article 42** Where the relevant competent departments and the staff thereof, in violation of the provisions of the Regulations, fail to perform their statutory duties, interfere with the concessionaires' normal business activities, engage in malpractices for personal gains, or abuse their powers, the relevant person responsible shall be held accountable for administrative responsibility by the supervisory organs according to law; if a crime is constituted, criminal responsibility shall be investigated for according to law.

## **Chapter VI Supplementary Provisions**

**Article 43** The Regulations shall come into force as of March 1, 2006. The Measures of Beijing Municipality for Concessions for Urban Infrastructure promulgated by the Municipal People's Government on August 28, 2003 shall be repealed simultaneously.

# 北京市城乡规划条例

(2009年5月22日北京市第十三届人民代表大会常务委员会  
第十一次会议通过 2019年3月29日北京市第十五届人民代表大  
会常务委员会第十二次会议修订)

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## 第一章 总 则

**第一条** 为了做好本市城乡规划工作,协调城乡空间布局,改善人居和发展环境,促进经济、社会、人口、资源、环境全面协调可持续发展,根据《中华人民共和国城乡规划法》,结合本市实际情况,制定本条例。

**第二条** 本市行政区域全部为规划区。

本条例适用于本市城乡规划的制定、实施、修改、监督检查和相关城乡建设活动。

本市城乡规划包括城市总体规划,分区规划,详细规划,乡、镇域规划,村庄规划,特定地区规划和专项规划。

**第三条** 北京是中华人民共和国的首都,是全国政治中心、文化中心、国际交往中心和科技创新中心。

北京城乡规划和建设应当依据城市战略定位,体现为中央党政军领导机关的工作服务,为国家的国际交往服务,为科技、文化和教育发展服务,为改善人民群众

# Regulations of Beijing Municipality on Urban and Rural Planning

(Adopted at the 11<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on May 22, 2009, and amended at the 12<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup> People's Congress of Beijing Municipality on March 29, 2019)

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## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of improving administration of urban and rural plans of this Municipality, adjusting the layout of urban and rural spaces, improving the environment for people's living and development, and promoting the all-round coherent and sustainable development of the economy, society, population, resources and environment in accordance with the Urban and Rural Planning Law of the People's Republic of China and in light of the actual circumstances of this Municipality.

**Article 2** The whole administrative area of this Municipality is covered by the planning.

The Regulations shall apply to the formulation, implementation, modification, supervision and inspection of the urban and rural plans of this Municipality and the relevant construction activities in urban and rural areas.

The urban and rural plans of this Municipality shall include the overall plan of this Municipality, district plans, detailed plans, plans of towns or townships, village plans, plans of designated areas and special plans.

**Article 3** Beijing is the capital of the People's Republic of China and the political, cultural, international exchange and technical innovation center of the whole country.

The urban and rural planning and construction in Beijing shall be carried out based on the strategic positioning of this Municipality and reflect the requirements of serving the work of the central Party, government and military leading organs, serving the international exchanges of the state, serving the development of science, technology, culture and

生活服务的要求。

**第四条** 城市总体规划是城市发展、建设和管理的基本依据。本市建立以城市总体规划为统领、多规合一的国土空间规划管控体系，统筹各级各类规划。

城市总体规划实施遇有重大事项，应当依照相关规定经首都规划建设委员会审议，向党中央、国务院请示报告。

**第五条** 本市城乡规划和建设应当坚持以人民为中心，坚持首都城市战略定位，实施以疏解北京非首都功能为重点的京津冀协同发展战略；优化城市功能和空间布局，严格控制城市规模；加强城乡统筹，推进城乡一体化发展；完善城市治理体系，加强精治、共治、法治，治理“大城市病”，实现城市可持续发展，建设国际一流的和谐宜居之都。

**第六条** 本市城乡规划和建设应当根据经济社会发展实际，以资源环境承载能力为刚性约束条件，注重减量集约，严守人口总量上限、生态控制线、城市开发边界，划定集中建设、限制建设和生态控制区域，实现全域空间管制，提升首都功能，优化产业结构，改善生态环境，提高资源利用效率，推动城市有机更新，推进城乡基础设施、公共服务设施和公共安全设施以及防灾减灾体系建设。

**第七条** 本市城乡规划和建设应当尊重城市的历史与文化，强化首都风范、古都风韵、时代风貌，完善保护实施机制，保护历史文化遗产和传统风貌，完善涵盖老城、中心城区、市域和京津冀的历史文化名城保护体系。

**第八条** 城乡规划工作是各级人民政府的重要职责。市人民政府领导本市的城乡规划工作。区人民政府按照规定权限负责本行政区域内的城乡规划工作。乡镇人民政府按照规定权限负责本行政区域内的相关城乡规划工作。街道办事处在区人民政府的领导下配合规划自然资源主管部门做好城乡规划管理的有关工作，参与辖区设施规划编制、建设和验收。

市规划自然资源主管部门负责本市城乡规划管理工作。市规划自然资源主管部

education, and serving the improvement of the people's living.

**Article 4** The overall plan is the fundamental basis for urban development, construction and management. This Municipality shall establish a management and control system for planning of space of national land under the guidance of the overall plan and the governance of multiple rules, so as to coordinate the plans at all levels.

Major issues encountered in the implementation of the overall plan shall be examined by the Capital Planning and Construction Commission in accordance with relevant regulations and reported to the Party Central Committee and the State Council for instructions.

**Article 5** The urban and rural planning and construction in this Municipality shall adhere to the people-centered principle and the urban strategic positioning of the capital, and implement the coordinated development strategy of Beijing, Tianjin and Hebei focusing on relieving the non-capital functions of Beijing; optimize the urban functions and spatial layout, and strictly control the urban size; strengthen the overall planning of urban and rural areas, and promote the integrated development of urban and rural areas; improve the urban governance system, and strengthen the fine governance, shared governance and law-based governance, so as to control the "big city disease", realize the sustainable urban development, and build a world-class harmonious and livable city.

**Article 6** This Municipality shall, in accordance with the actual economic and social development, take the carrying capacity of resources and environment as a rigid constraint for the urban and rural planning and construction, pay attention to reduction and intensification, strictly abide by the upper limit of the total population, ecological control line and urban development boundary, and delimit the areas of centralized construction, restricted construction and ecological control, so as to realize the spatial control of the whole area, improve the functions of the capital, optimize the industrial structure, improve the ecological environment, enhance the efficiency of resource utilization, promote the urban organic renewal, and facilitate the construction of urban and rural infrastructure, public service facilities, public security facilities, and disaster prevention and mitigation systems.

**Article 7** The urban and rural planning and construction in this Municipality shall respect the history and culture of this Municipality, strengthen the style, ancient charm and contemporary spirit of this Municipality, improve the protection and implementation mechanism, protect the historical and cultural heritage and traditional features, and improve the protection system for a historical and cultural city covering the old area, the central area, the urban area, and the whole region of Beijing, Tianjin and Hebei.

**Article 8** The work of urban and rural planning is an important responsibility of the people's governments at various levels. The Municipal People's Government shall take the leadership in the work of urban and rural planning in this Municipality. The people's governments at the district level shall be responsible for the work of urban and rural planning within their respective administrative areas according to the prescribed authority. The people's governments at the township level shall be responsible for the work of urban and rural planning within their respective administrative areas according to the prescribed authority. Sub-district offices shall, under the leadership of the people's governments at the district level, cooperate with the competent departments for planning and natural resources to improve the work related to administration of urban and rural planning, and participate in the plan formulation, construction and acceptance of the facilities within their administrative areas.

The municipal department for planning and natural resources shall be responsible for

门的派出机构按照规定职责承担有关城乡规划管理工作。

市、区人民政府有关部门应当按照各自职责做好相关的城乡规划工作。市、区人民政府应当建立健全部门间工作协调机制，统筹城乡规划管理工作。

**第九条** 本市应当创新治理模式，通过调控引导、行政许可、公共服务、联动监管、实施评估等多种方式，提高城乡规划制定、实施和监督管理的效能。

本市鼓励开展城乡规划科学研究，采用先进技术，增强城乡规划的科学性。

**第十条** 本市应当加强自然资源、生态环境、经济社会、文化遗产资源、各类设施和地理空间数据库的建设；建立涵盖规划编制成果、建设工程审批、工程竣工验收等内容的规划国土空间数据库，建立各有关主管部门之间，以及与中央和国家机关之间的信息共享机制，保障城乡规划的科学制定、有效实施。

**第十一条** 经依法批准的城乡规划，是城乡建设和规划管理的依据。各项建设活动应当符合经依法批准的城乡规划。

**第十二条** 任何单位和个人都应当遵守经依法批准并公布的城乡规划，服从规划管理。

任何单位和个人都有权对城乡规划的制定、实施、修改和监督检查提出意见和建议，就涉及其利害关系的建设活动是否符合规划要求向规划自然资源主管部门查询。

任何单位和个人都有权向规划自然资源主管部门、城市管理综合行政执法机关、乡镇人民政府（以下统称执法机关）或者其他有关部门举报违反城乡规划的行为。

**第十三条** 本市应当完善规划公众参与机制，畅通多元主体参与规划渠道。城乡规划的制定、实施、修改和监督检查应当向社会公开，充分听取公众意见。

本市应当完善公众意见采纳情况反馈机制，认真研究相关意见和建议，及时将研究处理情况向公众反馈。

administration of urban and rural plans in this Municipality. The dispatched offices of the municipal department for planning and natural resources shall undertake the work related to administration of urban and rural plans according to the prescribed duties and functions.

Relevant departments of the people's governments at the municipal and district level shall carry out the relevant work of urban and rural planning according to their respective duties and functions. The people's governments at the municipal and district level shall establish and improve the coordination mechanism among departments and coordinate administration of urban and rural plans.

**Article 9** This Municipality shall carry out innovations in the mode of administration and improve the efficiency in the formulation, implementation, supervision and administration of the urban and rural plans through diversified means such as control and direction, administrative licensing, public services, joint supervision and implementation assessment.

This Municipality shall encourage the development of scientific and technological research in urban and rural planning and adoption of advanced technologies to make urban and rural planning more scientific.

**Article 10** This Municipality shall intensify the development of the database on natural resources, ecological environment, economic and social resources, cultural heritage resources, various facilities and geographic space; establish a database on space of national land covering plan formulation results, construction project approval, project completion and acceptance and other contents, and establish an information sharing mechanism among various competent departments and between the central government and state organs, so as to ensure scientific formulation and effective implementation of the urban and rural plans.

**Article 11** The urban and rural plans approved according to law shall provide the basis for administration of urban and rural development and planning. Various construction activities shall be conducted in compliance with the urban and rural plans approved according to law.

**Article 12** All units and individuals shall conform to the urban and rural plans which are published upon approval according to law, and submit to administration of the plans.

All units and individuals shall have the right to give opinions and suggestions on the formulation, implementation, modification, supervision and inspection of the urban and rural plans and inquire the competent departments for planning and natural resources whether a construction activity which involves their interests is in compliance with the requirements of the plans.

All units and individuals shall have the right to report any violations of the urban and rural plans to the competent departments for planning and natural resources, urban management comprehensive law enforcement organs, people's governments at the town or township level (hereinafter collectively referred to as law enforcement organs) or other relevant departments.

**Article 13** This Municipality shall improve the mechanism of public participation in planning and facilitate multi-party participation in planning. The formulation, implementation, modification, supervision and inspection of urban and rural plans shall be open to the public and fully listen to public opinions.

This Municipality shall improve the feedback mechanism for the adoption of public opinions, carefully study relevant opinions and suggestions, and timely feed back the research and handling information to the public.



**第十四条** 本市推行责任规划师制度，指导规划实施，推进公众参与。具体办法由市规划自然资源主管部门制定。

## 第二章 城乡规划的制定

**第十五条** 本市建立健全全域管控、分层分级、多规合一的规划编制体系，有计划地组织编制城乡规划。

各类城乡规划应当在上层次城乡规划的基础上编制。在城市总体规划的基础上编制分区规划和首都功能核心区、城市副中心的控制性详细规划；在分区规划的基础上编制控制性详细规划以及乡、镇域规划；在乡、镇域规划的基础上编制村庄规划。

在相关城乡规划的基础上，根据需要编制特定地区的规划和水、电、气、热、交通、信息通信等专项规划，补充、深化有关内容。特定地区规划和专项规划经批准后纳入相应层级的城乡规划。

**第十六条** 本市空间利用应当坚持先地下后地上、地上与地下相协调、平战结合与平灾结合并重的原则，统筹各类城乡基础设施、公共服务设施和公共安全设施，兼顾军事设施保护的需要，促进空间资源综合开发利用。

**第十七条** 编制城乡规划应当遵守法律、法规、规章以及国家和本市的技术标准和规范，坚持政府组织、专家领衔、部门合作、公众参与、科学决策。

城乡规划中涉及资源与生态环境保护、区域统筹与城乡统筹、城市发展目标与空间布局、历史文化遗产保护、交通等重大专题的，应当组织相关领域的专家进行研究。

规划的组织编制机关应当采取论证会、听证会、座谈会、公示等形式，依法征求有关部门、专家和公众的意见，并在报送审批的材料中附意见采纳情况及理由。

城乡规划在报送审批前，组织编制机关应当依法将城乡规划草案予以公示，公示的时间不得少于 30 日。

相关部门和单位应当积极配合城乡规划的编制工作，按照规定提交相关材料，

**Article 14** This Municipality shall implement the system of responsibility of planners to guide the implementation of the plans and promote public participation. Specific measures shall be formulated by the municipal department for planning and natural resources.

## **Chapter II Formulation of an Urban and Rural Plan**

**Article 15** This Municipality shall build and improve a plan formulation system characterized by overall control, a multi-layer planning approach and integration of multiple rules, and organize the formulation of urban and rural plans in a planned way.

All urban and rural plans shall be formulated on the basis of the planning at the superior level. District plans and detailed regulatory plans for the core functional area of the capital and sub-centers of this Municipality shall be formulated on the basis of the overall plan of this Municipality; the detailed regulatory plans and the plans of towns or townships shall be formulated on the basis of district plans; village plans shall be formulated on the basis of the plans of towns or townships.

On the basis of the relevant urban and rural plans, plans of designated areas and special plans for water, electricity, gas, heat, transportation, and information communication shall be formulated according to needs to supplement and deepen relevant contents. Plans of designated areas and special plans shall be incorporated into the urban and rural plans at the corresponding level upon approval.

**Article 16** The space utilization in this Municipality shall adhere to the principles of underground utilization prior to aboveground utilization, coordination of underground utilization and aboveground utilization, and equal stress on peacetime, wartime and disaster relief functions, make overall plans for all kinds of urban and rural infrastructure, public service facilities and public security facilities, and take into account the needs of protection of military facilities, so as to promote the comprehensive development and utilization of space resources.

**Article 17** Laws, regulations, rules, and the technical standards and regulations of the state and this Municipality shall be followed and the principles of organization by government, leading by experts, cooperation among departments, participation by the public and scientific policy-making shall be adhered to in the formulation of urban and rural plans.

Experts in the relevant fields shall be organized to undertake studies on key issues involved in the urban and rural planning, such as protection of resources and environment, overall planning of development among regions, overall planning of urban and rural development, goals of development and spatial layout of the municipality, and protection of historical and cultural heritages, and traffic.

The authorities in charge of the formulation of plans shall solicit opinions from relevant departments, experts and the general public according to law in various forms such as demonstration conferences, hearings, symposiums, or announcement, and attach explanations on the adoption of relevant opinions and reasons to the materials submitted for examination and approval.

Before submitting the urban and rural plans for examination and approval, the authorities in charge of the formulation shall announce the drafts of the urban and rural plans according to law, which shall be announced for at least 30 days.

Relevant departments and units shall actively render cooperation in the formulation

说明现状情况和发展需求。

**第十八条** 城乡规划按照以下规定组织编制：

- （一）城市总体规划由市人民政府组织编制；
- （二）首都功能核心区、城市副中心的控制性详细规划由市人民政府组织编制；
- （三）分区规划和首都功能核心区以外的中心城区、新城的控制性详细规划，由所在区人民政府会同市规划自然资源主管部门组织编制；
- （四）乡、镇域规划由所在区人民政府组织编制，乡、镇人民政府按照区人民政府的要求负责具体工作；
- （五）村庄规划由所在乡、镇人民政府组织编制；
- （六）特定地区规划由所在区人民政府或者市规划自然资源主管部门组织编制；
- （七）专项规划由相关主管部门或者市规划自然资源主管部门组织编制。

**第十九条** 城乡规划按照以下规定进行审批和备案：

- （一）城市总体规划报党中央、国务院批准；
- （二）首都功能核心区、城市副中心的控制性详细规划报党中央、国务院批准，经批准后市人民代表大会常务委员会备案；
- （三）分区规划和首都功能核心区以外的中心城区、新城的控制性详细规划报市人民政府审批，经审批后市人民代表大会常务委员会备案；
- （四）乡、镇域规划由区人民政府报市规划自然资源主管部门审查后报市人民政府审批，经审批后市人民代表大会常务委员会备案；
- （五）村庄规划经市规划自然资源主管部门派出机构组织审查后，报区人民政府审批，经审批后报区人民代表大会常务委员会备案；
- （六）特定地区规划，由市规划自然资源主管部门组织编制的，报市人民政府审批；由所在区人民政府组织编制的，重点的特定地区规划经市规划自然资源主管部门组织审查后报市人民政府审批，一般的特定地区规划由市规划自然资源主管部

of urban and rural plans and provide relevant materials as prescribed to explain the current situation and needs for development.

**Article 18** The urban and rural plans shall be formulated in accordance with the following provisions:

(1) The formulation of overall plan of this Municipality shall be organized by the Municipal People's Government;

(2) The formulation of detailed regulatory plans for the core functional area of the capital and sub-centers of this Municipality shall be organized by the Municipal People's Government;

(3) The formulation of district plans and the detailed regulatory plans for the central areas and new towns outside the core functional area of the capital shall be jointly organized by the people's government of the district to which they belong and the municipal department for planning and natural resources;

(4) The formulation of plans of towns or townships shall be organized by the people's government of the district to which they belong, and the people's governments at the town or township level shall undertake the specific work according to the requirements of the people's governments at the district level;

(5) The formulation of village plans shall be organized by the people's government of the town or township to which the villages belong;

(6) The formulation of plans of designated areas shall be organized by the people's government of the district to which they belong or the municipal department for planning and natural resources; and

(7) The formulation of special plans shall be organized by the relevant competent departments or the municipal department for planning and natural resources.

**Article 19** The urban and rural plans shall be examined, approved and submitted for the record in accordance with the following provisions:

(1) The overall plan of this Municipality shall be submitted to the Party Central Committee and the State Council for approval;

(2) The detailed regulatory plans for the core functional area of the capital and sub-centers of this Municipality shall be submitted to the Party Central Committee and the State Council for approval and then to the Standing Committee of the Municipal People's Congress for the record;

(3) The district plans and the detailed regulatory plans for the central areas and new towns outside the core functional area of the capital shall be submitted to the Municipal People's Government for examination and approval, and then to the Standing Committee of the Municipal People's Congress for the record;

(4) The plans of towns or townships shall be submitted to the Municipal People's Government for examination and approval after being submitted to the municipal department for planning and natural resources for examination by the people's governments at the district level, and then to the Standing Committee of the Municipal People's Congress for the record;

(5) The village plans shall be submitted to the people's governments at the district level for examination and approval after being examined by the dispatched offices of the municipal department for planning and natural resources, and then to the standing committees of the people's congresses at the district level for the record;

(6) If the formulation of plans of designated areas is organized by the municipal department for planning and natural resources, they shall be submitted to the Municipal

门审批；

（七）专项规划由市规划自然资源主管部门组织编制的，报市人民政府审批；由相关主管部门组织编制的，经市规划自然资源主管部门组织审查后报市人民政府审批。

前款规定遇有重大事项，应当依照相关规定向党中央、国务院请示报告。

**第二十条** 城市总体规划在报送审批前应当先经市人民代表大会常务委员会审议，分区规划在报送审批前应当先经区人民代表大会常务委员会审议，乡、镇域规划在报送审批前应当先经乡、镇人民代表大会审议。常务委员会组成人员或者代表的审议意见交由本级人民政府研究处理。

规划的组织编制机关报送审批城市总体规划、分区规划和乡、镇域规划，应当将审议意见和根据审议意见修改规划的情况随相关城乡规划一并报送。

村庄规划在报送审批前应当依法经村民会议或者村民代表会议讨论同意。

**第二十一条** 经依法批准的城乡规划应当通过固定场所或者公共媒体向社会公布，法律、行政法规规定不得公开的除外。

任何单位和个人可以依法查阅经批准的城乡规划，规划的组织编制机关应当为查阅提供便利。

### 第三章 城乡规划的实施

**第二十二条** 市人民政府应当根据本市经济社会发展水平，制定近期建设规划，有计划、分步骤地组织实施城乡规划，引导城市健康有序地发展。

近期建设规划应当以城市总体规划为依据，结合五年规划实施评估，根据城乡发展的实际情况，确定近期控制、引导城市发展的原则、措施以及实施城市总体规划的发展重点和建设时序。

People's Government for examination and approval; if the formulation of the plans of key designated areas is organized by the people's government of the district to which the areas belong, they shall be examined by the municipal department for planning and natural resources before being submitted to the Municipal People's Government for examination and approval, and the plans of general designated areas shall be examined and approved by the municipal department for planning and natural resources; and

(7) If the formulation of the special plans is organized by the municipal department for planning and natural resources, they shall be submitted to the Municipal People's Government for examination and approval; if the formulation of the plans is organized by relevant competent departments, they shall be submitted to the Municipal People's Government for examination and approval after being examined by the municipal department for planning and natural resources.

Any major issues encountered in the circumstances as prescribed in the preceding paragraph shall be submitted to the Party Central Committee and the State Council for instructions in accordance with the relevant provisions.

**Article 20** The overall plan of this Municipality shall be deliberated by the Standing Committee of the Municipal People's Congress before being submitted for examination and approval, the district plans shall be deliberated by the standing committees of the people's congresses at the district level before being submitted for examination and approval, and the plans of towns or townships shall be deliberated by the people's congresses at the town or township level before being submitted for examination and approval. The deliberation opinions of the members or representatives of the standing committees shall be submitted to the people's government at the corresponding level for deliberation and handling.

When submitting the overall plan of this Municipality, district plans and plans of towns or townships for examination and approval, the authorities organizing the plan formulation shall present the deliberation opinions and the modification of plans based on such opinions together with the relevant urban and rural plans.

The village plans shall be discussed and approved by the villagers' meeting or the villagers' representative meeting according to law before being submitted for examination and approval.

**Article 21** The urban and rural plans approved according to law shall be published at fixed places or via public media, except where publication is not allowed by laws or administrative regulations.

All units and individuals may consult the approved urban and rural plans according to law, and the authorities organizing the formulation shall provide convenience for such consultation.

### **Chapter III Implementation of an Urban and Rural Plan**

**Article 22** The Municipal People's Government shall, in light of the economic and social development level of this Municipality, formulate the short-term construction plans and organize the implementation of urban and rural plans step by step in a planned way so as to direct the development of the Municipality in a healthy and orderly manner.

The short-term construction plans shall, on the basis of the overall plan of this Municipality, in combination of the implementation assessment for the five-year plan and in light of the actual situation in the urban and rural development, specify the principles and measures to control and direct the development of the Municipality in the short term and

**第二十三条** 市规划自然资源主管部门应当依据近期建设规划，结合年度城市体检，组织编制规划年度实施计划，报市人民政府批准。

规划年度实施计划应当与年度投资计划和年度土地供应计划相衔接，明确规划年度实施的主要内容，统筹安排重点城乡基础设施、公共服务设施、公共安全设施、生态环境保护项目和各类保障性住房的建设。

**第二十四条** 本市城乡规划实施应当按照减量提质的要求，建立城乡建设用地减量、增减挂钩、综合平衡的实施机制，优化利用疏解腾退空间，鼓励对存量建设用地和存量建筑进行更新改造。

**第二十五条** 本市以土地资源整理模式落实城市总体规划，在规划实施单元内，统筹土地开发和非土地开发类项目。具体办法由市人民政府制定。

**第二十六条** 市规划自然资源主管部门统筹指导本市城市设计实施，区人民政府负责本行政区域内城市设计的实施管理。

**第二十七条** 本市建立贯穿城市规划、建设和管理全过程的城市设计管理体系。城市设计编制层级包括市、区总体城市设计，街区城市设计，地块城市设计及专项城市设计。重点地区应当编制地块城市设计，对建筑形态、公共空间、生态景观、文化传承及其他要素提出控制要求；其他地区按照城市设计通则管控。

组织编制城市设计应当通过论证会、听证会、座谈会等多种形式，广泛征求专家和公众意见。审批前应当依法通过固定场所或者公共媒体进行公示，公示时间不得少于 30 日。各层级城市设计经批准后纳入相应层级的城乡规划。

城市设计具体管理办法由市规划自然资源主管部门制定。

**第二十八条** 本市建立区级统筹、街道主体、部门协作、专业力量支持、社会公众广泛参与的街区更新实施机制，推行以街区为单元的城市更新模式。具体办法由市人民政府制定。



the priorities and schedule of construction in the implementation of the overall plan of this Municipality.

**Article 23** The municipal department for planning and natural resources shall, on the basis of the short-term construction plans and in combination of the annual urban inspection, organize the formulation of an annual implementation program and submit the program to the Municipal People's Government for approval.

The annual implementation program shall link up with the annual investment program and annual land supply program, specify the main contents in the plans to be implemented in a year, and arrange the construction of important infrastructure, public service facilities, public security facilities, ecological environmental protection projects and various affordable housing in urban and rural areas in an overall manner.

**Article 24** This Municipality shall implement the urban and rural plans in accordance with the requirements of quantity reduction and quality improvement, establish the implementation mechanism of quantity reduction, linkage to increase and decrease, and comprehensive balance of urban and rural construction land, optimize the use of the vacated space, and encourage the renovation and transformation of the existing construction land and buildings.

**Article 25** This Municipality shall implement the overall plan of this Municipality from the perspective of land resource arrangement, by coordinating land development and non-land development projects within the plan implementation unit. The specific measures shall be formulated by the Municipal People's Government.

**Article 26** The municipal department for planning and natural resources shall give overall guidance to the implementation of urban design in this Municipality, and the district people's governments shall be responsible for the implementation and management of urban design within their respective administrative areas.

**Article 27** This Municipality shall establish an urban design management system throughout the whole process of urban planning, construction and management. The urban design shall be divided into the overall urban design at the municipal or district level, the urban design for blocks, the urban design for plots and the special urban design. In key areas, the urban design for plots shall be prepared to put forward control requirements for architectural form, public space, ecological landscape, cultural heritage and other elements; other areas shall be controlled in accordance with the general principles of urban design.

In organizing the preparation of urban design, experts and the public shall be widely consulted through various forms such as demonstration meetings, hearings, symposiums. Urban design shall be announced at fixed places or via public media according to law before being examined and approved, which shall be announced for at least 30 days. Urban designs at all levels shall be incorporated into the urban and rural plans at corresponding levels upon approval.

The specific measures for the administration of urban design shall be formulated by the municipal department for planning and natural resources.

**Article 28** This Municipality shall establish an implementation mechanism for block renovation featuring overall district plans, street-centered development, department cooperation, professional support, and wide participation of the public, and promote a block-based urban renovation model. The specific measures shall be formulated by the Municipal People's Government.



**第二十九条** 本市依法实行规划许可制度，各项建设用地和建设工程应当符合城乡规划，依法取得规划许可。

规划许可证件包括选址意见书、建设工程规划许可证、乡村建设规划许可证和相应的临时规划许可证。

城镇建设项目应当按照建设工程规划许可证或者临时建设工程规划许可证的许可内容进行建设；农村建设项目应当按照乡村建设规划许可证或者临时乡村建设规划许可证的许可内容进行建设。

**第三十条** 本市构建全流程覆盖、全周期服务、全要素公开、全方位监管的工程建设项目审批和管理体系，推行多规合一、多图联审、联合验收、多测合一，实现审批和管理体系科学化、便捷化、标准化。

有关主管部门应当公布审批事项清单，制定全市统一的工程建设项目审批服务事项规范标准、办事指南实用手册和事项申报材料规范。

**第三十一条** 市规划自然资源主管部门应当会同相关部门建立向社会开放的多规合一协同平台，依据控制性详细规划或者村庄规划，制定建设项目的规划综合实施方案，并予以公布。

规划综合实施方案应当包含建设工程设计要求、土地权属、规划指标、城市设计要求、市政及交通条件、供地方式、建设时序等内容。

**第三十二条** 重大城乡基础设施的建设单位应当在建设工程设计方案的基础上组织编制建设工程扩大初步设计方案。

市规划自然资源主管部门和市发展改革主管部门应当组织有关部门对重大城乡基础设施建设工程的扩大初步设计方案共同进行审查。

**第三十三条** 设计单位应当按照规定的资质等级和业务范围承担设计任务。

建设工程设计方案应当依据法律、法规、规章、国家和本市的设计规范和标准进行编制。施工图设计文件应当符合建设工程规划许可证或者乡村建设规划许可证的批准内容。

**Article 29** This Municipality shall implement the planning permission system according to law. All land for construction and construction projects shall conform to the urban and rural plans and be subject to the planning permission.

Certificates of planning permission include the written proposal on the choice of location, the planning permit for a planned construction project, the planning permit for rural construction and the corresponding temporary planning permits.

Urban construction projects shall be carried out according to the contents in the planning permit or the temporary planning permit for construction projects; rural construction projects shall be carried out according to the contents in the planning permit or temporary permit for rural construction.

**Article 30** This Municipality shall establish an examination, approval and management system for construction projects that covers the whole process, serves the full cycle, makes public all elements and provides comprehensive supervision, and promote the integration of multiple regulations, joint examination of multiple drawings, joint acceptance and integration of multiple tests, so as to realize the scientific, convenient and standardized examination, approval and management system.

The relevant competent departments shall publish the list of examination and approval items, and formulate the unified norms and standards for examination and approval of construction projects, practical manuals for handling affairs and specifications for application materials of items in this Municipality.

**Article 31** The municipal department for planning and natural resources shall, together with the relevant departments, establish a coordination platform with the integration of multiple regulations that is open to the public, and formulate and publish a comprehensive implementation program for construction projects in accordance with the detailed regulatory plans or village plans.

The comprehensive implementation program shall include the design requirements for construction projects, land ownership, planning indicators, urban design requirements, municipal and traffic conditions, land supply methods, construction sequence, etc.

**Article 32** The construction units of major urban and rural infrastructure shall organize the formulation of expanded preliminary design programs for the construction projects on the basis of the design schemes of the projects.

The municipal department for planning and natural resources and that of development and reform shall organize relevant departments to examine the expanded preliminary design programs for the construction projects of major urban and rural infrastructure.

**Article 33** The design units shall undertake the design tasks according to the prescribed level of qualification and business scope.

The design schemes for construction projects shall be formulated according to laws, regulations, rules, as well as the design specifications and standards of the state and this Municipality. The construction drawings of construction projects shall conform to the contents approved in the planning permit for construction projects or the planning permit for rural construction.

**第三十四条** 施工单位不得承接未依法取得规划许可的建设项目；承接取得规划许可的建设项目的，应当按照符合相关标准的施工图设计文件施工。

**第三十五条** 建设工程沿道路、铁路、轨道交通、河道、绿化带等公共用地安排建设的，建设单位应当按照本市有关规定代征上述公共用地。代征应当在建设工程规划验收前完成，同步办理移交。

**第三十六条** 按照国家规定需要有关部门批准或者核准的建设项目，以划拨方式提供国有土地使用权的，建设单位在报送有关部门批准或者核准前，应当持以下材料向规划自然资源主管部门申请核发选址意见书：

- （一）包含项目性质、建设规模、选址意向等情况说明的选址申请书；
- （二）标绘有拟建项目用地范围的规定比例尺地形图。

前款规定以外的建设项目不需要申请选址意见书。

**第三十七条** 建设项目选址应当节约、集约利用土地，合理、集中布局。因安全、保密、环保、卫生等原因需要与其他建设工程保持一定距离的，可以进行独立选址。

在规划城镇建设用地范围内进行选址应当符合国有土地供应的相关规定。

城乡基础设施和公共安全设施因节约土地、功能需要等原因，可以结合规划道路、河道、绿化等公共用地进行安排。

城乡公共服务设施确需结合规划道路、河道、绿化等公共用地进行安排的，规划自然资源主管部门应当报市人民政府批准。

**第三十八条** 建设单位进行城镇建设工程建设的，应当向规划自然资源主管部门申请建设工程规划许可证。符合规划综合实施方案要求的，规划自然资源主管部门应当在 7 日内核发建设工程规划许可证。

重大城乡基础设施项目，建设单位应当提交经过审查的建设工程扩大初步设计方案。

城镇居民个人申请进行建设的，按照本市有关规定执行。

**Article 34** The construction units shall not undertake construction projects without planning permission according to law; construction projects with planning permission shall be constructed in accordance with the construction drawings that meet the relevant standards.

**Article 35** Where a construction project is arranged to be constructed on the public land along roads, railways, track traffic lines, river channels, greenbelts, etc., the construction unit shall, as an agent, expropriate the public land above mentioned according to the relevant provisions of this Municipality. The expropriation shall be completed before the acceptance of the planning for the construction project and the land shall be transferred at the same time.

**Article 36** For a construction project which is subject to the approval or verification by the relevant departments according to the provisions of the state, if the right to use of state-owned land is extended through allocation, the construction unit shall, before submitting the project to the relevant departments for approval or verification, apply to the competent departments for planning and natural resources for issuing a written proposal on the choice of location with the following materials:

- (1) an application for the choice of location containing explanations on the nature, scale of construction and intended location of the project; and
- (2) the topographic map in prescribed scale with the scope of the land for the planned construction project marked on it.

A written proposal on the choice of location is not needed for construction projects other than those prescribed in the preceding paragraph.

**Article 37** The choice of location for a construction project shall enable an economical and intensive use of land and a reasonable and concentrated layout. Where a construction project has to maintain a certain distance from other projects for reasons such as safety, confidentiality, environment protection and hygiene, a separate location may be chosen.

The choice of location within the scope of the planned land for urban construction shall conform to the relevant provisions of the state on the supply of state-owned land.

The urban and rural infrastructure and public security facilities may be arranged in combination with the land planned for public use such as roads, river channels and greenbelts for reasons such as land saving and functional requirements.

Where the rural and urban public service facilities truly need to be arranged in combination with the land planned for public use such as roads, river channels and greenbelts, the competent departments for planning and natural resources shall report the matter to the Municipal People's Government for approval.

**Article 38** Where a construction unit intends to construct an urban construction project, it shall apply to the competent departments for planning and natural resources for a planning permit for construction project. If the requirements of the comprehensive implementation programs are met, the competent departments for planning and natural resources shall issue a planning permit for construction project within 7 days.

For major urban and rural infrastructure projects, the construction unit shall submit the examined expanded preliminary design programs of the construction projects.

Where an individual urban resident applies for construction, the relevant provisions of this Municipality shall apply.

**第三十九条** 建设单位应当在取得建设工程规划许可证后 2 年内取得建筑工程施工许可证；期满需要延续的，应当在期限届满 30 日前向规划自然资源主管部门提出申请，经批准可以延续，每次期限不得超过 2 年。未获得延续批准或者在规定的期限内未取得建筑工程施工许可证的，建设工程规划许可证失效。

**第四十条** 在规划农村地区，建设单位或者个人进行乡镇企业、乡村公共设施、公益事业建设和村民集中住宅建设的，应当向乡镇人民政府提出申请，由乡镇人民政府报规划自然资源主管部门核发乡村建设规划许可证。

在规划农村地区，村民使用宅基地进行村民住宅建设，应当征询相邻土地使用权人意见，经村民委员会审议后上报乡镇人民政府批准。

乡镇人民政府审批村民使用宅基地进行住宅建设，应当依据村庄规划进行。具体办法由各区人民政府结合实际情况制定。

进行乡镇企业、乡村公共设施、公益事业建设和村民住宅建设的，不得占用农用地；确需占用农用地的，应当依照《中华人民共和国土地管理法》有关规定办理农用地转用审批手续后，由规划自然资源主管部门核发乡村建设规划许可证。

建设单位或者个人在取得乡村建设规划许可证后，方可办理用地审批手续。

**第四十一条** 在规划村庄以外的现状村庄，在规划实施前确需进行建设的，由规划自然资源主管部门根据城市发展进程和规划实施的需要核发临时乡村建设规划许可证。

**第四十二条** 城镇建设项目因施工或者建设城乡基础设施、公共服务设施和公共安全设施需要临时占用土地或者建设临时工程的，建设单位应当向规划自然资源主管部门申请临时建设用地批准文件或临时建设工程规划许可证。

临时建设用地批准文件和临时建设工程规划许可证的有效期不超过 2 年，期满需要延续的，应当在期限届满前向规划自然资源主管部门提出申请，经批准可以延续，每次期限不得超过 1 年。

**Article 39** The construction units shall obtain the construction permit within 2 years after obtaining the planning permit for construction project; where an extension is needed at the expiration of the permit, an application shall be submitted to the competent departments for planning and natural resources 30 days prior to the expiration and upon approval the extension may be granted with a period not longer than 2 years each time. Where the application for extension is not approved or the construction permit is not obtained within the prescribed time limit, the planning permit for construction project shall become invalid.

**Article 40** In the planned rural areas, for construction of town or township enterprises, rural public facilities, public welfare undertakings and concentrated residential houses for villagers, the construction units or individuals shall make an application to the people's governments at the town or township level, which shall report the matter to the competent departments for planning and natural resources for issuing a planning permit for rural construction.

In the planned rural areas, villagers shall consult the owners of the right to use of adjacent land for the construction of residential houses on the original house sites, which, after deliberation by the villagers' committee, shall be reported to the people's governments at the town or township level for approval.

The people's governments at the town or township level shall examine and approve the construction of residential houses on the original house sites by villagers according to the village plans. The specific measures shall be formulated by the people's governments at the district level in light of the actual situation.

No land for agricultural use may be used for construction of town or township enterprises, rural public facilities or public welfare undertakings or for construction of rural residential houses for villagers; where it is really necessary to use such land, the examining and approving formalities for the change of land use shall be completed according to the relevant provisions of the Land Administration Law of the People's Republic of China, before the planning permit for rural construction is issued by the competent departments for planning and natural resources.

The construction units or individuals may go through the examination and approval formalities for land use only after obtaining the planning permit for rural construction.

**Article 41** In the existing villages beyond the scope of planned villages, where construction is truly necessary before the implementation of plans, a temporary planning permit for rural construction shall be issued by the competent departments for planning and natural resources according to the progress of the development of the Municipality and the needs in the implementation of plans.

**Article 42** Where an urban construction project needs to temporarily use land or construct temporary projects for reason of construction or constructing urban and rural infrastructure, public service facilities and public security facilities, the construction units shall apply to the competent departments for planning and natural resources for an approval document for temporary land use for construction or a temporary planning permit for construction projects.

The valid period of the approval document for temporary land use for construction and temporary planning permit for construction projects shall not exceed 2 years. Where an extension is needed at the expiration of the permit, an application shall be submitted to the competent departments for planning and natural resources before the expiration of the

因城乡建设需要或者临时使用期届满未延续的，建设单位应当无条件拆除临时建设工程及设施。为建设主体工程申请的临时建设工程，应当在主体工程申请规划核验之前拆除。

**第四十三条** 建设工程竣工后，建设单位可以申请有关主管部门对建设工程实施竣工联合验收。

住房和城乡建设主管部门应当会同规划自然资源、消防、民防、城市管理、市场监督管理、水务、档案、交通等主管部门建立建设工程竣工联合验收机制，对申请竣工联合验收的建设工程，实现一次申请、集中验收、统一确认，出具联合验收意见。具体办法由市住房和城乡建设主管部门会同相关部门制定。

对未申请竣工联合验收的建设工程，有关主管部门对建设工程依法独立实施各项验收。

未经验收或者验收不合格的建设工程，规划自然资源主管部门不予办理不动产登记手续；涉及违法建设的，按照法律、行政法规和本条例有关规定处理。

**第四十四条** 建设工程竣工验收合格后，建设单位应当按照有关规定将齐全、准确的建设工程竣工档案移交城市建设档案机构，竣工档案中应当附有测绘单位的测量报告。竣工档案逐步实现电子化。

**第四十五条** 规划自然资源主管部门核发规划许可证依据的建设项目批准、核准、备案文件被撤销、撤回、吊销或者土地使用权被收回的，规划自然资源主管部门应当注销相应的规划许可证。

**第四十六条** 规划许可确定的建设工程使用用途不得擅自改变。不动产登记簿记载的用途应当符合建设工程规划许可证或者乡村建设规划许可证确定的使用用途；有关主管部门核发的与房屋用途相关的行政许可证件应当与不动产登记簿记载的用途一致。对申请行政许可事项涉及房屋的用途与不动产登记簿记载的用途不一致的，有关主管部门不予核发行政许可证件。



permit and upon approval the extension may be granted, which shall not exceed 1 year each time.

Where it is necessary for urban and rural construction or the period for temporary use expires, the construction units shall unconditionally demolish the temporarily built constructions and facilities. The temporary constructions applied for the major construction project shall be demolished before the application for check of the plan for the major construction project.

**Article 43** After the completion of a construction project, the construction units may apply to the relevant competent departments for joint acceptance of the completion of the construction project.

The competent departments for housing and urban-rural development shall, together with the competent departments for planning and natural resources, fire control, civil defense, city management, market supervision and administration, water, archives, transportation, etc., establish a joint acceptance mechanism for the completion of construction projects, so as to realize one-time application, centralized acceptance, and unified confirmation and issue joint acceptance opinions for the construction projects applying for joint acceptance. The specific measures shall be formulated by the municipal department for housing and urban-rural development together with the relevant departments.

For the construction projects that have not applied for the joint acceptance of completion, the relevant competent departments shall independently carry out the acceptance of the construction projects according to law.

The competent departments for planning and natural resources shall not go through the formalities of real estate registration for the construction projects that have not been accepted or fail to pass the acceptance; where illegal construction is involved, the construction shall be dealt with according to the relevant provisions of laws, administrative regulations and the Regulations.

**Article 44** After a construction project passes the completion acceptance, the construction units shall, in accordance with the relevant provisions, transfer to the urban construction archives administration a complete and accurate construction project completion file, which shall be attached with a measuring report made by the surveying and mapping unit. The completion file develops towards electronic management.

**Article 45** Where the document for approval, verification and filing of a construction project based on which the competent departments for planning and natural resources issue the planning permit is rescinded, withdrawn or revoked, or the right to land use is called back, the competent departments for planning and natural resources shall cancel the corresponding planning permit.

**Article 46** The use of a construction project as determined by the planning permit shall not be changed without authorization. The use stated in the real estate register shall be in compliance with the use specified in the planning permit for construction project or the planning permit for rural construction; the administrative permits issued by the relevant competent departments related to the use of premises shall be consistent with the use stated in the real estate register. If the use of premises applied for administrative permits is inconsistent with the use stated in the real estate register, the relevant competent departments shall not issue administrative permits.



建设工程使用用途确需改变的，应当符合本市规划用途管制的有关规定；有关主管部门可以按照变更后的用途依法办理相关审批手续。具体办法由市人民政府制定。

**第四十七条** 处置涉及违法建设的房屋和土地，不得妨碍执法机关对违法建设的查处。

有关机构在依法处置房屋、土地前应当向规划自然资源主管部门了解有关规划情况，规划自然资源主管部门应当予以配合。涉及违法建设的，规划自然资源主管部门应当书面告知其违法建设处理后，方可处置。

## 第四章 城乡规划的修改

**第四十八条** 经依法批准的城乡规划不得擅自修改。

城市总体规划、分区规划和乡、镇域规划确需修改的，应当依照法定程序和权限进行；特定地区规划、专项规划、村庄规划确需修改的，应当按照原审批程序报批。

**第四十九条** 本市应当建立常态化的城乡规划体检评估机制，参照体检评估结果对城市总体规划实施工作进行修正，提高规划实施的科学性。

城市总体规划的组织编制机关，应当委托有关部门和专家每年对城市总体规划的实施情况进行体检，每五年对城市总体规划的实施情况进行全面评估，采取论证会、听证会或者其他方式征求公众意见，形成体检、评估报告，并将体检、评估报告及征求意见情况报送本级人民代表大会常务委员会和原审批机关。

**第五十条** 修改控制性详细规划的，组织编制机关应当对修改的必要性进行论证，征求有关部门和规划地段内利害关系人的意见，并向原审批机关提出专题报告。原审批机关同意修改的，组织编制机关方可修改并依照法定程序报原审批机关审批。控制性详细规划修改涉及总体规划强制性内容的，应当先修改总体规划。

**第五十一条** 在选址意见书、建设工程规划许可证或者乡村建设规划许可证发放后，因依法修改城乡规划给被许可人合法权益造成损失的，应当依法给予补偿。

Where it is necessary to alter the use of a construction project, it shall conform to the relevant provisions of this Municipality on the control of planned use; the relevant competent departments may, in light of the changed use, go through the relevant examination and approval procedures according to law. The specific measures shall be formulated by the Municipal People's Government.

**Article 47** The disposal of premises and land involving illegal construction shall not hinder the investigation and disposal of illegal construction by law enforcement organs.

Before disposing of premises and land according to law, the relevant institutions shall inquire the competent departments for planning and natural resources about information on planning, and the competent departments for planning and natural resources shall render cooperation. In case of illegal construction, the competent departments for planning and natural resources shall inform the institutions of the handling result in writing before the illegal construction can be disposed of.

## **Chapter IV Modification of an Urban and Rural Plan**

**Article 48** No modification without authorization may be made on a legally approved urban and rural plan.

Where it is truly necessary to modify the overall plan of this Municipality, the district plans and the plans of towns or townships, the modifications shall be made according to the statutory procedures and jurisdictions; where it is truly necessary to modify a plan of designated areas, a special plan or a village plan, the modifications shall be submitted for approval through the original procedures of examination and approval.

**Article 49** This Municipality shall establish a regular examination and evaluation mechanism for urban and rural planning, and revise the implementation of the overall plan of this Municipality with reference to the results of examination and evaluation, so as to facilitate scientific implementation of the plan.

The authority organizing the formulation of the overall plan of this Municipality shall entrust relevant departments and experts to regularly examine the implementation of the overall plan of this Municipality every year and to comprehensively assess the implementation thereof every five years, solicit opinions from the public by holding demonstration conferences or hearings or by other means, prepare an examination or assessment report, and submit the examination or assessment report and the opinions solicited to the standing committee of the people's congress at the corresponding level and the original examination and approval authority.

**Article 50** Where a detailed regulatory plan needs to be modified, the authority organizing its formulation shall expound and prove the necessity for modification, solicit the opinions of relevant departments and the interested parties within the tract of land covered by the plan and make a special report to the original examination and approval authority. Only with the consent of the original examination and approval authority may the authority organizing its formulation make the modification and submit it to the original examination and approval authority for examination and approval. Where the modification of the detailed regulatory plan involves the compulsory items in the overall plan, the overall plan concerned shall be modified first.

**Article 51** Where, after the issue of a written proposal on the choice of location,

经依法审定的建设工程规划许可证附图不得随意修改；确需修改的，城乡规划主管部门应当听取利害关系人的意见；因修改给利害关系人合法权益造成损失的，应当依法给予补偿。

**第五十二条** 控制性详细规划、建设工程规划许可证附图在修改过程中，依照法律规定需要征求利害关系人意见的，应当依法征求意见。

**第五十三条** 本市各类城乡规划经过修改后应当通过固定场所或者公共媒体重新向社会公布，法律、行政法规规定不得公开的除外。

## 第五章 监督检查

**第五十四条** 本市各级人民政府应当每年向本级人民代表大会常务委员会或者乡镇人民代表大会报告城乡规划的实施情况，并接受监督。各级人民代表大会常务委员会或者乡镇人民代表大会根据需要，可以对本级人民政府城乡规划工作作出相应的决议、决定。

**第五十五条** 城乡规划实施中的重大建设项目应当依法提请本级人民代表大会常务委员会审议。

**第五十六条** 市规划自然资源主管部门应当制定和完善本市城乡规划编制和管理工作的有关标准、程序和要求，并加强对乡镇人民政府规划编制和管理工作的业务指导。

**第五十七条** 规划自然资源主管部门应当建立健全建设项目实施规划情况全过程的服务和监督机制，主动跟踪服务，了解建设情况，协调解决相关问题；加强对施工图设计文件审查、工程建设符合规划、土地出让合同履行等情况的监督，并将有关情况及时通报有关主管部门，实现监督信息共享。

**第五十八条** 市人民政府应当明确规划自然资源主管部门、城市管理综合行政

the planning permit for construction project or the planning permit for rural construction, losses are caused to the lawful rights and interests of the person granted the permit due to modification of urban and rural plan according to law, compensation shall be made according to law.

The drawings attached to the planning permit for construction project, which are examined and approved according to law, shall not be modified at will; where it is necessary to make modification, the competent departments for planning and natural resources shall listen to the opinions of the interested parties; if losses are caused to the lawful rights and interests of the latter, compensation shall be made according to law.

**Article 52** Where it is necessary, according to law, to solicit the opinions of the interested parties during the process of modification of the detailed regulatory plan and the drawings attached to the planning permit for construction project, the solicitation shall be carried out according to law.

**Article 53** All urban and rural plans of this Municipality as modified shall be published at fixed places or via public media, except where publication is not allowed by laws or administrative regulations.

## **Chapter V Supervision and Inspection**

**Article 54** The people's governments at various levels in this Municipality shall respectively report on the implementation of the urban and rural plans to the standing committees of the people's congresses at the corresponding level or to the people's congresses of towns or townships, and shall subject themselves to supervision by the latter. The standing committees of the people's congresses at various levels or the people's congresses of towns or townships may, as needed, make corresponding resolutions or decisions on the urban and rural planning by the people's governments at the corresponding level.

**Article 55** The major construction projects in the implementation of urban and rural plans shall be submitted to the standing committees of the people's congresses at the corresponding level for deliberation according to law.

**Article 56** The municipal department for planning and natural resources shall formulate and improve the relevant standards, procedures and requirements for the formulation and administration of urban and rural plans in this Municipality, and strengthen the operational guidance for the formulation and administration of plans by the town or township people's governments.

**Article 57** The competent departments for planning and natural resources shall build a service and supervision mechanism for the whole process of project implementation and planning, so as to provide follow-up service, stay informed about the construction situation, and coordinate and solve the relevant problems; strengthen the supervision of the examination of the construction drawings, the conformity of the project construction with the planning, the performance of the land transfer contract, etc., and timely report the relevant information to the relevant competent departments to realize supervision information sharing.

**Article 58** The Municipal People's Government shall clarify the division of responsibilities of the competent departments for planning and natural resources,

执法机关、乡镇人民政府、街道办事处等查处违法建设的职责分工。

街道办事处查处违法建设，可以依照国家和本市有关规定开展综合执法工作，按照有关法律规定相对集中行使行政处罚权。

**第五十九条** 市人民政府应当明确区人民政府和市人民政府相关部门在规划监督检查中的具体任务和目标，加强对城乡规划监督检查工作的统筹协调。

**第六十条** 市人民政府应当建立执法机关与有关主管部门的执法联动机制和查处违法建设的信息共享机制，加强对城乡规划工作的监督检查和对违法建设的查处。

**第六十一条** 本市建立控制违法建设责任制和考核评价制度。区人民政府和乡镇人民政府负责本行政区域内控制违法建设工作。上级人民政府应当加强对下级人民政府控制违法建设落实情况的监督检查和考核评价。

**第六十二条** 乡镇人民政府、街道办事处应当对本辖区内建设情况进行巡查，发现违法建设行为的，应当予以制止，并依法予以处理。

居民委员会、业主委员会、村民委员会和物业服务企业发现本区域内违法建设行为的，应当予以劝阻，并报告街道办事处、乡镇人民政府或者其他执法机关。

**第六十三条** 执法机关实施监督检查有权要求有关单位和个人提供相关资料、就有关情况作出说明、进入或者查封现场、扣押工具、责令停止违法行为。

执法机关履行监督检查职责时，有关单位和人员应当积极配合，如实报告相关情况，提供必要资料，不得以任何方式或者手段妨碍和阻挠。

**第六十四条** 建设单位应当在施工现场对外公示建设工程规划许可证、临时建设工程规划许可证、乡村建设规划许可证、临时乡村建设规划许可证及附件、附图，方便公众查阅，接受社会监督。法律、行政法规规定不得公开的除外。

**第六十五条** 市政公用服务单位办理供水、供电、供气、供热、通讯等服务手续时，应当查验建设工程的规划许可证件或者不动产登记证明，对没有规划许可证件或者不动产登记证明的，不得提供相应服务；未取得规划许可的建设项目进行施工的，

urban management comprehensive law enforcement organs, town or township people's governments, and sub-district offices in investigating and disposing of illegal construction.

In investigating and disposing of illegal construction, sub-district offices may carry out comprehensive law enforcement in accordance with the relevant provisions of the state and this Municipality, and exercise relatively centralized power of administrative punishment in accordance with the relevant laws and regulations.

**Article 59** The Municipal People's Government shall clarify the specific tasks and objectives of the relevant departments of the district people's governments and the Municipal People's Government in the supervision and inspection of planning, and strengthen the overall coordination of the supervision over and inspection of the implementation of urban and rural plans.

**Article 60** The Municipal People's Government shall establish a collaboration mechanism of law enforcement between law enforcement organs and relevant competent departments and an information sharing mechanism for investigating and disposing of illegal construction, in order to strengthen the supervision over and inspection of the implementation of urban and rural plans and the investigation and disposal of illegal construction.

**Article 61** This Municipality shall establish a responsibility system for controlling illegal construction and an assessment and evaluation system. The district people's governments and town or township people's governments shall be responsible for the control of illegal construction within their respective administrative areas. The people's government at a higher level shall strengthen the supervision, inspection, assessment and evaluation of the implementation of the control of illegal construction by the people's government at a lower level.

**Article 62** The town or township people's governments and sub-district offices shall conduct patrol inspection of the construction within their respective administrative areas; if any illegal construction is found, it shall be stopped and dealt with according to law.

The residents' committees, owners' committees, villagers' committees and property service enterprises shall dissuade any illegal construction found within their respective areas and report the matter to sub-district offices, town or township people's governments or other law enforcement organs.

**Article 63** Law enforcement organs, in conducting supervision and inspection, shall have the right to require relevant units and individuals to provide relevant materials and make explanations on relevant situations, enter or close down the premises, seize tools, and order them to stop illegal acts.

When law enforcement organs perform their duties of supervision and inspection, the relevant units and individuals shall actively provide cooperation, truthfully report relevant information, provide necessary materials, and shall not obstruct or interfere in any way or by any means.

**Article 64** The construction units shall announce on the construction sites the planning permit for construction project, the temporary planning permit for construction project, the planning permit for rural construction, the temporary planning permit for rural construction, as well as the attached documents and drawings to facilitate review of the public and accept supervision from the society, except for those that shall not be disclosed according to the provisions of laws or administrative regulations.

**Article 65** In going through the service procedures of water supply, power supply, gas supply, heat supply, communication, etc., the municipal public service units shall check the

市政公用服务单位及其他单位不得提供施工用水、用电。

对没有规划许可证件或者不动产登记证明，已办理相关服务手续或者提供服务的，市政公用服务单位应当采取合理措施予以纠正。

**第六十六条** 以违法建设为经营场所的，有关主管部门不得办理相关证照。

执法机关作出责令限期改正或者限期拆除决定的，应当通知规划自然资源主管部门暂停办理不动产登记手续；当事人改正的，应当及时通知规划自然资源主管部门。

**第六十七条** 查处违法建设过程中，实施查封或者强制拆除的，执法机关应当通知违法建设当事人清理违法建设内的物品；拒不清理的，应当制作物品清单，由违法建设当事人签字确认；违法建设当事人不签字的，可以由违法建设所在地居委会、村委会确认。实施查封的，将物品一并查封；实施强制拆除的，执法机关应当将物品运送到指定场所，交还违法建设当事人，违法建设当事人拒绝接收的，执法机关可以在留存证据后根据实际情况妥善处理。

执法机关作出强制拆除决定的，应当告知违法建设当事人，其主张拆除后的违法建设残值，应当在强制拆除前提出书面声明，并在限定的期限内自行处置；违法建设当事人未事先提出书面声明或者事先提出书面声明但未在限定的期限内处置完毕的，执法机关可以予以清理。

**第六十八条** 执法机关应当将违法建设当事人受到行政处罚或者行政强制的情况共享到本市的公共信用信息平台。行政机关根据本市关于公共信用信息管理规定可以对其采取惩戒措施。

**第六十九条** 执法机关实施监督检查和查处违法建设，应当实行行政执法公示制度、执法全过程记录制度、重大执法决定法制审核制度。

执法机关应当通过政府网站及政务新媒体、办事大厅公示栏、服务窗口等平台向社会公开行政执法基本信息和结果信息；实施监督检查时，应当主动出示执法证件，向当事人和有关人员表明身份。



planning permit or real estate registration certificate of the construction projects, and shall not provide corresponding services for the construction projects without the planning permit or real estate registration certificate; for the construction projects without the planning permit, the municipal public service units and other units shall not provide construction water and electricity.

Where there is no planning permit or real estate registration certificate, and relevant service procedures have been completed or services have been provided, the municipal public service units shall take reasonable measures to make corrections.

**Article 66** Where illegal construction is taken as a site for business operation, the relevant competent departments shall not issue relevant certificates and permits.

Where law enforcement organs make an order to make corrections or dismantle illegal construction within a time limit, it shall notify the competent departments for planning and natural resources to suspend the registration of real estate; where the parties concerned make corrections, they shall timely notify the competent departments for planning and natural resources.

**Article 67** Where law enforcement organs close down or compulsorily dismantle illegal construction during the investigation and disposal, they shall notify the parties involved in the illegal construction to clean up the articles in the illegal construction; if the parties refuse to clean up the articles, a list of articles shall be prepared, which shall be signed by the parties for confirmation; where the parties fail to sign, it may be confirmed by the residents' committee or villagers' committee of the place where the illegal construction is located. Law enforcement organs shall seize the articles while closing down the illegal construction; in case of compulsory demolition, law enforcement organs shall transport the articles to the designated place and return them to the parties involved in the illegal construction. Where the parties refuse to accept them, law enforcement organs may properly dispose of them according to the actual situation after retaining the evidence.

Where law enforcement organs make a decision on compulsory demolition, they shall inform the parties involved in the illegal construction. The parties shall make a written statement before the compulsory demolition for the residual value of the illegal construction after demolition claimed thereby, and dispose of it within a time limit. Where the parties do not make a written statement in advance or have made a written statement in advance but fail to dispose within the time limit, law enforcement organs may clean it up.

**Article 68** Law enforcement organs shall share the administrative punishments or administrative coercion imposed on the parties involved in the illegal construction to the public credit information platform of this Municipality. Administrative organs may take disciplinary measures against them in accordance with the provisions of this Municipality on the administration of public credit information.

**Article 69** When implementing supervision and inspection and conducting investigation of illegal construction, law enforcement organs shall implement the system of publicity of administrative law enforcement, the system of recording the whole process of law enforcement and the system of legal examination and verification of major law enforcement decisions.

Law enforcement organs shall disclose the basic information and result of administrative law enforcement to the public through government websites, new media of government affairs, bulletin boards in service halls, service windows and other platforms; when carrying



执法机关应当对行政执法的启动、调查取证、审核决定、送达执行等全部过程进行记录；对实施查封或者强制拆除的全程进行音像记录；完善执法案卷管理制度，按照有关法律法规和档案管理规定归档保存执法全过程记录资料。

**第七十条** 本市鼓励社会公众对违法建设行为进行举报。执法机关应当公布举报电话和其他举报方式，对单位和个人举报违法建设行为的，应当及时、完整记录并妥善保管。举报事项属于本部门职责范围的，应当及时受理，并依照法律、法规以及国家和本市相关规定进行核实、处理，将处理结果告知举报人。不属于本部门职责范围的，应当将有关案件线索转交负有查处职责的部门，并告知举报人。

执法机关及其工作人员应当为举报人保密。

**第七十一条** 监督检查城乡规划实施的情况应当依法公开，供公众查阅和监督。

执法机关查处违法建设，在执法决定作出之日起 20 个工作日内，向社会公布执法机关、执法对象、执法类别、执法结论等信息，接受公众监督。

## 第六章 法律责任

**第七十二条** 对违反本条例规定的行为，法律、行政法规已有规定的，依照相关规定处理。

**第七十三条** 本市各级人民政府和规划自然资源及其他相关主管部门有下列行为之一的，由上级行政机关依法责令改正、通报批评，对直接负责的主管人员和其他直接责任人员依法给予处分：

（一）依法应当编制城乡规划而未组织编制，或者未按法定程序编制、审批、修改城乡规划的；

（二）超越职权或者对不符合法定条件的申请人核发选址意见书、临时建设用地批准文件、建设工程规划许可证、临时建设工程规划许可证、乡村建设规划许可证、

out supervision and inspection, law enforcement organs shall take the initiative to show law enforcement certificates and identify themselves to the parties and relevant personnel.

Law enforcement organs shall record the whole process of administrative law enforcement, such as the initiation, investigation, evidence collection, examination, decision-making, service and execution; make audio-video records for the whole process of closing down or compulsorily dismantling illegal construction; improve the management system for law enforcement files, and keep the records and materials of the whole process of law enforcement in accordance with relevant laws and regulations and file management regulations.

**Article 70** This Municipality shall encourage the public to report illegal construction activities. Law enforcement organs shall publicize the telephone number and other means of reporting, and shall timely and completely record the illegal construction activities reported by units and individuals and properly keep the records. Where the reported matters fall within the scope of the responsibilities of the receiving department, it shall accept the matters in a timely manner, verify and deal with the matters in accordance with laws, regulations and relevant provisions of the state and this Municipality, and notify the informant of the handling results. Where the reported matters do not fall within the scope of the responsibilities of the receiving department, the clues of the relevant cases shall be transferred to the department responsible for investigation and handling, and notify the informant.

Law enforcement organs and the personnel thereof shall keep secrets for the informant.

**Article 71** The supervision over and inspection of the implementation of urban and rural plans shall be made public according to law for the review and supervision of the public.

Law enforcement organs, in investigating and disposing of illegal construction, shall publicize the information of law enforcement organs, law enforcement objects, law enforcement categories, law enforcement conclusions, etc. within 20 working days from the date of making law enforcement decisions, and accept public supervision.

## Chapter VI Legal Liability

**Article 72** Where there are provisions in laws or administrative regulations on violations of the Regulations, such provisions shall prevail.

**Article 73** Where any of the people's governments at various levels, competent departments for planning and natural resources and other relevant departments of this Municipality commits one of the following acts, the superior administrative agency shall, according to law, order it to make corrections, circulate a notice of criticism, and give sanctions to the leading person directly in charge and other persons directly responsible:

(1) failing to organize the formulation of urban and rural plans that shall be formulated according to law, or failing to formulate, examine and approve, or modify urban and rural plans in compliance with the statutory procedures;

(2) issuing a written proposal on the choice of location, approval document for temporary land use for construction, planning permit for construction project, temporary planning permit for construction project, planning permit for rural construction or temporary planning permit for rural construction by going beyond its powers, or issuing

临时乡村建设规划许可证的；

（三）对符合法定条件的申请人未在法定期限内核发选址意见书、临时建设用地批准文件、建设工程规划许可证、临时建设工程规划许可证、乡村建设规划许可证、临时乡村建设规划许可证的；

（四）对未依法取得选址意见书的建设项目核发建设项目批准文件的；

（五）同意修改建设工程规划许可证附图前未依法听取利害关系人的意见的；

（六）发现未依法取得规划许可或者违反规划许可的规定进行建设的行为，不予查处或者接到举报后不依法处理的；

（七）对涉及房屋的用途与不动产登记簿记载的用途不一致的申请许可事项，核发行政许可证件的。

市政公用服务单位违反规定对违法建设提供公用服务且拒不改正的，由相关主管部门依法责令改正、通报批评，有关涉嫌职务违法或者职务犯罪的问题线索移送监察机关依法处理。

**第七十四条** 对正在搭建、开挖的违法建设，执法机关应当书面责令违法建设当事人立即停止建设、自行拆除或者回填；并可以查封违法建设施工现场、扣押违法建设施工工具和材料。当事人拒不停止建设或者拒不拆除、回填的，执法机关应当依法立即强制拆除、回填。

**第七十五条** 建设工程未取得规划许可证件或者未按照规划许可证件许可内容建设，尚可采取改正措施消除对规划实施的影响的，执法机关责令限期改正，处该建设工程造价百分之五以上百分之十以下的罚款；无法采取改正措施消除影响的，限期拆除，不能拆除的，没收实物或者违法收入，可以并处该建设工程造价百分之十以下的罚款。

没收违法建设实物的处置办法由市规划自然资源主管部门会同市财政部门制定。

本条第一款所称的违法收入，按照违法建设出售所得价款计算。违法建设未出

such proposal or permit to an applicant who does not meet the statutory conditions;

(3) failing to issue, within the statutory time limit, a written proposal on the choice of location, approval document for temporary land use for construction, planning permit for construction project, temporary planning permit for construction project, planning permit for rural construction or temporary planning permit for rural construction to an applicant who meets the statutory conditions;

(4) issuing the approval document for a construction project for which the written proposal on the choice of location is not obtained according to law;

(5) failing to listen to the opinions of the interested parties before it gives its consent to the modification of the drawings attached to the planning permit for construction project;

(6) when it discovers the construction conducted, for which no planning permit is issued according to law or which is conducted in violation of the provisions in the planning permit, failing to investigate and handle the matter, or after it receives the report on the matter, failing to handle it according to law; or

(7) issuing an administrative permit for matters involved in the application for administrative permission in which the use of the premises is not consistent with that stated in the real estate register.

Where a municipal public service unit, in violation of the provisions, provides public services for illegal construction and refuses to make corrections, the relevant competent departments shall order it to make corrections and circulate a notice of criticism according to law, and the clues to the suspected illegal acts in public duties or job-related crimes shall be transferred to the supervisory organs for handling according to law.

**Article 74** For the illegal construction being built or excavated, law enforcement organs shall order in writing the parties involved in the illegal construction to immediately stop the construction, and order the demolition or backfilling by the parties; and may close down the illegal construction site and seize the illegal construction tools and materials. Where the parties refuse to stop the construction, or refuse the demolition or backfilling, law enforcement organs shall carry out compulsory demolition or backfilling immediately according to law.

**Article 75** Where a unit engages in a construction project without obtaining a planning permit or without complying with the contents of the planning permit, and corrective measures can still be taken to eliminate the impact on the implementation of the plans, law enforcement organs shall order it to make corrections within a time limit, and impose a fine of not less than 5% but not more than 10% of the cost of the construction project; if it is impossible to take corrective measures to eliminate the impact, the project shall be demolished within a time limit, and if it cannot be demolished, physical objects or illegal incomes shall be confiscated, and a fine of not more than 10% of the cost of the construction project may be imposed at the same time.

Measures for the disposal of the illegal construction objects confiscated shall be formulated by the municipal department for planning and natural resources together with the municipal department for finance.

The illegal incomes mentioned in the first paragraph of this Article shall be calculated according to the proceeds from the sale of illegal construction. If the illegal construction is not sold or the price obtained from the sale is obviously lower than the market price of the surrounding real estate of the same type, law enforcement organs shall entrust an evaluation

售或者出售所得价款明显低于周边同类型房地产市场价格的，执法机关应当委托评估机构参照委托时周边同类型房地产市场价格进行评估确定。

**第七十六条** 城镇临时建设工程未取得临时建设工程规划许可证或者未按照临时建设工程规划许可证许可内容建设或者逾期未拆除的，由规划自然资源主管部门责令限期拆除，可以并处该建设工程造价一倍以下的罚款。

**第七十七条** 未经批准使用宅基地进行村民住宅建设的，符合村庄规划的，乡、镇人民政府责令其补办审批手续；不符合村庄规划的，责令限期拆除；有租金收入的，没收租金收入，并处租金收入一倍的罚款。

**第七十八条** 执法机关责令违法建设当事人限期拆除或者回填，违法建设当事人逾期不拆除或者回填的，执法机关应当依法催告当事人履行义务。经催告，当事人逾期仍不履行的，执法机关依法实施强制拆除、回填等措施。违法建设拆除或者回填的，应当进行安全鉴定。

执法机关对无法确定违法建设当事人的，可以在公共媒体或者该建设工程所在地发布公告，督促违法建设当事人依法接受处理，责令其限期拆除违法建设，告知其逾期不拆除的，执法机关将依法实施强制拆除，公告期间不得少于 10 日。公告期间届满后 6 个月内无人提起行政复议或者行政诉讼的，依法强制拆除或者没收。

**第七十九条** 执法机关查处违法建设，符合法定代履行情形的，依照《中华人民共和国行政强制法》的规定执行。

**第八十条** 强制拆除或者回填违法建设及其安全鉴定的费用、建筑垃圾清运处置费用，以及相关物品保管费用由违法建设当事人承担。当事人逾期不缴纳的，执法机关可以依法加处滞纳金。

行政机关实施加处滞纳金超过 30 日，经催告当事人仍不履行的，应当依法申请人民法院强制执行。

**第八十一条** 设计单位为没有取得规划许可的建设工程提供用于施工的设计图

agency to make evaluation and determination based on the market price of the surrounding real estate of the same type at the time of entrustment.

**Article 76** Where a unit engages in a temporary urban construction project without obtaining the temporary planning permit for construction project or without complying with the contents of the said permit, or fails to demolish such temporary construction beyond the prescribed time limit, it shall be ordered to demolish the project within a prescribed time limit and may be fined not more than one time the cost of the construction project by the competent departments for planning and natural resources.

**Article 77** In case villagers use original house sites for the construction of residential houses without approval, and the construction conforms to the village plans, the town or township people's governments shall order them to go through the formalities of examination and approval; if it does not conform to the village plans, the villagers shall be ordered to dismantle the houses within a time limit; if there is any rental income, the rental income shall be confiscated and a fine of one time the rental income shall be imposed at the same time.

**Article 78** Where law enforcement organs order demolition or backfilling by the parties involved in the illegal construction within a time limit, and the parties refuse to do so, law enforcement organs shall urge the parties to perform their obligations according to law. If the parties fail to perform the obligations upon expiry of the time limit after being urged to do so, law enforcement organs shall, in accordance with the law, take such measures as compulsory demolition and backfilling. After the demolition or backfilling, safety appraisal shall be conducted.

Where law enforcement organs are unable to determine the parties involved in illegal construction, they may issue a public announcement in the public media or the place where the construction project is located, in order to urge the parties to accept the treatment according to law, order them to dismantle the illegal construction within a time limit, and inform that law enforcement organs will implement the compulsory demolition according to law in the event of failure of demolition upon expiry of the time limit. The announcement period shall be no less than 10 days. If no administrative reconsideration or administrative litigation is brought within 6 months after the expiry of the period of announcement, the illegal construction shall be compulsorily removed or confiscated according to law.

**Article 79** Where the investigation and disposal of illegal construction by law enforcement organs is in conformity with the legal situation of performance by others, the provisions of the Administrative Compulsion Law of the People's Republic of China shall apply.

**Article 80** The cost of compulsory demolition or backfilling of illegal construction and its safety appraisal, the cost of cleaning, transportation and disposal of construction wastes, and the cost of storage of related articles shall be borne by the parties involved in the illegal construction. If a party fails to pay upon expiry of the time limit, law enforcement organs may impose an additional fine for late payment according to law.

If the party still fails to perform after being urged 30 days after administrative organs impose an additional fine for late payment, application can be filed with the people's court for compulsory execution according to law.

**Article 81** Where a design unit provides construction drawings for a construction project without a planning permit, or provides construction drawings not in compliance

纸，或者不按照规划许可的要求提供用于施工的设计图纸，由规划自然资源主管部门给予警告，并处10万元以上20万元以下的罚款；情节严重的，处以20万元以上50万元以下罚款，并可责令停业整顿、降低资质等级，对直接责任人员给予警告，并处5000元以上5万元以下罚款，对于注册建筑师和其他专业技术人员可以吊销资格证书，5年内不予注册。

**第八十二条** 施工单位未按照符合标准的施工图设计文件施工，或者承接未取得规划许可的建设项目的，由住房和城乡建设主管部门处以工程合同款百分之二以上百分之四以下罚款；情节严重的，责令停业整顿，降低资质等级或者吊销资质证书。

**第八十三条** 城镇居住建设项目的建设单位未按照规定建设基础设施、公共服务设施的，规划自然资源主管部门责令限期改正，处该建设工程造价百分之五以上百分之十以下的罚款；逾期不改的，处应建部分工程造价一倍以上二倍以下的罚款。

城镇居住建设项目的配套基础设施、公共服务设施按照规定应当移交未移交的，有关主管部门责令限期移交；逾期不移交的，直接收回，并处未移交部分工程造价百分之五以上百分之十以下的罚款。

**第八十四条** 建设工程投入使用后，建设单位或者所有人违反本市规划用途管制规定擅自改变使用用途的，由规划自然资源主管部门责令当事人限期改正、按照实际使用用途类型应当缴纳的土地使用权地价款数额的二倍处以罚款；情节严重的，依法无偿收回土地使用权。

**第八十五条** 城镇建设项目的建设单位未按照规定在施工现场对外公示建设工程规划许可证、临时建设工程规划许可证、乡村建设规划许可证、临时乡村建设规划许可证及附件、附图的，由市人民政府确定的有关执法机关责令限期改正，可以并处5000元以上1万元以下罚款。

**第八十六条** 执法机关在实施监督检查时，任何个人有阻碍执法机关依法执行职务的行为，或者隐藏、转移、变卖、损毁查封、扣押的财物的，依照《中华人民



with a planning permit, the competent departments for planning and natural resources shall impose a warning on the unit and impose a fine of not less than 100,000 yuan but not more than 200,000 yuan at the same time; where the circumstances are serious, the said departments shall impose a fine of not less than 200,000 yuan but not more than 500,000 yuan, and may order it to suspend its business for rectification or reduce its level of qualification and impose a warning on the persons directly responsible and a fine of not less than 5,000 yuan but not more than 50,000 yuan at the same time. For a registered architect or other professional technician, his qualification certificate may be revoked and a ban on registration for 5 years may be imposed.

**Article 82** Where a construction unit fails to construct in accordance with the construction drawings that meet the standards, or undertakes a construction project that has not obtained a planning permit, the competent departments for housing and urban-rural development shall impose a fine of not less than 2% but not more than 4% of the project contract price; if the circumstances are serious, the said departments shall order it to suspend its business for rectification, demote its grade of qualification or revoke its qualification certificate.

**Article 83** Where a construction unit of a urban residential construction project fails to construct infrastructure and public service facilities in accordance with the provisions, the competent departments for planning and natural resources shall order it to make corrections within a time limit and impose a fine of not less than 5% but not more than 10% of the cost of the construction project; if it fails to make corrections upon expiry of the time limit, it shall be imposed a fine of not less than one time but not more than two times the cost of the part of the project to be constructed.

Where the supporting infrastructure and public service facilities of urban residential construction projects shall be handed over but are not handed over in accordance with the provisions, the relevant competent departments shall order them to be handed over within a time limit; if they are not handed over upon expiry of the time limit, they shall be directly recovered, and a fine of not less than 5% but not more than 10% of the cost of the part of the project not handed over shall be imposed.

**Article 84** Where, after a construction project is put into use, the construction unit or owner changes its use without authorization in violation of the provisions of this Municipality on the control of planned use, the competent departments for planning and natural resources shall order the party concerned to make corrections within a time limit and impose a fine of twice the amount of the payment for the right of land use that shall be paid according to the actual use type; if the circumstances are serious, the right of land use shall be recovered free of charge according to law.

**Article 85** Where a construction unit of an urban construction project fails to publish the planning permit for construction project, the temporary planning permit for construction project, the planning permit for rural construction, the temporary planning permit for rural construction, as well as the attached documents and drawings on the construction site as required, the relevant law enforcement department designated by the Municipal People's Government shall order it to make rectification within a prescribed time limit and may impose a fine of not less than 5,000 yuan but not more than 10,000 yuan at the same time.

**Article 86** Where, in the course of supervision and inspection by law enforcement organs, any individual hinders law enforcement organs from performing their duties in



《中华人民共和国治安管理处罚法》的规定处罚。

**第八十七条** 违法建设当事人受到罚款处理后逾期不缴纳罚款的，执法机关可以每日按罚款数额的百分之三加处罚款。

违法建设当事人在法定期限内不申请行政复议或者提起行政诉讼，又不缴纳罚款的，执法机关可以依法申请人民法院强制执行。

**第八十八条** 执法机关申请人民法院强制执行的，人民法院依法作出裁定，并可以依法发出限制消费令、纳入失信被执行人名单等。

**第八十九条** 建设单位进行建设对公民、法人和其他组织的合法权益造成损害的，应当依法承担相应的民事责任；违法建设破坏生态环境和资源保护等损害社会公共利益的，法律规定的机关和有关组织可以依法对当事人提起民事公益诉讼，追究其损害赔偿责任。

**第九十条** 市、区人民政府及相关主管部门在执行本条例过程中发现公职人员涉嫌职务违法或者职务犯罪的，应当移送监察机关依法处理。

违反本条例规定，涉嫌构成其他刑事犯罪的，执法机关应当将涉嫌犯罪案件移送公安机关，依法追究刑事责任。

## 第七章 附 则

**第九十一条** 本条例所称的各项建设工程，指新建、改建、扩建、翻建各类建筑物、构筑物以及城乡市政和交通工程。

重要大街、历史文化街区、市人民政府规定的特定地区的现有建筑物外部装修参照建设工程办理。

**第九十二条** 本条例所称的违法建设包括城镇违法建设和乡村违法建设。城镇违法建设是指未依法取得建设工程规划许可证、临时建设工程规划许可证或者未按

accordance with the law, or conceals, transfers, sells off, or damages seized or detained properties, the individual shall be punished in accordance with the provisions of the Law of the People's Republic of China on Administrative Penalties for Public Security.

**Article 87** Where a party involved in illegal construction fails to pay the fine upon the expiry of the prescribed time limit after being fined, law enforcement organs may impose an extra of 3% of the amount of the fine each day.

Where the party involved in illegal construction fails to apply for administrative reconsideration or bring an administrative lawsuit within the statutory time limit and fails to pay the fine, law enforcement organs may apply to the people's court for compulsory execution according to law.

**Article 88** Where a law enforcement organ applies to the people's court for compulsory execution, the people's court shall make a ruling in accordance with the law, and may issue a consumption restriction order in accordance with the law, and include the units in the list of dishonest persons subject to execution, etc.

**Article 89** Where a construction unit engaging in construction causes damage to the lawful rights and interests of citizens, legal persons or other organizations, the unit shall bear corresponding civil liability according to law; where the illegal construction damages public interests such as the ecological environment and resource protection, the organs and relevant organizations prescribed by laws may bring civil public interest litigation against the parties in accordance with the law and investigate their liability for damages.

**Article 90** Where the municipal or district people's governments and the relevant competent departments find, in the course of implementing the Regulations, that public officials are suspected of violating the law or committing crimes by taking advantage of their duties, they shall be transferred to the supervisory organs for handling according to law.

In case of violation of the provisions of the Regulations which is suspected of constituting other crimes, law enforcement organs shall transfer the suspected criminal cases to the public security organs for investigation of criminal responsibility according to law.

## Chapter VII Supplementary Provisions

**Article 91** As used in the Regulations, the construction projects shall refer to new construction, reconstruction, expansion or renovation of various buildings and structures as well as projects of public works and traffic in urban and rural areas.

The external decoration of the existing buildings in major avenues, historic and cultural blocks and the special areas designated by the Municipal People's Government shall be treated as construction projects.

**Article 92** The illegal construction as mentioned in the Regulations shall include urban and rural illegal construction. Urban illegal construction shall refer to urban construction projects that have not obtained a planning permit for construction project or a temporary planning permit for construction project according to law, or those that have not been constructed according to the contents of the permit, as well as temporary urban

照许可内容进行的城镇建设工程，以及逾期未拆除的城镇临时建设工程。乡村违法建设是指应当取得而未取得乡村建设规划许可证、临时乡村建设规划许可证或者未按照许可内容进行建设的乡村建设工程。

本条例所称的违法建设当事人，包括违法建设的建设单位、施工单位、所有人或者管理人。

**第九十三条** 本条例自 2019 年 4 月 28 日起施行。

construction projects that have not been demolished upon expiry of the prescribed time limit. Rural illegal construction shall refer to rural construction projects that should have obtained a planning permit for rural construction or a temporary planning permit for rural construction, or those that have not been constructed according to the contents of the permit.

The parties involved in the illegal construction as mentioned in the Regulations shall include the construction units, owners or managers of illegal construction.

**Article 93** The Regulations shall come into force as of April 28, 2019.

# 北京市建设工程质量条例

(2015年9月25日北京市第十四届人民代表大会常务委员会  
第二十一次会议通过)

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## 第一章 总 则

**第一条** 为了明确建设工程质量责任，加强建设工程质量管理，保障建设工程质量，保护人民生命和财产安全，根据《中华人民共和国建筑法》、《建设工程质量管理条例》和其他有关法律、行政法规，结合本市实际情况，制定本条例。

**第二条** 在本市行政区域内从事建设工程新建、改建、扩建、修缮等活动及对建设工程质量实施监督管理的，应当遵守本条例。

# Regulations of Beijing Municipality on the Quality of Construction Projects

(Adopted at the 21<sup>st</sup> Meeting of the Standing Committee of the Fourteenth People's Congress of Beijing Municipality on September 25, 2015)

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## Chapter I General Provisions

**Article 1** These Measures are formulated for the purposes of specifying the quality responsibility of construction projects, strengthening the quality administration of construction projects, ensuring the quality of construction projects, as well as protecting the life and property safety of the people in accordance with the Construction Law of the People's Republic of China, the Regulations on the Quality Administration of Construction Projects and other relevant laws and administrative regulations and in light of the actual circumstances of this Municipality.

**Article 2** Those engaged in the new construction, reconstruction, expansion, renovation and other activities related to construction projects as well as those implementing the quality supervision and administration of construction projects within the administration area of this Municipality shall abide by these Regulations.

本条例所称建设工程，包括房屋建筑和市政基础设施工程。

**第三条** 建设、勘察、设计、施工、监理、检测、监测、施工图审查、预拌混凝土生产等建设工程有关单位和人员应当依照法律、法规、工程建设标准和合同约定从事工程建设活动，承担质量责任。

**第四条** 住房城乡建设行政主管部门负责建设工程质量监督管理工作；市政市容、园林绿化、文物、民防等行政主管部门负责公用设施、园林绿化、文物、人民防空等专业工程质量监督管理工作；规划行政主管部门负责勘察设计质量监督管理工作。

交通、水务、公安消防、质监、环保、气象等部门按照各自职责，负责相关监督管理工作。

**第五条** 建设工程相关行业协会、学会应当加强行业自律，引导会员单位和人员依法从事工程建设活动，可以提供咨询、培训、信息、技术等服务，建立行业信用评价制度，向建设工程监督管理部门提出改进工作的意见和建议，维护行业、会员的合法权益和共同经济利益。

**第六条** 本市鼓励第三方机构开展建设工程质量认证、检测、咨询、培训、保险、担保、信用评价等服务。

**第七条** 任何单位或者个人有权举报工程建设违法违规行为，投诉建设工程质量事故和质量缺陷。

## 第二章 建设工程有关单位的质量责任

**第八条** 建设单位依法对建设工程质量负责。建设单位应当落实法律法规规定的建设单位责任，建立工程质量责任制，对建设工程各阶段实施质量管理，督促建设工程有关单位和人员落实质量责任，处理建设过程和保修阶段建设工程质量缺陷和事故。

**第九条** 勘察单位对建设工程勘察质量负责。勘察单位应当按照法律法规和工程

As used in these Regulations, “construction projects” include building construction and municipal infrastructure projects.

**Article 3** Units and persons related to construction projects such as those engaged in the development, survey, design, construction, supervision, testing, monitoring, construction drawing examination and production of premixed concrete shall carry out engineering construction activities and shoulder their quality responsibility in accordance with laws, regulations, engineering construction standards and the agreement in contracts.

**Article 4** Competent administrative department for housing and urban-rural development shall be in charge of the quality supervision and administration of construction projects; competent administrative departments for municipal administration & city appearance, landscaping, cultural relics and civil air defense shall be in charge of the quality supervision and administration of specialized projects related to public utilities, landscaping, cultural relics and civil air defense; competent administrative departments for planning shall be in charge of the quality supervision and administration of survey and design.

Departments for transport, water affairs, public security fire control, quality supervision, environmental protection and meteorology shall be in charge of the relevant supervision and administration work according to their respective duties.

**Article 5** An industry association or society related to construction projects shall strengthen the industry self-regulation, and shall lead its member units and individual members to carry out engineering construction activities in accordance with law; it may provide consultation, training, information, technology and other services, establish the industry credit evaluation system, and put forward opinions and suggestions on the improvement of work to departments for the supervision and administration of construction projects, so as to safeguard the lawful rights and interests as well as the common economic benefits of the industry and its members.

**Article 6** This Municipality encourages third-party institutions to provide services such as quality certification, testing, consultation, training, insurance, guarantee and credit evaluation related to construction projects.

**Article 7** Any unit or individual shall be entitled to inform against illegal and rule-breaking engineering construction activities, or complain about quality accidents and quality defects in construction projects.

## **Chapter II Quality Responsibility of Units Related to Construction Projects**

**Article 8** The development unit shall be responsible for the quality of a construction project in accordance with law. The development unit shall ascertain its responsibility as stipulated by laws and regulations, establish the project quality responsibility system, implement the quality management at all stages of the construction project, urge units and persons related to the construction project to ascertain their quality responsibility, as well as deal with quality defects and accidents of the construction project during the construction process and the warranty period.

**Article 9** The survey unit shall be responsible for the survey quality of a construction



建设强制性标准开展勘察工作，勘探、测试、测量和试验原始记录应当真实、准确、完整，签署齐全。

**第十条** 设计单位对建设工程设计质量负责。设计单位应当按照法律法规和工程建设强制性标准开展设计工作，保证设计质量。

**第十一条** 施工单位对建设工程施工质量负责。施工单位应当按照工程建设标准、施工图设计文件施工，使用合格的建筑材料、建筑构配件和设备，不得偷工减料，加强施工安全管理，实行绿色施工。

**第十二条** 勘察、设计、施工总承包单位依法实施分包的，分包单位应当具备相应资质、技术条件，并对承担的勘察、设计、施工质量负责。勘察、设计、施工总承包单位应当对分包单位进行监督管理。

**第十三条** 监理单位对监理工作负责。监理单位应当按照法律法规、工程建设标准和施工图设计文件对施工质量实施监理。

**第十四条** 工程质量检测单位、房屋安全鉴定单位应当按照法律法规、工程建设标准，在规定范围内开展检测、鉴定活动，并对检测、鉴定数据和检测、鉴定报告的真实性、准确性负责。

**第十五条** 工程监测单位应当按照法律法规、工程建设标准和施工图设计文件实施监测，并对监测数据的真实性、准确性和可靠性负责。

**第十六条** 建筑材料、建筑构配件和设备的生产单位和供应单位按照规定对产品质量负责。

建筑材料、建筑构配件和设备进场时，供应单位应当按照规定提供真实、有效的质量证明文件。结构性材料、重要功能性材料和设备进场检验合格后，供应单位应当按照规定报送供应单位名称、材料技术指标、采购单位和采购数量等信息。供应涉及建筑主体和承重结构材料的单位，其法定代表人还应当签署工程质量终身责任承诺书。

**第十七条** 预拌混凝土生产单位应当具备相应资质，对预拌混凝土的生产质量负

project. The survey unit shall carry out the survey in accordance with laws, regulations and compulsory engineering construction standards; the original survey, testing, measurement and experiment records shall be true, correct, complete and properly signed.

**Article 10** The design unit shall be responsible for the design quality of a construction project. The design unit shall carry out the design in accordance with laws, regulations and compulsory engineering construction standards, so as to ensure the design quality.

**Article 11** The construction unit shall be responsible for the design quality of a construction project. The construction unit shall carry out the construction in accordance with engineering construction standards and construction drawing design documents; shall use qualified building materials, architectural components and equipment; shall not scamp work and stint material; shall strengthen the construction safety management; and shall carry out green construction.

**Article 12** Where the general contractor of survey, design or construction carries out the sub-contracting in accordance with law, the sub-contractor shall have the corresponding qualifications and technical conditions, and shall be responsible for the quality of its survey, design or construction. The general contractor of survey, design or construction shall supervise and manage its sub-contractor.

**Article 13** The supervision unit shall be in charge of the supervision of a construction project. The supervision unit shall carry out the supervision of construction quality in accordance with laws, regulations, engineering construction standards and construction drawing design documents.

**Article 14** The engineering quality testing unit or the building safety appraisal unit shall carry out the testing or appraisal within the stipulated scope in accordance with laws, regulations and engineering construction standards, and shall be responsible for the authenticity and correctness of testing or appraisal data and the testing or appraisal report.

**Article 15** The engineering monitoring unit shall carry out the monitoring in accordance with laws, regulations, engineering construction standards and construction drawing design documents, and shall be responsible for the authenticity, correctness and reliability of monitoring data.

**Article 16** The production unit or supplying unit of any building material, architectural component or equipment shall be responsible for the quality of its products as stipulated.

When any building material, architectural component or equipment enters the construction site, the supplying unit shall provide authentic and valid quality certifications as stipulated. After any structural material, important functional material or equipment enters the construction site and passes the inspection, the supplying unit shall submit such information as the supplying unit's name, the material's technical indexes, the purchase unit and the purchase quantity. Where any supplying unit supplies any material related to the main body and bearing structure of a building, its legal representative shall also sign the lifelong responsibility letter for engineering quality.

**Article 17** The production unit of pre-mixed concrete shall have the corresponding

责。

预拌混凝土生产单位应当对原材料质量进行检验，对配合比进行设计，按照配合比通知单生产，并按照法律法规和标准对生产质量进行验收。

### 第三章 建设工程有关人员的质量责任

**第十八条** 建设、勘察、设计、施工、监理等单位的法定代表人应当签署授权委托书，明确各自建设工程项目负责人。

项目负责人应当签署工程质量终身责任承诺书。

法定代表人和项目负责人在工程设计使用年限内对工程建设相应质量承担直接责任。

**第十九条** 建设单位项目负责人负责组织协调建设工程各阶段的质量管理工作，督促有关单位落实质量责任，并对由其违法违规或不当行为造成的工程质量事故或者质量问题承担责任。

勘察、设计单位项目负责人对因勘察、设计导致的工程质量事故或者质量问题承担责任。

施工单位项目负责人对因施工导致的工程质量事故或者质量问题承担责任。

监理单位项目负责人对施工质量承担监理责任。

**第二十条** 从事工程建设活动的专业技术人员应当在注册许可范围和聘用单位业务范围内从业，对签署技术文件的真实性和准确性负责，依法承担质量责任。

**第二十一条** 从事工程建设活动的专业技术人员应当具备相应专业技术资格或者注册执业资格，按照规定接受继续教育；其中关键岗位专业技术人员应当按照相关行业职业标准和规定经培训考核合格。

**第二十二条** 建设工程一线作业人员应当按照相关行业职业标准和规定经培训考

qualifications, and shall be responsible for the production quality of pre-mixed concrete.

The production unit of pre-mixed concrete shall carry out the quality test of raw materials, design the mix proportion, produce according to the mix proportion order, as well as inspect the production quality in accordance with relevant laws, regulations and standards.

### **Chapter III Quality Responsibility of Persons Related to Construction Projects**

**Article 18** The legal representative of a development, survey, design, construction or supervision unit shall sign the power of attorney, so as to specify the project responsible person for each construction project.

The project responsible person shall sign the lifelong responsibility letter for engineering quality.

The legal representative and the project responsible person shall correspondingly shoulder direct responsibility for the engineering quality of a construction project during its design life.

**Article 19** The project responsible person of the development unit shall be responsible for organizing and coordinating the quality management work at different stages of a construction project, urge relevant units to ascertain the quality responsibility, and shoulder the responsibility for engineering quality accidents or quality problems caused by his illegal, law-breaking or improper acts.

The project responsible person of the survey or design unit shall shoulder the responsibility for engineering quality accidents or quality problems caused by the survey or design.

The project responsible person of the construction unit shall shoulder the responsibility for engineering quality accidents or quality problems caused by the construction.

The project responsible person of the supervision unit shall shoulder the supervision responsibility for the construction quality.

**Article 20** A professional engaged in engineering construction activities shall practice within the scope of his registered license and the business scope of his employer, shall be responsible for the authenticity and correctness of technical documents signed by him, and shall shoulder the quality responsibility in accordance with law.

**Article 21** A professional engaged in engineering construction activities shall have the corresponding professional qualification or registered practicing qualification, and shall accept further education as stipulated; a professional at a key post shall accept trainings and pass relevant examinations in accordance with relevant industrial and professional standards and rules.

**Article 22** The frontline operating personnel of a construction project shall accept trainings and pass relevant examinations in accordance with relevant industrial and professional standards and rules. Units related to construction projects shall establish the

核合格。建设工程有关单位应当建立健全一线作业人员的教育、培训制度，定期开展职业技能培训。

## **第四章 工程建设各阶段的质量责任**

### **第一节 建设前期**

**第二十三条** 依法必须进行招标的建设工程，建设单位、施工单位应当按照规定编制资格预审文件、招标文件。资格预审文件或者招标文件发出的同时，建设单位、施工单位应当向有关行政主管部门备案。

**第二十四条** 建设单位进行工程发包，不得将一个单位工程发包给两个以上的施工单位。禁止建设单位对预拌混凝土直接发包。

**第二十五条** 建设单位、施工单位应当将工程建设合同、勘察合同、设计合同、监理合同、施工分包合同、重要材料设备采购合同，按照规定报有关行政主管部门备案；建设工程规模标准、结构形式、使用功能等发生重大变更，依法应当由有关行政主管部门批准的，建设单位、施工单位应当将相关合同重新报备。

**第二十六条** 建设、勘察、设计、施工、监理等单位的项目负责人、供应涉及建筑主体和承重结构材料的单位的法定代表人，其签署的工程质量终身责任承诺书作为建设工程各阶段相关合同的附件，由建设单位在办理施工图设计文件审查、工程质量监督注册手续时向有关监督管理部门提交。

工程质量终身责任承诺书应当存入建设工程档案，工程竣工验收合格后移交城市建设档案管理部门。

**第二十七条** 中央及外省市在京从事工程建设活动的企业应当按照本市有关规定办理备案手续，纳入建设工程质量信用管理范围。

sound education and training system for the frontline operating personnel, and shall carry out vocational trainings at regular intervals.

## **Chapter IV Quality Responsibility in Different Stages of Construction Projects**

### **Section I Early Stage**

**Article 23** With regard to a construction project subject to the invitation of bids in accordance with law, the development unit or the construction unit shall formulate the pre-qualification document and the bidding document. At the same time of issuing the pre-qualification document and the bidding document, the development unit or the construction unit shall report to the relevant competent administrative department for the record.

**Article 24** When contracting out a project, the development unit shall not contract out a unit project to two or more construction units. The development unit is prohibited to directly contract out pre-mixed concrete.

**Article 25** The development unit or the construction unit shall submit the engineering construction contract, the survey contract, the design contract, the supervision contract, the construction sub-contracting contract as well as the purchase contracts of important materials and equipment to the relevant competent administrative department for the record as stipulated; where there is any major change to the scale, standards, structure, form or functions of use of the construction project which shall be approved by the relevant competent administrative department in accordance with law, the development unit or the construction unit shall submit relevant contracts for the record anew.

**Article 26** The lifelong responsibility letter for engineering quality signed by the project responsible person of the development, survey, design, construction or supervision unit or by the legal representative of the supplying unit of any material related to the main body or bearing structure of a building shall act as an appendix to the relevant contract at different stages of a construction project, and shall be submitted by the development unit to the relevant supervision and administration department when handling formalities for the examination of construction drawing design documents and the registration of engineering quality supervision.

The lifelong responsibility letter for engineering quality shall be included in the archives of a construction project, and shall be transferred to the urban construction archives management department after the construction project passes the completion acceptance inspection.

**Article 27** Central enterprises as well as enterprises of other provinces and cities which engage in engineering construction activities in Beijing shall handle filing formalities in accordance with relevant provisions of this Municipality, and shall be included in the scope for the quality and credit management of construction projects.

中央国家机关、驻京部队、中央企事业单位的审批类建设工程，建设单位应当按照规定在市住房城乡建设行政主管部门进行项目备案，纳入本市建设项目年度计划，并按照规定办理建设手续。

## 第二节 勘察设计

**第二十八条** 深基坑、地基处理等岩土工程的设计应当由具备相应资质的单位承担，岩土工程设计单位对设计质量负责。设计文件应当按规定经审查后方可使用，具体规定由市规划行政主管部门会同有关部门另行制定。

**第二十九条** 建设工程由多个单位合作设计的，各设计单位应当通过合作协议确定各自的工作内容和责任划分。分阶段的合作设计，各设计单位分别承担各阶段的设计质量责任。

**第三十条** 建设工程进行改建、扩建的，建设单位应当委托原设计单位或者具有相同或者以上资质等级的设计单位设计。因改建、扩建工程造成工程质量问题的，改建、扩建工程的设计单位应当承担设计质量责任。

**第三十一条** 建设单位应当按照国家规定将施工图设计文件报城乡规划行政主管部门审查。按照相关规定应当重新提交审查的，建设单位应当将修改后的施工图设计文件重新提交审查。经审查合格的施工图设计文件是建设工程施工、监理、验收及质量监督管理的依据。

**第三十二条** 设计变更或者工程洽商改变施工图设计文件内容的，设计技术人员应当按照规定签字签章。改变的内容作为施工图设计文件的组成部分。

## 第三节 工程施工

**第三十三条** 依法应当申请建设工程施工许可的，建设单位应当在开工前依法申请领取施工许可证。建设单位领取施工许可证后，施工单位方可进行施工。

With regard to any construction project of a central state organ, an armed force stationed in Beijing or a central enterprise or public institution which is subject to approval, the development unit shall handle the project filing at the municipal competent administrative department for housing and urban-rural development; the project shall be incorporated into the annual plan of this Municipality for construction projects; and the construction procedures shall be handled as stipulated.

## **Section II Survey and Design**

**Article 28** The design of geotechnical engineering such as deep foundation pit or foundation treatment shall be undertaken by a unit with the corresponding qualification; and the design unit of geotechnical engineering shall be responsible for the design quality. The design document can only be used after being examined as stipulated; the specific provisions shall be separately formulated by the municipal competent administrative department for planning together with relevant departments.

**Article 29** Where a construction project is co-designed by several units, each design unit shall confirm its work content and the division of responsibility through the cooperation agreement. Where the co-design is divided into different stages, each design unit shall respectively shoulder its responsibility for the design quality of each stage.

**Article 30** Where a construction project is reconstructed or expanded, the development unit shall entrust the design to the original design unit or a design unit with the same or higher qualification grade. Where any engineering quality problem is caused by the reconstruction or expansion project, the design unit of the reconstruction or expansion project shall shoulder the responsibility for design quality.

**Article 31** The development unit shall submit construction drawing design documents to the competent administrative department for urban and rural planning for examination in accordance with relevant provisions of the State. Where the modified construction drawing design documents shall be submitted for examination anew in accordance with relevant provisions, the development unit shall submit such document for examination anew. The construction drawing design documents passing the examination shall be the basis for the construction, supervision, acceptance as well as quality supervision and administration of the construction project.

**Article 32** Where the content of construction drawing design documents is changed due to design change or engineering alteration, the design technician shall add his signature or seal as stipulated. The changed content shall be a part of construction drawing design documents.

## **Section III Engineering Construction**

**Article 33** Where the construction license of a construction project shall be applied for in accordance with law, the development unit shall apply for such license in accordance



施工许可证领取后，建设单位或者施工单位变更的，建设单位应当重新申请领取施工许可证；其他施工许可条件发生变更的，建设单位应当依法办理变更手续。

**第三十四条** 禁止施工单位允许其他单位或者个人通过挂靠方式，以本单位的名义承揽工程。禁止施工单位通过挂靠方式，以其他施工单位的名义承揽工程。

施工单位不得转包或者违法分包工程。

市住房城乡建设行政主管部门应当制定上述违法行为的具体认定和处理办法。

**第三十五条** 施工单位应当建立工程质量管理体系，设立项目管理机构，明确项目负责人，配备与工程项目规模和技术难度相适应的施工现场管理人员和专业技术人员，落实质量责任。

**第三十六条** 监理单位应当在施工现场设立项目监理机构，明确总监理工程师，按照国家和本市规定配备与工程项目规模、特点和技术难度相适应的专业监理工程师、监理员，采取巡视、平行检验、对关键部位和关键工序旁站等方式实施监理。

**第三十七条** 勘察、设计单位应当提供现场技术服务，及时解决施工中出现的勘察、设计问题。现场服务的范围、标准及费用可以由建设单位与勘察、设计单位在合同中约定。

**第三十八条** 相关工程建设标准、施工图设计文件要求实施第三方监测的，建设单位应当委托监测单位进行监测。

**第三十九条** 建设单位、施工单位可以采取合同方式约定各自采购的建筑材料、建筑构配件和设备，并对各自采购的建筑材料、建筑构配件和设备质量负责，按照规定报送采购信息。建设单位采购混凝土预制构件、钢筋和钢结构构件的，应当组织到货检验，并向施工单位出具检验合格证明。

**第四十条** 施工单位应当按照规定对建筑材料、建筑构配件和设备、预拌混凝土、混凝土预制构件及有关专业工程材料进行进场检验；实施监理的建设工程，应当报监理单位审查；未经审查或者经审查不合格的，不得使用。

with law before the commencement of construction. The construction unit can begin the construction only after the development unit obtains the construction license.

Where the development unit or the construction unit is changed after the construction license is obtained, the development unit shall apply for such license anew; where there is any change to other conditions of the construction license, the development unit shall handle the modification formalities in accordance with law.

**Article 34** It is prohibited that a construction unit allows another unit or individual to contract for projects in its name by means of affiliation. It is prohibited that a construction unit contracts for projects in the name of another construction unit by means of affiliation.

A construction unit shall not assign or illegally subcontract a project.

The municipal competent administrative department for housing and urban-rural development shall formulate specific measures for the identification and punishment of the aforesaid illegal acts.

**Article 35** The construction unit shall establish the engineering quality management system, set up the project management organization, specify the project responsible person, allocate the construction site management staff and professionals corresponding to the scale and technical difficulty of the engineering project, and ascertain the quality responsibility.

**Article 36** The supervision unit shall set up the project supervision agency at the construction site, specify the general supervision engineer, allocate professional supervision engineers and supervisors corresponding to the scale, characteristics and technical difficulty of the engineering project, and carry out the supervision by such means as inspection tour, parallel testing and stand-by at key positions and key processes.

**Article 37** The survey unit or the design unit shall provide on-site technical services, so as to timely solve survey or design problems during the construction. The scope, standard and fee of on-site technical services may be agreed by the development unit and the survey unit or the design unit in the contract.

**Article 38** Where relevant engineering construction standards and construction drawing design documents require the implementation of third party monitoring, the development unit shall entrust a monitoring unit to carry out the monitoring.

**Article 39** The development unit and the construction unit may agree on building materials, architectural components and equipment to be respectively purchase by them in the form of a contract; they shall be responsible for the quality of building material, architectural component or equipments respectively purchased by them, and shall report the purchase information as stipulated. Where the development unit purchases precast concrete components, rebar and steel structure elements, it shall organize the inspection upon the delivery of goods, and shall issue the inspection certificate to the construction unit.

**Article 40** The construction unit shall carry out the inspection of building materials, architectural components and equipment, premixed concrete, precast concrete components and relevant special engineering materials upon their entry into the construction site as stipulated; where the construction project is subject to supervision, such materials shall be reported to the supervision unit for review; the materials that are not reviewed or fail the

监理单位应当监督施工单位将进场检验不合格的建筑材料、建筑构配件和设备、预拌混凝土、混凝土预制构件或者有关专业工程材料退出施工现场，并进行见证和记录。

**第四十一条** 建设单位应当委托具有相应资质的检测单位，按照规定对见证取样的建筑材料、建筑构配件和设备、预拌混凝土、混凝土预制构件和工程实体质量、使用功能进行检测。施工单位进行取样、封样、送样，监理单位进行见证。

**第四十二条** 发现检测结果不合格且涉及结构安全的，工程质量检测单位应当自出具报告之日起2个工作日内，报告住房城乡建设或者其他专业工程行政主管部门。行政主管部门应当及时进行处理。

任何单位不得篡改或者伪造检测报告。

**第四十三条** 监理单位应当按照规定审查施工单位现场质量保证制度，并监督执行。

发现施工单位项目管理机构及其岗位人员不符合配备标准、施工单位项目负责人未在施工现场履行职责或者分包单位不具备相应资质的，监理单位应当要求施工单位改正；施工单位拒不改正的，可以要求暂停施工。

发现涉及结构安全的重大质量问题的，监理单位应当要求施工单位立即停工整改。

**第四十四条** 施工单位应当按照规定对隐蔽工程、检验批、分项和分部工程进行自检。

实施监理的建设工程，施工单位自检合格后应当报监理单位进行验收。经验收不合格的，监理单位应当要求施工单位整改并重新报验；未经监理单位验收或者经验收不合格，施工单位将隐蔽部位隐蔽的，监理单位应当要求施工单位停工整改，采取返工、检测等措施，并重新报验。

**第四十五条** 监理单位按照本条例规定要求施工单位停工整改的，应当同时报告建设单位；施工单位拒不停工整改的，监理单位应当报告住房城乡建设或者其他专业

review shall not be used.

The supervision unit shall supervise the construction unit to withdraw building materials, architectural components and equipment, premixed concrete, precast concrete components or relevant special engineering materials which fail the aforesaid entry inspection from the construction site, shall act as a witness, and shall keep relevant records.

**Article 41** The development unit shall entrust a testing unit with the corresponding qualification to test building materials, architectural components and equipment, premixed concrete and precast concrete components subject to sampling witness as well as the project's entitative quality and use function. The construction unit shall take, seal up and submit samples, and the supervision unit shall act as a witness.

**Article 42** Where there is any disqualified testing result which involves the structural safety, the engineering quality testing unit shall report to the competent administrative department for housing and urban-rural development or for other specialized projects within 2 working days after the testing report is issued. The competent administrative department shall deal with the matter in a timely manner.

No unit shall falsify or forge the testing report.

**Article 43** The supervision unit shall examine the on-site quality assurance system of the construction unit as stipulated, and shall supervise the implementation of such system.

When discovering that the construction unit's project management organization and its staff members are not in conformity with allocation standards, the construction unit's project responsible person does not perform his duties at the construction site or the sub-contracting unit does not have the corresponding qualification, the supervision unit shall require the construction unit to make corrections; where the construction unit refuses to make corrections, the supervision unit may require the suspension of construction.

When discovering any major quality problem involving the structural safety, the supervision unit shall require the construction unit to immediately stop construction for rectification.

**Article 44** The construction unit shall carry out the self-inspection of concealed works, inspection lots as well as itemized and portioned projects.

With regard to a construction project subject to supervision, the construction unit shall report to the supervision unit for acceptance inspection after the project passes the self-inspection. Where the project fails the acceptance inspection, the supervision unit shall require the construction unit to carry out rectification and report for inspection anew; where the construction unit conceals any part without the supervision unit's acceptance inspection or despite of the failure in passing such acceptance inspection, the supervision unit shall require the construction unit to stop construction for rectification, take such measures as reworking or testing, and report for inspection anew.

**Article 45** Where the supervision unit requires the construction unit to stop construction for rectification in accordance with these Regulations, it shall notify the development unit at the same time; where the construction unit refuses to stop construction for rectification, the supervision unit shall report to the competent administrative

工程行政主管部门。监理单位在施工单位停工整改完成前不予签认工程款支付申请。

**第四十六条** 建设工程发生涉及结构安全的重大工程质量问题的，建设、施工、监理单位应当自发现之日起3日内报告住房城乡建设或者其他专业工程行政主管部门。

## 第四节 竣工验收

**第四十七条** 单位工程完工后，施工总承包单位应当按照规定进行质量自检；自检合格的，监理单位应当组织单位工程质量竣工预验收。

竣工预验收合格的，建设单位应当组织勘察、设计、施工、监理等单位进行单位工程质量竣工验收，形成单位工程质量竣工验收记录。

**第四十八条** 单位工程质量竣工验收合格并具备法律法规规定的其他条件后，建设单位应当组织勘察、设计、施工、监理等单位进行工程竣工验收；对住宅工程，工程竣工验收前建设单位应当组织施工、监理等单位进行分户验收。

工程竣工验收应当形成经建设、勘察、设计、施工、监理等单位项目负责人签署的工程竣工验收记录，作为工程竣工验收合格的证明文件。工程竣工验收记录中各方意见签署齐备的日期为工程竣工时间。

**第四十九条** 轨道交通工程验收包括单位工程验收、项目工程验收和工程竣工验收三个阶段，建设单位应当制定各阶段验收方案。

轨道交通工程的单位工程验收合格且相关专项验收合格后，方可组织项目工程验收。项目工程验收合格且按照规定完成不载客试运行后，方可组织工程竣工验收。

轨道交通工程竣工验收合格，且消防、人民防空、运营设备和设施、环境保护设施、防雷装置、特种设备、卫生、供电、档案等按照规定验收后，方可交付试运营。轨道交通工程质量保修期限自交付试运营之日起计算。

department for housing and urban-rural development or for other specialized projects. The supervision unit shall not sign the application for project payment before the construction unit completes the rectification.

**Article 46** Where any major engineering quality problem involving the structural safety occurs in a construction project, the development unit, the construction unit or the supervision unit shall report to the competent administrative department for housing and urban-rural development or for other specialized projects within 3 days after such problem is discovered.

## **Section IV Completion Acceptance Inspection**

**Article 47** After the completion of a unit project, the general contractor of construction shall carry out the quality self-inspection as stipulated; where the self-inspection is passed, the supervision unit shall organize the pre-acceptance quality inspection of the unit project.

Where the pre-acceptance quality inspection is passed, the development unit shall organize the survey unit, the design unit, the construction unit and the supervision unit to carry out the quality inspection of the unit project, and form the quality inspection record of the unit project.

**Article 48** Where all unit projects pass the quality inspection as well as other conditions stipulated by laws and regulations are satisfied, the development unit shall organize the survey unit, the design unit, the construction unit and the supervision unit to carry out the acceptance inspection of the whole project; with regard to a residential project, the development unit shall organize the construction unit and the supervision unit to carry out the acceptance inspection by household before the completion acceptance inspection of the whole project.

The completion acceptance inspection record shall be formed and shall be signed by project responsible persons of the development unit, the survey unit, the design unit, the construction unit and the supervision unit, which shall be the documentary evidence for passing the completion acceptance inspection by the project. The date when opinions of various sides are signed on the completion acceptance inspection record shall be the date when the project is completed.

**Article 49** The acceptance inspection of a rail transit project shall include three stages: unit project acceptance inspection, project engineering acceptance inspection and project completion acceptance inspection; the development unit shall formulate the plan for the acceptance inspection of each stage.

The project engineering of a rail transit project can only be organized after it passes the unit project acceptance inspection and relevant specialized acceptance inspection. The project completion acceptance inspection can only be organized after the unit project acceptance inspection is passed and the no-passenger trial operation is completed as stipulated.

A rail transit project can only be delivered for trial operation after it passes the completion acceptance inspection and the acceptance inspection of its fire-fighting, civil air defense and operation equipment and facilities, environmental protection facilities, lightning protection devices, special equipment, sanitation, power supply and archives are completed as stipulated. The quality warranty period of a rail transit project shall be calculated from the date when it is delivered for trial operation.

**第五十条** 工程竣工验收合格，且消防、人民防空、环境卫生设施、防雷装置等应当按照规定验收合格后，建设工程方可交付使用。

通信工程、有线广播电视传输覆盖网、环境保护设施、特种设备等交付使用前应当按照规定验收。

建设工程未经竣工验收或者竣工验收不合格，交付使用或者投入试运营，出现问题的，由建设单位承担责任。

**第五十一条** 工程竣工验收合格后，建设单位应当将工程竣工验收报告、工程档案预验收文件及法律法规规定的其它文件报住房城乡建设或者其他专业工程行政主管部门备案。

交通、消防、环保、人民防空、通信等工程的竣工验收备案，应当按照相关法律、法规和规章的规定执行。

**第五十二条** 工程竣工验收后 6 个月内，建设单位应当向城市建设档案管理部门移交建设工程档案原件。

**第五十三条** 工程竣工验收前，建设单位应当设置永久性标识，载明工程名称和建设、勘察、设计、施工、监理等单位名称以及项目负责人姓名等内容。

## 第五节 保修使用

**第五十四条** 建设单位应当在建设工程质量保修范围和保修期限内对所有权人履行质量保修义务。

建设单位对所有权人的工程质量保修期限自交付之日起计算。

在建设工程保修期限内，经维修的部位保修期限自所有权人和相关单位验收合格之日起重新计算。

**第五十五条** 建设单位在房屋建筑工程交付使用时，应当向所有权人提供房屋建筑质量保证书和使用说明书。使用说明书应当载明房屋建筑的基本情况、设计使用寿



**Article 50** A construction project can only be delivered for use after it passes the completion acceptance inspection and its fire-fighting, civil air defense and environmental sanitation facilities as well as lightning protection devices pass the acceptance inspection as stipulated.

Communication projects, wired radio and television transmission networks, environmental protection facilities and special equipment shall be subject to acceptance inspection as stipulated before they are delivered for use.

Where any problem occurs in a construction project which was delivered for use or put into trial operation without the acceptance inspection or despite of the failure in passing such acceptance inspection, the development unit shall shoulder the responsibility.

**Article 51** After a construction project passes the completion acceptance inspection, the development unit shall submit the project completion acceptance inspection report, the engineering archives pre-acceptance document as well as other documents stipulated by laws and regulations to the competent administrative department for housing and urban-rural development or for other specialized projects for the record.

Relevant laws, regulations and rules shall apply to the filing of completion acceptance inspection for transport, fire control, environmental protection, civil air defense and communication projects.

**Article 52** Within 6 months after a construction project passes the completion acceptance inspection, the development unit shall transfer the project's original archives to the department for the administration of urban construction archives.

**Article 53** Before the completion acceptance inspection of a construction project, the development unit shall set up permanent signs, specifying such contents as the project's name, names of the development unit, the survey unit, the design unit, the construction unit and the supervision unit, as well as names of project responsible persons.

## **Section V Warranted Use**

**Article 54** The development unit shall perform its quality warranty obligation to the owner within the quality warranty scope and period of a construction project.

The engineering quality warranty period of the development unit to the owner shall be calculated from the date when the construction project is delivered.

During the warranty period of a construction project, the warranty period of any repaired part shall be recalculated from such repair passes the acceptance inspection by the owner and relevant units.

**Article 55** When delivering a housing project for use, the development unit shall provide the owner with the housing quality guarantee and the use instructions. The use instructions shall specify the housing's general information, designed service life, functional indexes, position of bearing structure, layout of pipelines, accessory equipment, supporting



命、性能指标、承重结构位置、管线布置、附属设备、配套设施及使用维护保养要求、禁止事项等。

房屋建筑质量保证书和使用说明书示范文本由市住房城乡建设行政主管部门制定。

**第五十六条** 建设工程交付使用后，所有权人对建设工程使用安全负责。所有权人应当按照设计功能和使用说明使用建设工程，并按照规定负责组织对建设工程进行检查维护、安全评估、安全鉴定、抗震鉴定和安全问题治理等活动。

**第五十七条** 禁止房屋建筑所有权人或者使用人擅自变动房屋建筑主体和承重结构。

任何单位和个人发现擅自变动的，可以向住房城乡建设行政主管部门举报。

## 第五章 建设工程质量保障

### 第一节 市场机制

**第五十八条** 建设工程有关单位应当按照自愿、平等、公平、诚实守信的原则，依法定程序签订勘察、设计、施工或者监理等合同，明确各自的权利义务，并按照合同约定履行义务。

本市鼓励使用合同示范文本。

建设工程相关合同经备案后作为结算工程建设费用的依据，合同当事人不得订立背离备案合同实质性内容的其他协议。

**第五十九条** 建设单位应当设立工程质管理部门负责工程质管理工作，也可以聘请工程项目管理单位提供专业化质管理服务。

**第六十条** 建设单位应当按照建设工程质量要求、技术标准，工程造价管理规定和工程计价依据，合理确定工程建设费用，政府投资工程还应当科学合理确定投资估算、设计概算和最高投标限价。

投标单位报价总价低于本市规定的预警线，经评标专家委员会质询评审后中标的，

facilities as well as maintenance requirements and prohibited matters in the use.

The municipal competent administrative department for housing and urban-rural development shall formulate the model texts of the housing quality guarantee and the use instructions.

**Article 56** After a construction project is delivered for use, the owner shall be responsible for the safe use of the construction project. The owner shall use the construction project in accordance with the design functions and use instructions, and shall be responsible for organizing the inspection, maintenance, safety assessment, safety appraisal, seismic appraisal of the construction project, the governance of safety problems and other activities.

**Article 57** The owner or user of a housing is prohibited to arbitrarily alter the main body and bearing structure of the housing.

Where any unit or individual discovers any arbitrary alteration, it or he may report to the competent administrative department for housing and urban-rural development.

## **Chapter V Quality Assurance of Construction Projects**

### **Section I Market Mechanism**

**Article 58** Units related to a construction project shall, according to the principles of free will, equality, fairness and good faith, enter into the survey contract, the design contract, the construction contract and the supervision contract according to the statutory procedures so as to make clear their respective rights and obligations, and shall perform their obligations as agreed in such contracts.

This Municipality encourages the use of model texts for such contracts.

The filed contracts related to a construction project shall act as the basis for the settlement of the project's construction cost; relevant parties of such contracts shall not enter into other agreements deviating from the material contents of filed contracts.

**Article 59** The development unit shall set up a engineering quality management department to be in charge of the management of engineering quality, and may employ a project management unit to provide professional quality management services.

**Article 60** The development unit shall reasonably determine the construction cost of a construction project according to the quality requirements and technical standards of the construction project, the provisions on engineering cost management and the construction pricing basis; with regard to a project with government investment, the investment estimate, design estimate and maximum bidding price shall be determined in a scientific and reasonable manner.

Where the total bidding price of a bidder is lower than the pre-cautionary line stipulated by this Municipality, and the bidder wins the bid after the inquiry and evaluation by the committee of bid evaluation experts, the development unit may properly raise the amount of

建设单位可以适当提高履约担保金额。

建设单位应当按照合同约定及时足额支付工程建设费用。

**第六十一条** 建设单位调整勘察、设计周期和施工工期的，应当承担相应增加费用。

勘察、设计周期和施工工期按照国家和本市规定的定额及调整幅度确定，房屋征收、管线拆改移、树木伐移以及不可抗力等占用时间不包括在施工工期内。任何单位不得任意压缩合理勘察、设计周期和施工工期。

**第六十二条** 本市推行建设工程质量保险制度。

从事住宅工程房地产开发的建设单位在工程开工前，按照本市有关规定投保建设工程质量潜在缺陷责任保险，保险费用计入建设费用。保险范围包括地基基础、主体结构以及防水工程，地基基础和主体结构的保险期间至少为 10 年，防水工程的保险期间至少为 5 年。

鼓励建设工程有关单位和从业人员投保职业责任保险。

**第六十三条** 本市推行建设单位工程质量保修担保制度。

从事住宅工程房地产开发的建设单位应当在房屋销售前，办理住宅工程质量保修担保。保修担保范围包括工程保温、管线、电梯等影响房屋建筑主要使用功能的分项和分部工程。已经投保工程质量潜在缺陷责任保险，且符合规定的保修范围和保修期限的，可以不再办理保修担保。

其他建设单位参照前款执行。

**第六十四条** 本市推行建设工程施工总承包单位施工质量保修担保制度。

施工总承包单位与建设单位可以按照本市有关规定，在施工总承包合同中约定施工质量保修担保方式。

建设单位应当按照合同约定出具撤销保函申请书或者返还施工质量保证金。

**第六十五条** 行业协会、学会、金融机构、行政主管部门等，可以根据建设工程

performance guarantee.

The development unit shall timely pay the construction cost in full amount as agreed in the contract.

**Article 61** Where the development unit adjusts the survey, design or construction period, it shall shoulder the expenses increased accordingly.

The survey, design or construction period shall be determined according to the quota and adjustment range stipulated by the State and this Municipality; the time cost by the expropriation of house, the dismantlement, change or removal of pipelines, the removal of trees and force majeure events shall not be included in the construction period. No unit shall condense the survey, design or construction period at will.

**Article 62** This Municipality practices the quality insurance system for construction projects.

A development unit engaged in the real estate development of housing projects shall, before the commencement of a construction project, purchase the liability insurance for potential quality defects of the construction project in accordance with relevant provisions of this Municipality, and the insurance premium shall be included in the construction cost. The insurance coverage shall include foundation, major structure and waterproofing works; the period of insurance for foundation and major structure shall be at least 10 years, and the period of insurance for waterproofing works shall be at least 5 years.

Units and practitioners related to construction projects are encouraged to purchase the professional liability insurance.

**Article 63** This Municipality practices the engineering quality warranty guarantee system for development units.

A development unit engaged in the real estate development of housing projects shall, before the sales of a housing, handle the engineering quality warranty guarantee for the housing. The scope of warranty guarantee shall include itemized and partitioned projects which influence the major use functions of the housing including heat preservation, pipelines and elevators. Where the responsibility insurance has been purchased for potential quality defects in conformity with the stipulated warranty scope and period, the warranty guarantee is not necessary.

The preceding paragraph shall apply mutatis mutandis to other development units.

**Article 64** This Municipality practices the construction quality warranty guarantee system for general contractors of construction in construction projects.

The general contractor and the development unit may agree on the manner of construction quality warranty guarantee in the general contract of construction in accordance with relevant provisions of this Municipality.

The development unit shall issue the application for revoking the letter of guarantee or refund the construction quality guarantee deposit as agreed in the contract.

**Article 65** Industry associations, societies, financial institutions and competent administrative departments may, according to the credit information of units and practitioners related to construction projects, adopt incentive or punitive measures against

有关单位、从业人员的信用情况，在担保保险、资格资质、招标投标、金融信贷、评优等有关工程建设活动中，采取守信激励、失信惩戒措施。

## 第二节 行政监管

**第六十六条** 住房城乡建设和其他专业工程行政主管部门应当设立建设工程有关单位、从业人员信用信息、处罚信息档案，建立信用、处罚信息交换共享机制，信用、处罚信息公开制度和分级分类监管制度。

**第六十七条** 住房城乡建设和其他专业工程行政主管部门应当按照国家标准、行业标准和本市地方标准实施监管。

根据建设工程质量管理的需要，本市可以制定严于国家标准和行业标准的标准。

**第六十八条** 住房城乡建设和其他专业工程行政主管部门应当完善建设工程质量投诉举报机制。

**第六十九条** 住房城乡建设行政主管部门设立工程质量监督机构，受住房城乡建设行政主管部门委托具体负责建设工程质量监督行政执法工作，逐步建立监督执法过程追溯机制，定期对本地区工程质量动态状况进行分析、评估。

专业工程行政主管部门可以自行或者委托专业工程质量监督机构，负责专业工程的质量监督行政执法工作。

**第七十条** 工程质量监督执法包括下列内容：

- （一）建设工程有关单位执行法律法规和工程建设强制性标准的情况；
- （二）抽查、抽测涉及工程结构安全和主要使用功能的工程实体质量；
- （三）抽查、抽测主要建筑材料、建筑构配件和设备的质量；
- （四）对工程竣工验收进行监督；
- （五）组织或者参与工程质量事故的调查处理；

honesty or dishonesty in activities related to engineering construction such as guarantee, insurance, qualification, bidding, financial credit and appraisal.

## **Section II Administrative Supervision**

**Article 66** The competent administrative department for housing and urban-rural development or other specialized projects shall set up credit and punishment information files for units and practitioners related to construction projects, as well as establish the mechanism for the sharing of credit and punishment information, the system for the disclosure of credit and punishment information, and the system for graded and classified regulation.

**Article 67** The competent administrative department for housing and urban-rural development or other specialized projects shall carry out the regulation in accordance with national standards, industrial standards and local standards of this Municipality.

This Municipality may formulate local standards stricter than national standards and industrial standards according to the need for quality management of construction projects.

**Article 68** The competent administrative department for housing and urban-rural development or other specialized projects shall perfect the mechanism for complaints and reports related to the quality of construction projects.

**Article 69** The competent administrative department for housing and urban-rural development shall set up the engineering quality supervision organization, which shall be specifically responsible for the administrative law enforcement in quality supervision of construction projects with the entrustment of the competent administrative department for housing and urban-rural development, shall gradually establish the retrospection mechanism for the process of administrative law enforcement in quality supervision, as well as shall analyze and evaluate the dynamics of engineering quality within the respective administrative area at regular intervals.

The competent administrative department for specialized projects may be responsible for the administrative law enforcement in quality supervision of construction projects by itself, or entrust the responsibility to the organization for quality supervision of specialized projects.

**Article 70** The administrative law enforcement in quality supervision of a construction project shall include the following contents:

- (1) the implementation of laws, regulations and compulsory engineering construction standards by units related to construction projects;
- (2) the spot check and spot test of the project's entitative quality involving the project's structural safety and major use functions;
- (3) the spot check and spot test of major building materials, architectural components and equipment;
- (4) the supervision on the project's completion acceptance inspection;
- (5) the organization of or participation in the investigation and disposal of the project's

(六)依法对违法违规行为实施行政处罚。

**第七十一条** 本市建立建设工程质量监督协调机制。市住房城乡建设行政主管部门负责本市建设工程质量综合协调工作，负有建设工程质量监督管理职责的部门应当加强质量监督的协作配合。

在质量监督职责出现交叉或者不明确时，综合协调部门应当及时协调；难以确定的，应当指定临时监管部门或者暂时履行，并及时会同市政府相关部门确定职责部门。

## 第六章 法律责任

**第七十二条** 国家机关工作人员在建设工程质量监督管理工作中玩忽职守、滥用职权、徇私舞弊，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

**第七十三条** 国家机关工作人员不得违反规定插手干预工程建设，影响工程建设正常开展或者干扰正常监管、执法活动，不当干预工程建设的，依照有关行政问责规定追究责任。

**第七十四条** 违反本条例第九条规定，勘察单位勘探、测试、测量和试验原始记录不真实、准确、完备或者签署不齐全的，由规划行政主管部门责令改正，处1万元以上3万元以下的罚款。

**第七十五条** 违反本条例第十一条规定，施工单位在施工中偷工减料，使用不合格建筑材料、建筑构配件和设备，或者有不按照施工图设计文件或者施工技术标准施工的，由住房城乡建设或者专业工程行政主管部门责令改正，处工程合同价款百分之二以上百分之四以下的罚款；情节严重的，责令停业整顿，降低资质等级或者吊销资质证书。

前款所称工程合同价款是指违法行为直接涉及或者可能影响的分项工程、单位工程或者建设工程合同价款。

quality accidents; and

(6) the imposition of administrative penalties on illegal and rule-breaking acts in accordance with law.

**Article 71** This Municipality shall establish the coordination system for quality supervision of construction projects. The municipal competent administrative department for housing and urban-rural development shall be responsible for the comprehensive coordination of construction project quality in this Municipality; departments with the duty of supervising and administering the quality of construction projects shall strengthen the coordination and cooperation in quality supervision.

Where there is any intersection or ambiguity in the duty of quality supervision, the comprehensive coordination department shall make timely coordination; where the duty is difficult to be ascertained, the comprehensive coordination department shall designate a temporary regulatory department or temporarily perform such duty, and shall timely determine the competent department together with relevant departments of the Municipal People's Government.

## Chapter VI Legal Liability

**Article 72** Where any functionary of a state organ neglects his duty, abuses his power or commits illegalities for personal gain in the quality supervision and administration of construction projects and a crime is constituted, he shall be investigated for criminal liability in accordance with law; where a crime is constituted, he shall be given administrative sanctions in accordance with law.

**Article 73** Functionaries of state organs shall not, in violation of relevant provisions, interfere in engineering construction, affect the normal progress of engineering construction, or disturb normal regulation or law enforcement activities; where any functionary of a state organ improperly interferes in engineering construction, his liability shall be investigated for in accordance with relevant provisions on administrative accountability.

**Article 74** Where any survey unit, in violation of Article 9 of these Regulations, keeps false, incorrect, incomplete or improperly signed original survey, testing, measurement and experiment records, the competent administrative department for planning shall order it to make corrections, and impose upon it a fine of not less than 10,000 Yuan but not more than 30,000 Yuan.

**Article 75** Where any construction unit, in violation of Article 11 of these Regulations, scamps work and stints material, use disqualified building materials, architectural components and equipment or fails to carry out the construction in accordance with engineering construction standards and construction drawing design documents, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 2% but not more than 4% of the project contract price; where the circumstances are serious, it shall be ordered to stop business for rectification, and its qualification grade shall be lowered or its qualification certificate shall be revoked.

As used in the preceding paragraph, "project contract price" refers to the contract



**第七十六条** 违反本条例第十四条规定，工程质量检测单位、房屋安全鉴定单位未按照有关法律法规、工程建设标准开展检测、鉴定活动的，由住房城乡建设行政主管部门责令改正，处1万元以上3万元以下的罚款，暂停承接相关业务3个月至9个月。

工程质量检测单位、房屋安全鉴定单位出具虚假、错误检测、鉴定报告的，由住房城乡建设行政主管部门责令改正，处5万元以上10万元以下的罚款，一年内暂停承接工程质量检测、房屋安全鉴定业务；情节严重的，依法吊销资质证书。

**第七十七条** 违反本条例第十五条规定，工程监测单位未按照有关法律法规、工程建设强制性标准和施工图设计文件实施监测的，由规划行政主管部门责令改正，处1万元以上3万元以下的罚款，一年内暂停承接相关项目监测业务。

工程监测单位伪造监测数据，或者出具虚假监测报告的，由规划行政主管部门责令改正，处5万元以上10万元以下的罚款，一年内暂停承接全部监测业务；情节严重的，依法吊销资质证书。

**第七十八条** 违反本条例第十六条第二款、第十八条第二款、第二十六条规定，建设、勘察、设计、施工、监理等单位的项目负责人，供应涉及建筑主体和承重结构材料的单位的法定代表人未签署工程质量终身责任承诺书，或者建设单位未提交工程质量终身责任承诺书的，由住房城乡建设、规划或者专业工程行政主管部门责令限期改正，逾期未改正的，处1万元以上3万元以下的罚款。

**第七十九条** 违反本条例第十七条第二款规定，预拌混凝土生产单位未进行配合比设计或者未按照配合比通知单生产、使用未经检验或者检验不合格的原材料、供应未经验收或者验收不合格的预拌混凝土的，由住房城乡建设或者其他行政主管部门责令改正，处10万元以上20万元以下的罚款；情节严重的，责令停业整顿或者吊销资质证书。

**第八十条** 违反本条例第二十条规定，从事工程建设活动的专业技术人员签署虚假、错误技术文件的，由住房城乡建设、规划或者专业工程行政主管部门责令改正，

price of itemized project, unit project or construction project directly involved in or may be influenced by any illegal act.

**Article 76** Where any engineering quality testing unit or building safety appraisal unit, in violation of Article 14 of these Regulations, fails to carry out the testing or appraisal in accordance with relevant laws, regulations and engineering construction standards, the competent administrative department for housing and urban-rural development shall order it to make corrections and impose upon it a fine of not less than 10,000 Yuan but not more than 30,000 Yuan, and it shall suspend undertaking relevant business for 3 to 9 months.

Where any engineering quality testing unit or building safety appraisal unit issues any false or erroneous testing or appraisal report, the competent administrative department for housing and urban-rural development shall order it to make corrections and impose upon it a fine of not less than 50,000 Yuan but not more than 100,000 Yuan, and it shall suspend undertaking engineering quality testing or building safety appraisal business for one year; where the circumstances are serious, its qualification certificate shall be revoked in accordance with law.

**Article 77** Where any engineering monitoring unit, in violation of Article 15 of these Regulations, fails to carry out the monitoring in accordance with relevant laws, regulations, compulsory engineering construction standards and construction drawing design documents the competent administrative department for planning shall order it to make corrections, and impose upon it a fine of not less than 10,000 Yuan but not more than 30,000 Yuan, and it shall suspend undertaking relevant engineering monitoring business for one year.

Where any engineering monitoring unit forges monitoring data or issues any false monitoring report, the competent administrative department for planning shall order it to make corrections, and impose upon it a fine of not less than 50,000 Yuan but not more than 100,000 Yuan, and it shall suspend undertaking all monitoring business for one year; where the circumstances are serious, its qualification certificate shall be revoked in accordance with law.

**Article 78** Where any project responsible person of a development unit, survey unit, design unit, construction unit or supervision unit or any legal representative of a unit supplying any material related to the main body and bearing structure of a building fails to sign the lifelong responsibility letter for engineering quality or any development unit fails to submit the lifelong responsibility letter for engineering quality in violation of Paragraph 2, Article 16, Paragraph 2, Article 18 or Article 26 of these Regulations, the competent administrative department for housing and urban-rural development, planning or specialized projects shall order him or it to make corrections within a prescribed time limit; where he or it fails to make corrections within the prescribed time limit, a fine of not less than 10,000 Yuan but not more than 30,000 Yuan shall be imposed upon him or it.

**Article 79** Where any production unit of pre-mixed concrete, in violation of Paragraph 2, Article 17 of these Regulations, fails to design the mix proportion or produce according to the mix proportion order, uses raw materials that have not been tested or have failed the test, or supplies pre-mixed concrete that have not been inspected or have failed the inspection, the competent administrative department for housing and urban-rural development or another competent administrative department shall order it to make corrections and impose upon it a fine of not less than 100,000 Yuan but not more than 200,000 Yuan; where the circumstances are serious, it shall be ordered to stop business for rectification or its qualification certificate shall be revoked.

**Article 80** Where any professional engaged in engineering construction activities, in

处 1 万元以上 5 万元以下的罚款。

**第八十一条** 违反本条例第二十一条、第二十二条规定，建设工程有关单位有下列情形之一的，由住房城乡建设、规划或者专业工程行政主管部门责令改正，处 1 万元以上 5 万元以下的罚款：

（一）使用不具备相应专业技术资格或者注册执业资格人员的；

（二）使用未按照规定接受继续教育的专业技术人员的；

（三）使用未通过培训考核的关键岗位专业技术人员的；

（四）使用未通过培训考核的一线作业人员的；

（五）未建立一线作业人员教育培训制度，或者未按照教育培训制度定期对一线作业人员开展职业技能培训的。

**第八十二条** 违反本条例第二十四条规定，建设单位将一个单位工程发包给两个以上的施工单位，或者将预拌混凝土直接发包的，由住房城乡建设或者专业工程行政主管部门责令改正，处单位工程合同价款百分之零点五以上百分之一以下的罚款；对全部或者部分使用国有资金的项目，可以暂停项目执行或者资金拨付。

**第八十三条** 违反本条例第三十三条第二款规定，建设单位或者施工单位发生变更未重新领取施工许可证施工的，由住房城乡建设或者专业工程行政主管部门责令改正，对建设单位处工程合同价款百分之一以上百分之二以下的罚款。

**第八十四条** 违反本条例第三十四条第一款规定，施工单位允许其他单位或者个人通过挂靠方式，以本单位的名义承揽工程的，由住房城乡建设或者专业工程行政主管部门责令改正，没收违法所得，处工程合同价款百分之二以上百分之四以下的罚款；可以责令停业整顿，降低资质等级；情节严重的，吊销资质证书。

施工单位通过挂靠方式，以其他施工单位的名义承揽工程的，由住房城乡建设或者专业工程行政主管部门责令停止违法行为，没收违法所得，处工程合同价款百分之二以上百分之四以下的罚款，可以责令停业整顿，降低资质等级；情节严重的，吊销

violation of Article 20 of these Regulations, signs any false or erroneous technical document, the competent administrative department for housing and urban-rural development, planning or specialized projects shall order him to make corrections, and impose upon him a fine of not less than 10,000 Yuan but not more than 50,000 Yuan.

**Article 81** Where any unit related to a construction project violates Article 21 or Article 22 of these Regulations in any of the following circumstances, the competent administrative department for housing and urban-rural development, planning or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 10,000 Yuan but not more than 50,000 Yuan:

- (1) using any person who does not have the corresponding professional qualification or registered practicing qualification;
- (2) using any professional who has not accepted further education as stipulated;
- (3) using any professional who has not accepted trainings and passed relevant examinations for a key post;
- (4) using any frontline operating personnel who has not accepted trainings and passed relevant examinations; and
- (5) failing to establish the education and training system for the frontline operating personnel, or failing to carry out vocational trainings at regular intervals in accordance with the education and training system.

**Article 82** Where any development unit, in violation of Article 24 of these Regulations, contracts out a unit project to two or more construction units or directly contracts out pre-mixed concrete, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 0.5% but not more than 1% of the unit project contract price; with regard to a project wholly or partially use state-owned funds, the project execution or fund allocation may be suspended.

**Article 83** Where any development unit, in violation of Paragraph 2, Article 33 of these Regulations, fails to apply for the construction license after the development unit or the construction unit is changed, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 1% but not more than 2% of the project contract price.

**Article 84** Where any construction unit, in violation of Paragraph 1, Article 34 of these Regulations, allows another unit or individual to contract for projects in its name by means of affiliation, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, confiscate its illegal gains, and impose upon it a fine of not less than 2% but not more than 4% of the project contract price; it may be ordered to stop business for rectification, and its qualification grade may be lowered; where the circumstances are serious, its qualification certificate shall be revoked.

Where any construction unit contracts for projects in the name of another construction unit by means of affiliation, the competent administrative department for housing and

资质证书。施工单位未取得资质证书通过挂靠承揽工程的，从重处罚。

违反本条例第三十四条第二款规定，施工单位将承包的工程转包或者违法分包的，由住房城乡建设或者专业工程行政主管部门责令改正，没收违法所得，处工程合同价款百分之零点五以上百分之一以下的罚款；可以责令停业整顿，降低资质等级；情节严重的，吊销资质证书。

**第八十五条** 违反本条例第三十六条、第四十一条规定，监理单位未对关键部位和关键工序进行旁站，或者见证过程弄虚作假的，由住房城乡建设或者专业工程行政主管部门责令改正，处 3 万元以上 10 万元以下的罚款。

**第八十六条** 违反本条例第三十九条规定，建设单位采购混凝土预制构件、钢筋和钢结构构件，未组织到货检验的，由住房城乡建设或者专业工程行政主管部门责令改正，处 10 万元以上 20 万元以下的罚款；建设单位采购的建筑材料、建筑构配件和设备不合格且用于工程的，由住房城乡建设或者专业工程行政主管部门责令改正，处 20 万元以上 50 万元以下的罚款。

**第八十七条** 违反本条例第四十条第一款、第四十四条规定，施工单位有下列行为之一的，由住房城乡建设或者专业工程行政主管部门责令改正，处 3 万元以上 10 万元以下的罚款；造成质量事故的，责令停业整顿，降低资质等级或者吊销资质证书：

（一）使用未经监理单位审查的建筑材料、建筑构配件和设备、预拌混凝土、混凝土预制构件及有关专业工程材料的；

（二）对送检样品或者进场检验弄虚作假的；

（三）隐蔽工程、检验批、分项工程、分部工程未经监理单位验收或者验收不合格，进行下一工序施工的。

**第八十八条** 违反本条例第四十一条规定，建设单位未按照规定委托检测单位进行检测的，由住房城乡建设或者专业工程行政主管部门责令改正，处 10 万元以上 30 万元以下的罚款。

urban-rural development or specialized projects shall order it to stop illegal acts, confiscate its illegal gains, and impose upon it a fine of not less than 2% but not more than 4% of the project contract price; it may be ordered to stop business for rectification, and its qualification grade may be lowered; where the circumstances are serious, its qualification certificate shall be revoked. Where any construction unit contracts for projects by means of affiliation without obtaining the qualification certificate, it shall be given heavier punishments.

Where any construction unit, in violation of Paragraph 2, Article 34 of these Regulations, assigns or illegally subcontracts a project contracted by it, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, confiscate its illegal gains, and impose upon it a fine of not less than 0.5% but not more than 1% of the project contract price; it may be ordered to stop business for rectification, and its qualification grade may be lowered; where the circumstances are serious, its qualification certificate shall be revoked.

**Article 85** Where any supervision unit, in violation of Article 36 or Article 41 of these Regulations, fails to carry out the stand-by at key positions and key processes or practices fraud in the process of acting as a witness, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 30,000 Yuan but not more than 100,000 Yuan.

**Article 86** Where any development unit, in violation of Article 39 of these Regulations, fails to organize the inspection upon the delivery of goods when purchasing precast concrete components, rebar and steel structure elements, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 100,000 Yuan but not more than 200,000 Yuan; where any development unit purchases disqualified precast concrete components, rebar and steel structure elements and uses them in a project, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 200,000 Yuan but not more than 500,000 Yuan.

**Article 87** Where any construction unit commits any of the following acts in violation of Paragraph 1, Article 40 or Article 44 of these Regulations, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 30,000 Yuan but not more than 100,000 Yuan; where a quality accident is caused, it shall be ordered to stop business for rectification, and its qualification grade shall be lowered or its qualification certificate shall be revoked:

- (1) using building materials, architectural components and equipment, premixed concrete, precast concrete components or relevant special engineering materials that have not been examined by the supervision unit;
- (2) practicing fraud in the submission of samples or the entry inspection; and
- (3) commencing the construction of the next stage when concealed works, inspection lots as well as itemized and portioned projects have not been inspected for acceptance by the supervision unit or have failed such acceptance inspection.

**Article 88** Where any development unit, in violation of Article 41 of these Regulations, fails to entrust a testing unit to carry out the testing, the competent administrative department for housing and urban-rural development or specialized projects

**第八十九条** 违反本条例第四十二条第二款规定，篡改或者伪造检测报告的，由住房城乡建设或者专业工程行政主管部门责令改正，处3万元以上10万元以下的罚款。

**第九十条** 违反本条例第四十三条第二款和第三款、第四十四条第二款、第四十五条规定，监理单位未要求施工单位立即停工整改，或者施工单位拒不停工整改时未报告的，由住房城乡建设或者专业工程行政主管部门责令改正，处1万元以上5万元以下的罚款。

施工单位不执行监理单位停工整改要求的，由住房城乡建设或者专业工程行政主管部门责令改正，处3万元以上10万元以下的罚款。

**第九十一条** 违反本条例第四十四条第二款、第四十七条第一款规定，监理单位将不合格的隐蔽工程、检验批、分项工程和分部工程按照合格进行验收，或者在单位工程质量竣工验收中将质量不合格工程按照质量合格工程预验收的，由住房城乡建设或者专业工程行政主管部门责令改正，处3万元以上10万元以下的罚款。

**第九十二条** 违反本条例第四十六条规定，建设、施工、监理单位未在3日内报告涉及结构安全的重大工程质量问题的，由住房城乡建设或者专业工程行政主管部门责令改正，处3万元以上10万元以下的罚款。

**第九十三条** 违反本条例第四十七条第二款规定，建设、施工、监理等单位在单位工程质量竣工验收中将不合格工程按照合格验收的，由住房城乡建设或者专业工程行政主管部门责令改正，对建设单位处单位工程合同价款百分之二以上百分之四以下的罚款，对负有责任的施工、监理单位处10万元以上20万元以下的罚款。

勘察、设计单位在单位工程质量竣工验收中将质量不合格单位工程按照质量合格单位工程验收的，由规划行政主管部门责令改正，处10万元以上20万元以下的罚款。

**第九十四条** 违反本条例第四十八条第二款规定，施工单位在工程竣工验收中将不合格工程按照合格验收的，由住房城乡建设或者专业工程行政主管部门责令改正，处工程合同价款百分之一以上百分之二以下的罚款。



shall order it to make corrections, and impose upon it a fine of not less than 100,000 Yuan but not more than 300,000 Yuan.

**Article 89** Where any unit, in violation of Paragraph 2, Article 42 of these Regulations, falsifies or forges the testing report, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 300,000 Yuan but not more than 100,000 Yuan.

**Article 90** Where any supervision unit fails to require the construction unit to immediately stop construction for rectification or any construction unit fails to report if it refuses to stop construction for rectification in violation of Paragraph 2 or 3, Article 43, Paragraph 2, Article 44 or Article 45 of these Regulations, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 10,000 Yuan but not more than 50,000 Yuan.

Where any construction unit fails to stop construction for rectification as required by the supervision unit, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 30,000 Yuan but not more than 100,000 Yuan.

**Article 91** Where any supervision unit, in violation of Paragraph 2, Article 44 or Paragraph 1, Article 47 of these Regulations, accepts any disqualified concealed work, inspection lot or itemized or portioned project after inspection or pre-accepts any disqualified unit project after the pre-acceptance quality inspection of such project, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 30,000 Yuan but not more than 100,000 Yuan.

**Article 92** Where any development unit, construction unit or supervision unit, in violation of Article 46 of these Regulations, fails to report any major engineering quality problem involving the structural safety within 3 days, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 30,000 Yuan but not more than 100,000 Yuan.

**Article 93** Where any development unit, construction unit or supervision unit, in violation of Paragraph 2, Article 47 of these Regulations, accepts any disqualified unit project after the quality inspection of such project, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, impose upon the development unit a fine of not less than 2% but not more than 4% of the unit project contract price, and impose upon the accountable construction unit or supervision unit a fine of not less than 100,000 Yuan but not more than 200,000 Yuan.

Where any survey unit or design unit accepts any disqualified unit project after the quality inspection of such project, the competent administrative department for planning shall order it to make corrections, and impose upon it a fine of not less than 100,000 Yuan but not more than 200,000 Yuan.

**Article 94** Where any construction unit, in violation of Paragraph 2, Article 48 of these Regulations, accepts any disqualified project after the completion acceptance inspection of such project, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, impose upon the development unit a fine of not less than 1% but not more than 2% of the project contract



勘察、设计单位在工程竣工验收中将竣工验收不合格工程按照合格工程验收的，由规划行政主管部门责令改正，处合同约定的勘察费、设计费百分之二十五以上百分之五十以下的罚款。

**第九十五条** 违反本条例第五十三条规定，建设单位未按照规定设置永久性标识的，由住房城乡建设或者专业工程行政主管部门责令限期改正，逾期未改正的，处 3 万元的罚款。

**第九十六条** 违反本条例第五十四条规定，建设单位未履行质量保修义务的，由住房城乡建设或者专业工程行政主管部门责令改正，处 10 万元以上 50 万元以下的罚款，并对质量缺陷造成的损失承担赔偿责任。

**第九十七条** 违反本条例第五十五条第一款规定，建设单位未向房屋建筑所有权人提供房屋建筑质量保证书或者使用说明书的，由住房城乡建设或者专业工程行政主管部门责令改正，并可以处 1 万元以上 5 万元以下的罚款。

**第九十八条** 违反本条例第五十八条第三款规定，合同双方订立背离备案合同实质性内容协议的，由住房城乡建设、规划或者专业工程行政主管部门责令改正，可以处合同价款百分之零点五以上百分之一以下的罚款。

**第九十九条** 违反本条例第六十一条第二款规定，任何单位任意压缩合理勘察、设计周期或者施工工期的，由住房城乡建设、规划或者专业工程行政主管部门责令改正，处 20 万元以上 50 万元以下的罚款。

**第一百条** 违反本条例第六十三条第二款规定，从事住宅工程房地产开发的建设单位未按照规定办理住宅工程质量保修担保的，由住房城乡建设行政主管部门责令限期改正，逾期未改正的，处 10 万元以上 30 万元以下的罚款。

**第一百零一条** 违反本条例第六十四条第三款规定，建设单位未及时出具撤销保函申请书或者返还保证金的，由住房城乡建设或者专业工程行政主管部门责令限期改正，逾期未改正的，处 10 万元以上 50 万元以下的罚款。

price.

Where any survey unit or design unit accepts any disqualified project after the completion acceptance inspection of such project, the competent administrative department for planning shall order it to make corrections, impose upon it a fine of not less than 25% but not more than 50% of the survey fee or design fee agreed in the contract.

**Article 95** Where any development unit, in violation of Article 53 of these Regulations, fails to set up permanent signs as stipulated, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections within a prescribed time limit; where it fails to make corrections within the prescribed time limit, it shall be imposed upon a fine of 30,000 Yuan.

**Article 96** Where any development unit, in violation of Article 54 of these Regulations, fails to perform its quality warranty obligation, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 100,000 Yuan but not more than 500,000 Yuan; it shall also assume compensation liability for the loss caused by any quality defect.

**Article 97** Where any development unit, in violation of Paragraph 1, Article 55 of these Regulations, fails to provide the owner of a housing with the housing quality guarantee or the use instructions, the competent administrative department for housing and urban-rural development or specialized projects shall order it to make corrections, and may impose upon it a fine of not less than 10,000 Yuan but not more than 50,000 Yuan.

**Article 98** Where both parties of a filed contract, in violation of Paragraph 3, Article 58 of these Regulations, enter into any other agreement deviating from the material contents of such filed contract, the competent administrative department for housing and urban-rural development or specialized projects shall order them to make corrections, and may impose upon them a fine of not less than 0.5% but not more than 1% of the project contract price.

**Article 99** Where any unit, in violation of Paragraph 2, Article 61 of these Regulations, condenses the survey, design or construction period at will, the competent administrative department for housing and urban-rural development, planning or specialized projects shall order it to make corrections, and impose upon it a fine of not less than 200,000 Yuan but not more than 500,000 Yuan.

**Article 100** Where any development unit engaged in the real estate development of housing projects, in violation of Paragraph 2, Article 63 of these Regulations, fails to handle the engineering quality warranty guarantee for any housing, the competent administrative department for housing and urban-rural development shall order it to make corrections within a prescribed time limit; where it fails to make corrections within the prescribed time limit, it shall be imposed upon a fine of not less than 100,000 Yuan but not more than 300,000 Yuan.

**Article 101** Where any development unit, in violation of Paragraph 3, Article 64 of these Regulations, fails to timely issue the application for revoking the letter of guarantee or refund the construction quality guarantee deposit, the competent administrative department

**第一百零二条** 依照本条例规定，给予单位罚款处罚的，对单位直接负责的主管人员和其他直接责任人员处单位罚款数额百分之五以上百分之十以下的罚款。建设、勘察、设计、施工、监理单位项目负责人和注册执业人员因过错造成涉及结构安全、主要使用功能等重大质量问题的，二年以内不得担任项目负责人。

**第一百零三条** 违反本条例规定，建设工程有关单位和从业人员构成犯罪的，对直接责任人员依法追究刑事责任；造成损失的，责任单位依法承担赔偿责任。

## 第七章 附 则

**第一百零四条** 本条例所称建设单位是指与勘察单位、设计单位、总承包单位、监理单位等签订建设工程合同的法人。

**第一百零五条** 抢险救灾及其他临时性房屋建筑、农民自建低层住宅的建设活动和军事建设工程的管理，不适用本条例。

**第一百零六条** 本条例自 2016 年 1 月 1 日起施行。

for housing and urban-rural development or specialized projects shall order it to make corrections within a prescribed time limit; where it fails to make corrections within the prescribed time limit, it shall be imposed upon a fine of not less than 100,000 Yuan but not more than 500,000 Yuan.

**Article 102** Where a fine is imposed upon a unit in accordance with these Regulations, the person with direct responsibility for the unit and other directly responsible persons shall be imposed upon a fine of not less than 5% but not more than 10% of the fine imposed upon the unit. Where any project responsible person or registered practitioner of a development unit, survey unit, design unit, construction unit or supervision unit causes any major quality problem involving the structural safety or major use functions due to his fault, it shall not act as a project responsible person within 2 years.

**Article 103** Where any unit or practitioner related to construction projects violates these Regulations and a crime is constituted, the directly responsible person shall be investigated for criminal liability in accordance with law; where any loss is caused, the responsible unit shall assume compensation liability in accordance with law.

## **Chapter VII Supplementary Provisions**

**Article 104** As used in these Regulations, “development unit” refers to the legal person that enters into the contract for a construction project with the survey unit, the du, the general contractor and the supervision unit.

**Article 105** These Regulations shall not apply to the construction of temporary houses and buildings for rescue and relief or other purposes or low-rise residences built by farmers themselves as well as the administration of military construction projects.

**Article 106** These Regulations shall be effective as of January 1, 2016.

## 关于在城市干道两侧划定隔离带的规定

(1984年2月10日北京市人民政府京政发21号文件发布 根据  
1994年1月17日北京市人民政府批准第一次修改 根据2007  
年11月23日北京市人民政府第200号令第二次修改)

为了贯彻执行北京城市总体规划,保证城市主、次干道能够按照规划逐步建成畅通无阻、不受干扰的交通动脉,防止在干道两侧乱建房子、乱搭棚屋,土地被任意蚕食,避免将来拓宽干道、增设林带或有特殊需要时,大量拆迁造成浪费,做到既有利于城市建设和农业生产,又有利于保护环境,特制定在城市干道两侧划定隔离带的规定。

一、城市干道两侧隔离带的范围按照经批准的各类城乡规划确定。

二、在城市干道两侧隔离带内的土地,可以继续耕种,植树造林,种花植草,按照城、乡规划开挖沟渠、打井埋管、栽杆架线。但除管理养护本干道所必须的检查站、道班房外,不准任何单位和个人在隔离带内建造生产和生活用房以及各类棚屋和设施。

三、在隔离带内,过去已经批准的城市建设单位(不含违法建设单位),原则上不再扩大用地,只能在原用地范围内,根据条件进行必要的翻、改建或适当添建;现有的农村居民点和工副业点,原则上也不再扩大用地,可根据批准的农业建设规划,进行调整改造。新农村建设应统一规划,不得侵占隔离带。

在市区城市地区和郊区城镇范围内,位于规划干道红线内现有的房屋(不含违法建设和各类“临时建筑”),如确需翻建时,只能按原地点、原面积,尽可能简易地进行翻建,鼓励现有房屋的单位、居民易地迁建,或退到规划干道红线后面进行改建。各类新建房屋,应一律按规划进行建设,不得侵占规划干道红线,不准再在规划干道红线内建造各种“临时性”棚层,个别确属十分必需的施工临时设施,应按照有关规

## Provisions on Delimiting Protective Belts on Both Sides of Urban Roads

(Promulgated by Document JZF No. 21 of the People's Government of Beijing Municipality on February 10, 1984, revised for the first time as approved by the People's Government of Beijing Municipality on January 17, 1994, and revised for the second time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

The provisions on delimiting protective belts on both sides of urban roads are hereby formulated for the purposes of implementing the overall urban planning of Beijing, ensuring unimpeded and undisturbed traffic on urban arterial roads and sub-arterial roads as planned, preventing random construction of housing and sheds on both sides of roads as well as encroachment of land, and avoiding waste in connection with massive demolition due to widening of roads, increase of forest belts or special needs in the future, so as to benefit urban construction and agricultural production as well as environmental protection.

1. The boundaries of protective belts on both sides of urban roads shall be determined in accordance with the approved urban and rural planning.

2. On the land within the protective belts on both sides of urban roads, cultivation may be continued, trees, flowers and grasses planted, as well as ditches and wells dug, pipelines laid, and poles erected in accordance with the urban and rural planning. However, except for the inspection stations and maintenance squad houses necessary for the management and maintenance of roads, no unit or individual is allowed to build production and living housing and all kinds of sheds and facilities within the protective belts.

3. Within the protective belts, the urban development units (excluding illegal development units) that have obtained approval in the past shall not expand the land in principle, and may only carry out necessary renovation, reconstruction or appropriate additional construction within the scope of the original land according to the conditions; in existing rural residential areas and industrial sideline areas, the land shall not be expanded in principle, and adjustment and reconstruction may be carried out according to the approved agricultural construction planning. The new rural construction shall be planned in a unified way and shall not encroach upon protective belts.

Within the scope of urban areas and suburban towns, if it is really necessary to reconstruct existing housing within the road planning red line (excluding illegal construction and all kinds of "temporary buildings"), the reconstruction may only be done as minimal

定从严审批，并由批准机关监督在工程完工后立即拆除。其他道路也都按照上述规定控制建设。

**四、**本规定经北京市人民政府批准，自公布之日起施行。自施行之日起，凡违反本规定在规划干道红线和干道两侧隔离带内占地建房，均按违法建设处理。

各区、县人民政府，对防止在城镇附近地区盲目占地建房，可以按照本规定的精神，制定必要的补充规定。

**附件一：**

九条规划主干道为：

京承公路：东直门—酒仙桥—顺义—怀柔—密云—古北口—承德。（含机场路支线，原定整顿范围超过一百米的部分不变）

京榆公路：建国门—通镇—山海关。

京津塘公路：东南城角—马驹桥—武清—塘沽新港。

京开公路：西南城角—西红门—黄村—固安—开封。

京保公路：广安门—六里桥—卢沟桥—良乡—保定。

京原公路：复兴门—八角—衙门口—潭柘寺—紫荆关—原平。

京大公路：阜成门—金顶街—三家店—雁翅斋堂—大同。

京张公路：德胜门—昌平—德胜口—延庆—张家口。

京丰公路：安定门—立水桥—小汤山—九渡河—四海—琉璃庙—丰宁。

**附件二：**

规划次干道（第一批）为：

十条豁口—平房—通镇

朝阳门—定福庄—通镇

广渠门—双桥—通镇

体育馆路—垡头

as possible according to the original location and area. The units or residents of existing housing shall be encouraged to move to another place or retreat behind the road planning red line for reconstruction. All new housing shall be constructed in accordance with the planning, and shall not encroach on the road planning red line. Various “temporary” sheds are prohibited within the road planning red line. Some temporary construction facilities that are really necessary shall be strictly examined and approved in accordance with relevant provisions, and shall be demolished immediately after completion of construction under the supervision of the approval authority. Construction shall also be controlled on other roads in accordance with the above provisions.

4. The Provisions shall come into force as of the date of promulgation upon approval of the People’s Government of Beijing Municipality. As of the date of implementation, any construction in violation of the Provisions within the road planning red line and within the protective belts on both sides of roads shall be treated as illegal construction.

The district or county people’s governments may, in accordance with the guidance of the Provisions, formulate necessary supplementary provisions to prevent blind occupation of land and construction in the vicinity of urban areas and towns.

Annex 1:

The nine arterial roads under planning are:

Beijing-Chengde Highway: Dongzhimen-Jiuxianqiao-Shunyi-Huairou-Miyun-Gubeikou-Chengde (including the Airport Road branch line, the part whose planned scope of adjustment exceeding 100m will remain unchanged)

Beijing-Yuguan Highway: Jianguomen-Tong Town-Shanhaiguan.

Beijing-Tianjin-Tanggu Highway: Southeast Turret-Majuqiao-Wuqing-Tanggu New Port.

Beijing-Kaifeng Highway: Southwest Turret-Xihongmen-Huangcun-Gu’an-Kaifeng.

Beijing-Baoding Highway: Guang’anmen-Liuliqiao-Lugou Bridge-Liangxiang-Baoding.

Beijing-Yuanping Highway: Fuxingmen-Bajiao-Yamenkou-Tanzhe Temple-Zijingguan-Yuanping.

Beijing-Datong Highway: Fuchengmen-Jinding Street-Sanjiadian-Yanchi (Zhaitang)-Datong.

Beijing-Zhangjiakou Highway: Deshengmen-Changping-Deshengkou-Yanqing-Zhangjiakou.

Beijing-Fengning Highway: Andingmen-Lishuiqiao-Xiaotangshan-Jiuduhe-Sihai-Liulimiao-Fengning.

Annex 2:

The sub-arterial roads under planning (first batch) are:

Shitiao Opening-Pingfang-Tong Town

Chaoyangmen-Dingfuzhuang-Tong Town

Guangqumen-Shuangqiao-Tong Town



天坛东侧路—东高地—青云店—安定

永定门—南苑

陶然亭豁口—团河—黄村

西南城角—丰台

吴家场—卢沟桥

西便门—衙门口

车公庄大街—模式口

西直门—小南庄—圆明园—温泉—大觉寺

西直门京包铁路经清河—老牛湾—昌平

东北城角—沙子营—高丽营—怀柔

亮马桥—东坝—徐辛庄

顺义—杨各庄—平谷—海子水库

黄土坡—良乡—房山—长沟—张坊

良乡—阎村—燕山石化区

燕山石化区—周口店—云居寺—张坊

昌平—南口—西拨子—延庆

十三陵（定陵西）—永宁—白河堡

怀柔—汤河口—琉璃庙

通镇—马头—觅子店

Stadium Road-Fatou  
Tiantan East Road-Donggaodi-Qingyundian-Anding  
Yongdingmen-Nanyuan  
Taoranting Opening-Tuanhe-Huangcun  
Southwest Turret-Fengtai  
Wujiachang-Lugou Bridge  
Xibianmen-Yamenkou  
Chegongzhuang Street-Moshikou  
Xizhimen-Xiaonanzhuang-Yuanmingyuan Imperial Garden-Wenquan-Dajue Temple  
Xizhimen along Beijing-Baotou Railway through Qinghe-Laoniawan-Changping  
Northeast Turret-Shaziyong-Gaoliying-Huairou  
Liangmaqiao-Dongba-Xuxinzhuang  
Shunyi-Yanggezhuang-Pinggu-Haizi Reservoir  
Huangtupo-Liangxiang-Fangshan-Changgou-Zhangfang  
Liangxiang-Yancun-Yanshan Petrochemical Area  
Yanshan Petrochemical Area-Zhoukoudian-Yunju Temple-Zhangfang  
Changping-Nankou-Xibozi-Yanqing  
Ming Tombs (Dingling West)-Yongning-Baihebao  
Huairou-Tanghekou-Liulimiao  
Tong Town-Matou-Maizidian

## 关于划定市区河道两侧隔离带的规定

(1984年11月15日北京市人民政府京政发126号文件发布)

根据1994年1月17日北京市人民政府批准修改)

为了贯彻北京城市总体规划方案,加强城市的环境建设,提高绿化和环境卫生水平,开发、整治城市水系,保护水源,确保排水顺畅,为首都人民的工作和生活创造良好的条件,特将市区河道两侧一定范围划为隔离带,并对隔离带的范围和管理作如下规定:

### 一、市区河道隔离带范围

市区河道按其所处位置和主要功能分为风景观赏河道、水源河道和排水河道三类。

(一)风景观赏河道两侧隔离带宽度,以规划河道上口线为准,根据各地段具体情况,两侧各向外划五十米,或七十米,或一百米。这类河道包括:

(1)昆明湖—玉渊潭—南护城河—通惠河花园式河道环;

(2)长河—北护城河—亮马河—水碓湖—通惠河花园式河道环;

(3)土城沟花园式河道(小西门经黄亭子往东至坝河);

(4)其他风景观赏河道:永定河引水渠(电站闸—罗道庄)、双紫支渠下段(京密引水渠—长河)、体育馆水系上段(亮马河—东直门大街)、清河(安河闸—清河镇)、万泉河(万泉庄—清河)、坝河(东北城角—酒仙桥)、通惠河(高碑店湖—通县)、莲花河(莲花池—万泉寺铁路桥)、凉水河(万泉寺铁路桥—大红门闸)等。

(二)城市水源河道两侧隔离带宽度,以规划河道上口线为准,两侧各向外划一百米。这类河道包括:

(1)永定河引水渠的市区部分(从三家店拦河闸到电站闸);

(2)南旱河(自颐和园的团城湖到永定河引水渠的电站闸)。

## Provisions on Delimiting Protective Belts on Both Sides of Urban River Courses

(Promulgated by Document JZF No. 126 of the People's Government of Beijing Municipality on November 15, 1984, and revised as approved by the People's Government of Beijing Municipality on January 17, 1994)

Protective belts are hereby defined within certain areas on both sides of urban river courses and the following provisions are formulated on the boundaries and management of protective belts for the purposes of implementing the overall urban planning of Beijing, strengthening the environmental construction of this Municipality, improving the level of greening and environmental sanitation, developing and administering the urban water system, protecting the water source, and ensuring smooth drainage, so as to create good conditions for the work and livelihood of the people of the capital:

### I. Boundaries of Protective Belts of Urban River Courses.

According to the location and main functions, urban river courses are divided into three types: scenic river courses, water source river courses and drainage river courses.

(I) The width of protective belts on both sides of scenic river courses shall be subject to the upper edge line of the river courses under planning and vary according to the specific conditions of various sections, i.e. 50m, 70m or 100m outwards from both sides. These include:

(1) Kunming Lake - Yuyuantan - South Moat - Tonghui River garden-style river course loop;

(2) Changhe River - North Moat - Liangma River - Shuidui Lake - Tonghui River garden-style river course loop;

(3) Tuchenggou garden-style river course (Xiaoximen through Huangtingzi extending eastward towards Bahe River);

(4) Other scenic river courses: Yongding River Diversion Channel (Power Station Sluice Gate - Luodaozhuang), lower section of Shuangzi Branch Channel (Jingmi Diversion Channel - Changhe River), upper section of Stadium Water System (Liangma River - Dongzhimen Street), Qinghe (Anhe Sluice Gate - Qinghe Town), Wanquan River (Wanquanzhuang - Qinghe), Bahe River (Northeast Turret - Jiuxianqiao), Tonghui River (Gaobeidian Lake - Tong County), Lianhua River (Lianhuachi - Wanquansi railway bridge), Liangshui River (Wanquansi railway bridge - Dahongmen Sluice Gate), etc.

(II) The width of protective belts on both sides of urban water source river courses shall be subject to the upper edge line of the river courses under planning, which is 100m outwards from both sides. These include:

(1) Urban sections of Yongding River Diversion Channel (Sanjiadian Sluice Gate - Power Station Sluice Gate);

(2) Nanhan River (Tuancheng Lake of the Summer Palace - Power Station Sluice Gate of Yongding River Diversion Channel).

(三) 城市排水河道两侧隔离带宽度, 以规划河道上口线为准, 两侧各向外划五十至七十米, 其排水支沟隔离带宽度为二十至三十米, 这类河道包括:

(1) 坝河(酒仙桥—温榆河);

(2) 清河(清河镇—温榆河);

(3) 凉水河(大红门闸—马驹桥);

(4) 其他支沟: 北旱河、小月河、沟泥河、北小河、亮马河下游、新开渠、水衙沟、丰草河、马草河、小龙河、大柳树沟、肖太后河上段、大羊坊沟等。

以上三类河道隔离带各地段宽度详见附表。

二、在城市建设区范围内的风景观赏河道隔离带, 必须逐步进行绿化, 形成滨河绿化带。在非建设区的河道隔离带内的土地, 可以继续耕种, 鼓励植树造林、种花植草。

河道隔离带内可以按规划修路, 埋设必要的市政管线, 修建少量园林小品及必要的附属设施, 如闸房、游船码头等。

三、在隔离带内, 不准建造生产和生活用房以及各类临时棚屋, 不准堆料、堆垃圾, 不准取土挖砂石。个别确属十分必要的施工临时设施, 应按临时占地的规定从严审批, 并由批准机关监督其在工程完工后立即拆除, 恢复地貌。

四、在隔离带内过去经过批准已经建设的单位(不含违法建设的单位), 原则上不再扩大用地和新增各类建筑; 现有房屋如确需翻建时, 应尽可能迁建或退到隔离带以外进行改建, 各类新建房屋应一律按规划进行建设。

隔离带内的现有农村居民点和工副业点, 原则上也不再扩大用地, 可根据批准的农村建设规划进行调整改造, 并尽量多保留一些绿化用地。

五、凡违反本规定在河道隔离带内占地建房者, 均按违法建设处理。

六、城市建设区范围以外的河道和郊区农田排水沟、大型灌渠如何划定隔离带, 由各区、县人民政府参照本规定另作必要的补充规定。本规定自 1984 年 11 月 3 日起施行。

(III) The width of protective belts on both sides of urban drainage river courses shall be subject to the upper edge line of the river courses under planning, which is 50m to 70m outwards from both sides, and the width of protective belts of the subsidiary drains thereof shall be 20m to 30m. These include:

- (1) Bahe River (Jiuxianqiao - Wenyu River);
- (2) Qinghe River (Qinghe Town - Wenyu River);
- (3) Liangshui River (Dahongmen Sluice Gate - Majuqiao);
- (4) Other subsidiary drains: Beihan River, Xiaoyue River, Gouni River, Beixiao River, lower reaches of Liangma River, Xinkai Channel, Shuiya Drain, Fengcao River, Macao River, Xiaolong River, Daliushu Drain, upper section of Xiaotaihou River, Dayangfang Drain, etc.

See the attached table for the width of each section of protective belts of the above three types of river courses.

II. In urban construction areas, gradual greening must be done within the protective belts of scenic river courses to form a riverside green belt. On the land within the protective belts of river courses in non-construction areas, cultivation may be continued, and tree planting, flower planting and grass planting shall be encouraged.

In the protective belts of river courses, roads may be constructed, necessary municipal pipelines laid, and a small number of garden ornaments and necessary auxiliary facilities such as switch rooms and cruise terminals built as planned.

III. In protective belts, it is not allowed to build production and living housing and various temporary sheds, stack materials and garbage, or excavate sand and stone. Some temporary construction facilities that are really necessary shall be subject to strict examination and approval in accordance with the provisions on temporary land occupation, and shall be demolished immediately after completion of construction under supervision of the approval authorities to restore to the original landform.

IV. In protective belts, the units (excluding illegal development units) that have obtained approval in the past shall not expand the land and increase various buildings in principle; in the case of necessary reconstruction of existing housing, the reconstruction is expected to be done in a another place or outside the protective belts. All new housing shall be constructed according to the planning.

In existing rural residential areas and industrial sideline areas within protective belts, the land shall not be expanded in principle, and adjustment and reconstruction may be carried out according to the approved agricultural construction planning. The land for greening shall be reserved as much as possible.

V. Any construction in violation of the Provisions within the protective belts of river courses shall be treated as illegal construction.

VI. The district or county people's governments shall, by reference to the Provisions, make necessary supplementary provisions on how to delimit protective belts for the river courses outside the urban construction areas and for the drainage ditches and large irrigation canals of farmlands in the suburbs. The Provisions shall come into force as of November 3, 1984.

附件:

各类河道隔离带各地段宽度表

河道类别	河道名称	起始地段	隔离带长度 (公里)	隔离带宽度(米)		备注
				右岸	左岸	
一、水源河道	永定河引水渠	三家店拦河闸~电站闸(四号跌水)	14.3	100	100	朝向下游。左侧为左岸
	南旱河	团城湖~电站闸(四号跌水)	7.9	100	100	
二、风景观赏河道						
	京密引水渠	绣漪桥~长河闸	3	100	100	
		长河闸~罗道庄	4.2	100	70	
	永定河引水渠	罗道庄~三环路桥	1.2	100	70	
		玉渊潭出口~木樨地	0.9	70	70	
		木樨地~甘雨桥跌水	1.7	50	30-50	

Annex:

Table of Width of Each Section of Protective Belts of Various River Courses

Type of River Course	Name of River Course	From – To	Length of Protective Belt (km.)	Width of Protective Belt (m)		Remarks
				Right Bank	Left Bank	
I. Water Source River Courses	Yongding River Diversion Channel	Sanjiadian Sluice Gate – Power Station Sluice Gate (No. 4 drop shaft)	14.3	100	100	Towards the lower reaches. The left side is the left bank.
	Nanhan River	Tuancheng Lake – Power Station Sluice Gate (No. 4 drop shaft)	7.9	100	100	
II. Scenic River Courses						
	Jingmi Diversion Channel	Xiuyi Bridge – Changhe Sluice Gate	3	100	100	
		Changhe Sluice Gate – Luodaozhuang	4.2	100	70	
	Yongding River Diversion Channel	Luodaozhuang – Sanhuanlu Bridge	1.2	100	70	
		Yuyuantan Exit – Muxidi	0.9	70	70	
		Muxidi – Ganyuqiao Drop	1.7	50	30–50	



河道类别	河道名称	起始地段	隔离带长度 (公里)	隔离带宽度(米)		备注
				右岸	左岸	
	南护城河	甘雨桥~西南城角	3.5	到原 西红 线	60	西红线尚未建设地区预留 30 米绿地
		西南城角~内环西侧延长路	2	150	60	
		内环西侧延长路~永定门	2.2	60	60	
		永定门~东南城角	3.8	158	60	
		东南城角~东便门	3.7	60	60	广渠门~东便门东红线外留 30 米
	通惠河	东便门~西大望路	3.5	50	45	东便门~建华路北岸北红线外留 20 米绿地
		西大望路~高碑店湖	3.5	100	100	
	长河	长河闸~三环路	1.7	100	100	

Type of River Course	Name of River Course	From - To	Length of Protective Belt (km.)	Width of Protective Belt (m)		Remarks
				Right Bank	Left Bank	
	South Moat	Ganyuqiao - Southwest Turret	3.5	To the original red line	60	Greenbelt of 30m to be reserved in unconstructed areas within the west red line
		Southwest Turret - Extension road on the west side of inner ring	2	150	60	
		Extension road on the west side of inner ring - Yongdingmen	2.2	60	60	
		Yongdingmen - Southeast Turret	3.8	158	60	
		Southeast Turret - Dongbianmen	3.7	60	60	30m to be reserved outside Guangqumen - Dongbianmen east red line
	Tonghui River	Dongbianmen - West Dawang Road	3.5	50	45	Greenbelt of 20m to be reserved outside Dongbianmen - Jianhua Road north bank north red line
		West Dawang Road - Gaobeidian Lake	3.5	100	100	
	Changhe River	Changhe Sluice Gate - Third Ring Road	1.7	100	100	

河道类别	河道名称	起始地段	隔离带长度 (公里)	隔离带宽度(米)		备注
				右岸	左岸	
		动物园出口~高粱桥	0.8	50		
	北护城河	新街口豁口~东北城角	5.6	68	16	新街口豁口~雍和宫南红线外预留20米绿带。北中轴~安定门,北红线外保留现状20—30米绿地,德胜门河段北岸松林间以东600米隔离宽100米
	亮马河上游	造纸厂出口~壅水闸	2.7	20-50	30-50	三环路到壅水闸两岸各50米
	平房灌渠	壅水闸~水碓湖	1.3	30	30	
	二道沟	金台路~高碑店湖	5	60	60	

Type of River Course	Name of River Course	From - To	Length of Protective Belt (km.)	Width of Protective Belt (m)		Remarks
				Right Bank	Left Bank	
		Zoo Exit - Gaoliangqiao	0.8	50		
	North Moat	Xinjiiekou Opening - Northeast Turret	5.6	68	16	Green belt of 20m to be reserved outside Xinjiiekou Opening - Yonghe Lama Temple north red line. Green belt of 20-30m to be reserved outside North Central Axis - Andingmen north red line; protective belt of 100m in width to the 600m east of Songlin Sluice Gate on the north bank of Deshengmen reach
	Liangma River Upper Reaches	Paper Mill Exit - Yongshui Sluice Gate	2.7	20-50	30-50	50m on both sides of Third Ring Road to Yongshui Sluice Gate
	Pingfang Irrigation Ditch	Yongshui Sluice Gate - Shuidui Lake	1.3	30	30	
	Erdaogou	Jintai Road - Gaobeidian Lake	5	60	60	

河道类别	河道名称	起始地段	隔离带长度 (公里)	隔离带宽度 (米)		备注
				右岸	左岸	
	土城沟	学院南路~土城北路	1.9	100-130	40-60	
		土城北路~土城东北角	6.6	65-110 到土城南路	80-140 到土城北路	土城南路北太平庄延长线~安立路南红线外留20米绿带
		土城东北角~入坝河	1.5	50	50	
	永定河引水渠	电站闸~五路居铁路	1.9	100	100	
		五路居铁路~罗道庄	3.5	50	50	
	双紫支渠下段	京密引水渠~长河	2.8	30	30	
	体育馆水系上段	亮马河~东直门外大街	0.5	20	20	
	清河	安河闸~清河镇	7.5	70	70	
	万泉河	清华出口~入清河	2.6	30	30	
	坝河	东北城角~三环路	2.0	30	30	

Type of River Course	Name of River Course	From - To	Length of Protective Belt (km.)	Width of Protective Belt (m)		Remarks
				Right Bank	Left Bank	
	Tuchenggou	Xueyuan South Road - Tucheng North Road	1.9	100-130	40-60	Greenbelt of 20m to be reserved outside Tucheng South Road Beitapingzhuang Extension Line - Anli Road south red line
		Tucheng North Road - Tucheng Northeast Corner	6.6	65-110 to Tucheng South Road	80-140 to Tucheng North Road	
		Tucheng Northeast Corner - Bahe River	1.5	50	50	
	Yongding River Diversion Channel	Power Station Sluice Gate - Wuluju Railway	1.9	100	100	
		Wuluju Railway - Luodaozhuang	3.5	50	50	
	Lower Section of Shuangzi Branch Channel	Jingmi Diversion Channel - Changhe River	2.8	30	30	
	Upper Section of Stadium Water System	Liangma River - Dongzhimenwai Street	0.5	20	20	
	Qinghe River	Anhe Sluice Gate- Qinghe Town	7.5	70	70	
	Wanquan River	Qinghua Exit - Qinghe Rive	2.6	30	30	
	Bahe River	Northeast Turret - Third Ring Road	2.0	30	30	

河道类别	河道名称	起始地段	隔离带长度 (公里)	隔离带宽度 (米)		备注
				右岸	左岸	
		三环路~尚家楼	1.5	30	70	
	通惠河	高碑店湖~通县	12.7	70	70	
	莲花河	莲花池~孟家桥	3.5	36.5	50	
		孟家桥~万泉寺铁路桥	2.4	70	70	
	分洪道	西南城角~入凉水河	0.8	50	50	
	凉水河	万泉寺铁路桥~分洪道出口	1.4	70	70	
		分洪道出口~铁路	2	70	50	
		铁路~大红门闸	3.8	40	25	马草河入口~大红门闸左岸27.5米, 右岸42.5米
三、排水河道	清河	清河镇~入温榆河	16.2	70	70	
	坝河	尚家楼~入温榆河	19.8	70	70	
	凉水河	大红门闸~马驹桥	16.4	70	70	

Type of River Course	Name of River Course	From - To	Length of Protective Belt (km.)	Width of Protective Belt (m)		Remarks
				Right Bank	Left Bank	
		Third Ring Road - Shangjialou	1.5	30	70	
	Tonghui River	Gaobeidian Lake - Tong County	12.7	70	70	
	Lianhua River	Lianhuachi - Mengjiaqiao	3.5	36.5	50	
		Mengjiaqiao - Wanquansi Railway Bridge	2.4	70	70	
	Flood Bypass	Southwest Turret - Liangshui River	0.8	50	50	
	Liangshui River	Wanquansi Railway Bridge - Flood Bypass Exit	1.4	70	70	
		Flood Bypass Exit - Railway	2	70	50	
		Railway - Dahongmen Sluice Gate	3.8	40	25	27.5m on the left bank and 42.5m on the right bank of Macao River Entry - Dahongmen Sluice Gate
III. Drainage River Courses	Qinghe River	Qinghe Town - Wenyu River	16.2	70	70	
	Bahe River	Shangjialou - Wenyu River	19.8	70	70	
	Liangshui River	Dahongmen Sluice Gate - Majuqiao	16.4	70	70	



河道类别	河道名称	起始地段	隔离带长度 (公里)	隔离带宽度 (米)		备注
				右岸	左岸	
	其他支沟					
	北旱河	卧佛寺路口~安河闸	5.8	20	20	
	小月河	祁家豁子~入清河	6.5	规划绿地	30	
	沟泥河	清华东路~入清河	3.5	20	20	
	北小河	安立路西~入坝河	16.7	30	30	
	亮马河下游	壅水闸~入坝河	6.5	30	30	
	新开渠	白庙村~入莲花池	12	20	20	
	水衙沟	吴家村~广外桥	7.7	20	20	
	丰草河	程庄子~万泉寺铁路桥	7.8	20	20	
	马草河	六圈~入凉水河	10.1	20	20	
	小龙河	谢家庄~入凉水河	9.4	20	20	
	大柳树沟	窑洼湖~通惠排干	8.4	20	20	
	肖太后河上段	架榆树~通惠排干	11.8	20	20	
	大羊坊沟	十里河~马驹桥	13.4	50	50	
	旱河	潘家庙~凉水河	6.7	20	20	

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Type of River Course	Name of River Course	From - To	Length of Protective Belt (km.)	Width of Protective Belt (m)		Remarks
				Right Bank	Left Bank	
	Other ditches					
	Beihan River	Wofo Temple Intersection - Anhe Sluice Gate	5.8	20	20	
	Xiaoyue River	Qijiahuozi - Qinghe River	6.5	Planned green belt	30	
	Gouni River	Qinghua East Road - Qinghe River	3.5	20	20	
	Beixiao River	Anli Road West - Bahe River	16.7	30	30	
	Liangma River lower reaches	Yongshui Sluice Gate - Bahe River	6.5	30	30	
	Xinkai Channel	Baimiao Village - Lianhuachi	12	20	20	
	Shuiya Ditch	Wujia Village - Guangwaiqiao	7.7	20	20	
	Fengcao River	Chengzhuangzi - Wanquansi Railway Bridge	7.8	20	20	
	Macao River	Liuquan - Liangshui River	10.4	20	20	
	Xiaolong River	Xiejiazhuang - Liangshui River	9.4	20	20	
	Daliushu Ditch	Yaowahu - Tonghui Arterial Drainage	8.4	20	20	
	Upper Section of Xiaotaihou River	Jiayushu - Tonghui Arterial Drainage	11.8	20	20	
	Dayangfang Ditch	Shilibei - Majuqiao	13.4	50	50	
	Hanhe River	Panjiamiao - Liangshui River	6.7	20	20	

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# 北京市人民政府关于在城市道路两侧 和交叉路口周围新建、改建建筑 工程的若干规定

(1987年3月25日北京市人民政府京政发33号文件发布)

为维护交通秩序,改善城市道路两侧和交叉路口的环境,并为绿化首都、美化市容创造条件,根据北京城市总体规划的要求,特作如下规定。

一、凡在本市市区和郊区城镇地区的道路(包括主干道、次干道和支路,以下简称城市道路)两侧和交叉路口周围新建、改建建筑工程,均须按以下规定保持建筑工程与城市道路(即规划道路红线,下同)之间的距离:

(一)立体交叉路口周围建筑工程与城市道路距离的宽度,视城市道路宽度而定:城市道路宽度在150米以上的,距离的宽度不小于15米;城市道路宽度在150米以下(含150米)的,距离的宽度不小于30米。

立体交叉引桥高出地面的,建筑工程距离引桥路面外边线的宽度不小于30米。

特殊形式立体交叉路口周围建筑工程与城市道路距离的宽度,由市规划管理局视具体情况确定。

(二)平交叉路口周围30米范围内,根据规划的需要,建筑工程与城市道路距离宽度不小于10至20米。

(三)城市道路两侧(即非交叉路口的路段)建筑工程与城市道路距离的宽度,由市规划管理局按规划的需要规定。

(四)城市道路两侧现有建筑物翻建或建设临时性建筑工程,按规定保留距离的宽度确有困难的,可适当照顾。但建筑工程与现有城市道路路面边线的距离,不得小于10至15米。

# Several Provisions of the People's Government of Beijing Municipality on New and Reconstruction Projects on Both Sides and Around Intersections of Urban Roads

(Promulgated by Document JZF No. 33 of the People's Government of Beijing Municipality on March 25, 1987)

The following provisions are hereby formulated for the purposes of maintaining traffic order, improving the environment on both sides and at intersections of urban roads, and creating conditions for greening and beautifying the capital in accordance with the requirements of the overall urban planning of Beijing.

1. For new and reconstruction projects on both sides and around intersections of roads (including arterial roads, sub-arterial roads and branch roads, hereinafter referred to as urban roads) in urban areas and suburban towns of this Municipality, the distance between the construction projects and urban roads (i.e. the road planning red line, the same below) shall be maintained in accordance with the following provisions:

(1) The distance between the construction projects around vertical intersections and urban roads depends on the width of urban roads: if the width of urban roads is more than 150m, the distance shall not be less than 15m; if the width of urban roads is less than 150m (including 150m), the distance shall not be less than 30m;

If an approach flyover is above the ground level, the distance between the construction projects and the outer edge of the approach flyover pavement shall not be less than 30m.

The distance between the construction projects around vertical intersections of special forms and urban roads shall be determined by the Municipal Planning Administration as appropriate.

(2) Within 30m around plane intersections, the distance between construction projects and urban roads shall not be less than 10-20m according to the planning requirements;

(3) The distance between the construction projects on both sides of urban roads (i.e. sections other than intersections) and urban roads shall be specified by the Municipal Planning Administration according to the planning requirements;

(4) If it is really difficult to maintain the distance as required for the renovation of existing buildings or temporary construction on both sides of urban roads, some leeway may be granted. However, the distance between the construction projects and the pavement edge of existing urban roads shall not be less than 10-15m.

Within the boundaries of existing urban road intersections, new temporary construction projects are forbidden.

现有城市道路交叉口范围内，禁止新建临时性建筑工程。

二、建筑工程与城市道路之间按规定宽度保留的空地，由市规划管理局安排用途。在用途确定前，可暂由新建、改建工程的建设单位负责进行绿化。

三、新建大型公共建筑工程（包括饭店、旅馆、写字楼、医院、影剧院、博物馆、大型商场等），除按本规定进行建设外，还须按规划要求在建设用地范围内留足停车场和绿化用地。

四、本规定执行中的具体问题，由市规划管理局负责解释。

五、本规定自 1987 年 4 月 1 日起施行。本规定施行前已经批准建设但尚未施工的建筑工程，由市规划管理局根据本规定，区别不同情况重新审定。

市人民政府 1984 年 2 月 10 日批准施行的《关于在城市干道两侧划定隔离带的规定》中，有关城市干道通过城镇地区路段的隔离带宽度的规定，一律按本规定修订。

2. The space reserved between construction projects and urban roads according to the specified width shall be used under the arrangement of the Municipal Planning Administration. Before the use is determined, the development units of new or reconstruction projects are allowed to be responsible for greening temporarily.

3. For new large-scale public building projects (including hotels, restaurants, office buildings, hospitals, cinemas, theaters, museums, and large shopping malls), in addition to the construction in accordance with the Provisions, it is also necessary to reserve enough space for parking lots and greening within the boundaries of the construction land according to the planning requirements.

4. The Municipal Planning Administration shall be responsible for the interpretation of specific issues in the implementation of the Provisions.

5. The Provisions shall come into force as of April 1, 1987. The construction projects that have been approved but have not yet commenced construction before the implementation of the Provisions shall be reexamined and approved by the Municipal Planning Administration in accordance with the Provisions and in light of different circumstances.

The provisions on the width of protective belts in sections where urban roads pass through urban areas and towns in the Provisions on Delimiting Protective Belts on Both Sides of Urban Roads approved for implementation by the Municipal People's Government on February 10, 1984 shall be revised in accordance with the Provisions.

# 关于城市干道两侧隔离带内现有村镇 建设管理的若干规定

(1988年2月24日北京市人民政府京政发17号文件发布 根  
据1994年1月17日北京市人民政府批准修改)

为进一步贯彻市政府批准的《关于在城市干道两侧划定隔离带的规定》，加强对本市城市干道两侧隔离带内现有村镇建设的规划管理，保证实现划定隔离带的目的，特作以下补充规定：

一、凡本市平原农业区城市干道两侧隔离带内的现有村镇（以下简称现有村镇，不包括建制镇）建设，由城市规划行政主管部门制定调整规划方案，并按本规定管理。

二、现有村镇内的乡镇机关、企业事业单位新建工作或生产用房，须在其原建设用地范围内进行建设，不得侵占城市规划干道（即规划干道红线，下同），原用地范围内不能安排建设的，须在隔离带以外建设。

三、现有村镇新建商业、服务业用房和农村住宅，应在隔离带以外安排建设，确因群众实际生活需要，必须在隔离带内建设的，一律不得侵占城市规划干道。

四、现有村镇房屋翻建，不能超出原用地范围。原有房屋占压城市规划干道的，翻建时应退出占压的城市规划干道。退出城市规划干道确有困难的，可暂予适当照顾，但翻建房屋与现有道路路面边线的距离不得小于10至15米。

五、远郊区城市干道未定线的，暂按现在道路路面中心向两侧垂直平分确定城市规划干道范围，主干道按60米宽度平分，次干道按50米宽度平分。

六、城市干道隔离带内的现有村镇建设，均须按有关规定，报城市规划行政主管部门审批。

## Several Provisions on the Management of Construction of Existing Villages and Towns within Protective Belts on Both Sides of Urban Roads

(Promulgated by Document JZF No. 17 of the People's Government of Beijing Municipality on February 24, 1988, and revised as approved by the People's Government of Beijing Municipality on January 17, 1994)

The following supplementary provisions are hereby formulated for the purposes of further implementing the Provisions on Delimiting Protective Belts on Both Sides of Urban Roads approved by the Municipal Government, strengthening the planning and management of the construction of existing villages and towns within protective belts on both sides of urban roads, and ensuring the realization of the purpose of delimiting protective belts:

1. For the construction of existing villages and towns within protective belts on both sides of urban roads in the plain agricultural areas of this Municipality (hereinafter referred to as existing villages and towns, excluding designated towns), the competent departments for urban planning shall formulate and adjust planning schemes and administer the construction in accordance with the Provisions.

2. For new office or production housing of township or town organs, enterprises and institutions in existing villages and towns, construction shall be carried out within the boundaries of the original construction land, and urban roads under planning (i.e. road planning red line, the same below) shall not be encroached on. If construction cannot be arranged within the boundaries of the original land, it shall be conducted outside the protective belts.

3. New commercial or service housing and rural houses in existing villages and towns shall be built outside the protective belts. If construction within the protective belts is necessary due to the actual living needs of the people, the urban roads under planning shall not be encroached on.

4. The reconstruction of housing in existing villages and towns shall not exceed the boundaries of the original land. If original housing encroaches on the urban roads under planning, it is necessary to retreat from the occupied urban roads under planning during the reconstruction. If it is really difficult to retreat from the urban roads under planning, some leeway may be granted temporarily. However, the distance between the renovated housing and the pavement edge of existing roads shall not be less than 10-15m.

5. If the urban roads in the outer suburbs are not delimited, the boundaries of urban roads under planning shall be determined temporarily according to the existing road pavement center spreading outwards vertically, i.e. 60m in width for arterial roads and 50m in width for sub-arterial roads.

6. The construction of existing villages and towns within the protective belts of urban roads shall be reported to the competent departments for urban planning for approval in



七、通过山区的城市干道两侧隔离带内的现有村镇建设，由城市规划行政主管部门视具体情况，参照本规定管理。

八、凡违反本规定的，一律按违法建设处理。

九、本规定执行中的具体问题，由市城市规划管理局组织实施并负责解释。

accordance with relevant provisions.

7. The construction of existing villages and towns within the protective belts on both sides of urban roads passing through the mountainous areas shall be subject to the management of the competent departments for urban planning as appropriate by reference to the Provisions.

8. Any construction in violation of the Provisions shall be treated as illegal construction.

9. The Municipal Urban Planning Administration shall be responsible for the interpretation of specific issues in the implementation of the Provisions.

# 北京市人民政府关于外地建筑 企业来京施工管理暂行规定

(1988年7月1日北京市人民政府京政发61号文件发布 根  
据1994年6月20日北京市人民政府批准第一次修改 根据1997  
年12月31日北京市人民政府第12号令第二次修改 根据2007  
年11月23日北京市人民政府第200号令第三次修改 根据2018  
年2月12日北京市人民政府第277号令第四次修改)

为加强外地建筑企业来京施工的管理,维护本市建筑市场的正常秩序和社会秩序,  
促进首都城市建设的顺利进行,特作如下规定。

一、凡外地建筑企业在本市行政区域内从事建筑、安装、市政、修缮等施工,均  
按本规定管理。

本规定所称外地建筑企业,包括:外省、自治区、直辖市所属的建筑企业,中央  
各部门、军队系统所属非本市登记注册,或企业基地不在本市,或企业职工常住户口  
不在本市的,以及与本市企业以合作等形式来京施工的外地企业。

二、市住房城乡建设行政主管部门主管本市外地建筑企业的管理工作,北京市建  
筑业管理服务中心具体负责外地建筑企业的管理监督。

区住房城乡建设行政主管部门负责本行政区域内外地建筑企业的日常管理监督。

三、建设单位和在本市施工的所有建筑企业,均不得使用零散民工。

四、外地建筑企业来本市施工,应当到市住房城乡建设行政主管部门办理备案。  
建筑企业应当对报送信息的真实性负责。

五、市住房城乡建设行政主管部门应当按照本市建筑行业管理规定,加强对企业

# **Interim Provisions of the People's Government of Beijing Municipality on the Administration of Construction in Beijing by Construction Enterprises from Other Places**

(Promulgated by Document JZF No. 61 of the People's Government of Beijing Municipality on July 1, 1988, revised for the first time as approved by the People's Government of Beijing Municipality on June 20, 1994, revised for the second time in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997, revised for the third time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the fourth time in accordance with Decree No. 277 of the People's Government of Beijing Municipality on February 12, 2018)

The following provisions are hereby formulated for the purposes of strengthening the administration of construction in Beijing by construction enterprises from other places, maintaining the normal order of the construction market and social order in this Municipality, and promoting the smooth progress of urban construction of the capital.

1. The Provisions shall apply to the construction, installation, municipal construction, renovation, etc. within the administrative area of this Municipality by construction enterprises from other places.

The term "construction enterprises from other places" as mentioned in the Provisions includes: construction enterprises subordinate to other provinces, autonomous regions and municipalities directly under the central government; enterprises subordinate to various central government departments and military systems not registered or not basing themselves in this Municipality or whose employees' registered permanent residence is not in this Municipality; and enterprises from other places engaged in construction in Beijing in the form of cooperation with enterprises in this Municipality.

2. The municipal competent department for housing and urban-rural development shall be in charge of the administration of construction enterprises from other places in this Municipality, while Beijing Municipal Service Center for Construction Industry Management shall be specifically responsible for the management and supervision of construction enterprises from other places.

The district competent departments for housing and urban-rural development shall be responsible for the daily management and supervision of construction enterprises from other places within their respective administrative areas.

的事中事后监管。

**六、外地建筑企业在本市施工期间，必须遵守下列规定：**

（一）遵守国家法律、法规和本市的法规、规章，接受本市住房城乡建设行政主管部门和公安、工商、环境保护、卫生计生、人力资源和社会保障、税务、审计等部门和建设银行的监督管理；

（二）严格履行合同，保证工程质量和施工安全；

（三）向施工所在区住房城乡建设行政主管部门办理施工管理备案，并按规定向住房城乡建设行政主管部门报送统计资料；

（四）按规定向公安机关办理企业职工暂住户口登记，申请暂住证，签订治安责任书；

（五）按规定向人力资源和社会保障部门申领安全生产合格证；

（六）在建设银行开立账户；

（七）向税务部门办理税务登记，照章纳税。

使用外地建筑企业劳务的单位，必须指定机构或专人，负责其日常施工和生活管理。

**七、违反本规定使用零散民工的，责令其停止使用，限期清退，并对其按每使用一人 500 元的标准处以罚款，罚款总额不超过 3 万元。**

违反治安、工商行政、劳动安全、税收等规定的，由公安、工商、人力资源和社会保障、税务等部门依法处罚。

**八、本规定自 1988 年 7 月 1 日起施行。1986 年 5 月 14 日市人民政府公布的《关于严格控制外地建筑企业来京施工的暂行规定》同时废止。**

3. Development units and all construction enterprises engaged in construction in this Municipality shall not use casual migrant workers.

4. When construction enterprises from other places come to this Municipality for construction, they shall go through the filing formalities with the municipal competent department for housing and urban-rural development. Construction enterprises shall be responsible for the authenticity of the information submitted.

5. The municipal competent department for housing and urban-rural development shall, in accordance with the provisions of this Municipality on the administration of the construction industry, strengthen interim and subsequent supervision over enterprises.

6. During construction in this Municipality, construction enterprises from other places must abide by the following provisions:

(1) to abide by the laws and regulations of the State and the regulations and rules of this Municipality, and to accept the supervision and administration of the municipal competent department for housing and urban-rural development, departments of public security, industry and commerce, environmental protection, health and family planning, human resources and social security, tax, auditing, etc., as well as China Construction Bank;

(2) to strictly perform contracts and ensure project quality and construction safety;

(3) to go through the filing formalities for construction management with the competent department for housing and urban-rural development of the district where construction is conducted, and to submit statistical data to the competent department for housing and urban-rural development as stipulated;

(4) to handle temporary residence registration for enterprise employees with public security organs, apply for temporary residence permit and sign a letter of responsibility for public security;

(5) to apply to human resources and social security departments for work safety certificates as required;

(6) to open an account with China Construction Bank; and

(7) to go through tax registration with tax authorities and pay taxes as required.

Units that use labors of construction enterprises from other places must designate offices or special persons to be responsible for their daily construction and life management.

7. Whoever uses casual migrant workers in violation of the Provisions shall be ordered to stop the use and dismiss the workers within a specified time limit, and a fine of not more than 30,000 yuan shall be imposed according to the standard of 500 yuan per worker.

Whoever violates the provisions on public security, administration of industry and commerce, labor safety, tax, etc. shall be punished by the departments of public security, industry and commerce, human resources and social security, tax, etc. according to law.

8. The Provisions shall come into force as of July 1, 1988. The Interim Provisions on Strictly Controlling Construction in Beijing by Construction Enterprises from Other Places promulgated by the Municipal People's Government on May 14, 1986 shall be repealed simultaneously.

# 北京市生活居住建筑间距暂行规定

(1988年8月1日北京市人民政府批准 1988年8月30日北京市城市规划管理局发布 根据1994年1月17日北京市人民政府批准第一次修改 根据2007年11月23日北京市人民政府第200号令第二次修改)

## 第一章 总 则

**第一条** 为保障生活居住建筑有良好的日照卫生环境和方便的生活条件,合理使用城市土地,制定本规定。

**第二条** 本规定适用于本市规划区域内2层和2层以上的生活居住建筑。

本规定所称生活居住建筑,包括居民住宅(含公寓,以下称居住建筑)和托儿所、幼儿园、中小学、医疗病房、集体宿舍、招待所、旅馆、影剧院等建筑(以下称公共建筑)。

**第三条** 两栋4层或4层以上的生活居住建筑(至少1栋为居住建筑)的间距,采用规定的建筑间距系数仍小于以下距离的,按下列规定执行:

(一) 两建筑的长边相对的,不小于18米。

(二) 一建筑的长边与另一建筑的端边相对的,不小于12米。

(三) 两建筑的端边相对的,不小于10米。

(四) 4层或4层以上的生活居住建筑与3层或3层以下生活居住建筑的间距,由城市规划行政主管部门按规划要求确定。

**第四条** 建筑间距符合本规定,但小于建筑防火间距时,须按消防管理的有关规定执行。

# Interim Provisions of Beijing Municipality on the Space between Community Buildings

(Approved by the People's Government of Beijing Municipality on August 1, 1988, promulgated by Beijing Municipal Urban Planning Administration on August 30, 1988, revised for the first time as approved by the People's Government of Beijing Municipality on January 17, 1994, and revised for the second time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

## Chapter I General Provisions

**Article 1** The Provisions are formulated for the purpose of ensuring good sunshine and sanitary environment and convenient living conditions for community buildings and the rational use of urban land.

**Article 2** The Provisions shall apply to community buildings with two or more floors within the planning area of this Municipality.

For the purpose of the Provisions, the term "community buildings" includes residential buildings (including apartments, hereinafter referred to as residential buildings), as well as nurseries, kindergartens, primary and secondary schools, medical wards, dormitories, hostels, hotels, cinemas, theaters and other buildings (hereinafter referred to as public buildings).

**Article 3** If the space between two community buildings with four or more floors (at least one is a residential building) is still less than the following distance after the specified coefficient of space between buildings is adopted, the following provisions shall apply:

(1) If the longitudinal wall of a building is opposite to that of another, the space shall not be less than 18m;

(2) If the longitudinal wall of a building is opposite to the cross wall of another, the space shall not be less than 12m;

(3) If the cross wall of a building is opposite to that of another, the space shall not be less than 10m;

(4) The space between a community building with four or more floors and a community building with three or less floors shall be determined by the competent departments of urban planning according to the planning requirements.

**Article 4** Where the space between buildings conforms to the Provisions but is less than the space between buildings for fire prevention, the relevant provisions on fire control shall apply.



## 第二章 居住建筑的间距

**第五条** 板式居住建筑群体布置时，建筑间距根据其朝向和与正南的夹角不同，采用不得小于附表一规定的建筑间距系数。

**第六条** 单栋塔式居住建筑在两侧无其他遮挡阳光的建筑（含规划建筑）时，与其他居住建筑的间距系数不得小于 1.0。

**第七条** 多栋塔式居住建筑成东西向单排布置时，与被其遮挡阳光的板式居住建筑的建筑间距，按下列规定执行：

（一）相邻塔式居住建筑的间距小于单栋塔式居住建筑的长度时，塔式居住建筑长高比的长度，应按各塔式居住建筑的长度和间距之和计算，并根据其不同的长高比，采用不得小于附表二规定的建筑间距系数。

（二）相邻塔式居住建筑的间距等于或大于单栋塔式居住建筑的长度时，建筑间距系数不得小于 1.2。

**第八条** 其他建筑遮挡居住建筑阳光时，按本章规定执行。

## 第三章 公共建筑的间距

**第九条** 板式建筑遮挡中小学教室、托儿所和幼儿园的活动室、医疗病房等公共建筑的阳光时，须采用不得小于附表三规定的建筑间距系数。

塔式建筑遮挡中小学教室、托儿所和幼儿园的活动室、医疗病房等建筑的，建筑间距由城市规划行政主管部门视具体情况确定，但不得小于第六条和第七条关于塔式居住建筑间距的规定。

**第十条** 板式建筑遮挡办公楼、集体宿舍、招待所、旅馆等建筑的阳光时，除第十一条规定的情况外，建筑间距系数不得小于 1.3。

塔式建筑遮挡前款所列建筑的阳光时，按第六条和第七条关于居住建筑间距的规定执行。

**第十一条** 下列建筑被遮挡阳光时，其建筑间距系数由城市规划行政主管部门按

## Chapter II Space between Residential Buildings

**Article 5** In the group layout of plate-type residential buildings, the coefficient of space between buildings not less than that specified in Schedule 1 shall be adopted for the space between buildings depending on the angle between the orientation and the due south.

**Article 6** When a single tower-type residential building has no other buildings (including buildings under planning) on both sides that block the sunshine, the coefficient of space with other residential buildings shall not be less than 1.0.

**Article 7** When multiple tower-type residential buildings are arranged in a single east-west row, for the space between them and the plate-type residential buildings whose sunshine are blocked by the former, the following provisions shall apply:

(1) When the space between adjacent tower-type residential buildings is less than the length of a single tower-type residential building, the length in the ratio of length to height of tower-type residential buildings shall be calculated according to the sum of the length of and space between different tower-type residential buildings, and the coefficient of space between buildings not less than that specified in Schedule 2 shall be adopted according to the different ratio of length to height;

(2) When the space between adjacent tower-type residential buildings is equal to or greater than the length of a single tower-type residential building, the coefficient of space between buildings shall not be less than 1.2.

**Article 8** When other buildings block the sunshine of residential buildings, the provisions of this chapter shall apply.

## Chapter III Space between Public Buildings

**Article 9** When a plate-type building blocks the sunshine of public buildings such as classrooms of primary and secondary schools, activity rooms of nurseries and kindergartens, and medical wards, the coefficient of space between buildings not less than that specified in Schedule 3 shall be adopted.

If a tower-type building blocks the sunshine of classrooms of primary and secondary schools, activity rooms of nurseries and kindergartens, medical wards and other buildings, the space between buildings shall be determined by the competent departments for urban planning as appropriate, but shall not be less than the space between tower-type residential buildings as provided in Article 6 and Article 7.

**Article 10** When a plate-type building blocks the sunshine of office buildings, dormitories, hostels, hotels and other buildings, the coefficient of space between buildings shall not be less than 1.3, except for the circumstances specified in Article 11.

When a tower-type building blocks the sunshine of the buildings listed in the preceding paragraph, the provisions of Articles 6 and 7 on the space between residential buildings shall apply.

**Article 11** When the sunshine of the following buildings is blocked, the coefficient

规划要求确定：

- （一）2 层或 2 层以下的办公楼、集体宿舍、招待所、旅馆等建筑。
- （二）商业、服务业、影剧院、公用设施等建筑。
- （三）与遮挡阳光的建筑属于同一单位的办公楼、集体宿舍、招待所、旅馆等建筑。

## 第四章 附 则

**第十二条** 本规定技术用语定义如下：

**建筑间距系数：**指遮挡阳光的建筑与被遮挡阳光的建筑的间距为遮挡阳光的建筑高度的倍数。

**建筑的长高比：**指遮挡阳光的建筑的正面长度为该建筑高度的倍数。

**第十三条** 本规定经市人民政府批准自 1988 年 10 月 1 日起施行。

of space between buildings shall be determined by the competent departments for urban planning in accordance with the planning requirements:

- (1) Office buildings, dormitories, hostels, hotels and other buildings with two or less floors;
- (2) Commercial, service, theater, utility and other buildings;
- (3) Office buildings, dormitories, hostels, hotels and other buildings belonging to the same unit as the buildings blocking the sunshine.

## **Chapter IV Supplementary Provisions**

**Article 12** The technical terms in the Provisions shall have the following meanings:

Coefficient of space between buildings: means that the space between the building blocking the sunshine and the building whose sunshine is blocked is a multiple of the height of the former.

The ratio of length to height of a building: means that the front length of the building that blocks the sunshine is a multiple of the height thereof.

**Article 13** The Provisions shall come into force as of October 1, 1988 upon approval of the Municipal People's Government.

附表一

群体布置时板式居住建筑的间距系数

建筑朝向与正南夹角	0° ~ 20°	20° 以上~ 60°	60° 以上
新建区	1.7	1.4	1.5
改建区	1.6	1.4	1.5

附表二

多栋塔式居住建筑的间距系数

遮挡阳光建筑群的长高比	1.0 以下	1.0 ~ 2.0	2.0 以上~ 2.5	2.5 以上
新建区	1.0	1.2	1.5	1.7
改建区	1.0	1.2	1.5	1.6

附表三

中小学教室、托儿所和幼儿园的  
活动室、医疗病房建筑的间距系数

建筑朝向与正南夹角	0° ~ 20°	20° 以上~ 60°	60° 以上
建筑间距系数	1.9	1.6	1.8

### Schedule 1

#### Coefficient of Space between Plate-type Residential Buildings Arranged in Groups

Angle between Building Orientation and Due South	0° ~ 20°	Above 20° ~ 60°	Above 60°
New Area	1.7	1.4	1.5
Reconstruction Area	1.6	1.4	1.5

### Schedule 2

#### Coefficient of Space between Multiple Tower-type Residential Buildings

Ratio of Length to Height of Building Groups Blocking the Sunshine	Below 1.0	1.0 ~ 2.0	Above 2.0 ~ 2.5	Above 2.5
New Area	1.0	1.2	1.5	1.7
Reconstruction Area	1.0	1.2	1.5	1.6

### Schedule 3

#### Coefficient of Space of Primary and Secondary School Classrooms, Activity Rooms of Nurseries and Kindergartens, and Medical Wards

Angle between Building Orientation and Due South	0° ~ 20°	Above 20° ~ 60°	Above 60°
Coefficient of Space between Buildings	1.9	1.6	1.8

# 北京市城镇私有房屋翻建扩建规划管理若干规定

(1989年5月5日北京市人民政府第15号令发布 根据1994年1月17日北京市人民政府批准修改)

**第一条** 为加强本市城镇居民私有房屋翻建、扩建的规划管理,根据《北京市城市规划条例》和有关规定,制定本规定。

**第二条** 本市城区和郊区城镇(指建制镇,下同)居民翻建、扩建私有房屋(单元式楼房除外),均须遵守本规定。

**第三条** 翻建、扩建私有房屋,须符合下列条件:

- (一)符合城镇建设规划。
- (二)以自用为目的。属于扩建住房的,全家人均现住房(包括本市的异地住房和出租房)建筑面积不超过20平方米。
- (三)不影响城市基础设施管线和其他公用设施的安全和使用。
- (四)不影响相邻居住建筑的采光、通风、排水和相邻居民的正常通行。

**第四条** 城镇土地为国家所有,不准擅自占用。翻建、扩建私有房屋,应在原批准的用地(包括院落,下同)范围内进行。翻建、扩建房屋占用与其他房屋所有人共用的院落,须征得其他房屋所有人书面同意,并经过公证机关公证。

**第五条** 翻建、扩建私有房屋,须持下列证件,向所在地的区、县城市规划管理局申请;经区、县城市规划管理局审核批准,核发建设工程规划许可证后,方准施工。

- (一)家庭成员常住户口证明。
- (二)居所地街道办事处的证明。
- (三)房屋所有权和土地使用权证件。翻建、扩建与他人共有的房屋,须提交其他共有人同意的证明。
- (四)房屋平面位置图。

建设跨度超过6米的平房或二层(含二层)以上楼房的,须提交有设计资格证书

# Several Provisions of Beijing Municipality on the Planning and Administration of Renovation and Expansion of Private Housing in Urban Areas and Towns

(Promulgated by Decree No. 15 of the People's Government of Beijing Municipality on May 5, 1989, and revised as approved by the People's Government of Beijing Municipality on January 17, 1994)

**Article 1** The Provisions are formulated for the purpose of strengthening the planning and administration of renovation and expansion of private housing of urban residents in this Municipality in accordance with the Regulations of Beijing Municipality on Urban Planning and other relevant provisions.

**Article 2** The Provisions shall apply to the renovation and expansion of private housing (except apartment buildings) by residents in urban areas and suburban towns (i.e. designated towns, the same below) of this Municipality.

**Article 3** The renovation and expansion of private housing shall meet the following conditions:

- (1) conforming to the urban construction planning;
- (2) for personal use. To expand housing, the covered area of current per-capita housing of the whole family (including the non-local housing and rental housing in this Municipality) shall not exceed 20 square meters;
- (3) not affecting the safety and use of urban infrastructure pipelines and other public utilities; and
- (4) not affecting the sunlight, ventilation, drainage of adjacent residential buildings and normal passage of adjacent residents.

**Article 4** Urban land shall be owned by the State and shall not be occupied without authorization. The reconstruction and expansion of private housing shall be carried out within the scope and boundaries of the originally approved land (including the compound, the same below). To occupy the compound shared with other housing owners for renovation or expansion, the written consent of other housing owners and notarization by notary organs shall be obtained.

**Article 5** To renovate or expand private housing, it is necessary to apply to the local district or county urban planning authority with the following certificates; construction may be carried out only after the examination and approval of the district or county urban planning authority and the issuance of the planning permit on construction projects:

- (1) certificates of registered permanent residence of family members;
- (2) certificates issued by the sub-district office of the place of residence;
- (3) housing ownership and land use certificates; to renovate or expand housing shared with others, a certificate of the consent of other co-owners shall be submitted; and
- (4) housing plan.

To construct a bungalow with a span of more than 6m or a building with two or



的设计单位的设计。

**第六条** 下列地区的私有房屋，不准扩建；破旧危险房屋，经房地产管理部门确认、市城市规划管理局批准，允许翻建。

- （一）文物保护区、风景游览区、水源保护区。
- （二）规划道路和公共绿地范围内。
- （三）城市干道两侧的临街房（改建为商业、服务业用房的除外）。
- （四）市区河道两侧隔离带。
- （五）铁路干线两侧隔离带。
- （六）城镇规划范围内的其他特定区域。

**第七条** 在下列地区扩建私有房屋，除特殊情况，经市城市规划管理局审核符合本规定第三条条件、批准建设二层楼房的外，一般不得建设二层（含二层）以上的楼房。

- （一）规划市区。
- （二）近期开发建设区。
- （三）城镇规划范围内有特殊要求的地区。

在上述地区以外扩建楼房的，由区、县城市规划管理局核报市城市规划管理局批准。

**第八条** 翻建、扩建私有房屋，必须按城市规划行政主管部门核发的建设工程规划许可证规定的内容施工。需要变更规定内容的，须报经核发建设工程规划许可证的机关批准。

**第九条** 翻建、扩建房屋竣工后，房屋所有人须向区、县城市规划管理局申请验收。验收合格的，发给验收合格证明。房屋所有人须在验收后三个月内，持建设工程规划许可证、房屋平面位置图和验收合格证明，向所在地的区、县房屋土地管理局申请换领新的房屋所有权证。

**第十条** 违反本规定的，由城市规划行政主管部门按有关规定处理。

**第十一条** 本规定执行中的具体问题，由市城市规划管理局负责解释。

**第十二条** 本规定自 1989 年 6 月 1 日起施行。

more floors, the design of the design unit with the design qualification certificate shall be submitted.

**Article 6** Expansion of private housing in the following areas is prohibited; renovation of old and dilapidated housing is allowed upon confirmation of the real estate administration department and approval of the Municipal Urban Planning Administration:

- (1) cultural relic protection zones, scenic spots and water source protection zones;
- (2) within the boundaries of roads under planning and public green space;
- (3) housing with street frontages on both sides of urban roads (except for those converted to commercial or service housing);
- (4) protective belts on both sides of river courses in urban areas;
- (5) protective belts on both sides of trunk railways; and
- (6) other specific areas within the scope of urban planning.

**Article 7** To expand private housing in the following areas, except for the two-storey buildings that meet the conditions of Article 3 of the Provisions upon the examination of and are approved for construction by the Municipal Urban Planning Administration under special circumstances, buildings with two or more floors are generally prohibited:

- (1) urban areas under planning;
- (2) recent development and construction zones; and
- (3) areas with special requirements within the scope of urban planning.

The expansion of buildings outside the above areas shall be examined by the district or county urban planning authorities and submitted to the Municipal Urban Planning Administration for approval.

**Article 8** The renovation and expansion of private housing must be carried out in accordance with the contents of the planning permit on construction projects issued by the competent departments for urban planning. If it is necessary to change the prescribed contents, the approval of the authority that issues the planning permit on construction projects shall be obtained.

**Article 9** After completion of renovation or expansion of housing, housing owners shall apply to the district or county urban planning authorities for inspection and acceptance. If the housing passes the inspection, a certificate of acceptance shall be issued. Housing owners shall, within 3 months after the acceptance, apply to the local district or county housing and land authority for a new housing ownership certificate with the planning permit on construction projects, housing plan and acceptance certificate.

**Article 10** Any violation of the Provisions shall be dealt with by the competent departments for urban planning in accordance with relevant provisions.

**Article 11** The Municipal Urban Planning Administration shall be responsible for the interpretation of specific issues in the implementation of the Provisions.

**Article 12** The Provisions shall come into force as of June 1, 1989.

# 北京市工程建设监理管理办法

(1995年2月21日北京市人民政府第5号令发布 根据1997年12月31日北京市人民政府第12号令第一次修改 根据2004年6月1日北京市人民政府第150号令第二次修改 根据2007年11月23日北京市人民政府第200号令第三次修改 根据2010年11月27日北京市人民政府第226号令第四次修改 根据2019年4月29日北京市人民政府第283号令第五次修改)

**第一条** 为加强对工程建设监理的管理，提高建设工程质量，充分发挥建设投资的综合效益，制定本办法。

**第二条** 本办法所称建设监理，是指具有法人资格的监理单位受建设单位的委托，依据有关法律、法规以及合同等对施工阶段工程建设投资、工期和质量进行的监督管理。

**第三条** 凡在本市行政区域内进行建筑、市政、设备安装等工程建设监理，均按本办法执行。

**第四条** 市住房和城乡建设委员会是本市工程建设监理的主管机关。

**第五条** 工程建设监理主管机关主要履行以下职责：

- (一) 贯彻执行国家和本市有关工程建设监理的法律、法规和规章；
- (二) 负责本市监理单位的资质管理；
- (三) 负责中央各部门所属监理单位和外省市监理单位，港、澳、台地区以及外国监理单位在本市从事监理业务的管理；
- (四) 负责本市监理工程师的培训、资格审定和执业注册的管理；

# Administrative Measures of Beijing Municipality for Project Construction Supervision

(Promulgated by Decree No. 5 of the People's Government of Beijing Municipality on February 21, 1995, revised for the first time in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997, revised for the second time in accordance with Decree No. 150 of the People's Government of Beijing Municipality on June 1, 2004, revised for the third time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, revised for the fourth time in accordance with Decree No. 226 of the People's Government of Beijing Municipality on November 27, 2010, and revised for the fifth time in accordance with Decree No. 283 of the People's Government of Beijing Municipality on April 29, 2019)

**Article 1** The Measures are formulated for the purposes of strengthening the administration of project construction supervision, improving the quality of construction projects and giving full play to the comprehensive benefits of construction investment.

**Article 2** The term “construction supervision” as mentioned in the Measures refers to the supervision and administration of the construction investment, construction period and quality of projects in the construction stage by the supervision units with corporate capacity upon the entrustment of the development units in accordance with relevant laws, regulations and contracts.

**Article 3** The Measures shall apply to the supervision over the construction, municipal works, equipment installation and other projects within the administrative area of this Municipality.

**Article 4** The Municipal Commission of Housing and Urban-Rural Development is the competent authority in charge of the project construction supervision in this Municipality.

**Article 5** The competent authority in charge of project construction supervision shall mainly perform the following duties:

(1) to implement the laws, regulations and rules of the State and this Municipality on project construction supervision;

(2) to be responsible for the qualification management of the supervision units in this Municipality;

(3) to be responsible for the management of the supervision businesses in this Municipality by the supervision units subordinate to various central government departments, as well as supervision units from other provinces and cities, Hong Kong, Macao, Taiwan and foreign countries;

(4) to be responsible for the management of the training, qualification examination and practice registration of supervising engineers in this Municipality;

(五) 负责工程建设监理招标投标工作的管理;

(六) 调解监理争议, 调查处理重大监理事故;

(七) 检查处理违法的监理行为。

**第六条** 下列建设工程应当实行监理:

(一) 大中型工业和交通建设项目, 市政工程和大型民用建设工程;

(二) 国家和本市的重点建设工程;

(三) 利用外资的建设工程;

(四) 高新技术产业开发区工程;

(五) 住宅小区和危旧房改造小区工程。

**第七条** 成立建设监理单位应当具备下列条件:

(一) 有固定的经营场所;

(二) 注册资本金符合国家有关规定;

(三) 有符合国家和本市规定的工程技术与管理人員。

**第八条** 成立监理单位应当在市场监督管理部门登记注册后, 到建设监理主管部门办理资质认定手续。

**第九条** 从事监理工作的注册监理工程师应当按照国家有关规定考试合格并注册, 取得监理工程师注册执业证书和执业印章。未取得注册证书和执业印章的人员, 不得以注册监理工程师的名义从事工程监理及相关业务活动。

**第十条** 建设单位应当通过招标投标方式选择监理单位。建设单位和监理单位应当签订合同, 合同应当具备以下主要条款:

(一) 监理的范围和内容;

(二) 对工程工期、质量和投资控制的要求;

(三) 建设单位赋予监理单位的权限和提供的工作条件;

(四) 监理费率和支付方式;

(五) 建设单位对监理单位合理化建议的奖励办法;

(六) 违约责任。

监理合同签订后, 监理单位应当将合同向建设监理主管机关备案。

(5) to be responsible for the management of the tendering and bidding for project construction supervision;

(6) to mediate supervision disputes and investigate and handle major supervision accidents; and

(7) to investigate and deal with illegal acts of supervision.

**Article 6** The following construction projects shall be subject to supervision:

(1) large and medium-sized industrial and traffic construction projects, municipal works and large civil construction projects;

(2) key construction projects of the State and this Municipality;

(3) foreign-invested construction projects;

(4) projects in high and new tech industrial development zones; and

(5) projects for residential quarters and reconstruction of old and dilapidated buildings.

**Article 7** The establishment of a construction supervision unit shall meet the following requirements:

(1) having a fixed place of business;

(2) having the registered capital conforming to the relevant provisions of the State; and

(3) having construction technology and management personnel in line with the provisions of the State and this Municipality.

**Article 8** To establish a supervision unit, after registration with the market supervision and administration departments, the qualification verification procedures shall be handled with the competent departments for construction supervision.

**Article 9** Registered supervising engineers engaged in supervision shall pass the examination and be registered in accordance with relevant provisions of the State, and obtain the registered practice certificates and practice seals of supervising engineers. Those who have not obtained the registration certificates and practice seals shall not engage in project supervision and related business activities in the name of registered supervising engineers.

**Article 10** The development units shall select supervision units through tendering and bidding. The development units and the supervision units shall enter into a contract, which shall include:

(1) scope and contents of supervision;

(2) requirements on construction period, quality and investment control;

(3) authorities granted and working conditions provided by the development units to the supervision units;

(4) supervision rate and payment method;

(5) incentive measures of the development units for reasonable suggestions of the supervision units; and

(6) liability for breach of contract.

After the supervision contract is concluded, the supervision units shall file the contract with the competent authority of construction supervision for the record.

**第十一条** 建设单位在监理单位实施监理前应当将监理的范围、内容、总监理工程师姓名及其授予监理单位的权限等，书面通知施工单位；总监理工程师应当将其授予监理工程师的权限书面通知施工单位。

**第十二条** 监理单位必须按照规定的营业范围和资质等级承接监理业务，并遵守下列规定：

（一）不得监理与被监理工程的施工承包单位以及建筑材料、建筑构配件和设备供应单位有隶属关系或者其他利害关系的建设工程；

（二）禁止将本单位监理的建设工程转给其他单位监理；

（三）不得承包施工或进行材料及设备的销售；

（四）本单位从业人员不得在施工、设备制造和材料销售单位兼职。

**第十三条** 监理人员进行监理，必须严格执行合同和有关法律、法规、技术标准。

**第十四条** 工程监理实行总监理工程师负责制。总监理工程师行使合同赋予监理单位的权限，对工程的投资、工期和质量、安全进行全面监督和管理。

在监理过程中，总监理工程师应当向建设单位报告工程情况，未经建设单位特别授权，总监理工程师无权变更建设单位与施工单位签订的工程承包合同。

**第十五条** 总监理工程师对危及工程质量和安全的施工，按照监理权限可以下达停工指令，对施工单位人员不符合工作要求的，可以要求撤换，施工单位应当执行。

**第十六条** 对监理的工程项目，施工单位结算工程进度款要经总监理工程师核定签字认可，建设单位同意并报开户银行审查后方可支付。被总监理工程师拒绝签字认可的，建设单位不予支付工程款。

**第十七条** 对影响工程质量和使用功能以及不合理的设计图纸，监理单位有权要求有关单位修改。对不符合质量要求的材料、设备和构配件，监理单位有权要求生产或者供应单位退换。

**第十八条** 监理费用的收取应当按照《建设工程监理与相关服务收费管理规定》

**Article 11** The development units shall, before the supervision on the part of the supervision units, notify the construction units in writing of the scope and content of supervision, name of the chief supervising engineer and the authority granted to the supervising units; the chief supervising engineer shall notify the construction units in writing of the authority granted to supervising engineers.

**Article 12** The supervision units must undertake supervision business in accordance with the prescribed business scope and qualification level, and abide by the following provisions:

(1) They shall not carry out supervision over the construction projects that are subordinate to or have other interests in the contractors of the projects under supervision and the suppliers of construction materials, construction components, fittings and equipment;

(2) They shall not transfer the construction projects under their supervision to other units for supervision;

(3) They shall not contract for construction or sell materials and equipment; and

(4) Their employees shall not work concurrently for units of construction, equipment manufacturing and material sales.

**Article 13** When carrying out supervision, the supervision personnel must strictly implement contracts, relevant laws, regulations and technical standards.

**Article 14** The system of responsibility by the chief supervising engineer shall be implemented in project supervision. The chief supervising engineer shall exercise the authority granted by contracts to the supervision units in carrying out comprehensive supervision and management of the investment, construction period, quality and safety of projects.

In the process of supervision, the chief supervising engineer shall report project information to the development units. Without special authorization of the development units, the chief supervising engineer has no right to change the project contract signed between the development units and the construction units.

**Article 15** The chief supervising engineer may, in accordance with the supervision authority, issue a stop work order against the construction that endangers project quality and safety, and may require changing the personnel of the development units that do not meet the work requirements, while the construction units shall implement the order.

**Article 16** For projects under supervision, the settlement of project progress payment by the construction units shall be approved and signed by the chief supervising engineer, and the payment may be made only after the approval of the development units and the examination of the bank of deposit. If the chief supervising engineer refuses to sign for approval, the development units will not make payment.

**Article 17** The supervision units shall have the right to require the relevant units to modify the unreasonable design drawings that affect the quality and use functions of projects. For materials, equipment, components and fittings that do not meet the quality requirements, the supervision units shall have the right to require replacement by producers or suppliers.

**Article 18** Supervision fees shall be collected in accordance with the Provisions on



执行。

外商独资和国外贷款、赠款建设的工程建设监理费，国内监理单位监理的，可按国内同类型工程监理费率的 130% 至 150% 计收；合作监理的，可参照国外标准由建设单位和监理单位商定。

**第十九条** 实行监理的工程必须接受建设工程质量监督部门的监督管理。

**第二十条** 违反本办法，建设项目必须实行工程监理而建设单位未实行的，由工程建设监理主管部门按照《建设工程质量管理条例》的有关规定处理。

**第二十一条** 本办法自 1995 年 3 月 10 日起施行。

the Management of Construction Project Supervision and Related Service Fees.

For the project construction funded by foreign investment and foreign loans or donations, in the case of supervision by domestic supervision units, supervision fees may be collected at 130% to 150% of the supervision rate of the same type of domestic projects; in the case of cooperative supervision, supervision fees may be negotiated by the development units and the supervision units by reference to foreign standards.

**Article 19** Projects subject to supervision must be subject to the supervision and administration of the construction project quality supervision departments.

**Article 20** Where the development units, in violation of the Measures, fail to have construction projects that must be subject to project supervision supervised, they shall be dealt with by the competent departments for project construction supervision in accordance with relevant provisions of the Regulations on the Management of Construction Project Quality.

**Article 21** The Measures shall come into force as of March 10, 1995.

# 北京市工程建设场地地震安全性评价管理办法

(1997 年 7 月 14 日北京市人民政府第 5 号令发布)

**第一条** 为加强本市工程建设场地地震安全性评价工作的管理,防御和减轻地震灾害,保护国家和人民生命财产安全,制定本办法。

**第二条** 本办法所称工程建设场地地震安全性评价(以下简称地震安全性评价),是指以地震观测资料和地震地质、地球物理等科研和技术工作为基础,对工程建设场地未来可能遭遇到的地震及其不同风险水平所取概率、强度的预测和地震事件对工程建设场地的影响程度及安全程度的评价。

**第三条** 本办法适用于本市行政区域内工程建设场地的地震安全性评价工作。

**第四条** 市地震局是本市地震安全性评价工作的主管部门,负责本办法的组织实施和监督检查。

区、县地震工作部门协助市地震局进行本行政区域内地震安全性评价的管理工作。

计划、规划、建设、房屋土地、财政等部门,应当按照各自的职责,依法对地震安全性评价进行管理。

**第五条** 下列工程建设场地,建设单位必须进行地震安全性评价:

(一)抗震设防要求高于《中国地震烈度区划图》标定设防标准的重点工程、特殊工程和可能产生严重次生灾害的工程;

(二)位于地震烈度分界线两侧各 8 公里区域内的新建、改建、扩建工程;

(三)局部地质条件较复杂或者地震研究程度和资料详细程度较低的地区;

(四)占地面积较大或者跨越不同地质条件区域的新建城镇、大型厂矿企业以及经济技术开发区。

# Administrative Measures of Beijing Municipality for Seismic Safety Evaluation at Construction sites

(Promulgated by Decree No. 5 of the People's Government of Beijing Municipality on July 14, 1997)

**Article 1** The Measures are formulated for the purposes of strengthening the administration of seismic safety evaluation at construction sites in this Municipality, preventing and mitigating earthquake disasters, and protecting people's lives and property and the State.

**Article 2** The term "seismic safety evaluation at construction sites" (hereinafter referred to as seismic safety evaluation) as mentioned in the Measures refers to the prediction of probability and intensity of earthquakes that may occur at construction sites and their different risk levels in the future and evaluation of impact degree and safety degree of earthquake events on construction sites based on seismic observation data and scientific research and technical work in terms of seismogeology and geophysics.

**Article 3** The Measures shall apply to the seismic safety evaluation at construction sites within the administrative area of this Municipality.

**Article 4** The Municipal Earthquake Agency is the competent department in charge of seismic safety evaluation in this Municipality, which shall be responsible for the organization, implementation, supervision and inspection of the Measures.

The district or county earthquake departments shall assist the Municipal Earthquake Agency in the administration of seismic safety evaluation within their respective administrative areas.

The departments of plan, planning, construction, housing and land, finance, etc. shall, within the scope of their respective functions and duties, manage seismic safety evaluation according to law.

**Article 5** The development units must carry out seismic safety evaluation at the following construction sites:

(1) key projects, special projects and projects that may cause serious secondary disasters with earthquake fortification requirements higher than those specified in the Earthquake Intensity Zoning Map of China;

(2) new construction, reconstruction or expansion projects located within 8 kilometers on both sides of earthquake intensity boundaries;

(3) areas where local geological conditions are relatively complex or where the level of seismic research is relatively low and the data is less detailed; and

(4) new towns, large industrial and mining enterprises and economic and technological development zones that cover a large area or span areas with different geological conditions.

进行地震安全性评价的工程建设场地的具体范围由市地震局、市计划委员会、市政管理委员会和市城乡规划委员会按照国家有关规定并结合本市实际情况制定。

**第六条** 承担地震安全性评价任务的单位，必须持有国家或者市地震局核发的工程建设场地地震安全性评价许可证书，并按照许可证书规定的资质等级和评价范围进行地震安全性评价工作。

中央和外省市单位在本市行政区域内承担地震安全性评价任务，应当持国家地震局核发的工程建设场地地震安全性评价许可证书到市地震局办理资格验证和任务登记。

**第七条** 承担地震安全性评价任务的单位应当执行国家规定的地震安全性评价工作规范，编制地震安全性评价报告。

**第八条** 地震安全性评价报告应当报请市地震安全性评定委员会评审，经评审通过的地震安全性评价报告应当由市地震局审核批准，确定抗震设防标准。经审核批准的抗震设防标准，任何单位和个人不得擅自降低或者提高。

**第九条** 工程建设场地地震安全性评价工作，应当在工程建设项目的可行性研究阶段进行。

工程建设项目的可行性研究报告应当包括工程建设场地的地震安全性评价内容和市地震局审核批准的抗震设防标准。工程建设项目的可行性研究报告中没有相应的地震安全性评价内容和市地震局审核批准的抗震设防标准的，计划部门不予批准可行性研究报告，其他主管部门不予办理有关手续。

工程建设场地地震安全性评价工作经费应当列入工程建设项目投资计划，在工程建设前期费用中支出。

**第十条** 承担地震安全性评价任务的单位，应当严格执行国家和本市制定的收费项目和收费标准，不得擅自增加收费项目或者提高收费标准。

**第十一条** 建设单位未按照抗震设防标准进行建设的，由市地震局责令其限期改

The specific scope of seismic safety evaluation at construction sites shall be formulated by the Municipal Earthquake Agency, the Municipal Commission of Planning, the Municipal Commission of Municipal Administration and the Municipal Commission of Urban-Rural Planning in accordance with relevant provisions of the State and in light of actual circumstances of this Municipality.

**Article 6** Units undertaking seismic safety evaluation tasks must hold the license for seismic safety evaluation at construction sites issued by China Earthquake Administration or the Municipal Earthquake Agency, and carry out seismic safety evaluation in accordance with the qualification level and evaluation scope specified in the license.

Central government units and units from other provinces and cities that undertake seismic safety evaluation tasks within the administrative area of this Municipality shall handle qualification verification and task registration at the Municipal Earthquake Agency with the license for seismic safety evaluation at construction sites issued by China Earthquake Administration.

**Article 7** Units undertaking seismic safety evaluation tasks shall follow the work standards for seismic safety evaluation prescribed by the State and work out seismic safety evaluation reports.

**Article 8** Seismic safety evaluation reports shall be submitted to the Municipal Committee for Seismic Safety Evaluation for appraisal. Seismic safety evaluation reports that have been appraised shall be examined and approved by the Municipal Earthquake Agency to determine the seismic fortification criteria. No unit or individual may, without authorization, reduce or raise the seismic fortification criteria that have been examined and approved.

**Article 9** Seismic safety evaluation at construction sites shall be carried out at the stage of feasibility study on construction projects.

The feasibility study report of a construction project shall include the contents of seismic safety evaluation at the construction site and seismic fortification criteria examined and approved by the Municipal Earthquake Agency. In the absence of corresponding seismic safety evaluation contents and seismic fortification criteria examined and approved by the Municipal Earthquake Agency in the feasibility study report of a construction project, the plan departments shall not approve the feasibility study report, and other competent departments shall not go through the relevant formalities.

The funds for seismic safety evaluation at construction sites shall be included in investment plans for construction projects and shall be disbursed from the preliminary expenses of construction projects.

**Article 10** Units undertaking seismic safety evaluation tasks shall strictly implement the charging items and standards formulated by the State and this Municipality, and shall not increase charging items or raise charging standards without authorization.

**Article 11** The development units failing to carry out construction in accordance with seismic fortification criteria shall be ordered by the Municipal Earthquake Agency to make corrections within a specified time limit, and may be fined not less than 10,000 yuan but not

正，并可处以 1 万元以上 3 万元以下罚款。

**第十二条** 没有工程建设场地地震安全性评价许可证书，或者超越许可证书规定的资质等级和评价范围进行地震安全性评价的，其评价结果无效，由市地震局给予警告，并可处以 1 万元罚款。

**第十三条** 本办法执行中的具体问题，由市地震局负责解释。

**第十四条** 本办法自 1997 年 7 月 28 日起施行。

more than 30,000 yuan.

**Article 12** The results of seismic safety evaluation without the license for seismic safety evaluation at construction sites, or beyond the qualification level and evaluation scope specified in the license shall be invalid, and the Municipal Earthquake Agency shall give a warning and may impose a fine of 10,000 yuan.

**Article 13** The Municipal Earthquake Agency shall be responsible for the interpretation of specific issues in implementing the Measures.

**Article 14** The Measures shall come into force as of July 28, 1997.



# 北京市人民防空工程建设与使用管理规定

(1998年4月1日北京市人民政府第1号令公布 根据2001年8月27日北京市人民政府第82号令第一次修改 根据2004年6月1日北京市人民政府第150号令第二次修改 根据2010年11月27日北京市人民政府第226号令第三次修改)

## 第一章 总 则

**第一条** 为了加强人民防空工程(以下简称人防工程)的建设和使用管理,提高城市整体防护能力,保护人民的生命和财产安全,为经济建设服务,结合本市实际情况,制定本规定。

**第二条** 本规定所称人防工程包括为保障战时人员与物资掩蔽、人民防空指挥、医疗救护等单独修建的地下防护建筑,以及结合地面建筑修建的战时可用于防空的地下室。

**第三条** 本市行政区域内人防工程的规划、建设、维护和使用管理,应当遵守本规定。法律、法规另有规定的除外。

**第四条** 市和区、县人民防空主管部门负责本行政区域内的人防工程建设和使用管理工作。

本市发展改革、规划、住房城乡建设、公安、消防、财政、物价、工商行政和市政市容管理等有关部门在各自的职责范围内,依法进行人防工程的建设和使用管理工作。

**第五条** 人防工程建设实行长期准备、重点建设、平战结合的方针,贯彻与经济建设协调发展、与城市建设相结合的原则。

# Provisions of Beijing Municipality on the Administration of Construction and Use of Civil Air Defense Works

(Promulgated by Decree No. 1 of the People's Government of Beijing Municipality on April 1, 1998, revised for the first time in accordance with Decree No. 82 of the People's Government of Beijing Municipality on August 27, 2001, revised for the second time in accordance with Decree No. 150 of the People's Government of Beijing Municipality on June 1, 2004, and revised for the third time in accordance with Decree No. 226 of the People's Government of Beijing Municipality on November 27, 2010)

## Chapter I General Provisions

**Article 1** The Provisions are formulated for the purposes of strengthening the administration of construction and use of civil air defense works (hereinafter referred to as civil air defense works), improving the overall protective capacity of this Municipality, protecting people's lives and property, and serving economic construction in light of actual circumstances of this Municipality.

**Article 2** The term "civil air defense works" as mentioned in the Provisions includes underground protective structures built separately for providing shelters for people and materials in wartime, civil air defense command, medical aid, etc., as well as basements built in combination with surface structures that may be used for air defense in wartime.

**Article 3** The Provisions shall apply to the planning, construction, maintenance and use management of civil air defense works within the administrative area of this Municipality, unless otherwise provided by laws and regulations.

**Article 4** The municipal, district and county competent departments for civil air defense shall be responsible for the administration of construction and use of civil air defense works within their respective administrative areas.

The relevant departments of development and reform, planning, housing and urban-rural development, public security, fire service, finance, price administration, industry and commerce administration, municipal administration and city appearance, etc. of this Municipality shall, within the scope of their respective functions and duties, carry out the administration of construction and use of civil air defense works according to law.

**Article 5** The policies of long-term preparation, key construction and equal stress on peacetime and wartime, and the principles of coordinated development with economic construction and combination with urban construction shall be implemented in construction

**第六条** 本市鼓励支持企业事业组织、社会团体、个人建设和使用人防工程。人防工程平时由投资者使用管理，收益归投资者所有。

平时使用人防工程实行有偿使用的原则。

## 第二章 人防工程的建设

**第七条** 本市人防工程的规划应当按照平战结合、地上地下结合、单建附建结合、配套建设的原则确定。规模较大的人防工程应当与地下铁道、地下商业设施、地下车库以及绿地、广场的建设相结合。

**第八条** 各单位按照规定建设的人防工程，应当列入本市年度投资计划和规划年度实施计划。

由国家专项投资新建的人防工程，应当列入市人民防空主管部门的人防工程建设计划，并向市发展改革部门备案。

**第九条** 建设单位在城镇结合民用建筑建设的人防工程，应当按照国家和本市规定的建设标准进行建设。

**第十条** 建设项目人防工程建设标准审查办理流程按照本市有关规定执行。

经审查批准的人防工程的规划设计，不得擅自改变；确需改变的，应当报原审批机关批准。

**第十一条** 按照规定应当建设人防工程的工程建设项目，由于客观条件限制或者其他原因不宜建设人防工程的，经市人民防空主管部门审查批准，可以易地集中建设人防工程。

**第十二条** 人防工程应当按照规划确定的建设规模、防护要求和使用效能进行设计，并应当符合国家规定的设计规范和设计标准。

人防工程的出入口以及采光、通风、采暖、防水、防火、供电、照明、给排水、

of civil air defense works.

**Article 6** This Municipality shall encourage enterprises, institutions, social organizations and individuals to build and use civil air defense works. Civil air defense works shall be used and managed by investors in peacetime, with earnings belonging to investors.

The principle of paid use shall be implemented for use of civil air defense works in peacetime.

## **Chapter II Construction of Civil Air Defense Works**

**Article 7** The planning for civil air defense works in this Municipality shall be determined in accordance with the principles of equal stress on peacetime and wartime, aboveground and underground construction, and separate and attached construction, as well as supporting construction. Large-scale civil air defense works shall be combined with the construction of subways, underground commercial facilities, underground garages, green space and squares.

**Article 8** Civil air defense works constructed by various units as stipulated shall be included in the annual investment plan and annual implementation plan for planning of this Municipality.

Newly built civil air defense works funded by special investment of the State shall be listed in the construction plan for civil air defense works of the municipal competent department for civil air defense, and shall be filed with the municipal development and reform department.

**Article 9** Civil air defense works constructed by development units in combination with civil buildings in urban areas and towns shall be constructed in accordance with the construction standards prescribed by the State and this Municipality.

**Article 10** The procedures for examination of construction standards for civil air defense works of construction projects shall follow relevant provisions of this Municipality.

The planning and design for civil air defense works that have been examined and approved shall not be changed without authorization; if it is really necessary to change, an application shall be submitted to the original examination and approval authority for approval.

**Article 11** Where the construction of civil air defense works is inadvisable due to the restrictions of objective conditions or other reasons for construction projects where civil air defense works are necessary as stipulated, civil air defense works may be intensively constructed in another place with the examination and approval of the municipal competent department for civil air defense.

**Article 12** Civil air defense works shall be designed in accordance with the construction scale, protection requirements and use efficiency determined in the planning, and shall conform to the design specifications and design standards prescribed by the State.

For the entrance, exit, sunlight, ventilation, heating, waterproof, fire prevention, power supply, lighting, water supply and drainage, noise treatment, etc. of civil air defense works,

噪声处理等设计，应当采取相应措施符合平时使用的要求，并在设计中同步完成。

**第十三条** 承担人防工程设计任务的单位应当具有国家规定的工程设计资格等级。

**第十四条** 按照规定需要建设人防工程的建设单位，应当持市人民防空主管部门核发的《人防工程设计审核批准通知单》或者《防空地下室易地建设证明书》向规划管理部门申请办理《建设工程规划许可证》。

**第十五条** 人防工程的施工应当按照批准的施工图设计进行，并符合国家规定的防护标准和质量标准。

安装、使用的人防工程专用设备和防水材料应当符合国家规定的标准。

**第十六条** 人防工程竣工应当由建设单位组织验收，经验收合格的，依法向人民防空主管部门备案，并可交付使用。未经验收或者验收不合格的，不得交付使用。

**第十七条** 建设单位应当在人防工程竣工验收合格后，按照规定移交人防工程的档案资料。

**第十八条** 人防工程的规划、设计和建设单位及其有关人员应当遵守国家规定，依法保守人防工程的秘密。

### 第三章 人防工程的维护与使用

**第十九条** 本市鼓励平时利用人防工程为经济建设和人民生活服务。

市人民防空主管部门对人防工程的维护管理进行监督检查。

公用人防工程的维护管理由人民防空主管部门负责。

有关单位应当按照国家规定对本单位已经修建或者使用的人防工程进行维护管理，使其保持良好使用状态和防护能力。

**第二十条** 人防工程的维护管理应当执行国家规定的技术规程，实行分工负责的原则。

**第二十一条** 人防工程的建设或者使用单位应当确定专职人员负责人防工程的维护管理，建立健全人防工程维护管理的各项规章制度，发现安全隐患及时处理并向人

corresponding measures shall be taken to ensure that they meet the requirements of use in peacetime, and they shall be completed simultaneously in the design.

**Article 13** Units undertaking design tasks in connection with civil air defense works shall have the engineering design qualification grade prescribed by the State.

**Article 14** The development units that need to construct civil air defense works as stipulated shall apply to the planning administration departments for the Planning Permit on Construction Projects with the Notice of Examination and Approval of Design for Civil Air Defense Works or the Certificate of Construction of Air Defense Basements in Another Place issued by the municipal competent department for civil air defense.

**Article 15** The construction of civil air defense works shall be carried out in accordance with the design in approved construction drawings and shall conform to the protection standards and quality standards prescribed by the State.

The special equipment and waterproof materials installed and used for civil air defense works shall conform to the standards prescribed by the State.

**Article 16** Upon the completion of civil air defense works, the development units shall organize the inspection and acceptance. Civil air defense works that have been accepted shall be filed with the competent departments for civil air defense according to law and may be put into service. Those that have not been inspected and accepted or fail to pass the inspection shall not be put into service.

**Article 17** The development units shall, after the completion and acceptance of civil air defense works, hand over the archives of civil air defense works as stipulated.

**Article 18** The planning, design and development units of civil air defense works and their relevant personnel shall abide by national regulations and keep the secrets of civil air defense works according to law.

### **Chapter III Maintenance and Use of Civil Air Defense Works**

**Article 19** This Municipality shall encourage the use of civil air defense works to serve economic construction and people's life in peacetime.

The municipal competent department for civil air defense shall supervise and inspect the maintenance and management of civil air defense works.

The competent departments for civil air defense shall be responsible for the maintenance and management of public civil air defense works.

The relevant units shall, in accordance with the provisions of the State, maintain and manage the civil air defense works that have been built or used thereby, so as to maintain their good service condition and protective capacity.

**Article 20** The technical regulations prescribed by the State and the principle of division of labor with individual responsibility shall be implemented for the maintenance and management of civil air defense works.

**Article 21** The construction or use units of civil air defense works shall appoint full-time personnel to be responsible for the maintenance and management of civil air

民防空主管部门报告。

人民防空主管部门应当加强对人防工程使用安全的监督检查。对可能造成人防工程重大安全隐患的行为，人民防空主管部门有权予以制止。

**第二十二条** 禁止下列侵害人防工程的行为：

- （一）在人防工程内生产和储存爆炸、剧毒、易燃、放射性和腐蚀性物品；
- （二）进行影响人防工程使用或者降低人防工程防护能力的作业；
- （三）向人防工程内排入废水、废气和倾倒废弃物；
- （四）破坏人防工程的行为。

**第二十三条** 任何组织或者个人不得擅自拆除公用的人民防空工程和专用配套工程；确需拆除的，必须报经所在地区、县人民防空主管部门批准，并由拆除单位补建或者补偿。

其他人民防空工程确需拆除的，报所在地区、县人民防空主管部门备案。

**第二十四条** 任何组织或者个人不得擅自改造人防工程；确需改造的，应当报人民防空主管部门批准，在按照人防工程有关技术规范采取有效安全措施后进行，并不得改变人防工程的主体结构和降低人防工程的原有防护能力。

**第二十五条** 平时使用人防工程，应当按照规定报人民防空主管部门审查批准，并向人民防空主管部门申请办理《人防工程使用证》。

平时使用公用的人防工程，使用人应当按照国家和本市的规定交纳人防工程使用费。

## 第四章 法律责任

**第二十六条** 在城镇新建民用建筑，违反国家和本市有关规定不修建人防工程的，由人民防空主管部门按照《北京市人民防空条例》的有关规定处理。

**第二十七条** 不按照国家规定的防护标准和质量标准修建人防工程，致使人防工

defense works, establish and improve various rules and regulations for the maintenance and management of civil air defense works, deal with potential safety hazards in a timely manner and report to the competent departments for civil air defense.

The competent departments for civil air defense shall strengthen the supervision and inspection of the use safety of civil air defense works, and shall have the right to stop acts that may cause major potential safety hazards to civil air defense works.

**Article 22** The following acts endangering civil air defense works are prohibited:

(1) producing and storing explosive, highly toxic, inflammable, radioactive and corrosive articles in civil air defense works;

(2) carrying out operations that affect the use of civil air defense works or reduce the protective capacity of civil air defense works;

(3) discharging waste water or waste gas and dumping wastes into civil air defense works; or

(4) acts of destroying civil air defense works.

**Article 23** No organization or individual may demolish public civil air defense works and special supporting works without authorization. If it is really necessary to demolish such works, the demolishing unit shall report to the local district or county competent department for civil air defense for approval, and make supplementary construction or compensation.

If other civil air defense works really need to be demolished, the matter shall be reported to the local district or county competent departments for civil air defense for the record.

**Article 24** No organization or individual may transform civil air defense works without authorization; if it is really necessary to do so, the transformation shall be reported to the competent departments for civil air defense for approval and carried out after effective safety measures are taken in accordance with relevant technical specifications for civil air defense works, and the main structure of civil air defense works shall not be changed and the original protective capacity of civil air defense works shall not be reduced.

**Article 25** The use of civil air defense works in peacetime shall be reported to the competent departments for civil air defense for examination and approval as stipulated, and an application shall be made to the competent departments for civil air defense for the Use Certificate for Civil Air Defense Works.

When using public civil air defense works in peacetime, users shall pay for use of civil air defense works in accordance with the provisions of the State and this Municipality.

## Chapter IV Legal Liability

**Article 26** Where no civil air defense works are constructed for newly built civil buildings in urban areas and towns in violation of relevant provisions of the State and this Municipality, the matter shall be dealt with by the competent departments for civil air defense in accordance with relevant provisions of the Regulations of Beijing Municipality on Civil Air Defense.

**Article 27** In case of failure to construct civil air defense works in accordance with the protection standards and quality standards prescribed by the State, so that civil air defense works fail to pass the inspection, the party involved shall be given a warning,



程验收不合格的，由人民防空主管部门对当事人给予警告、责令限期改正，并处1万元至5万元罚款；造成损失的，应当依法赔偿损失。

**第二十八条** 侵占人防工程的，由人民防空主管部门对当事人给予警告、责令限期改正，可以对个人并处5000元以下罚款，对单位并处1万元至5万元罚款；造成损失的，应当依法赔偿损失。

**第二十九条** 违反本规定，有下列行为之一的，由人民防空主管部门对当事人给予警告、责令限期改正，可以对个人并处5000元以下罚款，对单位并处1万元至5万元罚款；造成损失的，应当依法赔偿损失：

- （一）擅自改造、改变人防工程主体结构的；
- （二）擅自拆除人防工程设备设施的；
- （三）未采取有效安全措施，擅自进行影响人防工程使用或者降低人防工程防护能力的作业，或者采用其他方法危害人防工程的安全和使用效能的；
- （四）拆除人防工程后拒不补建或者补偿的；
- （五）向人防工程内排入废水、废气或者倾倒废弃物的。

**第三十条** 违反本规定，故意损坏人防工程设施或者在人防工程内生产和储存爆炸、剧毒、易燃、放射性等危险品，尚不构成犯罪的，依照治安管理处罚条例的有关规定处罚；构成犯罪的，依法追究刑事责任。

**第三十一条** 人民防空主管部门的工作人员玩忽职守、滥用职权、徇私舞弊或者有其他违法、失职行为构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分。

## 第五章 附 则

**第三十二条** 本规定自1998年5月1日起施行。1986年8月15日市人民政府发布的《北京市实施〈人民防空工程维护管理规定〉的细则》同时废止。

ordered to make corrections within a specified time limit and fined 10,000 yuan to 50,000 yuan by the competent departments for civil air defense; if losses are caused, compensation shall be made according to law.

**Article 28** In case of encroachment on civil air defense works, the competent departments for civil air defense shall give a warning to the party involved and order it to make corrections within a specified time limit, and may impose a fine of not more than 5,000 yuan on individuals and 10,000 yuan to 50,000 yuan on units; if losses are caused, compensation shall be made according to law.

**Article 29** In case of any of the following acts in violation of the Provisions, the competent departments for civil air defense shall give a warning to the party involved and order it to make corrections within a specified time limit, and may impose a fine of not more than 5,000 yuan on individuals and 10,000 yuan to 50,000 yuan on units; if losses are caused, compensation shall be made according to law:

(1) transforming or changing main structures of civil air defense works without authorization;

(2) demolishing equipment and facilities of civil air defense works without authorization;

(3) without taking effective safety measures, engaging in operations that affect the use of civil air defense works or reduce the protection capacity of civil air defense works, or using other methods that endanger the safety and use efficiency of civil air defense works without authorization;

(4) refusing to make supplementary construction or compensation after demolishing civil air defense works; or

(5) discharging waste water or waste gas or dumping wastes into civil air defense works.

**Article 30** Whoever, in violation of the Provisions, intentionally damages facilities of civil air defense works or produces and stores explosive, highly toxic, inflammable, radioactive and other dangerous articles within civil air defense works shall be punished in accordance with relevant provisions of the regulations on penalties for administration of public security if a crime is not constituted; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 31** If a staff member of the competent departments for civil air defense neglects his duty, abuses his power, engages in malpractices for personal gains or commits any other illegal or derelict act, which constitutes a crime, he shall be investigated for criminal responsibility according to law; if a crime is not constituted, administrative sanctions shall be given according to law.

## **Chapter V Supplementary Provisions**

**Article 32** The Provisions shall come into force as of May 1, 1998. The Detailed Rules of Beijing Municipality for Implementing the “Regulations on the Maintenance and Management of Civil Air Defense Works” promulgated by the Municipal People’s Government on August 15, 1986 shall be repealed simultaneously.

# 北京市建设工程绿化用地 面积比例实施办法

(1990 年 11 月 12 日北京市人民政府批准 1991 年 1 月 1 日北  
京市城市规划管理局、北京市园林局发布)

**第一条** 根据市人民代表大会常务委员会颁布的《北京市城市绿化条例》(以下简称《条例》)第十三条的规定,制定本办法。

**第二条** 建设工程绿化用地面积占建设用地面积的比例,按照《条例》第十三条的原则,具体规定如下:

(一) 凡符合规划标准的新建居住区、居住小区(居住人口 7000 人以上或建设用地面积 10 公顷以上),按照不低于 30%的比例执行,并按居住区人口人均 2 平方米、居住小区人均 1 平方米的标准建设公共绿地,配套建设的商业、服务业等公共设施的绿化用地,与居住区、居住小区的绿化用地统一计算(非配套建筑设施,按有关规定执行)。不符合规划标准的,按地处城区的不低于 25%、地处效区的不低于 30%的比例执行。

(二) 凡经环境保护部门认定属于产生有毒有害气体污染的工厂等单位,按不低于 40%的比例执行。

(三) 高等院校,按地处三环路以内的不低于 35%、地处三环路以外的不低于 45%的比例执行。夜大学、广播电视大学、函授大学等成人高等院校和社会力量举办的进行高等教育的学校以及走读制的高等院校,按地处城区的不低于 25%、地处效区的不低于 30%的比例执行。

(四) 建筑面积 2 万平方米以上的宾馆、饭店和体育场馆等大型公共建筑设施,按不低于 30%的比例执行。

(五) 建筑面积 6000 平方米以上的城市商业区内的大中型商业、服务业设施,按

# Measures on Implementation of the Proportion of Green Space Area in Construction Projects in Beijing Municipality

(Approved by the People's Government of Beijing Municipality on November 12, 1990, and promulgated by the Beijing Municipal Urban Planning Administration Bureau and Beijing Municipal Gardening Bureau on January 1, 1991)

**Article 1** These Measures are formulated in accordance with the provision of Article 13 of the Regulations of Beijing Municipality on Urban Greening enacted by the Standing Committee of the People's Congress of Beijing Municipality (hereinafter referred to as the Regulations).

**Article 2** In accordance with the principle of Article 13 of the Regulations, the proportion of green space area in construction projects are specified as follows:

1. For newly-built residential areas and quarters (with resident population more than 7,000 or building lot area more than 10 hectares) that meet the criteria, the proportion shall be no less than 30 %, and the standard of 2 square meters per capita for residential areas and 1 square meter per capita for residential quarters shall be followed in building public green space; the green space of ancillary public facilities such as commerce and services shall be calculated together with the green space area of residential areas and quarters (the calculation of green space area of non-ancillary facilities shall follow relevant provisions). For those that do not meet the criteria, the proportion of green space shall be no less than 25% in urban areas and no less than 30% in suburban areas.

2. For factories and other units that are confirmed by environmental protection departments as producers of poisonous and harmful gas, the proportion shall be no less than 40%.

3. For institutions of higher learning, the proportion shall be no less than 35% inside the Third Ring Road and no less than 45% outside the Third Ring Road. For institutions for adult higher education, such as night colleges, radio and television colleges, and correspondence colleges and institutions offering higher education run by social force and day universities and colleges, the proportion shall be no less than 25% in urban areas, and no less than 30% for suburban areas.

4. For large public building and facilities covering an area of over 20,000 square meters, such as hotels, restaurants, and stadiums, the proportion shall be no less than 30%.

5. For large-and-medium business and service facilities covering an area of 6,000 square meters in CBDs, the proportion shall be no lower than 20%.

不低于 20%的比例执行。

其他建设工程，按地处城区的不低于 25%、地处郊区的不低于 30%的比例执行，但属市人民政府确定的危房改造区的绿化用地面积比例以及一般零星添建工程和配套建设的小型公共建筑设施的绿化用地面积比例，可以由市城市规划管理局会同市园林局根据实际情况确定。

**第三条** 进行建设工程设计，按下列规定计算绿化用地面积：

（一）成片绿化的用地面积，按绿化设计的实际范围计算。绿化设计中园林设施的占地，计算为绿化用地，非园林设施的占地，不计算为绿化用地。

（二）庭院绿化的用地面积，按设计中可用于绿化的用地计算，但距建筑外墙 1.5 米和道路边线 1 米以内的用地，不计算为绿化用地。

（三）两个以上单位共有的绿化用地，按其所占各单位的建筑物面积的比例分开计算。

（四）道路绿化用地面积，按道路设计中的绿化设计计算，分段绿化的分段计算。

（五）株行距在 6×6 米以下栽有乔木的停车场，计算为绿化用地面积。

**第四条** 建设单位向城市规划管理机关报送设计方案须附有城市绿化管理机关核定的现有绿化用地面积和设计绿化用地面积的文件。

**第五条** 本规定所称“以上”、“以下”、“以内”，均含本数在内。

**第六条** 本规定执行中的具体问题，由市城市规划管理局和市园林局共同负责解释。

**第七条** 本规定经市人民政府批准，自 1991 年 1 月 1 日起施行。

For other construction projects, the proportion shall be no less than 25% in urban areas and no less than 30% in suburban areas. But for the renovation area of dilapidated houses designated by the People's Government of Beijing Municipality, and for small public facilities of sporadic single projects and ancillary facilities, the proportion can be determined by the Urban Planning Administration Bureau of Beijing Municipality based on the actual condition.

**Article 3** In construction projects designation, the proportion of green space area shall be calculated in accordance with the following provisions:

1.The area of large patches of green space shall be calculated according to the actual scope of greening designs. The coverage of garden facilities in green design shall be categorized as green space, while the coverage of non-garden facilities shall not be categorized as green space.

2.The area of green space in yards shall be calculated as land designated for green space, while the land within 1.5 meters from buildings and within 1 meter from roadside lines shall not be included in the green space.

3.Green space jointly owned by no less than two entities shall be calculated separately based on the proportion of each building.

4.The area of road green space shall be calculated according to the green space design in road designation, while Road greening-use land area shall be calculated according to the greening design in road designing, with sectional greening calculated by sections.

5.Parking lots where arbors are planted in row spacing no more than 6x6 m shall be included in green space area.

**Article 4** The design plans that are submitted to Municipal planning administration departments by construction units need to include documents containing the area of both existing green space and green space as designed, which have been verified by urban greening management departments.

**Article 5** "More than", "less than" and "within" as used in these Measures all include the given number.

**Article 6** The Municipal Urban Planning Administration Bureau and the Municipal Gardening Bureau shall be jointly responsible for interpreting the specific matters in enforcement of these Measures.

**Article 7** These Measures, as approved by the People's Government of Beijing Municipality, shall be effective as of January 1, 1991.

# 北京市人民政府关于郊区城镇和农村 建设规划管理的若干规定

(1991年3月6日北京市人民政府第5号令发布 根据2007  
年11月23日北京市人民政府第200号令第一次修改 根据2018  
年2月12日北京市人民政府第277号令第二次修改)

为加强本市城乡建设规划管理,保证各项建设按照统一规定实施,根据《中华人民共和国城乡规划法》和《中华人民共和国土地管理法》,作如下规定:

一、全市行政区域16800平方公里范围,都是“城市规划区”的范围。“城市规划区”范围内一切城市和农村各项建设工程、建设用地都必须执行统一规划,服从城乡规划行政主管部门的统一规划管理。

二、根据《中华人民共和国城乡规划法》第三十八条、第四十条、第四十一条的规定,本市的乡镇机关、乡镇村企事业单位、新集镇、新农村和农民住宅等建设工程的选址定点,必须经城乡规划行政主管部门审查批准,核发建设用地规划许可证、建设工程规划许可证或者乡村建设规划许可证后,方可建设。

三、各区人民政府要加强对区域规划、乡域规划、城镇规划编制工作的领导。农村的规划方案(包括乡镇村、农民住宅、乡镇机关和乡镇村企事业),由乡、镇政府组织编制。各项规划方案的审批,按《中华人民共和国城乡规划法》规定的权限进行。市农村工作行政主管部门所属农村建设管理机构依据审定的规划方案组织农村建设和管理。

四、未取得城乡规划行政主管部门核发的建设用地规划许可证、建设工程规划许可证或者乡村建设规划许可证的一切建设活动,均按照违法建设处理。

# Several Provisions of the People's Government of Beijing Municipality on the Planning and Administration of Urban and Rural Construction in the Suburbs

(Promulgated by Decree No. 5 of the People's Government of Beijing Municipality on March 6, 1991, revised for the first time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the second time in accordance with Decree No. 277 of the People's Government of Beijing Municipality on February 12, 2018)

The following provisions are formulated for the purposes of strengthening the planning and administration of urban and rural construction in this Municipality and ensuring the implementation of various constructions as stipulated in a unified way in accordance with the Urban and Rural Planning Law of the People's Republic of China and the Land Administration Law of the People's Republic of China:

1. The administrative area of this Municipality covers 16,800 square kilometers, all of which falls within the scope of "urban planning area". All urban and rural construction projects and construction land within the scope of "urban planning area" must follow unified planning and must be subject to unified planning and management by the competent departments for urban and rural planning.

2. According to the provisions of Articles 38, 40 and 41 of the Urban and Rural Planning Law of the People's Republic of China, the site selection and location of township or town organs, township, town or village enterprises and institutions, new market towns, new villages, peasants' housing, etc. in this Municipality shall be subject to the examination and approval of the competent departments for urban and rural planning, and construction may be conducted only after the issuance of a planning permit on construction land, planning permit on construction project or planning permit on rural construction.

3. The district people's governments shall strengthen their leadership over the formulation of regional planning, township planning and town planning. Planning schemes for rural areas (including villages, towns and townships, peasants' housing, township or town authorities, and enterprises and institutions of villages, towns and townships) shall be formulated under the organization of the township or town governments. The examination and approval of various planning schemes shall be carried out within the limits of authority specified in the Urban and Rural Planning Law of the People's Republic of China. The rural construction management offices subordinate to the municipal competent departments



**五、**各级城乡规划行政主管部门的工作人员，要忠于职守，依法办事，切实加强  
对郊区城镇和农村建设的规划管理工作。对执法不严、越权审批造成不良后果的要依  
法追究责任。

**六、**本规定自 1991 年 3 月 10 日施行。

for rural work shall organize rural construction and management according to approved planning schemes.

4. All construction activities without a planning permit on construction land, planning permit on construction project or planning permit on rural construction issued by the competent departments for urban and rural planning shall be handled as illegal construction.

5. The staff of the competent departments for urban and rural planning at all levels shall be devoted to their duties, act according to law, and practically strengthen the planning and management of urban and rural construction in the suburbs. Those not strictly enforcing the law or granting approval beyond the authority which causes adverse consequences shall be held accountable according to law.

6. The Provisions shall come into force as of March 10, 1991.

# 北京市人民政府关于严格限制在城市 建设中分散插建楼房的规定

(1991年7月16日北京市人民政府第21号令发布 根据1994  
年1月17日经北京市人民政府批准第一次修改 根据2007年11  
月23日北京市人民政府第200号令第二次修改)

**第一条** 为了贯彻执行北京城市总体规划，统一规划建设，制止分散插建楼房，制定本规定。

**第二条** 本规定适用于本市三环路以内地区和保护古都风貌有关地区。

**第三条** 在已按规划建成的完整楼房区，禁止插建楼房，并严格控制添建其他房屋。按批准的规划方案可以新建、改建文化教育、生活服务设施用房的，其新建房屋的高度，一般不得超过6米。

**第四条** 在现有单位院内进行工程建设，必须按批准的总体规划方案实施，不得擅自改变方案；没有总体规划方案，不得申报项目。

经鉴定有保护价值的四合院、旧王府、园林宅邸、庵观寺院以及其他庙宇，必须保持原有特点和风貌，禁止在其院内插建楼房。

**第五条** 计划部门审批建设项目，应当根据本规定从严审查，一般不再批准分散建设项目的计划任务。

**第六条** 凡不符合本规定要求，因特殊情况确需建设的项目，均须报市人民政府批准。新建各类建筑必须遵循保护北京历史文化名城独特风貌和地区特点的原则，精心设计，精心施工。

**第七条** 违反本规定，未经批准擅自进行建设的，以违法建设论处。

# Provisions of the People's Government of Beijing Municipality on Strictly Limiting Scattered Construction of Buildings in Urban Construction

(Promulgated by Decree No. 21 of the People's Government of Beijing Municipality on July 16, 1991, revised for the first time as approved by the People's Government of Beijing Municipality on January 17, 1994, and revised for the second time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

**Article 1** The Provisions are formulated for the purposes of implementing the overall urban planning of Beijing, carrying out planning and construction in a unified manner, and preventing scattered construction of buildings.

**Article 2** The Provisions shall apply to the areas within the Third Ring Road and areas related to protection of the style and features of ancient capital in this Municipality.

**Article 3** In complete building areas completed as planned, it is forbidden to insert buildings and the addition of other housing shall be strictly controlled. If a house for cultural, educational or life service facilities can be built or rebuilt according to the approved planning scheme, the height of the new house shall not exceed 6m in general.

**Article 4** Construction within an existing unit compound must be carried out in accordance with the approved overall planning scheme, which shall not be changed without authorization; in the absence of an overall planning scheme, it is not allowed to apply for construction.

For quadrangle dwellings, old palaces, gardens, mansions, nunneries, Daoist temples and other temples identified as having protection values, their original characteristics and features shall be kept, and it is forbidden to build buildings in their compounds.

**Article 5** The planning departments shall strictly examine construction projects in accordance with the Provisions and generally no longer approve scheduled tasks of scattered construction projects.

**Article 6** Any project that does not meet the requirements of the Provisions and needs to be constructed due to special circumstances shall be submitted to the Municipal People's Government for approval. All kinds of new buildings must be carefully designed and constructed in accordance with the principle of protecting the unique features and regional characteristics of the famous historic and cultural city of Beijing.

**Article 7** Construction without approval and authorization in violation of the Provisions shall be handled as illegal construction.

**第八条** 各级城市规划行政主管部门及其工作人员，必须忠于职守，依法办事。

对执法不严，越权审批，造成不良后果的，要依法追究行政责任。

**第九条** 本规定自 1991 年 8 月 1 日施行。1986 年 8 月 1 日发布的《北京市人民政府关于限制在城区分散插建楼房的几项规定》同时废止。

**Article 8** The competent departments for urban planning at various levels and their staff shall be devoted to their duties and act according to law. Those not strictly enforcing the law or granting approval beyond the authority which causes adverse consequences shall be held accountable for administrative responsibility according to law.

**Article 9** The Provisions shall come into force as of August 1, 1991. The Several Provisions of the People's Government of Beijing Municipality on Limiting Scattered Construction of Buildings in Urban Areas promulgated on August 1, 1986 shall be repealed simultaneously.

# 北京市建设工程规划监督若干规定

(2001 年 10 月 22 日北京市人民政府第 86 号令发布 根据  
2007 年 11 月 23 日北京市人民政府第 200 号令第一次修改 根据  
2018 年 2 月 12 日北京市人民政府第 277 号令第二次修改)

**第一条** 为加强对建设工程的规划监督,确保《北京城市总体规划》的实施,根据《北京市城乡规划条例》,结合本市实际情况,制定本规定。

**第二条** 在本市行政区域内依法取得建设用地规划许可证和建设工程规划许可证(含临时用地规划许可证和临时建设工程规划许可证,以下统称规划许可证件)的建设单位或者个人(以下简称建设单位),必须严格依照规划许可证件批准的内容使用土地、进行建设。严禁未取得规划许可证件进行建设。

确需变更规划许可证件批准的内容的,必须依法到原审批部门重新办理审批手续;属于建筑内部平面调整的,应当报原审批部门备案。

**第三条** 城乡规划行政主管部门负责本市建设工程的规划监督工作,组织实施本规定。

**第四条** 城乡规划行政主管部门在核发规划许可证件时,应当向建设单位一并发放《建设工程验线申请表》和《建设工程规划验收申请表》。

建设单位在施工前应当向城乡规划行政主管部门提交填写完整的《建设工程验线申请表》。城乡规划行政主管部门应当在收到申请表后 3 个工作日内组织验线。经验线合格的,方可施工。

**第五条** 建设单位应当在建设工程施工现场的显著位置张挂规划许可证件的副本,公示规划许可证件正本及其附件、附图的内容。

**第六条** 在工程建设期间,城乡规划行政主管部门应当对工程建筑的总平面位置、

# Several Provisions of Beijing Municipality on Supervision of Construction Project Planning

(Promulgated by Decree No. 86 of the People's Government of Beijing Municipality on October 22, 2001, revised for the first time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the second time in accordance with Decree No. 277 of the People's Government of Beijing Municipality on February 12, 2018)

**Article 1** The Provisions are formulated for the purposes of strengthening the supervision of construction project planning and ensuring the implementation of the Overall Urban Planning of Beijing in accordance with the Regulations of Beijing Municipality on Urban and Rural Planning and in light of actual circumstances of this Municipality.

**Article 2** Development units or individuals (hereinafter referred to as development units) that have obtained planning permits on construction land and planning permits on construction projects (including planning permits on land for temporary use and planning permits on temporary construction projects, hereinafter referred to as planning permits) according to law within the administrative area of this Municipality must use the land and carry out construction in strict compliance with the contents as approved in the planning permits. Construction without planning permits is strictly forbidden.

Where it is indeed necessary to alter the contents as approved in a planning permit, relevant examination and approval procedures must be handled anew at the original examination and approval department according to law. In the case of plane adjustment in buildings, it shall be reported to the original examination and approval department for the record.

**Article 3** The competent departments for urban and rural planning shall be responsible for the supervision over the planning of construction projects in this Municipality and shall organize the implementation of the Provisions.

**Article 4** When issuing planning permits, the competent departments for urban and rural planning shall issue the Application Form for Checking the Demarcation Lines of Construction Projects and the Application Form for Inspection and Acceptance of Construction Projects to the development units at the same time.

The development units shall, prior to the commencement of construction, submit the completed Application Form for Checking the Demarcation Lines of Construction Projects to the competent departments for urban and rural planning. The latter shall organize the checking of demarcation lines within 3 business days after receiving the said application form. Construction may be started only after the checking of the demarcation lines is passed.

**Article 5** Development units shall hang the duplicates of planning permits in conspicuous places at construction sites, showing to the public the contents of the originals of the planning permits as well as those of the attached annexes and diagrams.

**Article 6** The competent departments for urban and rural planning shall, in the



层数和高度、配套设施、规定拆迁范围的拆迁情况等环境建设以及临时建设工程的建设情况进行检查。

规划监督检查人员在施工现场进行查验时，应当出示行政执法证件。建设单位和施工管理人员应当积极配合规划监督检查工作，如实提供情况和必要的资料。

**第七条** 建设工程竣工后，建设单位应当申请规划验收，并填写、报送下列材料：

- （一）建设工程规划验收申请表；
- （二）建设工程竣工图及相关资料；
- （三）由具有相应测绘资质等级的测绘单位编制的《建设工程竣工测量成果报告书》；
- （四）规划规定的拆迁任务完成情况说明。

对符合条件的，城乡规划行政主管部门应当在收到申请之日起7个工作日内组织规划验收。

**第八条** 城乡规划行政主管部门对建设工程实施规划验收的内容应当与规划许可证件批准的内容一致，包括：

- （一）建筑的总平面位置、层数、高度、立面、使用性质和建筑规模；
- （二）用地范围内和代征地范围内应当拆除的建筑物、构筑物及其他设施的拆除情况；
- （三）绿化用地的腾退情况；
- （四）单体配套设施建设情况。

居住区（含居住小区、居住组团）的配套设施和环境建设应当与住宅建设同步完成。未能同步完成的，对相应的住宅建筑不予进行规划验收。

**第九条** 建设工程经规划验收合格的，城乡规划行政主管部门应当在规划许可证件附件上签章。

建设工程未经规划验收或者经规划验收不合格的，不动产登记机关不予办理产权登记手续。

course of construction, inspect the general location, storeys and height of construction projects, supporting facilities, the demolition and removal progress in the planned area for demolition and removal as well as the progress of temporary construction projects.

Planning supervisors shall, in conducting inspections at construction sites, present their administrative law enforcement certificates. Development units and construction managers shall render active assistance to planning supervision and provide authentic information and necessary materials.

**Article 7** Upon completion of construction projects, development units shall apply for planning inspection and acceptance and complete and submit the following materials:

- (1) Application Form for Inspection and Acceptance of Planning for Construction Projects;
- (2) as-built drawings of construction projects and related materials;
- (3) Report on the Survey and Measurement Results of Completed Construction Projects produced by a surveying unit with corresponding surveying qualifications and credentials; and
- (4) Description of the completion of the tasks of demolition and removal as specified in the planning.

Where the requirements are met, the competent departments for urban and rural planning shall organize the inspection and acceptance of planning within 7 business days from the date of receiving the application.

**Article 8** The contents of inspection and acceptance of planning for construction projects to be carried out by the competent departments for urban and rural planning shall be consistent with the contents as approved in the planning permits, which shall include:

- (1) general location, storeys, height, facade, purpose of use and scale of construction;
- (2) progress of demolition of buildings, structures and other facilities that shall be demolished within the land to be used and within the land to be requisitioned;
- (3) progress of vacating the land earmarked for landscaping; and
- (4) progress in the construction of individual supporting facilities.

The construction of supporting facilities and environmental construction for residential districts (including residential quarters and residential clusters) shall be completed simultaneously with housing construction. If simultaneous completion fails, the planning inspection and acceptance shall not be organized for corresponding housing construction projects.

**Article 9** Where a construction project passes the planning inspection, the competent departments for urban and rural planning shall affix their signatures and official seals on the annexes to planning permits.

Where a construction project has not been inspected or fails to pass the planning inspection, the real property registration agency shall not execute the procedures for real property registration.

**第十条** 城乡规划行政主管部门应当建立建设单位守法情况档案。对未按照规划许可证件批准内容进行建设的，城乡规划行政主管部门除依法予以处理外，还应当制作违法记录。有违法记录的建设单位再建的建设工程，应当作为规划监督的重点。

对遵守规划法规和严格按照规划许可证件批准内容进行建设的建设单位，市城乡规划行政主管部门应当定期向社会公布名录。经公布的建设单位再建的建设工程，可以由建设单位自行组织规划验收，规划验收的结果应当报城乡规划行政主管部门备案。

对建设单位自行组织规划验收的建设工程，城乡规划行政主管部门可以进行抽查。

**第十一条** 本市实行建设工程规划监督公报制度。对城乡规划行政主管部门在实施规划监督中发现的违法行为，市城乡规划行政主管部门应当定期发布公报，公布违法建设单位的名称、建设工程的名称及其所在位置、违法的时间和事实等。

**第十二条** 对违反规划许可证件批准的内容进行建设的，任何单位和个人都可以向城乡规划行政主管部门举报。

**第十三条** 对未经验线进行建设的，由城乡规划、住房城乡建设行政主管部门分别对建设单位和施工单位予以警告，并责令限期补验。

**第十四条** 对未按照规划许可证件批准内容进行建设，尚能及时纠正的，由城乡规划行政主管部门责令限期改正；不履行规划许可证件规定的要求的，责令限期履行；构成违法建设的，依照《北京市城乡规划条例》和《北京市禁止违法建设若干规定》的规定给予行政处罚。

**第十五条** 城乡规划行政主管部门应当建立规划监督工作责任制，依法履行规划监督职责，及时制止和纠正违法建设。监察机关依法对规划行政主管部门执行法规、规章的情况实施行政监察。

**第十六条** 本规定自 2002 年 1 月 1 日起施行。本规定施行之日尚未竣工的建设工程，适用本规定。

**Article 10** The competent departments for urban and rural planning shall establish archives to record the observance of laws by development units. For constructions not conforming to the contents as approved in planning permits, the competent departments for urban and rural planning shall, in addition to handling according to law, prepare records of violations of laws. The construction projects to be undertaken by a development unit with records of violations of laws shall be the focus of planning supervision.

The municipal competent department for urban and rural planning shall regularly publish directories of development units that have conducted construction in compliance with the planning regulations and in strict accordance with the contents as approved in planning permits. The construction projects to be undertaken by the development units that have had their names published in the directories may have their planning inspected and accepted under the organization of the development units, and the results thereof shall be submitted to the competent departments for urban and rural planning for the record.

The competent departments for urban and rural planning may carry out random spot checks on the construction projects for which the development units have by themselves organized planning inspection and acceptance.

**Article 11** This Municipality shall implement the system of bulletins on supervision over construction project planning. The municipal competent department for urban and rural planning shall release on a regular basis bulletins on unlawful acts detected by the competent departments for urban and rural planning in the course of planning supervision, making known to the public the names of the development units that have violated relevant laws, the names and locations of the construction projects, the time when the unlawful acts took place, and the facts, etc.

**Article 12** Any unit or individual may report to the competent departments for urban and rural planning any construction that has been undertaken in contravention of the contents as approved in planning permits.

**Article 13** Where a construction project has been undertaken without having the demarcation lines checked, the competent departments for urban and rural planning as well as housing and urban-rural development shall respectively give warnings to the development unit and construction unit, and order them to have the lines of demarcation checked within a specified time limit.

**Article 14** In case of construction in violation of the contents as approved in planning permits, if corrections may be made in a timely manner, the competent departments for urban and rural planning shall order to make corrections within a specified time limit; in case of failure to perform the requirements stipulated in planning permits, an order on performance within a specified time limit shall be made; in case of illegal construction, administrative sanctions shall be given in accordance with the Regulations of Beijing Municipality on Urban and Rural Planning and Several Provisions of Beijing Municipality on Prohibition of Illegal Construction.

**Article 15** The competent departments for urban and rural planning shall establish the system of responsibility for planning supervision, perform their planning supervision functions and duties according to law, and stop and correct illegal construction in a timely manner. Supervisory bodies shall exercise administrative oversight on the implementation of regulations and rules by the competent departments for planning.

**Article 16** The Provisions shall come into force as of January 1, 2002. The Provisions shall apply to the construction projects that have not yet been completed on the date of implementation of the Provisions.

# 北京市建设工程招标投标监督管理规定

(2003年4月2日北京市人民政府第122号令发布)

**第一条** 为加强建设工程招标投标活动的监督管理,根据《中华人民共和国建筑法》、《中华人民共和国招标投标法》、《北京市招标投标条例》等有关法律、法规,制定本规定。

**第二条** 在本市行政区域内进行建设工程勘察、设计、施工、监理和与工程建设有关的重要设备、材料采购的招标投标活动,以及对其实施的监督管理,适用本规定。

本规定所称建设工程,是指各类房屋建筑及其附属设施和与其配套的线路、管道、设备的安装工程、室内外装修工程,以及市政基础设施新建项目。

本规定所称重要设备、材料,是指涉及建设工程安全、质量、环保、节能的设备和材料,具体名录由市建设委员会(以下简称市建委)确定并公布。

**第三条** 依法必须招标的建设工程的范围和规模标准,按照国务院《工程建设项目招标范围和规模标准规定》和《北京市工程建设项目招标范围和规模标准规定》执行。

**第四条** 市规划委员会(以下简称市规划委)负责本市建设工程勘察、设计招标投标活动的监督工作。市建委负责本市建设工程施工、监理和与工程建设有关的重要设备、材料采购的招标投标活动的监督工作;区、县建设委员会(以下简称区、县建委)对本行政区域内的相关建设工程招标投标活动进行监督。

市规划委、市建委或者区、县建委可以委托建设工程招标投标管理机构负责建设工程招标投标活动的日常监督工作。

有关行政监督部门按照各自的职责,依法对本市建设工程招标投标活动实施监督。

# Provisions of Beijing Municipality on Supervision and Administration of Bid Invitation and Bidding Relating to Construction Projects

(Promulgated by Decree No. 122 of the People's Government of Beijing Municipality on April 2, 2003)

**Article 1** In order to strengthen supervision and administration of bid invitation and bidding activities relating to construction projects, these Provisions are formulated in accordance with the Law of the People's Republic of China on Construction, the Law of the People's Republic of China on Bid Invitation and Bidding, the Regulations of Beijing Municipality on Bid Invitation and Bidding and other relevant laws and regulations.

**Article 2** These Provisions shall be applicable to the bid invitation and bidding activities relating to the surveying, design, construction and supervision of construction projects carried out within the administrative area of this Municipality and the purchase of key equipment and materials relating to such projects as well as the supervision and administration of those activities.

Construction projects mentioned in these Provisions shall refer to the construction of various types of buildings and their auxiliary facilities, the installation projects and exterior and interior decoration projects relating to the associated circuits, pipelines and equipment as well as new-built municipal infrastructure projects.

Key equipment and materials mentioned in these Provisions shall refer to the equipment and materials having implications on the safety, quality, environment protection and energy saving of the construction projects. The specific catalogue will be determined and made public by the Municipal Construction Commission (hereinafter referred to as the MCC).

**Article 3** The scope and threshold for construction projects for which bid invitation is required by law shall conform to the Provisions of the State Council on the Scope and Threshold of Construction Projects for Bid Invitation and the Provisions of Beijing Municipality on the Scope and Threshold of Construction Projects for Bid Invitation.

**Article 4** The Municipal Planning Commission (hereinafter referred to as the MPC) shall be responsible for the supervisory work over bid invitation and bidding activities relating to the surveying and design of the construction projects within this Municipality. The MCC shall be responsible for the supervisory work over bid invitation and bidding activities relating to the construction and supervision of construction projects within this Municipality and the purchase of key equipment and materials relating to such projects; the district or county construction commissions shall exercise supervision over the relevant construction projects within their own respective administrative areas.

The MPC, the MCC and the district or county construction commissions may entrust management institutions of bid invitation and bidding activities relating to construction projects to be responsible for the day-to-day supervisory work over the bid invitation and bidding activities relating to construction projects.

Relevant departments for administrative supervision shall, in accordance with their

**第五条** 建设工程招标应当具备下列条件：

- （一）招标人已经依法成立；
- （二）按照国家有关规定履行审批手续且已获得批准；
- （三）按照国家有关规定应当履行核准手续的，已经核准；
- （四）建设工程资金或者资金来源已经落实；
- （五）有满足招标需要的文件和技术资料。

**第六条** 依法必须招标的建设工程项目需要履行项目审批手续的，项目审批部门应当在核准建设工程项目招标范围、招标方式和招标组织形式后 5 个工作日内向市规划委、市建委通报。

依法必须招标的建设工程项目不需要履行项目审批手续的，其招标方式由招标人自行确定。招标人应当在发布招标公告或者发出投标邀请书 5 个工作日前将招标方式抄报市规划委、市建委或者区、县建委。

**第七条** 招标人自行办理招标事宜的，应当具有编制招标文件和组织评标的能力。依法必须招标的建设工程，招标人自行招标的，应当在发布招标公告或者发出投标邀请书 5 个工作日前，向市规划委、市建委或者区、县建委备案，并提交下列材料：

- （一）招标组织机构和专职招标业务人员的证明材料；
- （二）专业技术人员名单、职称证书或者执业资格证书及其工作经历的证明材料。

**第八条** 招标人委托招标代理机构办理招标事宜的，双方应当签订书面委托合同。招标代理机构应当在其资格等级范围内承揽代理业务。未经招标人书面同意，招标代理机构不得转让代理业务。

招标代理机构的资格认定，按照国家有关规定执行。

**第九条** 招标人对投标人进行资格预审的，应当根据建设工程的性质、特点和要求，编制资格预审的条件和方法，并在招标公告或者资格预审公告中载明。

招标人拟限制投标人数量的，应当在招标公告或者资格预审公告中载明预审后投



respective duties and responsibilities, exercise supervision over bid invitation and bidding activities relating to the construction projects within this Municipality according to law.

**Article 5** Construction project bidding shall meet the following conditions:

- (1) the bid inviter has already been established according to law;
- (2) the examination and approval procedures have been gone through in accordance with the relevant provisions of the State and the approval has been obtained;
- (3) the verification has been passed where the verification procedures shall be gone through accordance with the relevant provisions of the State;
- (4) the funds or the source of funds for the construction project has been secured; and
- (5) there are documents and technical materials which have met the requirements by bid invitation.

**Article 6** Where the examination and approval procedures need to be gone through for a construction project for which bid invitation is required by law, the project examination and approval department shall report to and notify the MPC and the MCC within 5 working days after verifying and approving the scope, method and organizational form of bid invitation for the construction project.

Where the examination and approval procedures do not need to be gone through for a construction project for which bid invitation is required by law, the method of bid invitation shall be determined by the bid inviter on its own. The bid inviter shall make a report on the method of bid invitation to the MPC, the MCC or the district or county construction commission 5 working days prior to the release of the announcement for bidding or the issuance of the invitation for bidding.

**Article 7** Where a bid inviter handles the matters of bid invitation on its own. it shall have the capability of preparing bid invitation documents and arranging for bid evaluation. Where a bid inviter invites bidding on its own for a construction project for which bid invitation is required by law, it shall make a file for the record to the MPC, die MPC or the district or county construction commission 5 working days prior to the release of the announcement for bidding or the issuance of the invitation for bidding and submit the following documents:

- (1) the materials evidencing the institution organizing the bid invitation and the full-time bid invitation professionals;
- (2) the name lists, the qualification certificates or practicing certificates as well as the materials evidencing the working background of the professional technicians.

**Article 8** Where a bid inviter entrusts a bid invitation agency to handle the matters of bid invitation, both parries shall sign a written contract of entrustment. The bid invitation agency shall undertake its agency business within the scope of its qualification degree. The bid invitation agency shall not transfer the agency business without the written consent of the bid inviter.

The qualification confirmation of a bid invitation agency shall follow the relevant provisions of the State.

**Article 9** Where a bid inviter intends to pre-examine the qualifications of bidders, the conditions and methods of pre-examination shall be worked out in accordance with the nature, characteristics and requirements of the construction project, and clearly stated in the announcement for bidding or the announcement for pre-examination of qualifications.

Where a bid inviter intends to limit the number of bidders, it shall clearly state the number of bidden after the pre-examination in the announcement for bidding or the announcement for pre-examination of qualifications and select die bidders in accordance



标人的数量，并按照招标公告或者资格预审公告中载明的资格预审的条件和方法选择投标人。招标公告或者资格预审公告中没有载明预审后投标人数量的，招标人不得限制符合资格预审条件的投标人投标。

**第十条** 依法必须公开招标的建设工程，招标公告应当在国家或者本市指定的媒介发布。

**第十一条** 建设工程设计招标的招标人应当在招标公告或者投标邀请书中明确是否给予设计方案未中标的单位经济补偿及补偿金额。

**第十二条** 招标人应当根据招标项目的特点和需要编制招标文件。进行设计招标的建设工程，需另择设计单位承担施工图设计的，招标人应当在招标文件中明确。

依法必须进行施工、监理和与工程建设有关的重要设备、材料采购招标的建设工程，招标人应当在招标文件发出的同时，向市建委或者区、县建委备案。招标人对已发出的招标文件进行必要的澄清或者修改的，应当在提交投标文件截止日期 15 日前以书面形式通知所有招标文件的收受人，并向市建委或者区、县建委备案。

招标文件及对其澄清或者修改的文件，不得违反法律、法规、规章的规定。

**第十三条** 建设工程投标人应当具有承担招标的建设工程的能力；国家有关规定对投标人资格或者招标文件对投标人资格有规定的，投标人应当具备规定的资格条件。

境外设计单位参加本市建设工程设计投标的，按照国家有关规定执行。

**第十四条** 建设工程勘察设计投标文件，应当由具有与投标建设工程相应资格的注册建筑师、注册工程师签章并加盖单位公章。

**第十五条** 开标应当在招标文件确定的提交投标文件截止时间的同一时间公开进行；开标地点应当为招标文件中预先确定的地点。

招标人应当接受市规划委、市建委或者区、县建委等有关行政监督部门对开标过程的监督。

**第十六条** 评标工作由招标人依法组建的评标委员会负责。评标专家应当从市规

with the conditions and methods as stated in the announcement for bidding or the announcement for pre-examination of qualifications. Where the announcement for bidding or the announcement for pre-examination of qualifications does not state the number of bidders after the pre-examination, the bid inviter shall not limit the bidding from the bidders that satisfy the conditions of qualification pre-examination.

**Article 10** An announcement for bidding for a construction project for which public invitation is required by law shall be published in the media designated by the State or this Municipality.

**Article 11** A bid inviter of the design of a construction project shall make clear in announcement for bidding or the invitation for bidding whether or not it will make economic compensation and the amount of compensation to those units failing to win in the bidding for the design of a construction project.

**Article 12** A bid inviter shall, on the basis of the characteristics and requirements of a project subject to bid invitation, prepare the bid invitation documents. Where there is a need to select a designing unit to undertake the design blueprints for the design of a construction project subject to bid invitation, the bid inviter shall make it clear in the bid invitation documents.

With respect to the construction and supervision of construction projects as well as the purchase of key equipments and materials relating to such construction projects subject to bid invitation, the bid inviter shall make a file for the record to the MCC or the district or county construction commission at the same time as the bid invitation documents are issued. Where necessary clarifications or modifications are to be made in the bid invitation documents already issued, the bid inviter shall notify in writing all the recipients of the bid invitation documents 15 days prior to the deadline for submission of bid documents and make a file for the record to the MCC or the district or county construction commission.

The bid invitation documents and the documents clarified or modified shall not violate the provisions of laws, regulations and rules.

**Article 13** A bidder for a construction project shall have the capability of undertaking the construction project subject to bid invitation; where there are provisions governing the qualifications of bidders in the relevant provisions of the State or in the bid invitation documents, the bidders shall meet such qualifications as specified.

A designing unit outside of the territory which intends to take part in the bidding for the design of a construction project in this Municipality shall follow the relevant provisions of the State.

**Article 14** The bid invitation documents for the surveying or design of a construction project shall be signed and sealed by the registered architects and registered engineers who have the qualification commensurate with the construction project bid for and be affixed with the official seals of their units.

**Article 15** Opening of bids shall be done in public at the same time as the deadline for submission of bid documents set in the bid invitation documents; and the place for opening the bids shall be the one pre-determined in the said bid invitation documents.

The bid inviter shall accept the supervision of the MPC, the MCC or the district or county construction commission as well as other relevant administrative supervisory departments over the process of opening the bids.

**Article 16** The bid evaluation committee established by the bid inviter in accordance with law shall be responsible for the work of bid evaluation. The experts in bid evaluation shall be determined at random by lot from the name lists of experts determined by the MPC

划委、市建委确定的专家名册或者建设工程招标代理机构的专家库中随机抽取确定。  
特殊项目的评标专家选取方式按照国家和本市有关规定执行。

市规划委、市建委确定的评标专家名册应当逐步纳入全市统一的评标专家名册。

**第十七条** 评标委员会成员不得私下接触投标人，不得收受投标人的财物或者其他好处。

评标委员会成员不得透露对投标文件的评审情况、中标候选人的推荐情况以及与评标有关的其他情况。

**第十八条** 评标委员会完成评标后，应当向招标人提出书面评标报告，阐明评标委员会对各投标文件的评审意见，并按照招标文件中规定的评标方法，推荐 1 至 3 名中标候选人，并标明排列顺序。招标人根据评标委员会提出的书面评标报告和推荐的中标候选人确定中标人。

对使用国有资金投资或者国家融资的建设工程，招标人应当按照中标候选人的排序确定中标人。当确定的中标人放弃中标、因不可抗力提出不能履行合同，或者招标文件规定应当提交履约保证金而在规定的期限内未能提交的，招标人可以依序确定其他中标候选人为中标人。

招标人也可以授权评标委员会直接确定中标人。

**第十九条** 依法必须招标的建设工程，招标人应当自发出中标通知书之日起 15 日内，向市规划委、市建委或者区、县建委提交招标投标情况的书面报告。书面报告应当包括下列内容：

（一）招标投标的基本情况，包括招标范围、招标方式、资格审查情况、开标和评标过程和确定中标人的方式及理由等；

（二）相关的文件材料，包括招标公告或者投标邀请书、投标报名表、资格预审文件和资格预审结果、招标文件、评标委员会成员名单和评标报告、中标结果及中标人的投标文件。委托工程招标代理机构进行招标的，应当提交建设工程招标代理委托合同。

前款第（二）项中已按照本规定办理了备案的文件材料，不再重复提交。

or the MCC or in the pools of experts of the bid invitation agency for the construction project. The selection method of experts in bid evaluation for a special project shall follow the relevant provisions of the State and this Municipality.

The name lists of experts in bid evaluation determined by the MPC or the MCC shall gradually be incorporated in the uniform name lists of experts in bid evaluation of this Municipality.

**Article 17** No member of the bid evaluation committee may make any private contact with the bidders, or receive or accept any money, things of value or other favors from the bidders.

No member of the bid evaluation committee may disclose any information concerning evaluation of the bid documents, the recommended candidates for winning the bid or other information relating to the bid evaluation.

**Article 18** After the bid evaluation committee completes the bid evaluation, it shall present a written report on bid evaluation to the bid inviter elaborating on the committee's views on various bid documents, recommending one to three candidates for winning the bid in accordance with the bid evaluation methods as stipulated by the bid invitation documents and indicating the sequence of the candidates. The bid inviter shall determine the bid winner on the basis of the written report on bid evaluation presented and the candidates for winning the bid recommended by the bid evaluation committee.

With respect to the construction projects invested with the State-owned funds or financed by the State, the bid inviter shall determine the bid winner according to the sequence of the candidates for winning the bid. When the determined bid winner gives up the bid won, indicates its failure to perform the contract due to force majeure, or fails to provide performance security within the prescribed time period as provided for in the bid invitation documents, the bid inviter may determine another bid winner according to the sequence from other candidates for winning the bid.

The bid inviter may also authorize the bid evaluation committee to directly determine a bid winner.

**Article 19** With respect to a construction project for which bid invitation is required by law, the bid inviter shall submit a written report on bid invitation and bidding to the MPC, the MCC or the district or county construction commissions within 15 days from the date of issuing the notification of bid-winning. The written report shall contain the following contents:

(1) the basic information of bid invitation and bidding, including the scope and method of bid invitation, the information of examination of qualifications, the process of bid opening and bid evaluation and the way in which the bid winner is determined and the reasons therefor;

(2) the relevant documents, including the announcement for bidding or the invitation for bidding, the bidder's entry forms, the qualification pre-examination documents and the results of qualification pre-examination, the bid invitation documents, the name lists of the members of the bid evaluation committee and the report on bid evaluation, the results of bid winning and the bid documents of the bid winner. An entrustment contract of undertaking bid invitation for a construction project shall be submitted when a bid invitation agency is entrusted to undertake the bid invitation for a project.

The documents mentioned in Item (2) of the preceding paragraph that have already been filed for the record shall not be submitted again.

**第二十条** 市规划委、市建委或者区、县建委应当对招标人在招标投标活动中的行为进行监督，并有权责令招标人改正在招标投标活动中的违法行为。招标人在改正前不得向中标人发出中标通知书。

**第二十一条** 建设工程施工招标的招标人和中标人应当在依法订立书面合同后 7 个工作日内，向市建委或者区、县建委备案。

招标人和中标人不得再行订立背离合同实质性内容的其他协议。

**第二十二条** 招标文件要求中标人提交履约担保的，中标人应当提交。招标人应当同时向中标人提交工程款支付担保。

**第二十三条** 招标人、中标人使用未中标的设计方案的，应当征得提交方案的投标人同意并支付使用费。

**第二十四条** 违反本规定应当予以处罚的，由市规划委、市建委或者区、县建委按照《中华人民共和国招标投标法》、《北京市招标投标条例》等法律、法规和规章的规定处理，并将违法行为记入本市招标投标活动违法行为记录系统。

**第二十五条** 建设工程施工专业分包、劳务分包采用招标投标方式的，参照本规定执行。

**第二十六条** 本规定自 2003 年 6 月 1 日起施行。1987 年 10 月 24 日市人民政府发布的《北京市建设工程施工招标投标管理暂行办法》、1994 年 10 月 6 日市人民政府发布的《北京市建设工程设备招标投标管理规定》、1995 年 4 月 7 日市人民政府发布的《北京市建设工程勘察招标投标管理规定》同时废止。

**Article 20** The MPC, the MCC or the district or county construction commission shall exercise supervision over the conducts of the bid inviter in the bid invitation and bidding activities and have the power to order the bid inviter to correct its illegal acts in the bid invitation and bidding activities. The bid inviter shall not issue the notification of bid-winning to the bid winner prior to its correction.

**Article 21** The bid inviter and the bid winner of the construction of a construction project subject to bid invitation shall make a file for the record to the MCC or the district or county construction commission within 7 days after signing a written contract in accordance with law.

Neither the bid inviter nor the bid winner may conclude any other agreement contrary to the substantive contents of the contract.

**Article 22** Where the bid invitation documents require the bid winner to provide a performance guarantee, the bid winner shall do so. The bid inviter shall at the same time provide the payment guarantee for the expenses of the project.

**Article 23** Where the bid inviter and the bid winner utilize the design that belongs to win the bid, they shall obtain the consent from the bidder submitting the design and pay the using fees.

**Article 24** Which, in violation of these Provisions, shall be given penalties shall be dealt with by the MPC, the MCC or the district or county construction commissions in accordance with the provisions of the Law of the People's Republic of China on Bid Invitation and Bidding, the Regulations of Beijing Municipality on Bid Invitation and Bidding and other laws, regulations and rules, and their illegal acts shall be entered in the recording system regarding bid invitation and bidding activities in this Municipality.

**Article 25** The subcontracted professional construction or the subcontracted labor of a construction project that adopts bid invitation shall follow these Provisions for reference.

**Article 26** These Provisions shall take effect as of June 1, 2003. The Interim Provisions of Beijing Municipality on Administration of Bid Invitation and Bidding Relating to the Construction of Construction Projects promulgated by the Municipal People's Government on October 24, 1987, the Provisions of Beijing Municipality on Administration of Bid Invitation and Bidding Relating to Equipment in Construction Projects promulgated by the Municipal People's Government on October 6, 1994 and the Provisions of Beijing Municipality on Administration of Bid Invitation and Bidding Relating to the Surveying of Construction Projects promulgated by the Municipal People's Government on April 7, 1995 shall be repealed at the same time.

# 北京市城市建设档案管理办法

(2003年8月4日北京市人民政府第129号令发布)

**第一条** 为了加强本市城市建设档案的管理和收集、整理工作,有效地保护和利用城市建设档案,充分发挥城市建设档案在城市规划、建设、管理工作中的作用,根据《中华人民共和国档案法》、《中华人民共和国城市规划法》、《建设工程质量管理条例》,结合本市实际情况,制定本办法。

**第二条** 本办法适用于本市行政区域内城市建设档案的形成、接收、收集、整理、保管、利用和管理。本办法所称城市建设档案是指在城市规划、建设、管理活动中直接形成的,对国家和社会具有保存价值的文字、图纸、图表、声像等不同形式的记录。

**第三条** 本市的城市建设档案事业应当纳入国民经济和社会发展规划,并保障其与城市建设需要相适应。

**第四条** 市规划行政管理部门负责本市城市建设档案的监督管理工作。

市规划行政管理部门各分局(以下简称各分局)负责所辖区域内城市建设档案的监督管理工作。

市和区、县档案行政管理部门对城市建设档案工作依法行使监督和指导职权。

**第五条** 市城市建设档案馆负责接收、收集、整理、保管全市应当永久和长期保存的城市建设档案,对城市建设档案进行科学管理和利用。

各分局城市建设档案机构负责所辖区域内城市建设档案接收、收集、整理、保管、利用等日常管理工作。

**第六条** 城市建设档案工作人员应当忠于职守,遵纪守法,具备城市建设档案专业知识,并按照规定取得岗位资格证书。

# Measures of Beijing Municipality for Management of Archives on Urban Construction

(Promulgated by Decree No.129 of the People's Government of Beijing  
Municipality on August 4, 2003)

**Article 1** These Measures are formulated to strengthen the work of managing, collecting and sorting out the archives of urban construction in this Municipality, effectively protect and make use of the archives of urban construction and give a full play of the archives of urban construction in the urban planning, construction and management in accordance with the law of the People's Republic of China on Archives, the Law of the People's Republic of China on Urban Planning and the Regulations on Administration of the Quality of Construction Projects and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall be applicable to the formation, acceptance, collection, sorting out, safekeeping, using and management of the archives of urban construction within the administrative areas of this Municipality.

The archives on urban construction mentioned in these Measures shall refer to the records of such different kinds as characters, drawings, charts and acoustic pictures directly formed in such activities as urban planning, construction and management which are worthy of being preserved for the State and the society.

**Article 3** The undertaking of the archives of urban construction in this Municipality shall be incorporated into the plan of the national economic and social development and ensured adaptable to the needs of urban construction.

**Article 4** The municipal administrative department for urban planning shall be responsible for supervision and management of the archives of urban construction.

The sub-bureaus of the municipal administrative department for urban planning (hereinafter referred to as various sub-bureaus) shall be responsible for supervision and management of the archives of urban construction within their respective administrative areas.

The municipal and the district or county administrative departments for archive management shall perform the duties and powers of supervision and guidance in the work of archives of urban construction according to law.

**Article 5** The Municipal Archives of Urban Construction shall be responsible for acceptance, collection, sorting out and safekeeping of archives of urban construction in the whole city which shall be preserved permanently and for long terms, and carrying out scientific management and utilization of archives of urban construction.

The archive establishments of urban construction of various sub-bureaus shall be responsible for daily management such as acceptance, collection, sorting out, safekeeping and utilization of archives of urban construction within their respective administrative areas.

**Article 6** The working staff of the archives of urban construction shall be devoted to



**第七条** 建设单位应当根据本单位形成、编制、整理、归档城市建设档案的实际情况，设置专门的档案机构或者配备专职管理人员，提供必要工作条件，建立健全工作制度，并收集齐全和安全保管本单位的城市建设档案。

**第八条** 建设单位应当按照国家和本市有关规定对本单位的城市建设档案进行编制，并经市城市建设档案馆或者各分局城市建设档案机构（以下统称城市建设档案馆）检验合格后，方可移交。编制城市建设档案确有困难的，可以委托档案馆编制。

**第九条** 城市建设档案馆接收下列城市建设档案：

（一）城市建设专业管理部门形成的，包括规划、勘测、设计、建设和市政、环卫、公用、园林、人民防空等业务管理和业务技术档案。

（二）建设工程档案。

（三）有关城市规划、建设、管理的文件及科学研究成果和城市建设基础资料。

**第十条** 建设单位应当在建设工程竣工验收后 6 个月内，向城市建设档案馆移交齐全、准确的城市建设工程档案原件。

**第十一条** 本市供水、排水、燃气、热力、电力、通信、地下交通、人民防空等专业管理单位，应当每年向城市建设档案馆移交更改、报废、漏测部分的地下管线现状图和资料。地下管线普查和补测补绘形成的档案，应当在普查、补测、补绘结束后 6 个月内移交城市建设档案馆。

**第十二条** 停建、缓建工程的建设工程档案，由建设单位负责保管。

建设单位被撤销的，应当及时整理城市建设档案，通知并移交城市建设档案馆保管。

建筑物、构筑物产权变动时，原建筑物、构筑物产权人保存的城市建设档案必须随同产权一并移交给新的产权人保存，也可以在城市建设档案馆寄存。

**第十三条** 市规划行政管理部门及其各分局核发建设工程规划许可证时，应当告知建设单位向城市建设档案馆按时移交建设工程档案。

their duties, abide by laws, have professional knowledge on archives of urban construction and have obtained qualification for the positions in accordance with relevant provisions.

**Article 7** The construction units shall set up special archive bodies or assign full time management personnel according to the actual situation of formation, compilation, sorting out and filing of archives of urban construction of their own units, provide necessary working conditions, establish and improve sound work systems, wholly collect and safely keep the archives of urban construction of their own units.

**Article 8** The construction units shall compile their archives of urban construction of their own units in accordance with the relevant provisions of the State and this Municipality and the archives may only be transferred after they are inspected qualified by the Municipal Archives of Urban Construction or the archive establishments of urban construction of various sub-bureaus (hereinafter referred to as the archives of urban construction). Those who really have difficulties in compiling archives of urban construction may entrust the archives of urban construction to compile the archives.

**Article 9** The archives of urban construction may accept the following archives of urban construction:

(1) the administrative and technical archives which were formed by professional departments of urban construction management, including planning, surveying, designing, construction and civil works, environmental hygiene, public facilities, parks and forestry, civil air defense, etc.;

(2) archives on construction projects; and

(3) documents on urban planning, construction and management as well as scientific research results and basic materials of urban construction.

**Article 10** The construction units shall transfer the originals of complete and accurate archives of urban construction projects to the archives of urban construction within six months of acceptance upon completion of construction projects.

**Article 11** Such professional management: units as water supply, drainage, gas supply, thermal power, electric power, telecommunication, underground transportation and civil air defense shall annually transfer the layouts and materials for the changed, unserviceable and un-measured underground pipelines to the archives of urban construction. The archives formed from general surveys, additional surveys and plotting shall be transferred to the archives of urban construction within six months after completion of the general surveys, additional surveys and plotting.

**Article 12** The archives for construction projects which have been stopped or delayed shall be kept by the construction units.

The construction units that have been revoked shall timely sort out the archives of urban construction, inform and transfer them to the archives of urban construction for safekeeping.

When there is a change of property right to a building or structure, the archives of urban construction kept by the original property owner of the building or structure must be transferred to the new property owner together with the property right for safekeeping and may also be kept in the archives of urban construction.

**Article 13** The municipal administrative department for urban planning and their

城市建设档案馆应当对建设单位城市建设档案形成、编制、整理、归档工作进行业务指导，对国家和本市重点工程的城市建设工程档案编制、整理、归档工作应当指派专人进行具体指导。

**第十四条** 建设单位在组织竣工验收前，应当提请城市建设档案馆对建设工程档案进行预验收。建设行政管理部门在办理建设工程竣工验收备案时，应当按照规定查验建设工程档案预验收情况。

**第十五条** 城市建设档案馆应当对接收进馆的城市建设档案实行科学规范管理，及时登记、整理，编制检索工具。

城市建设档案馆应当建立健全城市建设档案保护的各项管理制度，配置适宜保管、利用城市建设档案的专门库房和必要设施，采用先进技术，防治有害物质，及时消除不安全因素，确保档案的完整与安全。对破损或者变质的档案，应当及时抢救、修复。

**第十六条** 城市建设档案馆应当按照国家和本市有关规定确定城市建设档案保管期限以及应当保密的密级。

城市建设档案馆应当定期对保管的档案进行鉴定。对失去保存价值的档案列出销毁清册，按照国家有关规定予以销毁。禁止擅自销毁档案。

对具有密级的城市建设档案管理和利用，以及密级的变更和解密必须按照国家有关保密的法律和法规办理。

**第十七条** 城市建设档案馆应当按照国家有关规定定期公布开放的城市建设档案目录。

单位和个人持介绍信或者工作证、身份证等合法证明，可以利用已开放的城市建设档案。单位按照有关规定，可以利用未开放的城市建设档案。

向城市建设档案馆移交、捐赠、委托保管城市建设档案的单位和个人，对其档案享有优先利用权，并可对其档案不宜向社会开放的部分提出限制利用意见，城市建设档案馆应当依法维护他们的合法权益。

sub-bureaus shall inform the construction units of the transfer of the archives of the construction projects on time to the archives of urban construction when they verify and issue the permits for planning of construction projects.

The archives of urban construction shall offer professional instruction to the construction units on formation, compilation, sorting out and filing of archives of urban construction and assign special personnel to give the specific guidance in the formation, compilation, sorting out and filing of archives of urban construction of the key projects in the State and this Municipality.

**Article 14** Before organizing the acceptance upon completion, the construction units shall apply for pre-acceptance of the archives of construction projects by the archives of urban construction. When handling the filing for acceptance upon completion of the construction projects, the administrative departments for construction shall check and verify the pre-acceptance of the archives of construction projects in accordance with relevant provisions.

**Article 15** The archives of urban construction shall carry out scientific and regulatory management of archives of urban construction that have been accepted, timely register and sort them out and work out indexes for searching.

The archives of urban construction shall establish and improve various administrative systems on protection of archives of urban construction, set up special warehouses and necessary facilities for proper safekeeping and use of archives of urban construction, adopt advanced technology to prevent from harmful materials and timely eliminate unsafe factors to ensure the completeness and safety of the archives. The damaged or deteriorated archives shall be saved and restored timely.

**Article 16** The archives of urban construction shall determine the terms of safekeeping of the archives of urban construction and their confidentiality grades in accordance with relevant provisions of the State and this Municipality.

The archives of urban construction shall give regular appraisal on archives kept, work out the shortlist for those archives to be destroyed which lose the worth of preserving and destroy them in accordance with relevant provisions of the State. It is strictly prohibited to destroy any archive without authorization.

The management and use of archives with confidentiality grades as well as the change and elimination of their confidentiality grades shall be carried out in accordance with the relevant laws and regulations of the State on secrecy.

**Article 17** The archives of urban construction shall regularly publicize the catalogue of the archives of urban construction to be opened in accordance with relevant provisions of the State.

Any unit or individual may, on the strength of introductory letters, identity certificates and other legitimate certificates, make use of the archives of urban construction which have been made open to the public. The units may make use of the archives of urban construction which have not yet been opened in accordance with relevant provisions.

Any unit or individual who transfers, donates the archives of urban construction or entrusts the archives of urban construction to keep them shall enjoy the priority to use the archives and may put forward opinions on the restricted use of the part of the archives

**第十八条** 城市建设档案馆应当充分利用城市建设档案信息资源，建立城市建设档案资料信息库、目录库，汇编城市建设档案综合信息，为社会提供城市建设基础数据、城市建设信息咨询和技术服务等。

**第十九条** 建设单位或者施工单位在施工前应当查阅施工地点有关地下管线、设施等隐蔽工程档案资料。

地下管线、设施等隐蔽工程的建设单位应当及时移交齐全、准确的地下管线、设施等隐蔽工程档案资料。未移交以及未按时移交工程档案资料，或者移交工程档案资料不齐全、不准确，致使其他建设单位、施工单位因无法查阅有关档案资料或者查阅的档案资料内容不准确造成施工破坏地下管线、设施等隐蔽工程的，地下管线、设施等隐蔽工程的建设单位应当依法承担相应责任。

**第二十条** 城市建设档案馆应当加强城市建设档案理论研究、宣传教育和业务培训工作，利用媒体、展览等形式向社会开展爱国主义和国情、市情教育。

**第二十一条** 建设工程竣工后，建设单位未按照规定移交建设工程档案的，由市规划行政管理部门或者各分局责令改正，并处1万元以上10万元以下罚款；对单位直接负责的主管人员和其他直接责任人员处单位罚款数额5%以上10%以下罚款。

**第二十二条** 本办法自2003年10月1日起施行。1983年6月14日市人民政府发布的《北京市城市建设档案管理规定》同时废止。

which are not suitable to be opened to the public. The archives of urban construction shall maintain their legal rights and interests according to law.

**Article 18** The archives of urban construction shall make full use of the information resources of the archives of urban construction, set up information data base and catalogue database on the archives of urban construction and compile comprehensive information on the archives of urban construction so as to provide the society with basic data for urban construction, information consultancy on urban construction and technical services and etc..

**Article 19** The construction units or the units undertaking the construction shall refer to the archives of relevant concealed projects such as underground pipelines and facilities in the construction spots before the start of construction.

The construction units in charge of the concealed projects such as underground pipelines and facilities shall timely transfer the complete and accurate archives of the concealed projects such as underground pipelines and facilities. If they to transfer or fail to timely transfer the archives of the construction projects, or if the archives transferred are incomplete and inaccurate, resulting in other construction units or the units undertaking the construction damaging the concealed projects such as underground pipelines and facilities because it is impossible to refer to the relevant archives or the contents of the archives referred to are inaccurate, the construction units in charge of the concealed projects such as underground pipelines and facilities shall bear the corresponding liabilities according to law.

**Article 20** The archives of urban construction shall enhance the work of theoretical research, propaganda and education as well as professional training on archives of urban construction, make use of media, exhibitions and various forms to conduct education to the whole society on patriotism and domestic and municipal situation.

**Article 21** Where the construction units to transfer the archives of the construction projects after completion of the construction projects in accordance with relevant provisions, they shall be ordered to make corrections and simultaneously fined between 10,000 Yuan and 100,000 Yuan by the municipal administrative department for urban planning or the various sub-bureaus; the person in charge directly responsible for the units and other directly responsible persons shall be fined between 5% and 10% of the amount of the fines imposed on the units.

**Article 22** These Measures shall take effect as of October 1, 2003. The Provisions of Beijing Municipality on Administration of Archives of Urban Construction promulgated by the municipal people's government on June 14, 1983 shall be repealed simultaneously.

# 北京市建筑工程施工许可办法

(2003 年 11 月 25 日北京市人民政府第 139 号令公布 根据  
2018 年 2 月 12 日北京市人民政府第 277 号令修改)

**第一条** 为了加强对建筑活动的监督管理,维护建筑市场秩序,保证建筑工程质量和施工安全,根据《中华人民共和国建筑法》和《建设工程质量管理条例》,结合本市实际情况,制定本办法。

**第二条** 在本市行政区域内进行工程投资额在 30 万元以上或者建筑面积在 300 平方米以上的下列建筑工程施工的,建设单位应当领取施工许可证:

- (一) 房屋建筑及其附属设施和与其配套的线路、管道、设备安装的新建、改建、扩建工程;
- (二) 市政基础设施的新建、改建、扩建工程;
- (三) 房屋装饰装修工程。

按照国务院规定的权限和程序批准开工报告的建筑工程,不再领取施工许可证。

**第三条** 依法应当领取施工许可证而未领取的,建筑工程不得开工。

本办法所称开工,是指建筑工程开始施工作业,其中,新建工程的开工,是指开始进行基础桩施工或者土方开挖;改建、扩建工程和旧有房屋装饰装修工程的开工,是指开始进行拆改作业。

**第四条** 任何单位和个人不得将应该申请领取施工许可证的工程项目分解为若干限额以下的工程项目,规避申请领取施工许可证。

**第五条** 市住房城乡建设行政主管部门是本市建筑工程施工许可的主管机关。区住房城乡建设行政主管部门按照规定职责负责本行政区域内建筑工程施工许可工作。

# Measures on Construction Permit in Beijing Municipality

(Promulgated by the Order No.139 of the People's Government of Beijing Municipality on November 25, 2003; amended by the Order No.277 of the People's Government of Beijing Municipality on February 12,2018)

**Article 1** These Measures are formulated in accordance with the Construction Law of the People's Republic of China and the Administrative Regulation on the Quality of Construction Projects, and in light of the actual situation of the Municipality in order to strengthen the supervision and administration of construction activities, maintain the construction market order, and guarantee the quality and safety of construction projects.

**Article 2** To carry out the construction of any of the following projects within the jurisdiction of the Municipality, with the project investment amount more than 300,000 Yuan, or with the construction area more than 300 square meters, project owners shall apply for construction permits:

- (1) construction, reconstruction, and expansion of houses and their ancillary facilities and supporting circuits, pipelines, and equipment;
- (2) the construction, reconstruction, and expansion of municipal infrastructure;
- (3) house ornament and decoration projects.

For a construction project whose report on starting construction has been approved according to the scope of power and procedures prescribed by the State Council, there is no need to apply for a construction permit.

**Article 3** A construction shall be banned if construction permits that should be obtained have not been obtained.

Starting construction as mentioned in these Measures means starting to carry out construction; starting construction of a new project means starting to lay the foundation piles or beginning earth excavation; starting construction of a project to be rebuilt or extended or a project of ornamenting or decorating an old house means starting to carry out demolition and renovation.

**Article 4** No project owners or individuals shall avoid applying for construction permits by breaking a project which needs construction permits into several parts below limits.

**Article 5** The Municipal construction administrative department is the competent department of the Municipality for the permission of project construction. The district construction administrative departments shall, by performing their prescribed duties, be responsible for the permission of project construction within their own respective



**第六条** 建设单位领取施工许可证，应当具备下列条件：

- （一）已经办理该建筑工程用地批准手续，房屋装饰装修工程应当取得房屋所有权人同意；
- （二）已经取得规划许可证；
- （三）需要征收、拆迁的，其进度符合施工要求；
- （四）已经确定建筑施工企业，并签订施工承包合同；
- （五）有满足施工需要的施工图纸及技术资料，施工图设计文件已按规定进行了审查，依法建设的人防工程的施工图符合有关法律规定；
- （六）有保证工程质量和安全的具体措施，并按规定办理了工程质量监督手续；
- （七）建设资金已经落实，建设工期不足 1 年的，到位资金不得少于工程合同价款的 50%；建设工期超过 1 年的，到位资金不得少于工程合同价款的 30%；
- （八）法律、行政法规规定的其他条件。

**第七条** 施工许可证应当以建设项目为单位领取。但房屋建筑工程可以以一个或者若干单项工程为单位分别领取；线状市政基础设施工程可以分段领取。

按照前款规定建设项目分别领取施工许可证的，各单项工程、分段工程的工程投资额或者建筑面积不得低于本办法第二条规定的限额；各单项工程、分段工程的建设规模、工程投资额总和应当分别与建设项目的总建设规模和总工程投资额一致。

**第八条** 新建道路的地下管线工程应当随同新建道路工程领取施工许可证；房屋附属设施工程、与房屋配套的线路、管道、设备安装工程应当随同房屋建筑工程领取施工许可证；新建房屋装饰装修工程可以随同房屋建筑工程领取施工许可证。

**第九条** 建设单位应当在建筑工程开工前向市住房城乡建设行政主管部门或者建筑工程所在地的区住房城乡建设行政主管部门（以下简称发证机关）申请领取施工许可证，并提交下列文件：

- （一）填写齐备并加盖建设单位印章的施工许可证申请表，申请表可以从市住房

jurisdictions.

**Article 6** Following requirements shall be met for obtaining construction permits:

(1) Procedures for approval of land use for construction have been gone through and the land use right has been obtained, or the consent of the house owner has been obtained in the case of a house ornament and decoration project;

(2) Planning permits have been obtained;

(3) The schedule of expropriation or demolition shall meet the construction requirements if any house or building needs to be expropriated or demolished;

(4) A project owner has been determined, and a construction contract has been concluded;

(5) Construction drawings and technical documents which meet demands have been formulated, reviews over design documents of construction have been gone through, and the construction drawings for civil air-defense engineering built in accordance with the law are in line with relevant provisions;

(6) Specific measures to ensure project quality and safety have been taken, and formalities for project quality supervision have been gone through in accordance with provisions;

(7) Funds have been in place; where the construction period is no more than 1 year, the fund in place shall be no less than 50% of the contractual price; where the construction period is over 1 year, the fund in place shall be no less than 30% of the contractual price;

(8) Other conditions prescribed in laws and administrative regulations.

**Article 7** Permits for construction shall be obtained based on the number of construction projects. However, for a house construction project, the said permits may be obtained on the condition that each one or several single project is regarded as a unit; and the said permit for a linear municipal infrastructural project may be obtained with the project divided into sections.

Where construction permits are separately obtained on the basis of the construction projects prescribed in the preceding paragraph, the investment amount or construction area of each single project or each section of the project shall be no less than the minimum limits prescribed in Article 2 of these Measures; the construction scale and investment amount of each single project or each section of the project shall be consistent with the total construction scale and total project investment amount of the construction project.

**Article 8** For underground pipeline works below a newly built road, construction permits shall be obtained along with that for the road; for a project of house ancillary facilities, or a project of installation of circuits, pipelines or equipment accessory to a house, a construction permit shall be obtained along with that for the house construction project; for a project of house decoration, a construction permit can be obtained along with that for the house construction project.

**Article 9** Before starting construction, a project owner shall apply for construction permits to administrative departments in charge of housing and urban-rural development in Beijing Municipality or administrative departments in charge of housing and urban-rural development in the district where the project is located (hereinafter referred to as the certificate-issuing organ), and submit the following documents:

(1) an application form, which can be downloaded from the website of administrative departments in charge of housing and urban-rural development in Beijing Municipality or

城乡建设行政主管部门网站上下载或者向发证机关免费索取；

（二）符合本办法第六条规定条件的证明文件。

**第十条** 发证机关应当即时审查建设单位的施工许可申请，对申请人提交的文件不齐全的，应当当场一次告知需要补正的全部文件；对提交文件齐全的，应当受理施工许可申请并出具加盖本行政机关专用印章和注明日期的书面凭证。

对符合本办法第六条规定的，发证机关应当自受理之日起10日内核发施工许可证；对不符合本办法第六条规定的，应当作出不予发证的书面决定并说明理由。

发证机关可以根据需要对建筑工程用地进行现场踏勘。

**第十一条** 施工许可证分为一件正本和两件副本，副本和正本具有同等法律效力。

禁止伪造、变造和涂改施工许可证。

**第十二条** 施工许可证发放后，建设单位或者施工单位发生变更的，应当重新申请领取施工许可证。

本办法第六条规定的其他条件发生变更，依法应当报经有关行政主管部门办理变更手续的，建设单位应当在办理变更手续后10日内告知发证机关；依法不需要报经有关行政主管部门办理变更手续的，建设单位应当在条件变更后10日内告知发证机关。

**第十三条** 建设单位应当在建筑工程施工现场的显著位置公示施工许可证复印件。

**第十四条** 建设单位应当自领取施工许可证之日起3个月内开工。因故不能开工的，应当在期满前向发证机关申请延期；延期以两次为限，每次不超过3个月。既不开工又不申请延期或者超过延期次数、时限的，施工许可证自行废止。

**第十五条** 在建的建筑工程因故中止施工的，建设单位应当自中止施工之日起1个月内以书面形式向发证机关报告，报告内容包括中止施工的时间、原因、施工进度、维修管理措施等，并按照规定做好建筑工程的维护管理工作。

建筑工程恢复施工时，应当向发证机关报告；中止施工满1年的工程恢复施工前，

obtained for free from certificate-issuing organs for a construction permit that is well filled and bears the seal of the project owner administrative departments in charge of housing and urban-rural development;

(2) supporting documents meeting the conditions prescribed in Article 6 of the Measures.

**Article 10** Certificate-issuing organs shall timely examine the company's construction permit and, where the documents submitted by the applicant are not complete, inform it right away of all the documents needed to be supplemented; or where the submitted documents are complete, accept the application for the permit for construction, and issue a written credence bearing its special seal and indicating the date.

Where an application conforms to Article 6 of these Measures, the certificate-issuing organ shall, within 10 days as of acceptance of the application, check documents and issue a construction permit; where the application does not conform to Article 6 of these Measures, the certificate-issuing organ shall make a written decision on not issuing the permit and state the reason thereof.

The certificate-issuing organ may, where necessary, carry out on-site inspections on the land used for construction.

**Article 11** A construction permit has one original and two copies, and each one of the three has equal legal effect.

No counterfeiting, altering, or scribbling of a construction permit is allowed.

**Article 12** Where, after the issuance of a construction permit, the project owner or the construction undertaker is changed in any way, a construction permit shall be re-applied for.

Where, due to modification of any other condition prescribed in Article 6 of these Measures, modification procedures ought to be gone through in the relevant competent administrative department in accordance with the law. The project owner shall inform the certificate-issuing organ within 10 days after having gone through the modification procedures; where, as prescribed by law, no modification procedures need to be gone through in the relevant competent administrative department, the project owner shall inform the certificate-issuing organ within 10 days after modification of the said condition.

**Article 13** A project owner shall show a photocopy of the construction permit construction in a plain sight on the construction site.

**Article 14** A project owner shall start construction within 3 months as of obtaining a construction permit. Where it is unable to start construction due to any good reason, it shall apply to the certificate-issuing organ for extension of the period prior to the expiry. The extension may be made for twice, with each time no longer than 3 months. Where the project owner neither starts construction nor applies for extension of the period, or exceeds the number of times or time limit for extension, its construction permit shall be repealed automatically.

**Article 15** Where the construction of an ongoing project is suspended due to a certain reason, the project owner shall, within 1 month as of the suspension, deliver a written report to the certificate-issuing organ, covering the time of and reason for the suspension, the construction schedule, maintenance and management measures, etc., and shall well maintain and manage the construction project in accordance with provisions.

When the construction of a project is restored, the project owner shall report to the certificate-issuing organ. Before the construction of a project which has been suspended for 1 year or longer, the project owner shall report to the certificate-issuing organ for verification

建设单位应当报发证机关核验施工许可证。

**第十六条** 市住房城乡建设行政主管部门应当定期汇总全市颁发的施工许可证情况，向社会公布并接受公众查询。

**第十七条** 任何单位和个人有权对未取得施工许可证擅自施工或者不按照施工许可证规定施工的行为进行检举和举报。

**第十八条** 市住房城乡建设行政主管部门应当按照规定将建设单位、施工单位与施工许可有关的信用信息记入北京市企业信用信息系统。

**第十九条** 建设单位未取得施工许可证擅自施工的，或者建设单位、施工单位发生变更未重新领取施工许可证的，由市或者区住房城乡建设行政主管部门责令停止施工，限期改正，处工程合同价款百分之一以上百分之二以下的罚款。

**第二十条** 违反本办法第十二条第二款的规定，建设单位未按时告知发证机关有关变更事项的，由市或者区住房城乡建设行政主管部门给予警告，并处 5000 元以上 3 万元以下罚款。

**第二十一条** 发证机关及其工作人员不按照规定核发施工许可证，或者核发施工许可证后不履行监督管理职责的，或者对依法应当查处的违法行为不予查处的，由上级机关责令改正，对责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第二十二条** 建设单位认为发证机关办理施工许可的具体行政行为侵犯其合法权益的，可以依法申请行政复议或者提起行政诉讼。

**第二十三条** 依法核定作为文物保护的纪念建筑物和古建筑等的修缮，依照文物保护的有关法律、法规的规定执行。

军用房屋建筑工程施工许可管理办法，按照国务院、中央军事委员会的有关规定执行。

抢险救灾及其他临时性房屋建筑和农民自建两层以下（含两层）住宅的建设，不适用本办法。

of the construction permit.

**Article 16** The Municipal Construction Committee shall regularly review the issuance of construction permits throughout the Municipality, inform the public of it, and accept inquiries from the public.

**Article 17** Any project owner or individual is entitled to report on the practices of carrying out construction without obtaining a construction permit or not following the provisions as stated in the permit in construction.

**Article 18** The Municipal Construction Committee shall, in compliance with provisions, record the credibility information of project owners, construction undertakers, which is related to the construction permit, into the Information System of Beijing Municipality for Enterprise credibility.

**Article 19** Where a project owner carries out construction without obtaining a construction permit, or a project owner or a construction undertaker of a project, after it is modified, fails to re-apply for a construction permit, it shall be ordered by county or district or Municipal construction committees to cease the construction, and to make a correction within a time limit, and shall be imposed upon a fine of 1% up to 2% of the contractual price of the project.

**Article 20** Where any project owner violates Paragraph 2 of Article 12 of these Measures by failing to inform the certificate-issuing organ of the relevant modified particulars on time, it shall be given a warning by county or district or Municipal construction committees, and a fine of 5,000 up to 30,000 yuan.

**Article 21** Where a certificate-issuing organ or any of its functionaries does not comply with the provisions in documents checking and construction permit, or does not perform supervisory and management duties after checking and issuing, or does not investigate into illegal practices which ought to be investigated into, it shall be ordered by superior organs to make corrections, and the person liable shall be imposed upon administrative sanctions in accordance with the law. If any crime is committed, criminal liabilities shall be pursued in accordance with the law.

**Article 22** A project owner can apply for administrative reconsideration or file administrative litigation where it considers that the specific administrative practices of certificate-issuing organs in going through permission for construction infringe upon its legitimate rights and interests.

**Article 23** The repairment of monumental and ancient buildings lawfully ratified as cultural relics shall follow the relevant laws and regulations on cultural relic protection.

The administrative measures on construction permit for defense estate shall follow relevant provisions of the State Council and the Central Military Commission.

These Measures shall not apply to the construction of houses or buildings for emergency and disaster relief and other temporary houses or buildings, or of the no-lower-than two-storey residential houses built by peasants.

**第二十四条** 本办法自 2004 年 1 月 1 日起施行。1989 年 11 月 25 日北京市人民政府第 36 号令发布，根据 1997 年 12 月 31 日北京市人民政府第 12 号令修改的《北京市建设工程开工管理暂行办法》同时废止。

**Article 24** These Measures shall be effective as of January 1, 2004. The Administrative Measures of Beijing Municipality on Starting Project Construction, promulgated by People's Government of Beijing Municipality by Order No. 36 on November 25, 1989 and amended in accordance with Order No. 12 of the People's Government in Beijing Municipality on December 31, 1997, shall be abolished simultaneously.



# 北京市建设征地补偿安置办法

(2004年5月21日北京市人民政府第148号令发布)

## 第一章 总 则

**第一条** 为了保护被征地农村村民、农村集体经济组织和征地单位合法权益，促进首都经济发展，维护社会稳定，根据《中华人民共和国土地管理法》、《中华人民共和国劳动法》等有关规定，结合本市实际情况，制定本办法。

**第二条** 本市行政区域内依法征用农民集体所有土地的，依照本办法进行补偿安置。

**第三条** 市土地行政主管部门负责征地补偿管理工作；市劳动保障行政主管部门负责转非劳动力就业和社会保险管理工作；市民政部门负责超转人员管理工作。区、县土地、劳动保障、民政部门按照分工负责本行政区域内征地补偿安置具体管理工作。

公安、农村工作等部门应当按照各自的职责对征地补偿安置工作实施管理。

区、县人民政府应当对本行政区域内的征地补偿安置工作实施监督管理。乡镇人民政府应当协助做好征地补偿安置工作。

**第四条** 本市征地补偿安置工作坚持公开的原则，征地补偿费由征地双方依法协商确定。

**第五条** 经批准征用农民集体所有土地的单位（以下简称征地单位）应当支付征地补偿费。征地补偿费应当按时、足额支付到位。

本市征地补偿费实行最低保护标准制度。

**第六条** 任何单位和个人不得侵占、挪用征地补偿费用和其他有关费用。

# Measures of Beijing Municipality for the Compensation and Resettlement for the Expropriation of Land for Construction

(Promulgated by Decree No.148 of the People's Government of Beijing Municipality on May 21,2004)

## Chapter I General Provisions

**Article 1** In order to protect the legitimate rights and interests of villagers and rural collective economic organizations whose land is to be or has been expropriated, and the departments authorized to expropriate lands, promote economic development in Beijing and maintain social stability, these Measures are developed in accordance with the Land Administration Law of the People's Republic of China, the Labor Law of the People's Republic of China and other relevant provisions, and in consideration of the actual circumstances of the municipality.

**Article 2** When the land collectively owned by peasants within the administrative regions of this municipality is to be expropriated in accordance law, compensation and resettlement shall be offered in accordance with these Measures.

**Article 3** The municipal commission of planning and natural resources shall be responsible for managing compensation for land expropriation; the municipal administrative department of human resources and social security shall be responsible for managing employment and social insurance for non-agricultural labor force from agriculture; and the municipal civil affairs bureau shall be responsible for the management of the persons who cannot be arranged as non-agricultural labor force from agriculture. The administrative departments of land, of human resources and social security and the civil affairs bureaus of districts and counties shall be responsible for the specific management of compensation and resettlement for land expropriation within their administrative regions in accordance with the arrangement of duties.

Public security bureau and departments of agriculture and rural affairs shall be responsible for managing compensation and resettlement for land expropriation according to their respective responsibilities.

The people's governments of districts and counties shall be responsible for supervising the implementation of compensation and resettlement for land expropriation within their administrative regions. The people's governments of counties and townships shall assist in the implementation of compensation and resettlement for land expropriation.

**Article 4** When offering compensation and resettlement for land expropriation, the municipality shall adhere to the principle of openness. The compensation fee for land expropriation shall be determined through consultations between the relevant two sides in accordance with law.

**Article 5** The departments authorized to expropriate land collectively owned by peasants (hereinafter referred to as the expropriating departments) shall pay the compensation fee for land expropriation, which shall be paid on time and in full.

The compensation fee for land expropriation shall meet the minimum protection standard.

**Article 6** No entities or individuals may encroach upon or misappropriate the

**第七条** 农村集体经济组织和村民委员会应当按照本办法规定做好征地补偿安置中相应工作。

## 第二章 征地补偿

**第八条** 征地单位支付的征地补偿费包括土地补偿费和安置补助费。涉及青苗和其他土地附着物的，还应当向所有权人支付青苗补偿费和其他土地附着物补偿费。

青苗是指尚未收获的农作物。其他土地附着物包括房屋、水井、道路、管线、水渠等建筑物、构筑物以及林木和其他经济作物等。

**第九条** 征地补偿费最低保护标准由市土地行政主管部门以乡镇为单位结合被征地农村村民的生活水平、农业产值、土地区位以及本办法规定的人员安置费用等综合因素确定，报市人民政府批准后公布执行。

征地补偿费最低保护标准应当根据社会、经济发展水平适时调整。

**第十条** 征地单位与被征地农村集体经济组织或者村民委员会应当在不低于本市征地补偿费最低保护标准的基础上，协商签订书面征地补偿安置协议。协议应当包括补偿方式、补偿款金额及支付方式、安置人员数量及安置方式、青苗及土地附着物补偿、违约责任和纠纷处理方式等内容。

签订协议前，被征地农村集体经济组织或者村民委员会应当就协议主要内容经村民大会或者村民代表大会等民主程序形成书面决议。决议应当妥善保存。签订协议后，农村集体经济组织或者村民委员会应当向农村村民公示征地补偿安置协议。

**第十一条** 土地行政主管部门应当对农村集体经济组织或者村民委员会在签订征地补偿安置协议前是否履行民主程序、征地双方达成协议的内容是否符合法律规定进行监督，并可就监督内容听取农村村民意见。

土地行政主管部门在向批准征地机关报送征用土地方案时，应当附具征地双方签订的征地补偿安置协议。

compensation fee for land expropriation and other related expenses.

**Article 7** Rural collective economic organizations and villagers' committees shall assume their relevant duties on land compensation and resettlement in accordance with these measures.

## **Chapter II Compensation for Land Expropriation**

**Article 8** Compensation fee for land expropriation paid by the expropriating departments shall include the land compensation and resettlement subsidies. Where young crop and other fixtures on land are involved, crop compensation allowances and other compensation fees for land attachments shall also be paid to the owner.

“Young crop” refers to agricultural crops that have not yet been harvested. “Other things immovably attached to the land” include buildings and structures such as houses, wells, roads, pipelines, canals, etc., as well as forests and trees and other economic crops.

**Article 9** The minimum protection standard for compensation fee for land expropriation shall be determined by the municipal commission of planning and natural resources by town (township), taking into account such comprehensive factors as the living standard of the land-expropriated farmers, the agricultural output value, the land location and the resettlement subsidies regulated in these Measures and so on, and shall be reported to the municipal people's government for approval and then promulgated for implementation.

The minimum protection standard for compensation fee for land expropriation shall be adjusted in accordance with the level of social and economic development.

**Article 10** The expropriating departments and the rural collective economic organizations or villagers' committees whose land is being expropriated shall enter into a written agreement on expropriation compensation and resettlement through negotiations, and that compensation shall not be lower than the city's minimum protection standard of the compensation fee for land expropriation. The agreement shall include the way of compensation, total amount and payment of compensation, number of persons to be resettled and method of resettlement, compensation for seedlings and other attachments on the ground, liability for breach of contract and methods for settling disputes.

Before signing the agreement, the rural collective economic organization or the villagers' committee shall form a written resolution on the main content of agreement through democratic procedures such as villagers' meetings or meetings of villager's deputies. And that resolution shall be properly reserved. After signing the agreement, the rural collective economic organization or villagers' committee shall announce it to the villagers.

**Article 11** The municipal commission of planning and natural resources shall supervise the democratic procedures on the part of the rural collective economic organization or the villagers' committee before the signing of the agreement, and the legitimacy the agreement determined by the parties. The commission can listen to opinions from villagers on the above supervisory content.

When submitting the land expropriation plan to the approving authority, the municipal commission of planning and natural resources shall attach the compensation and

**第十二条** 区、县人民政府应当自收到征用土地批准文件之日起 10 日内在被征地的乡镇、村进行征地公告。征地公告的内容应当包括批准机关、批准时间、批准文件名称和文号，被征地范围、地类、土地面积，征地单位、项目名称、征后用途，双方协议的征地补偿款金额和人员安置方式等内容。

**第十三条** 征地单位应当将征地补偿费专户存储，接受土地行政主管部门的监督，依法支付。

征地补偿费监管的具体办法，由市土地行政主管部门规定并公布。

**第十四条** 征地补偿费用于人员安置后，其余部分作为土地补偿费支付给被征地的农村集体经济组织或者村民委员会，用于农村村民生产生活。

农村集体经济组织或者村民委员会应当依法公开土地补偿费和安置补助费的使用情况，接受监督。

**第十五条** 征地双方经协商可以实行非货币补偿。在符合规划的前提下，征地单位可以在征用范围内留出部分土地由农村集体经济组织或者村民委员会使用，作为征地补偿。

**第十六条** 青苗补偿按照 1 季产值计算，但多年生的农作物青苗按照 1 年产值计算。

林木的补偿按照本市有关规定执行。

其他经济作物的补偿，由征地双方根据经济作物生长情况协商确定；协商不成的，可以委托评估机构参照届时市场价格评估确定。

**第十七条** 拆迁住宅房屋的，按照《北京市集体土地房屋拆迁管理办法》执行。

拆迁非住宅房屋和其他建筑物、构筑物的，按照重置成新价格予以补偿；公益公共设施确需迁建的，应当迁建。拆迁经营性用房造成停产停业经济损失的，应当按照规定给予一次性停产停业补助费。

resettlement agreement on land expropriation signed by both parties.

**Article 12** The people's governments of districts and counties shall make an announcement in the related township or village within 10 days after receipt of the approval document on land expropriation. The content of the announcement shall include the approving authority, time of approval, name and document number of the approval, the scope, type and total area of the land to be expropriated, name of the expropriating department, name of the project, usage of the expropriated land, the amount of compensation fee for land expropriation agreed upon by both parties, method of personnel resettlement and others.

**Article 13** The expropriating department shall deposit the compensation fee for land expropriation in a special account, and be subject to the supervision of the commission of planning and natural resources, and make payments in accordance with law.

The specific measures for supervising payments of the compensation fee shall be formulated and published by the municipal commission of planning and natural resources.

**Article 14** After the compensation fee has been used for personnel resettlement, the remaining portion shall be paid as the land compensation fee to the related rural collective economic organization or villagers' committee for improving the work and lives of rural villagers.

The rural collective economic organization or the villagers' committee shall publish the usage of the compensation fee for land expropriation and the resettlement subsidies and be subject to supervision in accordance with the law.

**Article 15** Non-monetary compensation may be implemented after consultation between the two parties of land expropriation. Within the confines of the land planning, the expropriating department can set aside part of the expropriated land as compensation for the rural collective economic organization or the villagers' committee to use.

**Article 16** Compensation for seedlings shall be equal to their quarterly output value, and for perennial seedlings their yearly output value.

Compensation for trees shall be paid in accordance with the relevant provisions of the municipality.

Compensation for other economic crops shall be determined through bilateral consultation based on the plants' growing state; if such consultation fails, a land appraisal agency may be authorized to evaluate the compensation with reference to the prevailing market price.

**Article 17** The demolition and relocation of residential houses shall be carried out in accordance with the Measures for the Demolition and Relocation of Houses on Collectively Owned Land in Beijing.

When non-residential houses or other buildings and structures are demolished and relocated, compensation shall be based on the appraised prices of new replacement. When the demolition and relocation of public facilities is indeed necessary, the demolition and relocation shall be implemented. When the demolition and relocation of commercial units causes economic loss due to suspension of production and business, a lump sum of subsidy for the suspension of production and business shall be given in accordance with the regulations.

拆迁未超过批准期限的临时建筑，按照重置成新价格予以适当补偿；超过批准期限的临时建筑和违法建设，不予补偿。

**第十八条** 违法建设、违法占用土地的，涉及的土地附着物不予补偿。征地公告发布后，在征地范围内新种植的青苗、经济作物、林木等，不予补偿。

### 第三章 人员安置

**第十九条** 征用农民集体所有土地的，相应的农村村民应当同时转为非农业户口。应当转为非农业户口的农村村民数量，按照被征用的土地数量除以征地前被征地农村集体经济组织或者该村人均土地数量计算。应当转为非农业户口的农村村民人口年龄结构应当与该农村集体经济组织的人口年龄结构一致。

**第二十条** 农村集体经济组织或者村民委员会应当自征地公告之日起 60 日内确定应当转为非农业户口人员、转非劳动力、超转人员名单，向农村村民公示，并分别报区、县公安、劳动保障和民政部门。各有关部门应当依照职责办理相关手续。

超转人员安置办法依照市人民政府有关规定执行。

**第二十一条** 不满 16 周岁的未成年人及 16 周岁以上正在接受义务教育和学历教育的学生，只办理转为非农业户口的手续，不享受本办法规定的转非劳动力安置补偿待遇。

**第二十二条** 依照本办法第十五条规定实行非货币补偿的，农村集体经济组织或者村民委员会应当保证转非劳动力和超转人员安置补偿所需费用。

### 第四章 就业促进

**第二十三条** 转非劳动力的就业应当坚持征地单位优先招用、劳动者自主择业、政府促进就业的方针。

The demolition of temporary buildings within the approved time limit shall be appropriately compensated according to the appraised prices of new replacement; temporary buildings and illegally built construction that exceeded the approved limit shall not be compensated.

**Article 18** If illegal building or illegal land occupation is involved, no compensation shall be paid for the related attachments on the ground. All seedlings, economic crops, and trees planted after the announcement of land expropriation in the expropriated land shall not be compensated.

### **Chapter III Personnel Resettlement**

**Article 19** If the land collectively owned by farmers is to be expropriated, the rural villagers involved shall change their household status to non-agricultural households. The number of rural villagers changing to non-agricultural households shall equal the total area of expropriated land divided by the per capita area of land in the rural collective economic organization or the village. The age structure of those villagers who change their household status shall be the same as that of the rural collective economic organization.

**Article 20** The rural collective economic organization or the villagers' committee shall, within 60 days after the announcement of land expropriation, determine the lists of persons whose status should be changed to non-agricultural households, of non-agricultural labor force from agriculture, and of farmers who cannot be arranged as non-agricultural labor force from agriculture because their age exceeds the limitation from relevant policies. They shall then publish the list to the rural villagers, and send the list to the Bureau of public security, department of human resources and social security and department of civil affairs of the district and county. The relevant departments shall handle the relevant procedures based on their duties.

The resettlement of the farmers who cannot be arranged as non-agricultural labor force from agriculture because their age exceeds the limitation of relevant policies shall be implemented in accordance with the relevant provisions of the Municipal people's government.

**Article 21** Minors under 16 years of age and students over 16 years of age who are receiving compulsory education or academic education shall only change their household status to the non-agricultural and shall not be entitled to compensation for the resettlement of non-agricultural labor force from agriculture provided in these Measures.

**Article 22** When non-monetary compensation is implemented in accordance with Article 15 of these measures, the rural collective economic organization or the villagers' committee shall guarantee that the necessary expenses for the resettlement of non-agricultural labor force from agriculture, and the farmers who cannot be arranged as non-agricultural labor force from agriculture because their age exceeds the limitation of relevant policies are covered.

### **Chapter IV Employment Promotion**

**Article 23** Employment promotion of non-agricultural labor force from agriculture shall follow the principles of preferential recruitment from expropriating departments,



**第二十四条** 征地单位招用人员时，应当优先招用转非劳动力。乡镇企业、农村集体经济组织有条件的，可以吸纳转非劳动力就业。

鼓励用人单位招用转非劳动力。

**第二十五条** 公共就业服务机构应当为转非劳动力提供职业指导、职业介绍、职业技能培训等促进就业服务。

**第二十六条** 转非劳动力在征地时被单位招用的，征地单位应当从征地补偿款中支付招用单位一次性就业补助费；转非劳动力自谋职业的，一次性就业补助费支付给本人。

**第二十七条** 一次性就业补助费不低于下列标准：

（一）转非劳动力年满 30 周岁、不满 40 周岁的，为征地时本市月最低工资标准的 60 倍；

（二）转非劳动力男年满 55 周岁、女年满 45 周岁的，为征地时本市月最低工资标准的 48 倍，年龄每增加 1 岁递减六分之一，至达到国家规定的退休年龄时止；

（三）其他转非劳动力为征地时本市月最低工资标准的 48 倍。

**第二十八条** 依照本办法第二十六条规定招用转非劳动力的单位，应当按照劳动管理法律、法规、规章的规定，对转非劳动力实行同工同酬、进行岗前职业技能培训等，并遵守下列规定：

（一）与转非劳动力签订劳动合同，并到土地所在区、县劳动保障部门办理招聘备案手续。转非劳动力要求签订无固定期限合同的，应当与其签订无固定期限劳动合同，并不得约定试用期。

（二）与转非劳动力履行劳动合同未满 5 年且转非劳动力未达到国家规定退休年龄的，解除或终止劳动合同时，每少履行 1 年，一次性就业补助费按照五分之一的比例返还给转非劳动力，不足 1 年的，按 1 年计算。

choosing jobs by their own, and government facilitation.

**Article 24** When recruiting employees, the expropriating departments shall give a priority to recruiting non-agricultural labor force from agriculture. Township enterprises and rural collective economic organizations may recruit non-agricultural labor force from agriculture for employment where conditions permit.

Employers are encouraged to recruit non-agricultural labor force from agriculture.

**Article 25** Public employment service agencies shall provide vocational guides, job recommendations, vocational skills training and other employment promotion services for non-agricultural labor force from agriculture.

**Article 26** If a non-agricultural labor force from agriculture is recruited by an employer at the time of land expropriation, the expropriating department shall pay a lump-sum employment subsidy to the recruiter from compensation fee for land expropriation; if the non-agricultural labor force from agriculture is self-employed, the lump-sum employment subsidy shall be paid to the employee.

**Article 27** The lump-sum employment subsidy shall not be lower than the following standards:

(1) 60 times the local standard of monthly minimum wages in the municipality at the time of expropriation if those non-agricultural labor force from agriculture have reached the age of 30 but have not reached the age of 40;

(2) 48 times the local standard of monthly minimum wages in the municipality at the time of expropriation if those non-agricultural labor force from agriculture aged 55 or over (male) and aged 45 or over (female), and the standards decrease by one sixth for each additional year of age, until he/her reach the age of retirement prescribed by the State;

(3) 48 times the local standard of monthly minimum wages in the municipality at the time of expropriation for the rest of the non-agricultural labor force from agriculture.

**Article 28** An employer who recruits non-agricultural labor force from agriculture under Article 26 shall, in accordance with the provisions of labor administration laws, rules and regulations, offer equal pay for equal work and pre-post vocational training, etc., and comply with the following provisions:

(1) Sign a labor contract with a non-agricultural labor force from agriculture, and report to the department of human resources and social security of the district or county where the expropriated land is located. If the non-agricultural labor force from agriculture requests signing a labor contract without a fixed term, the employer shall do so and shall not set a probation period;

(2) If the employer dissolve or terminate the labor contract with the non-agricultural labor force from agriculture when the labor contracts has not reached five years and the non-agricultural labor force from agriculture has not reached the retirement age prescribed by the State, a lump-sum employment subsidy shall be returned to the non-agricultural labor force from agriculture at the ratio of one-fifth for each year less than the year of fulfillment, but less than one year shall be regarded as one year.

**第二十九条** 转非劳动力自谋职业的，应当与乡镇人民政府、农村集体经济组织或者村民委员会签订自谋职业协议并经公证机关公证。

按照前款规定签订自谋职业协议后，转非劳动力应当办理就业登记手续，将档案转到市或者区、县职业介绍服务中心，并按照国家和本市规定缴纳各项社会保险费。

**第三十条** 转非劳动力失业的，可以将本人档案转到户籍所在地的区、县失业保险经办机构，并办理失业登记、申领失业保险金手续。有关部门应当按照规定为其发放《北京市再就业优惠证》。

失业的转非劳动力和招用失业转非劳动力的单位，享受本市促进就业的各项优惠政策。

**第三十一条** 正在服有期徒刑或者被劳动教养的转非劳动力，其一次性就业补助费可以支付给其委托的人，也可以先由农村集体经济组织或者村民委员会代为保管，待其刑满释放或者解除劳动教养后一次性全额支付给本人。

**第三十二条** 转非劳动力的档案由农村集体经济组织或者村民委员会负责建立。档案中应当有转非劳动力登记表及相关材料，自谋职业的还应当有经公证的自谋职业协议书。

## 第五章 社会保险

**第三十三条** 自批准征地之月起，转非劳动力应当按照国家和本市规定参加各项社会保险，并按规定缴纳社会保险费。

农村集体经济组织或者村民委员会应当在转非劳动力办理转为非农业户口手续后30日内，到所在区、县社会保险经办机构为其办理参加社会保险手续，补缴社会保险费。

转非劳动力补缴的社会保险费，由征地单位从征地补偿费中直接拨付到其所在区、县社会保险经办机构。

**Article 29** When self-employed, the non-agricultural labor force from agriculture shall sign a self-employment agreement with the township people's government, rural collective economic organization or villagers' committee and the agreement shall be notarized by a public notary.

After signing the self-employment agreement in accordance with the preceding paragraph, the non-agricultural labor force from agriculture shall handle the employment registration formality, transfer their files to the city, district or county job recommendation service center, and pay social insurance in accordance with the provisions of the State and the municipality.

**Article 30** When non-agricultural labor force from agriculture are out of work, they may transfer their files to the unemployment insurance agency of the district or county where the employee is located, register as unemployed and apply for unemployment insurance. The relevant department shall issue them the Certificate of Preference for Reemployment in Beijing under relevant regulations.

Unemployed non-agricultural labor force from agriculture and the employers recruiting unemployed non-agricultural labor force from agriculture may enjoy the various preferential policies for promoting employment in the Municipality.

**Article 31** The lump-sum employment subsidy for a non-agricultural labor force from agriculture serving a fixed term of imprisonment or undergoing rehabilitation through labor may be paid to his or her trustee or kept by the rural collective economic organization or villagers' committee before returning to him or her in full a lump sum when he or her is released or discharged.

**Article 32** The files of the non-agricultural labor force from agriculture shall be created by a rural collective economic organization or villagers' committee. There shall be a registration form for the non-agricultural labor force from agriculture and related materials in the files, and in the case of self-employment there shall also be a notarized self-employment agreement.

## Chapter V Social Insurance

**Article 33** Since the month in which the land expropriation has been approved, the non-agricultural labor force from agriculture shall apply for all types of social insurance in accordance with regulations of the State and the Municipality, and shall pay social insurance premiums as stipulated.

The rural collective economic organization or the villagers' committee shall, within 30 days after the labor force has changed their household to the non-agricultural, go through the formalities of his/her participation in social insurance and make up the deficit of premiums at the social insurance agency of the district or county where it is located.

This deficit of premiums shall be paid directly by the expropriating department from the account of compensation fee for land expropriation to the social insurance agency of the district or county where the labor force above is located.

**第三十四条** 转非劳动力达到国家规定的退休年龄时，累计缴纳基本养老保险费满 15 年及其以上的，享受按月领取基本养老金待遇。基本养老金由基础养老金和个人账户养老金两部分组成。基础养老金按照本人退休时上一年本市职工月平均工资的 20% 计发；个人账户养老金按照个人账户累计储存额的一百二十分之一计发。转非劳动力按月领取的基本养老金低于本市基本养老金最低标准的，按照最低标准发放，并执行基本养老金调整的统一规定。

转非劳动力达到国家规定的退休年龄时，累计缴纳基本养老保险费不满 15 年的，不享受按月领取基本养老金待遇，其个人账户储存额一次性支付给本人，并终止养老保险关系。

**第三十五条** 依法批准征地时，转非劳动力男年满 41 周岁、女年满 31 周岁的补缴 1 年基本养老保险费；年龄每增加 1 岁增补 1 年基本养老保险费，最多补缴 15 年。

补缴基本养老保险费以依法批准征地时上一年本市职工平均工资的 60% 为基数，按照 28% 的比例一次性补缴。补缴后，由社会保险经办机构按照 11% 的比例一次性为其建立基本养老保险个人账户。

**第三十六条** 转非劳动力达到国家规定的退休年龄时，基本医疗保险累计缴费年限男满 25 年、女满 20 年且符合按月领取基本养老金条件的，办理退休手续后按规定享受退休人员基本医疗保险待遇；不符合上述条件的不享受退休人员基本医疗保险待遇，个人账户余额一次性支付给本人。

**第三十七条** 依法批准征地时，转非劳动力男年满 31 周岁的补缴 1 年基本医疗保险费，至年满 51 周岁前每增加 1 岁增补 1 年，最多补缴 10 年；年满 51 周岁的补缴 11 年基本医疗保险费，至退休前每增加 1 岁增补 1 年，最多补缴 15 年。

依法批准征地时，转非劳动力女年满 26 周岁的补缴 1 年基本医疗保险费，至年满 41 周岁前每增加 1 岁增补 1 年，最多补缴 5 年；年满 41 周岁补缴 6 年基本医疗保险费，至退休前每增加 1 岁增补 1 年，最多补缴 10 年。

**Article 34** A non-agricultural labor force from agriculture shall receive a monthly basic pension provided that he/she has contributed basic endowment insurance premiums for a cumulative period of 15 years or more when he/she reaches the statutory retirement age. The basic pension shall comprise general pension and personal account pension. The basic pension shall be calculated and paid at the rate of 20 % of the average monthly wages of the employees of this Municipality in the previous year of his/her retirement; the pension of personal account shall be calculated and paid at the rate of 1/120 of the cumulative deposit in his or her personal account. If the monthly basic pension received by the non-agricultural labor force from agriculture is lower than the minimum standard of the basic pension in this Municipality, he/she shall receive a basic pension up to the minimum standard, and the basic pension shall be subject to the unified measures of basic pension adjustments.

A non-agricultural labor force from agriculture shall not receive a monthly basic pension provided that he/she has not contributed premiums for a cumulative period of 15 years or more when he/she reaches the statutory retirement age. The deposit in the personal account shall be paid to him/her in a lump sum, and the basic pension insurance relationship shall be terminated.

**Article 35** When the land expropriation is approved in accordance with the law, a non-agricultural labor force from agriculture reached the age of 41 for male and 31 for female shall make up one year's deficit of basic endowment insurance premiums; for each additional year of age added, one year's deficit of basic endowment insurance premiums shall be made up, up to a maximum of 15 years.

The deficit of basic endowment insurance premiums shall be made up in a lump sum at the rate of 28% of the base value 60% of the average wage of local employees in this Municipality of the year before the land expropriation was approved. After the payment, the social insurance agency shall establish a basic endowment insurance personal account at the rate of 11% in a lump sum for the non-agricultural labor force from agriculture above.

**Article 36** If a non-agricultural labor force from agriculture has paid premiums for a cumulative period of 25 years (male) or 20 years (female) and meets the requirements for receiving a monthly basic pension when he/she reaches the statutory retirement age, he/she shall enjoy the basic medical insurance benefits according to the relevant regulations of the state; he who cannot meet the requirements above shall not enjoy the basic medical insurance benefits for retirees and shall be paid back the balance of his/her personal basic medical insurance account in a lump sum.

**Article 37** When the land expropriation is approved in accordance with law, the male non-agricultural labor force from agriculture aged 31 shall make up one year's deficit of basic medical insurance premiums for each additional year until they reach the age of 51, up to a maximum of 10 years; and those aged 51 shall make up 11 years' deficit of basic medical insurance premiums for each additional year until they retire, up to a maximum of 15 years.

When the land expropriation is approved in accordance with the law, the female non-agricultural labor force from agriculture aged 26 shall make up one year's deficit of basic medical insurance premiums for each additional year until they reach the age of 41, up to a maximum of 5 years; and those aged 41 shall make up 6 years' deficit of basic medical

补缴基本医疗保险费以依法批准征地时上一年本市职工平均工资的 60% 为基数，按照 12% 的比例一次性补缴。补缴后，由社会保险经办机构将其中 9% 划入统筹基金、1% 划入大额医疗互助资金、2% 划入个人账户。

**第三十八条** 转非劳动力按本办法第三十五条规定一次性补缴基本养老保险费的，其补缴基本养老保险费年限视同基本医疗保险缴费年限，但最多视同 10 年缴费年限。

**第三十九条** 转非劳动力按照本办法第三十七条规定补缴基本医疗保险费后，在达到国家规定的退休年龄前继续缴纳基本医疗保险费的，享受当期基本医疗保险待遇；不继续缴纳基本医疗保险费的，不享受当期基本医疗保险待遇。

**第四十条** 依法批准征地时，转非劳动力年满 16 周岁的补缴 1 年失业保险费，至达到国家规定的退休年龄前，每增加 1 岁增补 1 年，最多补缴 20 年。补缴失业保险费以依法批准征地时上一年本市职工平均工资的 60% 为基数，按照 2% 的比例一次性补缴。

转非劳动力失业后，按照规定享受失业保险待遇。但其在领取失业保险金期间自谋职业的，不执行一次性领取失业保险金的规定。未领取失业保险金的期限予以保留，与再次失业后应当领取失业保险金的期限合并计算。

**第四十一条** 转非劳动力中的复员退伍军人，其在军队工作的年限视同社会保险费缴费年限。

参加了城镇企业农民工社会保险的转非劳动力，其参加农民工社会保险的时间计算为缴费年限。但已一次性领取养老保险费、一次性生活补助费的，不计算养老保险和失业保险的缴费年限。

**第四十二条** 正在服有期徒刑或者被劳动教养的转非劳动力，其补偿安置适用本章有关规定。



insurance premiums for each additional year until they retire, up to a maximum of 10 years.

The deficit basic medical insurance premiums shall be made up in a lump sum at the rate of 12% of the base value, namely 60% of the average wage of local employees in this municipality in the year before the land expropriation was approved. After the payment, 9% of the deficit premiums shall be included in the general insurance funds, 1% of the premiums shall be included in the large amount of mutual medical-aid expense and 2% of the premiums shall be included in the personal account by the social insurance agency.

**Article 38** When a non-agricultural labor force from agriculture made up the deficit of basic endowment insurance premiums in a lump sum in accordance with Article 35 of these Measures, the period of the payment for basic endowment insurance premiums shall be deemed as the period of payment for basic medical insurance premiums, but limited to a maximum of 10 years.

**Article 39** If a non-agricultural labor force from agriculture continues to pay basic medical insurance premiums before he/she reaches the statutory retirement age after making up the deficit of basic medical insurance premiums in accordance with Article 37 of these Measures, he/she shall enjoy the benefits of basic medical insurance currently; he/she shall not enjoy the benefits of basic medical insurance currently if he/she stop paying basic medical insurance premiums.

**Article 40** When the land expropriation is approved in accordance with the law, a non-agricultural labor force from agriculture aged 16 shall make up one year's deficit of unemployment insurance premiums; one year's deficit of unemployment insurance premiums shall be made up for each additional year of age, up to a maximum of 20 years. The deficit of unemployment insurance premiums shall be made up in a lump sum at the rate of 2 % of the base on the 60 % of the average wage of local employees in this Municipality in the year preceding the year in which the land expropriation was approved.

An unemployed non-agricultural labor force from agriculture may enjoy the benefit of receiving unemployment insurance money in accordance with the regulations. But if the unemployed non-agricultural labor force from agriculture become self-employed, he/she shall not receive unemployment insurance money in a lump sum. The period of not receiving unemployment insurance money shall be retained and combined with the period when they become unemployed again and should receive unemployment insurance benefits.

**Article 41** The years of working for demobilized ex-servicemen among the non-agricultural labor force from agriculture are deemed as the contribution period for social insurance.

Where the non-agricultural labor force from agriculture participates in social insurance for migrant workers of urban enterprises, the period of his/her participation shall be deemed as the contribution period. But for those who has received the basic pension in a lump sum and living allowances in a lump sum, the contribution period for basic endowment insurance and unemployment insurance shall not be calculated.

**Article 42** The compensation and resettlement for non-agricultural labor force from agriculture now serving a fixed term of imprisonment or undergoing rehabilitation through labor shall be governed by the relevant rules of this chapter.



## 第六章 法律责任

**第四十三条** 侵占、挪用征地补偿费用和其他有关费用的，由上级机关或者监察部门依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第四十四条** 土地、劳动保障、民政、公安等有关管理部门不依法履行职责的，由其上级主管部门责令限期改正，逾期不改正的，依法追究主管责任人员和其他直接责任人员的行政责任。

## 第七章 附 则

**第四十五条** 本办法所称下列名词的含义是：

转非劳动力是指征地转为非农业户口且在法定劳动年龄范围内具有劳动能力的人员，不包括 16 周岁以上正在接受义务教育和学历教育的学生。

超转人员是指征地转为非农业户口且男年满 60 周岁、女年满 50 周岁及其以上的人员和经认定完全丧失劳动能力的人员。

以上年龄计算以依法批准征地之日为准。

**第四十六条** 农村村民转为非农业户口后，不丧失对农村集体经济组织积累应当享有的财产权利。

**第四十七条** 国家对大中型水利、水电工程建设征地补偿另有规定的，从其规定。

**第四十八条** 本办法自 2004 年 7 月 1 日起实施，1993 年 10 月 6 日市人民政府发布的《北京市建设征地农转工人员安置办法》同时废止。

## Chapter VI Legal Liability

**Article 43** When anyone encroaches upon or misappropriates compensation fee for land expropriations or other related fees, he/she shall be given administrative punishments by the government agency at the higher level or relevant supervision authority according to the law; whoever above shall be subject to criminal liability if any crime is constituted.

**Article 44** If the municipal commission of planning and natural resources, the municipal administrative department of human resources and social security, the municipal civil affairs bureau, or the public security bureau, etc. does not perform its duties in accordance with the law, it shall be ordered by its superior administrative organ to make a correction within a prescribed time limit; whereas no correction is made within the time limit, the administrative responsibilities of the persons in charge and other personnel directly responsible shall be affixed in accordance with the law.

## Chapter VII Supplementary Provisions

**Article 45** For the purposes of this Measure, the following terms mean:

“Non-agricultural labor force from agriculture” refers to persons who have been changed to non-agricultural households due to the land expropriation and have ability to work within the statutory labor age, other than the students over 16 years of age who are receiving compulsory education and academic education.

“The persons who cannot be arranged as non-agricultural labor force from agriculture” refers to persons who have been changed to non-agricultural households due to the land expropriation but are aged 60 or above for male and aged 50 or above for female, and persons who lose all the ability to work according to the result of a work ability appraisal.

The ages mentioned above shall be calculated on the date when land expropriation is approved in accordance with law.

**Article 46** Rural villagers who have changed their status to non-agriculture households will not lose their property rights for rural collective economic organizations’ accumulated properties.

**Article 47** If any law provides for the compensation and resettlement for land expropriation for the construction of large and medium-sized water conservancy and hydropower projects, the provisions of that law shall prevail.

**Article 48** These Measures shall be effective as of July 1, 2004, and the Measures of the Resettlement of Rural Residents Who Have Become Labor Force Due to Land Expropriation for Construction in Beijing issued by the Municipal People's Government promulgated on October 6, 1993 shall be repealed simultaneously.

# 北京市房屋建筑使用安全管理办法

(2011年1月26日北京市人民政府第229号令公布)

**第一条** 为了加强房屋建筑使用安全管理,保障居住和使用安全,制定本办法。

**第二条** 本市行政区域内依法建造或者登记的各类房屋建筑及其附属构筑物和配套设施设备的使用安全管理,适用本办法。

其他法律法规对配套设施设备使用安全管理另有规定的,从其规定。

**第三条** 市和区县住房城乡建设行政主管部门负责房屋建筑使用安全的监督管理。

规划、质量技术监督、市政市容、卫生、气象、农村工作、人民防空、安全生产、公安等部门应当按照各自职责,做好房屋建筑使用安全的相关监督管理工作。

**第四条** 房屋建筑使用安全责任由房屋建筑所有权人承担。

所有权人对房屋建筑使用安全可以自行管理,也可以委托物业服务企业以及其他单位、个人管理,受托管理人应当按照规定和约定承担房屋建筑使用安全管理责任。

自行管理的单位和受托管理的物业服务企业应当配备房屋建筑安全管理员。安全管理员应当具备房屋建筑结构和设施设备安全管理的专业知识。

**第五条** 房屋建筑使用人应当安全使用房屋建筑,及时向所有权人、受托管理人报告发现的安全问题,配合开展对房屋建筑的检查维护、安全评估、安全鉴定、抗震鉴定、安全问题治理等活动。

**第六条** 房屋建筑工程交付使用时,建设单位应当提交质量证明书、使用说明书,明示房屋建筑的性能指标、使用维护保养要求,并按照规定和约定承担保修责任。

房屋建筑工程的勘察、设计、施工、监理单位依法承担相应的质量安全责任。

# Measures of Beijing Municipality for Administration of the Safe Use of Housing Buildings

(Promulgated by Decree No. 229 of the People's Government of Beijing Municipality on January 26, 2011)

**Article 1** These Measures are formulated for the purposes of strengthening administration of the safe use of housing buildings and ensuring the safety of residence and use.

**Article 2** These Measures shall apply to the administration of the safe use of all types of housing buildings legally built or registered and their subsidiary structures and supporting facilities and equipment in the administrative area of this Municipality.

Where there are other provisions concerning the safe use of supporting facilities and equipment in other laws and regulations, such provisions shall prevail.

**Article 3** The competent administrative departments for housing and urban-rural construction at the municipal and the district or county level shall be responsible for supervision and administration of the safe use of housing buildings.

The departments for planning, quality and technical supervision, municipal management and city appearances, public health, meteorology, rural work, civil air defense, work safety, public security, etc. shall, in accordance with their respective functions and duties, bring success to the work of supervision and administration related to the safe use of housing buildings.

**Article 4** The responsibility for safe use of housingbuildings shall be borne by the owners of the housingbuildings.

The owners may either manage the safe use of the housingbuildings on their own or entrust property service enterprises, other units or individuals to do so and the entrusted managers shall bear the responsibility for managing the safe use of the housingbuildings in accordance with provisions and agreements.

The units conducting management on their own and the entrusted property service enterprises shall be equipped with safety management personnel of housingbuildings. The safety management personnel shall have professional knowledge on safety management of structures and facilities and equipment of housingbuildings.

**Article 5** The users of housingbuildings shall use the housingbuildings safely, promptly report to the owners and entrusted managers any safety problems discovered and provide cooperation in developing the activities such as inspection and maintenance, safety assessment, safety appraisal, earthquake-resistance appraisal, safety problem treatment on the buildings, etc..

**Article 6** On delivery of a housingbuilding, the building unit shall submit a quality warranty certificate and an instruction manual, which shall explicitly specify the performance indicators and requirements for use and maintenance of the housingbuilding, and bear the warranty responsibility in accordance with provisions and agreements.

The surveying, designing, construction and engineering supervision units of the

**第七条** 房屋建筑所有权人或者受托管理人应当对房屋建筑进行检查维护，发现危及房屋建筑使用安全的问题时，应当及时向住房城乡建设行政主管部门报告，并有权对危害房屋建筑使用安全的行为进行制止。

自行管理的单位和受托管理的物业服务企业应当按照住房城乡建设行政主管部门的规定建立房屋建筑使用安全管理档案。

**第八条** 禁止下列影响房屋建筑使用安全的行为：

- （一）擅自变动房屋建筑主体和承重结构；
- （二）违法存放爆炸性、毒害性、放射性、腐蚀性等危险物品；
- （三）超过设计使用荷载使用房屋建筑；
- （四）损坏、挪用或者擅自拆除、停用消防设施、器材；
- （五）占用、堵塞、封闭房屋建筑的疏散通道、安全出口以及其他妨碍安全疏散的行为；
- （六）在人员密集场所门窗上设置障碍物；
- （七）损坏或者擅自拆改供水、排水、供电、供气、供热、防雷装置、电梯等设施设备；
- （八）其他违反法律、法规、规章的行为。

**第九条** 区分所有权的房屋建筑主体和承重结构属于房屋建筑的共有部分，进行装饰装修活动需要变动建筑主体和承重结构的，须经全体所有权人共同决定后，方可委托具有相应资质的设计单位出具设计方案，装饰装修企业应当按照设计方案进行施工。

**第十条** 房屋建筑所有权人应当根据房屋建筑的类型、设计使用年限、使用时间等情况，按照规定定期委托房屋安全鉴定机构对房屋建筑进行安全评估。建设单位、设计单位应当按照规定履行定期告知的义务。

**第十一条** 房屋建筑有下列情形之一的，房屋建筑所有权人应当委托房屋安全鉴定机构进行安全鉴定：

- （一）出现开裂、变形等结构损伤的；
- （二）出现地基不均匀沉降的；

housingbuilding projects shall bear corresponding responsibilities for quality safety according to law.

**Article 7** The owners or entrusted managers of housingbuildings shall carry out inspection and maintenance of the housingbuildings and promptly report to the competent administrative department for housing and urban-rural construction when discovering any problem endangering the safe use of the housingbuildings, and have right to stop the behaviors endangering the safe use of the housingbuildings.

The units conducting management on their own and the entrusted property service enterprises shall open files for the safe use of housingbuildings in accordance with the provisions of the competent administrative department for housing and urban-rural construction.

**Article 8** The following behaviors affecting the safe use of housingbuildings shall be prohibited:

- (1) Changing the main body and load-bearing structure of a housingbuilding without authorization;
- (2) Illegally storing explosive, poisonous, radioactive, corrosive and other hazardous materials;
- (3) Using a housingbuilding beyond its working load designed;
- (4) Damaging, misappropriating, or dismantling, stopping using the fire-fighting facilities and devices without authorization;
- (5) Occupying, blocking or closing the evacuation passageways and safety exits in a housingbuilding or having other behaviors hampering safety evacuation;
- (6) Placing obstacles on the doors or windows in a place accommodating crowds of people;
- (7) damaging, dismantling and altering the facilities and equipment for water supply, drainage, electricity, gas supply, heating lightning protection, elevators, etc.. without authorization; or
- (8) other behaviors in violation of laws, regulations or rules.

**Article 9** The main body and load-bearing structures of a housingbuilding with condominium ownership belongs to the common parts of the housingbuilding and the changes in such parts as needed in decoration activities shall be subject to joint decision of all owners before entrusting a designing unit with corresponding qualification to issue a design program, and the enterprise conducting such decoration shall carry out their work in accordance with the design program.

**Article 10** The owner of a housingbuilding shall regularly entrust a house safety appraisal institution to carry out safety assessment on the housingbuilding concerned based on its type, designed service life, time of use and other factors in accordance with provisions. The building or designing unit shall, in accordance with Provisions, perform the obligation of regularly informing.

**Article 11** Where a housingbuilding falls in any one of the following circumstances, its owner shall entrust a house safety appraisal institution to carry out safety-appraisal:

- (1) occurrence of structural damages such as cracking and deformation;
- (2) occurrence of uneven foundation sedimentation;

- (三) 因自然灾害或者事故可能导致结构损伤的;
- (四) 未按照规定变动建筑主体和承重结构的;
- (五) 进行结构改造或者改变使用用途可能影响房屋建筑安全的;
- (六) 毗邻的建设工程施工可能影响房屋建筑使用安全的;
- (七) 经安全评估发现房屋建筑存在安全隐患需要进行安全鉴定的;
- (八) 其他依法应当进行安全鉴定的。

有关行政部门根据公共利益的需要可以委托房屋安全鉴定机构进行安全鉴定。

**第十二条** 房屋建筑有下列情形的, 房屋建筑所有权人应当委托进行抗震鉴定:

- (一) 达到设计使用年限需要继续使用的;
- (二) 未采取抗震设防措施或者达不到现行抗震设防类别、烈度的;
- (三) 进行结构改造或者改变使用用途可能影响抗震性能的;
- (四) 其他依法应当进行抗震鉴定的。

出具抗震鉴定报告依据的房屋建筑现状检查检测数据, 应当由依法取得计量认证的单位提供。

**第十三条** 房屋安全鉴定机构从事房屋建筑安全评估、安全鉴定活动应当向市住房和城乡建设行政主管部门备案, 并提交下列材料:

- (一) 房屋安全鉴定机构设立的相关证明文件, 或者工程质量检测机构的检测资质证书及具备建设工程结构检查能力的证明文件;
- (二) 经过计量检定的检测仪器、设备清单;
- (三) 技术负责人的土建类高级技术职称证书, 鉴定负责人的土建类中级以上技术职称证书;
- (四) 管理制度及质量控制措施。

上述内容发生变更的, 房屋安全鉴定机构应当在 30 日内办理变更备案。

**第十四条** 房屋安全鉴定机构进行房屋建筑安全评估、安全鉴定活动, 应当有两名以上鉴定人员参加, 并按照国家和本市相关规定和技术标准进行评估与鉴定, 及时、

- (3) possible structural damages due to natural disasters or accidents;
- (4) changes in the main body and load-bearing structure of the building in violation of Provisions;
- (5) structural renovation or change of the use possibly affecting the safe use of the housingbuilding;
- (6) an adjacent construction project possibly affecting the safe use of the housingbuilding;
- (7) safety appraisal is needed as hidden risks to safety exist in the housingbuilding upon safety assessment; or
- (8) other circumstances requiring safety appraisal in accordance with law.

The relevant administrative departments may, based on the needs for public interests, entrust a house safety appraisal institution to carry out safety appraisal.

**Article 12** Where a housingbuilding falls in any one of the following circumstances, its owner shall conduct an earthquake-resistance appraisal through entrustment:

- (1) It is needed to continue using the housingbuilding at the expiration of its designed service life;
- (2) No fortifications against earthquake are built, or such fortifications fail to meet the requirements of the category and intensity of earthquake-resistance;
- (3) Structural renovation or change of the use possibly affecting the earthquake-resistance properties; or
- (4) Other circumstances requiring earthquake-resistance appraisal in accordance with law.

The data originated from, inspection and testing on the current conditions of the housingbuilding, which serve as the basis for issuance of an earthquake-resistance appraisal report, shall be provided by the unit with metrological certification obtained in accordance with law.

**Article 13** The house safety appraisal institutions engaging in safety assessment or safety appraisal activities on housingbuildings shall be filed for the record at the competent administrative department for housing and urban-rural construction at the municipal level and submit the following materials:

- (1) relevant certificates for establishment of the house safety appraisal institutions or inspection qualification certificates for institutions of construction quality inspection and the documents certifying the ability of inspecting the structures of construction projects;
- (2) The list of testing instruments and equipment after metrological verification;
- (3) The certificates for senior technical titles in civil construction engineering of the person in charge of techniques, and the certificates for intermediate technical titles or above in civil construction engineering of the person in charge of appraisals; and
- (4) Management systems and quality control measures.

In the event of any change in the aforesaid contents, the house safety appraisal institutions concerned shall file such changes for the record within 30 days.

**Article 14** The house safety assessment and appraisal activities of a house safety appraisal institution shall be carried out by two or more appraisers, conduct the assessment or appraisal in accordance with relevant provisions and technical standards of the State



准确、真实地向委托人出具房屋建筑安全评估、安全鉴定报告，同时报送住房城乡建设行政主管部门。对鉴定为危险房屋的，房屋安全鉴定机构应当在作出鉴定结论后 24 小时内书面通知委托人，同时报告住房城乡建设行政主管部门。

**第十五条** 房屋建筑安全鉴定报告应当由鉴定负责人、技术负责人、机构负责人签字。房屋安全鉴定机构及相关负责人对出具的报告依法承担法律责任。

房屋建筑安全鉴定报告涉及结构体系计算的，应当由具备相应资格的注册结构工程师出具计算书，涉及结构实体检测的，应当由经过相应计量认证的单位出具检测数据。

本市采用统一的房屋建筑安全鉴定报告文本，由市住房城乡建设行政主管部门制发并免费提供。

**第十六条** 房屋安全鉴定机构不得出具虚假的安全评估、安全鉴定报告。

任何单位和个人不得干涉正常的安全评估、安全鉴定活动，不得伪造、变造安全评估、安全鉴定报告。

**第十七条** 委托人及利害关系人对房屋建筑安全鉴定结论有异议的，可以向市房屋安全鉴定管理机构申请重新鉴定，市房屋安全鉴定管理机构可以组织重新鉴定。

**第十八条** 房屋建筑所有权人应当根据鉴定报告的处理建议对房屋建筑采取修缮、拆除以及其他解除危险的安全治理措施并承担相应的治理费用。

**第十九条** 经鉴定为危险房屋的，应当根据鉴定报告的处理建议使用或者停止使用房屋建筑：

（一）鉴定为观察使用的，应当按照鉴定报告注明的观察使用时限使用；

（二）鉴定为处理使用的，使用人应当按照鉴定报告限制使用的要求搬出危险部位，房屋建筑所有权人应当委托原设计单位或者具有相应资质等级的设计单位出具解危技术措施方案，并按照设计单位确定的后续使用年限使用；

（三）鉴定为停止使用、整体拆除的，使用人应当停止使用，立即搬出。

使用人拒不按照前款规定搬出的，住房城乡建设行政主管部门应当书面责令使用

and this Municipality, and promptly issue to the entruster an accurate and authentic house safety assessment or appraisal report, which shall be submitted to the competent administrative department for housing and urban-rural construction at the same time. Where a housingbuilding is identified as a dangerous house, the house safety appraisal institution shall inform the entruster in writing within 24 hours as of taking the conclusion of appraisal and report to the competent administrative department for housing and urban-rural construction at the same time.

**Article 15** The house safety appraisal report shall be signed by the persons responsible for appraisal, for techniques and for the institution. The house safety appraisal institution and its relevant responsible persons shall, in accordance with law, bear the responsibility for the report issued.

Where a house safety appraisal report involves calculation of structural systems, a calculation sheet shall be issued by a registered structural engineer with corresponding qualification, and where test of concrete structures is involved, the test data shall be issued by a unit with corresponding metrological certification.

This Municipality adopts a unified text of house safety appraisal reports, which shall be made and issued by the competent administrative department for housing and urban-rural construction at the municipal level and provided free of charge.

**Article 16** The house safety appraisal institutions shall not issue false safety assessment or appraisal reports.

No unit or individual may interfere with the normal safety assessment or appraisal activities, or forge or alter safety assessment or appraisal reports.

**Article 17** The entruster or interested person who disagrees with the conclusion of a house safety appraisal may apply for re-appraisal to the institution for administration of house safety appraisal at the municipal level, and the institution for administration of house safety appraisal at the municipal level may organize a re-appraisal.

**Article 18** The owner of a housingbuilding shall, in accordance with the recommendations for treatment in the appraisal report to adopt repair, demolition and other safety control measures to eliminate risks and bear the corresponding costs.

**Article 19** A house identified as a dangerous house shall be used or discontinued to be used in accordance with the treatment recommendations in the appraisal report:

(1) where use with observation is recommended upon appraisal, the house shall be used within the time limit for observation specified in the appraisal report;

(2) where use with treatment is recommended upon appraisal, the users shall move out of the dangerous part in accordance with the requirements of restricted use in the appraisal report and the owner shall entrust the original designing unit or another designing unit with corresponding level of qualification to issue a program of technical measures for risk elimination, and use the house within its follow-up service life fixed by the designing unit;

(3) where stop of use and entire removal are recommended upon appraisal, the users shall stop using and immediately move out.

Where the users refuse to move out in accordance with the provisions of the preceding paragraph, the competent administrative department for housing and urban-rural construction shall order the users in writing to move out, and where the circumstances are

人搬出，情况紧急危及公共安全的，区县人民政府可以责成有关部门组织强制搬出，并妥善安置。

**第二十条** 使用人搬出的危险房屋为其唯一居住用房的，可以向房屋所在地区县人民政府申请临时安置住房。危险房屋治理结束后，使用人应当搬出临时安置住房。

**第二十一条** 低收入家庭承担危险房屋治理费用有困难，或者在危险房屋治理期间支付临时安置住房租金有困难的，可以申请补助，具体补助办法由区县人民政府制定。

**第二十二条** 对房屋建筑进行应急抢险应当按照国家和本市应对突发事件的有关规定执行。对危险房屋的修缮工程，相关行政部门应当及时办理审批手续；需要紧急抢修的，可以先行抢修。

**第二十三条** 住房城乡建设行政主管部门及有关部门应当建立房屋建筑使用安全信息通报和信息共享制度，实现对房屋建筑使用安全的综合治理。

市住房城乡建设行政主管部门应当建立房屋安全鉴定机构信用信息管理系统，记载并公布备案和监督管理信息。

**第二十四条** 住房城乡建设行政主管部门建立房屋建筑安全信息档案，记载房屋建筑安全的相关信息。发现下列情况时应当及时记载并予以公布：

- （一）擅自变动建筑主体和承重结构的；
- （二）应当进行安全鉴定未鉴定的；
- （三）经鉴定为危险房屋未治理的。

房屋登记部门在办理房屋转移登记时应当告知受让人查询房屋建筑使用安全信息档案。

**第二十五条** 房屋建筑所有权人未按照规定进行安全鉴定、抗震鉴定或者房屋建筑经鉴定为危险房屋未及时治理的，住房城乡建设、规划等行政主管部门应当按照各自职责督促所有权人及时履责；拒不履责的，行政主管部门可以指定有关单位代为履行，所需费用由所有权人承担。

**第二十六条** 学校、幼儿园、医院、体育场馆、商场、图书馆、公共娱乐场所、宾馆、

serious and endangering the public security, the government at the district or county level concerned may instruct relevant departments to organize forced move-out and make proper arrangements.

**Article 20** Where the dangerous house from which the user moves out is his only residence, he may apply for a temporary shelter to the people's government at the district or county level concerned. After the treatment of the dangerous house is finished, the user shall move out from the temporary shelter.

**Article 21** Low-income families with difficulties to bear the costs for the treatment of dangerous houses or to pay the rent for the temporary shelters during the treatment of the dangerous houses may apply for allowances. The specific measures for allowances shall be formulated by the people's government at the district or county level.

**Article 22** Emergency repairs to housing buildings shall follow the relevant provisions of the State and this Municipality on emergency response. For repair of dangerous houses, relevant administrative departments shall handle the procedures for approval on a timely basis; and where emergency repair is needed, the repair may be carried out prior to approval.

**Article 23** The competent administrative departments for housing and urban-rural construction and other relevant departments shall set up a system for reporting and sharing information of the safe use of housing buildings to realize comprehensive control of the safe use of housing buildings.

The competent administrative department for housing and urban-rural construction at the municipal level shall set up a management system of credit information of house safety appraisal institutions to record and publish the information on filing for the record, supervision and administration.

**Article 24** The competent administrative departments for housing and urban-rural construction shall set up information files concerning safety of house buildings to record the information related to safety of housing buildings. The following circumstances shall be promptly recorded and published upon discovery:

- (1) changing the main body and load-bearing structure of a building without authorization;
- (2) failing to arrange a safety appraisal which should be conducted;
- (3) failing to carry out treatment to an identified dangerous house.

The department for housing registration shall inform the assignee to inquire the information files concerning safety of housing buildings in the process of undertaking registration of housing transfer.

**Article 25** Where the owner of a housing building fails to carry out safety appraisal or earthquake-resistance appraisal, or fails to carry out timely treatment to the housing building identified as a dangerous house, the competent administrative departments for housing and urban-rural construction and planning as well as other departments shall urge the owner to promptly perform his due obligations in accordance with their respective functions and duties; where the owner refuses to perform such obligations, the competent administrative departments may designate a relevant unit to perform them, with the costs needed borne by the owner.

**Article 26** The public buildings accommodating crowds of people such as schools,

饭店以及客运车站候车厅、机场候机厅等人员密集的公共建筑，应当每 5 年进行一次安全评估；达到设计使用年限需要继续使用的，应当每 2 年进行一次安全评估。

住房城乡建设行政主管部门应当会同相关行业主管部门定期对人员密集的公共建筑进行巡查，对未按照规定进行安全评估、安全鉴定、抗震鉴定或者未按照鉴定报告的处理建议及时治理的，应当督促所有权人及时履责，拒不履责的，可以指定有关单位代为履行，费用由所有权人承担。

**第二十七条** 行政主管部门办理相关证照依法查验经营场所时，应当核实房屋建筑的相关情况，对以危险房屋作为经营场所的，不得办理相关证照。

**第二十八条** 违反本办法第四条第三款规定，自行管理的单位或者受托管理的物业服务企业未配备安全管理员的，由住房城乡建设行政主管部门责令限期改正；拒不改正的，处 1 万元以上 3 万元以下罚款。

**第二十九条** 违反本办法第七条规定，未按照规定建立房屋建筑使用安全管理档案并如实记录的，由住房城乡建设行政主管部门责令限期改正；并可以处 1 万元以上 3 万元以下罚款。

**第三十条** 违反本办法第八条第（三）项规定，超过设计使用荷载使用房屋建筑的，由住房城乡建设行政主管部门责令限期改正；拒不改正的，处 1 万元以上 3 万元以下罚款。

**第三十一条** 违反本办法第十四条、第十五条、第十六条规定，房屋安全鉴定机构有下列行为的，由市住房城乡建设行政主管部门责令限期改正，计入房屋安全鉴定机构信用信息管理系统，并处 5 万元以上 10 万元以下罚款：

- （一）出具虚假鉴定报告的；
- （二）鉴定结论存在严重错误的；
- （三）未及时将危险房屋鉴定结论通知委托人导致责任人未及时履责发生事故的。

**第三十二条** 违反本办法第二十六条规定，人员密集的公共建筑的所有权人未按

kindergartens, hospitals, stadiums, shopping malls, libraries, public entertainment places, hotels, restaurants, waiting rooms in passenger stations, airport lounges, etc. shall be subject to a safety assessment every five years and those that still need to be used at the expiration of the designed service life shall be subject to a safety assessment every two years.

The competent administrative departments for housing and urban-rural construction shall, jointly with the competent departments for relevant industries, regularly carry out patrol of public buildings accommodating crowds of people and urge the owners of the buildings which do not receive safety assessment, safety appraisal, earthquake-resistance appraisal or carry out timely treatment in accordance with the recommendations in appraisal reports to promptly perform their obligations; where the owners refuse to perform such obligations, the departments may designate relevant units to perform them, with the costs needed borne by the owners.

**Article 27** When inspecting business places for issuance of relevant licenses, the competent administrative departments concerned shall verify relevant situations of the housing buildings and shall not issue relevant licenses where dangerous houses are taken as business places.

**Article 28** Where, in violation of the provisions of Paragraph 3 of Article 4 of these Measures, a unit conducting management on his own or an entrusted property service enterprise fails to be equipped any safety management personnel, the competent administrative department for housing and urban-rural construction shall order it to make corrections within a prescribed time limit, and impose a fine of not less than 10,000 Yuan but not more than 30,000 Yuan where there is a refusal to make corrections.

**Article 29** Where, in violation of the provisions of Article 7 of these Measures, a unit fails to open files for the safe use of housing buildings and make accurate records, the competent administrative department for housing and urban-rural construction shall order it to make corrections within a prescribed time limit; and may impose a fine of not less than 10,000 Yuan but not more than 30,000 Yuan simultaneously.

**Article 30** Whoever, in violation of the provisions of Item 3 of Article 8 of these Measures, uses a housing building over its working load designed, shall be ordered to make corrections within a prescribed time limit by the competent administrative department for housing and urban-rural construction, where there is a refusal to make corrections, a fine of not less than 10,000 Yuan but not more than 30,000 Yuan shall be imposed.

**Article 31** Where, in violation of the provisions of Article 14, Article 15 and Article 16 of these Measures, a house safety appraisal institution commits any one of the following behaviors, the competent administrative department for housing and urban-rural construction at the municipal level shall order it to make corrections within a prescribed time limit, record the behavior into the management system of credit information of housing building safety appraisal institutions and impose on it a fine of not less than 50,000 Yuan but not more than 100,000 Yuan simultaneously:

- (1) issuing a false appraisal report;
- (2) making serious mistakes in the appraisal conclusions;
- (3) failing to promptly inform the appraisal conclusion on a dangerous house to the entruster, resulting in the failure of the responsible person to perform obligations and thus causing an accident.

**Article 32** Where, in violation of the Provisions of Article 26 of these Measures, the owner of a public building accommodating crowds of people fails to receive safety

照规定进行安全评估、安全鉴定、抗震鉴定或者未按照鉴定报告的处理建议及时治理的，由住房城乡建设行政主管部门责令限期改正；拒不改正的，处 10 万元以下罚款。

人员密集的公共建筑经鉴定为危险房屋，生产经营单位以其为经营场所，不具备安全生产条件的，负有安全生产监督管理职责的部门应当按照《北京市安全生产条例》的规定，责令限期改正，逾期未改正的，责令停产停业整顿，经停产停业整顿仍不符合安全生产条件的，予以关闭。

**第三十三条** 阻碍国家机关工作人员依法履行房屋建筑使用安全监管职责，违反《中华人民共和国治安管理处罚法》的，由公安机关给予治安处罚；构成犯罪的，依法追究刑事责任。

**第三十四条** 房屋建筑所有权人下落不明或者权属不明的，本办法规定的房屋建筑所有权人责任由实际占有人承担。

**第三十五条** 农村村民自建住宅的使用安全管理由区县人民政府参照本办法制定具体办法；市住房城乡建设、规划、农村工作等行政主管部门负责对农村村民自建住宅的监督管理工作进行指导。

**第三十六条** 本办法自 2011 年 5 月 1 日起施行。1991 年 1 月 5 日北京市人民政府批准，1991 年 3 月 9 日原北京市房地产管理局发布，根据 2004 年 6 月 1 日北京市人民政府第 150 号令修改的《北京市实施〈城市危险房屋管理规定〉的若干规定》同时废止。



assessment, safety appraisal, earthquake-resistance appraisal or carry out timely treatment in accordance with the recommendations in the appraisal report, the competent administrative department for housing and urban-rural construction shall order to make corrections within a prescribed time limit, and where there is a refusal to make corrections, a fine of not more than 100,000 Yuan shall be imposed.

Where a production and operation unit takes a public building accommodating crowds of people identified as a dangerous house as its business place and thus is unqualified for work safety, the departments responsible for supervision and administration of work safety shall, in accordance with the Regulations of Beijing Municipality on Work Safety, order it to make corrections within a prescribed time limit; order it to suspend business for rectification where no corrections are made at the expiration of the prescribed time limit; and close it down where the requirements for work safety remain unsatisfied after the rectification.

**Article 33** Whoever that obstructs the working staff of the State organs from performing their functions and duties of supervision and administration of safe use of housingbuildings shall be given an administrative penalty for public security where the Law of the People's Republic of China on Penalties for administration of Public Security is violated; and shall be investigated for criminal liability where a crime is constituted.

**Article 34** Where the owner of a housingbuilding is missing or unknown, the responsibilities of owners as specified in these Measures shall be borne by the actual occupant.

**Article 35** The People'sGovernments at the district or county level shall formulate the specific measures for administration of the safe use of the houses built by villagers themselves in rural areas with reference to these Measures, and the competent administrative departments for housing and urban-rural construction, planning, rural work and other relevant matters at the municipal level shall be responsible for carrying out guidance in supervision and administration of the houses built by villagers in rural areas.

**Article 36** These Measures shall be effective as of May 1, 2011. Several Provisions of Beijing Municipality on the Implementation of the Provisions on administration of Dangerous Houses in Urban Areas, approved on January 5, 1991 by the People's Government of Beijing Municipality, issued on March 9, 1991 by the former Beijing Municipal administration of Real Estates and amended in accordance with Decree No. 150 of the People's Government of Beijing Municipality on June 1, 2004, shall be repealed simultaneously.



# 北京市建设工程施工现场管理办法

(2013年5月7日北京市人民政府第247号令公布 根据2018年2月12日北京市人民政府第277号令修改)

## 第一章 总 则

**第一条** 为加强建设工程施工现场管理,保障安全生产和绿色施工,依据《建设工程安全生产管理条例》以及有关法律、法规,结合本市实际情况,制定本办法。

**第二条** 在本市行政区域内的建设工程施工现场(以下简称“施工现场”)进行施工活动以及对施工活动的管理,适用本办法。

本办法所称施工活动包括房屋建筑和市政基础设施工程的新建、改建、扩建和拆除活动,抢险救灾工程除外。

水利、铁路、公路、园林绿化、电信等专业工程的施工活动,法律、法规另有规定的,从其规定。

**第三条** 市住房城乡建设行政主管部门负责本市施工现场监督管理工作,区住房城乡建设行政主管部门负责本辖区内施工现场监督管理工作。

城市管理综合执法部门负责有关施工现场扬尘污染、施工噪声污染行政执法工作。

城乡规划、交通、城市管理、公安、安全生产、环境保护、质量监督、水务等部门按照各自职责对施工现场进行监督管理。

**第四条** 农民自建低层住宅施工活动的监督管理由乡镇人民政府、街道办事处参照本办法进行管理,住房城乡建设行政主管部门负责对农民自建低层住宅施工活动的技术指导。

**第五条** 住房城乡建设行政主管部门及相关部门应当加强对施工现场的监督管理

# Measures of Beijing Municipality for the Management of Construction Sites of Construction Projects

(Promulgated by the Decree No.247 of the People's Government of Beijing Municipality on May 7, 2013; amended by the Order No.277 of the People's Government of Beijing Municipality on February 12,2018)

## Chapter I General Provisions

**Article 1** In order to strengthen the management of construction sites and ensure work safety and green construction, these Measures is formulated in compliance with the Administrative Regulations on Work Safety of Construction Projects and relevant laws and regulations and in consideration of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to construction activities and the management of construction activities at construction sites of construction projects (hereinafter referred to as "construction sites") within the administrative regions of this Municipality.

“The construction activities” in these Measures include construction, reconstruction, expansion and demolition of houses and buildings and the municipal infrastructure projects, while the construction project of buildings erected for risk and disaster relief is not included.

If any law or regulation provides otherwise for the construction activities of water conservancy, railway, highway, gardens and greening, telecommunication, and other professional engineering projects, the provisions of that law or regulation shall prevail.

**Article 3** The municipal commission of housing and urban-rural department shall be responsible for the supervision and management of the construction sites in the municipality, and the district commission of housing and urban-rural department shall be responsible for the supervision and management of the construction sites within its jurisdictions.

The department of urban management and law enforcement shall be responsible for the administrative law enforcement against the pollution of dust and noises in the construction sites.

The department of urban-rural development, transport, urban management, public security, work safety, ecology and environment, quality supervision, water resource etc., shall supervise and administrate the construction sites in accordance with their respective duties.

**Article 4** The supervision and administration of the construction activities of low-rise residential buildings constructed by farmers shall be administered by the township people's government and sub-district administrative office with reference to these Measures. The municipal commission of housing and urban-rural department shall be responsible for providing technical guidance on the construction of low-rise residential buildings constructed by farmers.

**Article 5** The municipal commission of housing and urban-rural department and

工作，建立施工现场监督检查工作制度，组织开展绿色安全工地创建活动。

建设单位、施工单位、监理单位应当根据施工现场管理要求，按照各方主体责任，做好施工现场管理工作。

**第六条** 任何单位和个人都有权举报施工现场违法行为。住房城乡建设行政主管部门及相关部门应当建立举报制度，并根据职责对举报及时调查、处理。

## 第二章 安全施工

**第七条** 施工现场安全管理应当坚持安全第一、预防为主，建设单位、施工单位、监理单位应当建立健全安全生产责任制，加强施工现场安全管理，消除事故隐患，防止伤亡和其他事故发生。

**第八条** 建设单位应当加强施工现场管理，履行下列责任：

- （一）依法选定施工单位和监理单位；
- （二）组织协调建设工程参建各方的施工现场管理工作；
- （三）设立专门安全管理机构；
- （四）按照国家有关规定及时支付安全防护、文明施工措施费，并督促施工单位落实安全防护和绿色施工措施。

**第九条** 施工现场的安全管理由施工单位负责。建设工程实行总承包和分包的，由总承包单位负责对施工现场统一管理，分包单位负责分包范围内的施工现场管理。建设单位直接发包的专业工程，专业承包单位应当接受总承包单位的现场管理，建设单位、专业承包单位和总承包单位应当签订施工现场管理协议，明确各方责任。

因总承包单位违章指挥造成事故的，由总承包单位负责；分包单位或者专业承包单位不服从总承包单位管理造成事故的，由分包单位或者专业承包单位承担主要责任。

**第十条** 施工单位的主要负责人全面负责施工单位安全生产。施工单位的项目负

related departments shall strengthen the supervision and administration of the construction sites, and establish working systems for supervision and inspection of the construction sites, and organize activities to create green and safe construction sites.

The construction entities, construction undertaking entities, construction project supervisory entities shall manage the construction sites well in accordance with their respective duties in light of the requirements for the administration of construction sites.

**Article 6** All entities or individual have the right to report violations of law relating to the construction sites. The municipal commission of housing and urban-rural department and related departments shall establish a reporting regime, and investigate and deal with the report of violations of law in a timely manner according to their duties.

## **Chapter II Safe Construction**

**Article 7** The administration of safety in construction sites shall follow the principle of safety and prevention first. The construction entities, construction undertaking entities, construction project supervisory entities shall establish and perfect the responsibility system for operating safety, strengthen the management of construction safety at construction sites, eliminate potential dangers of accidents and prevent casualties and other operation accidents.

**Article 8** The construction entities shall strengthen the management of the construction sites and fulfill the following duties:

- (1) Select the construction undertaking entities, construction project supervisory entities in accordance with law;
- (2) Coordinate the construction site management of all parties involved in the construction project;
- (3) Establish a specialized safety management agency;
- (4) Pay the fees for safety protection and civilization construction measures timely in accordance with the relevant provisions issued by the state, and supervise the implementation of safety protection and green construction measures by the construction undertaking entities.

**Article 9** The construction undertaking entities shall be responsible for the safety of the construction sites. As for a construction project that contains an overall contractor and subcontractors, the overall contractor shall be responsible for the management at construction sites and subcontractors shall be responsible for the safety management of their own subcontracted projects. As for a specialized construction project contracted out directly by the construction entity, the specialized contracting entities shall be subject to the administration of the overall contractor at the construction site. The construction entity, the specialized contracting entities and the overall contractor shall enter into an agreement of construction sites management to clarify the responsibilities of all parties.

Where the command in violation of relevant regulations by the overall contractor causes accidents, the overall contractor shall bear the responsibility; where the subcontractor or the specialized contracting entities disobeys the management of the overall contractor and thereby causes accidents, the subcontractor or the specialized contracting entities shall bear the main responsibility.

**Article 10** The person in charge of the construction undertaking entity shall take full responsibility of the work safety of the entity. The person in charge of a construction project shall be responsible for the safety of the construction sites and carry out the management

责人负责施工现场的安全生产，履行现场管理职责。

施工单位应当根据规定在施工现场设置安全生产管理机构或者配备专职安全生产管理人员。

**第十一条** 监理单位应当按照规定在施工现场配备与工程相适应并具备安全管理知识和能力的安全监理人员。

监理单位应当核验施工单位资质、安全生产许可证和特种作业人员上岗资格证书等，并依法审核施工组织设计中的安全技术措施和专项施工方案。

**第十二条** 进入施工现场的管理人员和施工作业人员应当达到岗位管理和技能操作的要求，按照规定持证上岗，并应当经过安全生产培训，未经培训的，不得上岗作业。

**第十三条** 施工单位应当严格按照建筑业安全作业规程和标准、施工方案以及设计要求进行施工，并按照本市有关施工现场消防安全管理的规定，建立健全用火用电管理制度。

施工中需要高处作业和动火作业的，施工单位应当按照本市规定和国家标准进行，出现五级以上风力时，应当停止作业。

**第十四条** 施工单位应当建立施工现场安全生产、环境保护等管理制度，在施工现场公示，并应当制定应急预案，定期组织应急演练。

**第十五条** 施工单位应当按照规定编制施工组织设计文件，并按照施工组织设计文件进行施工。施工组织设计文件应当包括安全生产和绿色施工现场管理措施。

施工单位应当编制拆除施工方案，并按照拆除施工方案进行施工。

**第十六条** 建设单位应当在建设工程施工前向施工单位提供相关的地下管线、相邻建筑物和构筑物、地下工程的有关资料。建设单位因建设工程需要，向有关部门或者单位查询有关资料时，有关部门或者单位应当及时提供。

建设工程施工前，施工单位应当会同地下管线权属单位制定管线专项防护方案，确保地下管线、相邻建筑物和构筑物、地下工程和特殊作业环境的安全。施工中施工

duties at the sites.

The construction undertaking entity shall, in accordance with regulations, establish a specialized safety management agency at the construction sites or appoint a full-time safety management personnel.

**Article 11** The construction project supervisory entity shall, in accordance with provisions, appoint a safety supervisor who is qualified for the project supervision and possess knowledge and competence on safety management.

The construction project supervisory entity shall verify the qualification of the construction undertaking entity, the safety production license, and the qualification certificate of special operation staff etc., and examine the safety technologies and measures and the special construction plan in the construction designs in accordance with law.

**Article 12** The management personnel and operation personnel who enter the construction site shall meet the requirements for management and technical operation respectively, and shall be licensed to work and trained in work safety in accordance with regulations. He who did not received proper training shall not take such posts.

**Article 13** The construction undertaking entity shall carry out the construction in compliance with the safety work rules and standards set for the construction industry, the construction program and the designing requirements, and shall, in accordance with regulations related to fire safety management at construction site in this Municipality, establish and perfect the systems concerning the utilization of fire and electricity.

Where working on high-rise frameworks or on fire is needed in the construction, the construction undertaking entity shall implement the related work in accordance with provisions of this Municipality and the state standards, and shall stop the construction when the wind reached Grade 5 or above.

**Article 14** The construction undertaking entity shall establish regimes for safety work and environmental protection at the construction site, which shall be published at the site, and the entity shall formulate urgency plans organize drills regularly.

**Article 15** The construction undertaking entity shall formulate construction design documents in accordance with regulations, based on which construction should be carried out. The construction design documents shall include work safety measures and management measures on green construction site.

The construction undertaking entity shall formulate a scheme of demolishment and carry out the scheme accordingly.

**Article 16** The construction entity shall provide the construction undertaking entity with files on underground pipelines and the relevant description materials of its neighboring buildings, fixtures, and underground works. When a construction entity inquires relevant departments or entities about the related materials due to a construction project, the relevant departments or entities shall provide the materials in time.

Before the start of the construction project, the construction undertaking entity shall cooperate with the departments of the underground pipelines to formulate a special pipeline protection scheme, so as to ensure the safety of the underground pipelines, neighboring buildings, fixtures, underground works and special operating environment. During the construction, the construction undertaking entity shall take appropriate protective measures

单位应当采取相应的地下管线防护措施，仍不能确保管线安全或者施工安全的，建设单位应当会同地下管线权属单位对管线进行改移或者采取其他措施。

**第十七条** 危险性较大的分部分项工程施工前，施工单位应当按照规定编制专项施工方案并按照方案组织实施；达到国家规定规模标准的，专项施工方案应当经专家论证。

按照规定需要验收的，施工单位应当组织进行验收，验收合格的，方可进入下一道工序。

**第十八条** 总承包单位负责对进入施工现场的大型施工机械进行统一管理，依法审核相关企业资质、人员资格、检测报告和专项方案。

提供大型施工机械的单位应当对进入施工现场的设备做好日常维护保养，按照规定进行检测，每月进行不少于一次的检查，并做好记录。大型施工机械应当按照作业标准和规程要求进行施工作业，任何单位不得违章指挥。

**第十九条** 建筑起重机械租赁单位应当向市住房城乡建设行政主管部门进行备案，并提交下列材料：

- （一）营业执照；
- （二）建筑起重机械设备登记编号；
- （三）建筑起重机械司机特种作业操作资格证书；
- （四）符合作业要求的设备维修、存放场地证明；
- （五）机械设备管理人员情况；
- （六）安全生产管理制度和岗位责任制度。

市住房城乡建设行政主管部门应当建立本市建筑起重机械租赁单位信用信息管理平台，对租赁单位备案情况及其信用信息进行公示，并实行动态管理。

施工单位应当在施工中选择租赁信用良好的租赁单位的建筑起重机械。

**第二十条** 施工现场发生事故时，施工单位应当采取紧急措施减少人员伤亡和财产损失，并按照规定及时向有关部门报告。

施工现场发现文物、古化石或者爆炸物以及放射性污染源等，施工单位应当保护

for underground pipelines, but if it still cannot ensure the safety of pipelines or construction, the construction entity shall, in conjunction with the departments or entities of the underground pipelines, divert the pipelines or take other measures.

**Article 17** Before the start of the parts and sub-projects which are of considerable risk, the construction undertaking entity shall formulate a special construction scheme in accordance with provisions, and organize the construction in compliance with the scheme; as to the project with a scale reaching the statutory standards of state, the special construction scheme shall be assessed by experts.

If check and acceptance are required in accordance with regulations, the construction undertaking entity shall organize the check and acceptance, and only the qualified construction upon check and acceptance may proceed to the next process.

**Article 18** The overall contractor shall exercise unified control of all the bulky construction machines that enter the construction site, and shall examine the relevant qualifications of enterprises, qualifications of personnel, reports of test and special schemes in accordance with law.

The entities providing the bulky construction machines that enter the construction sites shall conduct routine maintenance of the equipment, check the equipment in accordance with regulations, test the equipment not less than once a month, and keep regular records. The bulky construction machines shall be operated in accordance with the operating standards and regulations, and no entity shall not command or operate in violation of relevant rules.

**Article 19** The leasing entity of construction hoisting machines shall report and submit the following materials to the municipal commission of housing and urban-rural department:

- (1) The business license;
- (2) The registration number of construction hoisting machines;
- (3) The qualification certificate for personnel engaging in special operation of construction hoisting machines;
- (4) The proof to that the equipment maintenance and storage space have met the requirements of operation;
- (5) The information on management personnel for mechanical equipment; and
- (6) The regimes of safety work and responsibility.

The municipal commission of housing and urban-rural department shall establish the credit information management platform on leasing entities of construction hoisting machines in this Municipality, publish the information on their registration and credit worthiness, and implement dynamic management.

Construction undertaking entity shall choose to lease construction hoisting machines the leasing entities with good credit.

**Article 20** If an accident occurred at the construction site, the construction undertaking entity shall take emergency measures to reduce casualties and losses and immediately report to the departments concerned in accordance with relevant regulations.

Construction undertaking entity shall, upon discovering at the construction sites cultural relics, ancient fossils, and sources of radioactive pollutants, etc., keep the sites intact



好现场并按照规定及时向有关部门报告。

### 第三章 绿色施工

**第二十一条** 施工单位应当按照国家和本市有关绿色施工管理规定，做好节地、节水、节能、节材以及保护环境工作。

**第二十二条** 新建、改建、扩建建设项目严格限制施工降水。确需要进行降水的，施工单位应当按照规定组织专家论证审查，取得排水许可，并依法缴纳地下水资源费。

**第二十三条** 施工现场应当根据绿色施工规程的要求，采取下列措施：

（一）建设工程开工前，建设单位应当按照标准在施工现场周边设置围挡，施工单位应当对围挡进行维护。市政基础设施工程因特殊情况不能进行围挡的，应当设置警示标志，并在工程危险部位采取防护措施；

（二）施工单位应当对施工现场主要道路和模板存放、料具码放等场地进行硬化，其他场地应当进行覆盖或者绿化；土方应当集中堆放并采取覆盖或者固化等措施。建设单位应当对暂时不开发的空地绿化；

（三）施工单位应当做好施工现场洒水降尘工作，拆除工程进行拆除作业时应当同时进行洒水降尘；

（四）施工单位对可能产生扬尘污染的建筑材料应当在库房存放或者进行严密遮盖；油料存放应当采取防止泄漏和防止污染措施。

**第二十四条** 施工现场出入口应当设置冲洗车辆设施。车辆清洗处及搅拌机前台应当设置沉淀池，清洗搅拌机和运输车辆的污水，应当综合循环利用，或者经沉淀处理并达标后排入公共排水设施以及河道、水库、湖泊、渠道。

**第二十五条** 施工现场应当设置密闭式垃圾站用于存放建筑垃圾，建筑垃圾清理应当搭设密闭式专用垃圾通道或者采用容器吊运，严禁随意抛撒。施工现场建筑垃圾的消纳和运输按照本市有关垃圾管理的规定处理。

and promptly report to the departments concerned in accordance with relevant regulations.

### **Chapter III Green Construction**

**Article 21** The construction undertaking entity shall, in accordance with the relevant regulations on administration of green construction issued by the state and the Municipality, manage the saving of land, water, energy, raw materials and environmental protection well.

**Article 22** During new construction, reconstruction, expansion construction projects, dewatering shall be strictly restricted. Where the dewatering is indeed required, the construction undertaking entity shall, in accordance with provisions, invite experts for deliberation and an examination to obtain a drainage license, and then pay the groundwater resources fee in accordance with law.

**Article 23** The following measures shall be taken at the construction site in accordance with the requirements of green construction regulations:

(1) Before the start of the construction, the construction entity shall enclose the construction site by fencing in accordance with the standards, and the construction undertaking entity shall maintain the fences and barriers of the construction site. Where the municipal infrastructure projects, under any special circumstance, cannot be fenced off, safety alarm marks shall be set up and safety protection measures shall be taken at the dangerous places of the construction site;

(2) The construction undertaking entity shall harden the main roads and the ground stored molding boards and materials other at the construction site, and cover or plant other sites with plants; the excavated earth shall either be covered up or firmed up or taken other measures. The construction entity shall plant the vacant land that is temporarily undeveloped with plants;

(3) The construction undertaking entity shall sprinkle for dust suppression at the construction site, and shall sprinkle for dust suppression at the same time when working for demolition; and

(4) The construction undertaking entity shall either store in or tightly cover up the construction materials that may generate dust pollution; measures shall be taken to prevent stored up fuels from leaking and polluting the environment.

**Article 24** The entrances and exits of construction sites shall be equipped with car washing facilities. Sedimentation basins shall be built either in front of concrete mixer platforms or in vehicle washing venues on the work sites of construction projects, and the wastewater resulting from washing transport vehicles and concrete mixers shall be recycled or discharged into public drainage facilities and rivers, reservoirs, lakes and canals after it has been subjected to sedimentation treatment and reached the discharge standards.

**Article 25** Air-tight refuse collection depots shall be set in place at the construction site to collect construction refuse, and closed refuse clearing shafts must be erected for clearing away construction refuse or the construction refuse must be hauled in containers, and it is strictly prohibited to throw away construction refuse at random. Construction refuse shall be cleared away and destroyed in accordance with the relevant provisions of the waste administration in this Municipality.

**第二十六条** 本市禁止现场搅拌混凝土、砂浆。砌筑、抹灰以及地面工程砂浆应当使用散装预拌砂浆。

**第二十七条** 在噪声敏感建筑物集中区域内，夜间不得进行产生环境噪声污染的施工作业。因重点工程或者生产工艺要求连续作业，确需在 22 时至次日 6 时期间进行施工的，建设单位应当在施工前到建设工程所在地的区住房城乡建设行政主管部门提出申请，经批准后方可进行夜间施工，并公告施工期限。未经批准或者超过批准期限，施工单位不得进行夜间施工。

**第二十八条** 进行夜间施工的，建设单位应当会同施工单位做好周边居民工作，并采取有效的噪声污染防治措施，减少对周边居民生活影响。

进行夜间施工产生噪声超过规定标准的，对影响范围内的居民由建设单位给予经济补偿。具体补偿办法由住房城乡建设行政主管部门会同发展改革、环境保护等部门制定，补偿办法应当包括补偿范围、补偿标准的确定原则、争议救济途径等内容。

建设单位应当委托环境保护监测机构测定夜间施工噪声影响范围，并会同相关居民委员会或者物业服务单位确定应当给予补偿的户数。建设单位应当与居民签订补偿协议。

**第二十九条** 施工现场的各类生活设施，应当符合消防、通风、卫生、采光等要求，安全使用燃气，防止火灾、煤气中毒、食物中毒和各种疫情的发生。

热水锅炉、炊事炉灶、取暖设施等禁止使用燃煤。

## 第四章 法律责任

**第三十条** 违反本办法第十二条规定，未经安全生产培训上岗作业的，由住房城乡建设行政主管部门依据《中华人民共和国安全生产法》和《建设工程安全生产管理条例》进行处理。

**第三十一条** 违反本办法第十三条规定，未严格按照建筑业安全作业规程或者标

**Article 26** The Municipality prohibits the mixing of concrete and mortar at the construction sites. The construction of masonry, plastering and ground shall use bulk ready-mixed mortar.

**Article 27** No construction operation that produces noise pollution shall be conducted at night within areas where there is a concentration of noise sensitive buildings. For the work on key construction projects or construction projects that technologically require continued operation must be carried out between 22 hours and 06 hours the next day, the construction entities shall, prior to the construction thereof, apply to the district commission of housing and urban-rural department where the projects are located, shall carry out the construction operation upon approval therefrom, and shall make public the period of nocturnal construction operations. The construction undertaking entities shall not carry out nocturnal construction operations without approval or beyond the approved period.

**Article 28** Where construction operations must be carried out at night, the construction entity shall, in conjunction with the construction undertaking entity, work on the residents in the neighborhood, and take effective measures to prevent and control noise pollution to reduce the impact on the lives of residents in the neighborhood.

Where the nocturnal operation of construction projects produces noises which exceed the prescribed standard, the construction entity shall provide appropriate economic compensation to the residents that have been adversely affected by the noise. The specific compensation measure shall be formulated by the commission of housing and urban-rural department in conjunction with the departments of development and reform, environmental protection, etc. The compensation measure shall include the scope of compensation, the principle of determining the compensation standard, and the remedies for disputes, etc.

The construction entity shall entrust an environmental protection monitoring unit with the determination of the scope of noise infliction resulting from the nocturnal operations of the construction project, and decide on the actual number of households that have been afflicted jointly with the relevant residents' committee or the property management unit. The construction entity shall conclude economic compensation agreements with the residents.

**Article 29** All the living facilities at the construction sites shall meet the requirements for fire protection, hygiene, ventilation, illumination, etc., use gas safely, and to prevent fire, gas poisoning, food poisoning and various kinds of epidemics from occurring.

Water boilers and cooking ranges, heating facilities, etc. are prohibited from using coal.

## **Chapter IV Legal Liability**

**Article 30** Where anyone, in violation of the provisions of Article 12 of these Measures, takes posts or operates without safety training shall be dealt with by the commission of housing and urban-rural department in accordance with Work Safety Law of the People's Republic of China and the Administrative Regulations on the Work Safety of Construction Projects.

**Article 31** Where any construction, in violation of the provisions of Article 13 of these Measures, is not carried out in strict accordance with in compliance with the safety

准进行施工，造成事故隐患的，由住房城乡建设行政主管部门责令改正，可处 1000 元以上 1 万元以下罚款；情节严重的，处 1 万元以上 3 万元以下罚款。未严格按照规定和标准要求进行动火作业的，由公安机关消防机构责令改正，处 1 万元以上 3 万元以下罚款。

**第三十二条** 违反本办法第十五条第一款规定，施工组织设计文件未包括安全生产或者绿色施工现场管理措施的，由住房城乡建设行政主管部门责令改正，处 1000 元以上 5000 元以下罚款。

违反本办法第十五条第二款规定，未编制拆除施工方案或者未按照拆除施工方案进行施工的，由住房城乡建设行政主管部门责令改正，处 1000 元以上 5000 元以下罚款；情节严重造成严重后果的，处 1 万元以上 3 万元以下罚款。

**第三十三条** 违反本办法第十六条第二款规定，未采取专项防护措施的，由住房城乡建设行政主管部门依据《建设工程安全生产管理条例》进行处理；因未采取改移或者其他措施，造成管线损坏的，由住房城乡建设行政主管部门对建设单位处 1 万元以上 5 万元以下罚款，情节严重的，处 5 万元以上 10 万元以下罚款。

**第三十四条** 违反本办法第十七条第二款规定，未按照规定组织验收的，由住房城乡建设行政主管部门责令改正，处 1 万元以上 3 万元以下罚款。

**第三十五条** 违反本办法第十八条第二款规定，未按照规定进行检查和维护保养的，由住房城乡建设行政主管部门责令改正，处 1000 元以上 5000 元以下罚款。

**第三十六条** 违反本办法第二十三条规定，未按照规定采取措施或者采取措施不当的，由城市管理综合执法部门责令限期改正，处 1 万元以上 10 万元以下罚款；逾期未改正的，责令停工整治。

**第三十七条** 违反本办法第二十四条规定，未设置冲洗车辆设施的，由城市管理综合执法部门责令限期改正，处 1 万元以上 10 万元以下罚款；逾期未改正的，责令停工整治。

work rules and standards set for the construction industry, causing an accident hidden danger, the commission of housing and urban-rural department shall order the correction, and may impose a fine of not less than 1,000 yuan and not more than 10,000 yuan; if the circumstances are serious, a fine of not less than 10,000 yuan and not more than 30,000 yuan shall be imposed. Where any operation on fire is not carried out in strict accordance with the regulations and standards, the public security fire control institutions shall order the correction and impose a fine of not less than 10,000 yuan and not more than 30,000 yuan.

**Article 32** Where the construction design documents, in violation of the provisions of the first paragraph of Article 15 of these Measures, do not include measures of work safety and measures of management for green construction site, the commission of housing and urban-rural department shall order the correction, and may impose a fine of not less than 1,000 yuan and not more than 5,000 yuan.

Where, in violation of the provisions of the second paragraph of Article 15 of these Measures, the scheme of demolition is not formulated or the construction is not carried out in accordance with the scheme of demolition, the commission of housing and urban-rural department shall order the correction, and may impose a fine of not less than 1,000 yuan and not more than 5,000 yuan; if the circumstances are serious enough to cause serious consequences, a fine of not less than 10,000 yuan and not more than 30,000 yuan shall be imposed.

**Article 33** Where any entity, in violation of the provisions of the second paragraph of Article 16 of these Measures, fails to take special protective measures, shall be dealt with by the commission of housing and urban-rural department in accordance with the Administrative Regulations on the Work Safety of Construction Projects; where a pipeline is damaged due to the failure to take diversion or other measures, commission of housing and urban-rural department shall impose a fine of not less than 10,000 yuan and not more than 50,000 yuan on the construction entity, and if the circumstances are serious, a fine of not less than 50,000 yuan and not more than 100,000 yuan shall be imposed.

**Article 34** Where, in violation of the provisions of the second paragraph of Article 17 of these Measures, the check and acceptance are not organized in accordance with provisions, the commission of housing and urban-rural department shall order the correction, and may impose a fine of not less than 10,000 yuan and not more than 30,000 yuan.

**Article 35** Where, in violation of the provisions of the second paragraph of Article 18 of these Measures, check and maintenance are not carried out in accordance with provisions, the commission of housing and urban-rural department shall order the correction, and may impose a fine of not less than 1,000 yuan and not more than 5,000 yuan.

**Article 36** Where, in violation of the provisions of Article 23 of these Measures, measures are not taken in accordance with provisions or improper measures are taken, the urban administration of comprehensive law enforcement departments shall order to take corrective action within a prescribed time limit, and shall impose a fine of not less than 10,000 yuan and not more than 100,000 yuan; if it fails to do so within the prescribed time limit, the construction work shall be ordered to be stopped for rectifications.

**Article 37** Where, in violation of the provisions of Article 24 of these Measures, facilities for washing vehicles are not set up, the urban administration of comprehensive law enforcement departments shall order to take corrective action within a prescribed time limit,

**第三十八条** 违反本办法第二十五条规定，未设置密闭式垃圾站、未搭设密闭式专用垃圾通道或者未采用容器吊运的，由城市管理综合执法部门责令改正，处 1000 元以上 1 万元以下罚款。

**第三十九条** 违反本办法第二十六条规定，现场搅拌混凝土、砂浆或者未按照规定使用散装预拌砂浆的，由住房城乡建设行政主管部门责令限期改正，处 2 万元以上 20 万元以下罚款；逾期未改正的，责令停工整治。

**第四十条** 违反本办法第二十七条规定，施工单位未经批准或者超过批准期限进行夜间施工的，由城市管理综合执法部门责令改正，处 1 万元以上 3 万元以下罚款。

## 第五章 附 则

**第四十一条** 本办法自 2013 年 7 月 1 日起施行。2001 年 4 月 5 日市人民政府发布的《北京市建设工程施工现场管理办法》同时废止。

and impose a fine of not less than 10,000 yuan and not more than 100,000 yuan; if it fails to do so within the prescribed time limit, the construction work shall be ordered to be stopped for rectifications.

**Article 38** Where, in violation of the provisions of Article 25 of these Measures, no air-tight refuse depot is set up, no closed refuse clearing shafts is erected or no container is used for hauling the refuse, the urban administration of comprehensive law enforcement departments shall order the correction, and impose a fine of not less than 1000 yuan and not more than 10,000 yuan.

**Article 39** Where, in violation of the provisions of Article 26 of these Measures, concrete or mortar are mixed up at the construction sites, or the bulk pre-mixed mortar are not used in accordance with provisions, commission of housing and urban-rural department shall order to take corrective action within a prescribed time limit, and impose a fine of not less than 20,000 yuan and not more than 200,000 yuan; if it fails to do so within the prescribed time limit, the construction work shall be ordered to be stopped for rectifications.

**Article 40** Where a construction undertaking entity, in violation of the provisions of Article 27 of these Measures, carries out nocturnal construction operations in the absence of approval or beyond the approved period of time for nocturnal construction operation, the urban administration of comprehensive law enforcement departments shall order the correction, and impose a fine of not less than 10,000 yuan and not more than 30,000 yuan.

## **Chapter V Supplementary Provisions**

**Article 41** These Measures shall be effective as of July 1, 2013. The Measures of Beijing Municipality for Administration of Construction Sites of Construction Projects promulgated by the Municipal People's Government on April 5, 2001 shall be repealed simultaneously.



# 北京市民用建筑节能管理办法

(2014年6月24日北京市人民政府256号令公布)

## 第一章 总 则

**第一条** 为加强本市民用建筑节能管理,降低能源消耗,提高能源利用效率,根据有关法律法规,结合本市实际情况,制定本办法。

**第二条** 本市行政区域内的民用建筑节能及其监督管理活动,适用本办法。

本办法所称民用建筑节能,是指在居住建筑和公共建筑的规划、设计、建造、使用、改造等活动中,按照有关标准和规定,采用符合节能要求的建筑材料、设备、技术、工艺和管理措施,在保证建筑物使用功能和室内环境质量的前提下,合理、有效地利用能源,降低能源消耗。

**第三条** 本市民用建筑节能管理工作遵循政府引导、市场调节、社会参与的原则,通过提高节能技术标准,加强节能管理,实现节约能源、改善环境、社会受益。

**第四条** 住房城乡建设行政主管部门负责本市民用建筑节能管理的综合统筹、监督、协调工作,具体负责民用建筑建造、使用、改造方面的节能监督管理工作。

规划行政主管部门负责民用建筑规划、设计方面的节能监督管理工作;市政市容行政主管部门负责民用建筑供热方面的节能监督管理工作;发改、财政、统计、农村工作等行政主管部门按照职责负责民用建筑节能的相关监督管理工作。

区、县人民政府负责本行政区域内民用建筑节能管理的组织领导工作。

**第五条** 市住房城乡建设行政主管部门负责编制本市民用建筑节能专项规划,民用建筑节能专项规划的主要指标应当纳入国民经济和社会发展规划。

# Measures of Beijing Municipality for Administration of Energy Conservation in Civil Buildings

(Promulgated by Decree No. 256 of the People's Government of Beijing Municipality on June 24, 2014)

## Chapter I General Provisions

**Article 1** These Measures are formulated for the purposes of strengthening administration of energy conservation in civil buildings, reducing energy consumption and increasing energy efficiency within this Municipality in accordance with relevant laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to energy conservation in civil buildings, and supervision and administration thereof within the administrative area of this Municipality.

As used in these Measures, the term “energy conservation in civil buildings” refers to the adoption of building materials, equipment, technologies, techniques and management measures that meet the requirements on energy conservation in accordance with relevant standards and provisions in such activities as the planning, design, construction, use and renovation of residential buildings and public buildings so as to reasonably and efficiently utilize energy and reduce energy consumption, provided that the use functions and indoor environment quality of the buildings are guaranteed.

**Article 3** This Municipality shall follow the principles of government guidance, market adjustment and social participation in administration of energy conservation in civil buildings and save energy, improve environment and benefit the society by enhancing technical standards for energy conservation and strengthening administration of energy conservation.

**Article 4** The administrative department for housing and urban-rural construction shall be responsible for comprehensive planning, supervision and coordination of the administration of energy conservation in civil buildings within this Municipality, and specifically responsible for the supervision and administration of energy conservation in terms of construction, use and renovation of civil buildings.

The administrative department for planning shall be responsible for the supervision and administration of energy conservation in terms of planning and design of civil buildings; the administrative department for municipal administration and city appearances shall be responsible for the supervision and administration of energy conservation in terms of heat supply for civil buildings; the administrative departments for development and reform, finance, statistics and rural work shall be responsible for the supervision and administration of energy conservation in civil buildings within their respective functions and duties.

The people's governments at the district or county level shall be responsible for the organization and leadership of the administration of energy conservation in civil buildings within their respective administrative areas.

**Article 5** The administrative department for housing and rural-urban construction at the municipal level shall be responsible for compiling a special plan for energy conservation

市和区县住房城乡建设行政主管部门根据专项规划制定民用建筑节能年度工作计划。

**第六条** 新建民用建筑、实施节能改造的既有民用建筑的建筑节能责任由建设单位承担。设计单位、施工单位、监理单位、检测单位、施工图设计文件审查机构等单位及其相关人员，按照规定承担设计、施工、监理、检测、施工图审查等方面的建筑节能责任。

民用建筑使用中的节能责任由所有权人、运行管理人、使用人按照规定或者约定承担，没有规定或者约定的，由所有权人承担。

**第七条** 公民、法人和其他组织应当提高节能意识，采取节能措施，加强日常行为节能。

新闻媒体应当加强民用建筑节能宣传工作，普及建筑节能科学知识，引导、鼓励社会公众节能行为。

**第八条** 本市民用建筑节能工作严格执行国家标准、行业标准和本市地方标准。根据本市民用建筑节能管理工作的需要，可以制定严于国家标准和行业标准的标准，地方标准可以制定强制性条文。

**第九条** 市住房城乡建设行政主管部门会同市规划等部门，定期发布本市推广、限制、禁止使用的建筑材料、设备、技术、工艺目录，并实行动态管理。本市推广安全耐久、节能环保、便于施工的绿色建材，禁止生产和使用黏土砖、黏土瓦、黏土陶粒。

**第十条** 本市实行公共建筑能耗限额管理制度，逐步建立分类公共建筑能耗定额管理、能源阶梯价格制度，具体办法由市住房城乡建设行政主管部门会同市发展改革行政主管部门制定。

集中供热的公共建筑实行热计量收费制度，集中供热的居住建筑逐步实行热计量收费制度，具体办法由市政市容行政主管部门会同市发展改革行政主管部门制定。

**第十一条** 本市建立民用建筑能耗统计制度，具体办法由市住房城乡建设行政主

in civil buildings of this Municipality, and the main indicators of such special plan for energy conservation shall be included in the plan for national economy and social development.

The administrative departments for housing and rural-urban construction at the municipal and the district or county level shall formulate annual work plans for energy conservation in civil buildings in accordance with the special plan.

**Article 6** The responsibility for energy conservation in new civil buildings and energy-saving renovations of existing civil buildings shall be born by the development units. The design units, construction units, supervision units and testing units, and the authority reviewing the design documents of construction drawings as well as relevant personnel thereof shall bear the responsibility for energy conservation in buildings in terms of design, construction, supervision, testing and review of construction drawings.

The responsibility for energy conservation in the use of civil buildings shall be born by the owners, operation managers and users as stipulated or agreed upon, or by the owners where there is no stipulation or agreement.

**Article 7** Citizens, legal persons and other organizations shall enhance the awareness of energy conservation, take energy conservation measures, and strengthen energy conservation through daily behaviors.

News media shall strengthen the publicity of energy conservation in civil buildings and popularize scientific knowledge of energy conservation in buildings so as to guide and encourage behaviors of energy conservation of the public.

**Article 8** The national standards, industrial standards and local standards of this Municipality shall be strictly implemented in energy conservation in civil buildings in this Municipality. Local standards stricter than national standards and industrial standards may be formulated based on the needs for the administration of energy conservation in civil buildings in this Municipality, and the local standards may include compulsory clauses.

**Article 9** The administrative department for housing and rural-urban construction at the municipal level shall, together with the department for planning at the municipal level, regularly publish the catalogue of construction materials, equipment, technologies and techniques that are popularized, restricted or prohibited in this Municipality, and carry out dynamic administration thereof. This Municipality shall popularize green building materials that are safe and durable, energy saving and environmentally friendly, as well as convenient for construction, and prohibit the production and utilization of clay bricks, clay tiles and clay ceramsites.

**Article 10** This Municipality shall implement the system for administration of energy consumption quota for public buildings and gradually establish the system for administration of energy consumption quota and multi-tiered pricing for energy based on classified public buildings. The specific measures shall be formulated by the administrative department for housing and rural-urban construction at the municipal level together with the administrative department for development and reform at the municipal level.

The public buildings with central heating shall implement the charging system according to heat metering, while the residential buildings with central heating shall gradually implement the charging system according to heat metering. The specific measures shall be formulated by the administrative department for municipal administration and city appearances at the municipal level together with the administrative department for development and reform at the municipal level.

**Article 11** This Municipality shall establish the system for statistics of energy consumption in civil buildings. The specific measures shall be formulated by the

管部门会同市统计、计量行政主管部门制定。

民用建筑的所有权人、使用人、运行管理单位和能源供应单位应当配合建筑能耗调查统计工作，并按照规定提供统计调查所需要的资料。

**第十二条** 本市在民用建筑中推广太阳能、地热能、水能、风能等可再生能源的利用。民用建筑节能项目按照国家和本市规定，享受税收优惠和资金补贴、奖励政策。

本市节能专项资金中应当安排专门用于民用建筑节能的资金，用于建筑节能技术研究和推广、节能改造、可再生能源应用、建筑节能宣传培训以及绿色建筑和住宅产业化等项目的补贴和奖励。

鼓励以商业银行贷款、合同能源管理等方式推动民用建筑节能工作。

## 第二章 新建民用建筑节能管理

**第十三条** 本市编制、调整城乡规划时应当充分考虑气候、地形地貌、资源等条件，按照建筑节能与宜居的要求，对区域功能、人口密度、能源消耗强度、基础设施配置等进行统筹研究、合理安排。

**第十四条** 新建民用建筑在编制项目建议书、可行性研究报告、项目申请报告时应当包括建筑节能内容。

达到国家规定的规模和标准的项目，建设单位应当单独编制节能评估文件，由发展改革部门组织节能评估并出具节能审查意见。建设单位应当将节能审查意见中的能源利用方案、能耗指标和提高能效的要求转化成具体措施。

**第十五条** 新建民用建筑的设计说明应当注明符合建筑节能标准、符合固定资产投资项目节能审查意见要求的具体措施。

施工图设计文件审查机构应当按照建筑节能标准和规定对施工图设计文件进行审查。经审查合格的施工图设计文件不得擅自变更；确需变更且涉及建筑节能内容的，

administrative department for housing and rural-urban construction at the municipal level together with the administrative departments for statistics and metering at the municipal level.

The owners, users, operation management units and energy supply units of civil buildings shall provide cooperation in investigation and statistics of energy consumption in buildings and provide materials needed in statistics and investigation as stipulated.

**Article 12** This Municipality shall promote the utilization of such renewable energy resources as solar energy, geothermal energy, hydro energy and wind energy in civil buildings. Projects of energy conservation in civil buildings shall enjoy tax preferences, financial subsidies and reward policies in accordance with the provisions of the State and this Municipality.

The special fund for energy conservation of this Municipality shall include the fund specially for energy conservation in civil buildings, used for the research and popularization of technologies for energy conservation in buildings, energy-saving renovations, application of renewable energy resources, publicity and training of energy conservation in buildings, as well as subsidies and rewards for projects of green buildings and housing industrialization.

Such ways as loans of commercial banks and energy performance contracting are encouraged to promote energy conservation in civil buildings.

## **Chapter II Administration of Energy Conservation in New Civil Buildings**

**Article 13** This Municipality shall fully consider such conditions as climate, landform and resources and carry out overall research and reasonable arrangement of regional functions, population density, energy consumption intensity and infrastructure configuration in accordance with the requirements on energy conservation and livability when compiling or adjusting rural-urban planning.

**Article 14** The contents of energy conservation shall be included in the project proposals, feasibility study reports and project application reports for new civil buildings.

As to the project that meet the scales and standards provided by the State, the development unit shall prepare a separate evaluation report on energy conservation and the department for development and reform shall organize the evaluation of energy conservation and issue examination opinions on energy conservation. The development unit shall transfer the energy utilization program, energy consumption indicators and requirements on improving energy efficiency in the examination opinions on energy conservation into specific measures.

**Article 15** The design specifications of new civil buildings shall indicate the specific measures in compliance with the standards for energy conservation in buildings and requirements in examination opinions on energy conservation for fixed capital investment projects.

The authority reviewing the design documents of construction drawings shall review such drawings in compliance with the standards and provisions for energy conservation. The construction drawings qualified upon review shall not be altered without authorization; where there is a need to make any alteration which involves the contents of energy conservation in buildings, the development unit shall go through the reviewing procedures

建设单位应当重新履行施工图设计文件审查程序。

**第十六条** 施工单位应当按照建设工程设计图纸和施工技术标准进行施工，采用符合建筑节能要求的建筑材料、设备和施工工艺；在施工作业中，应当按照本市绿色施工管理规程的要求进行绿色施工。

在建设工程项目竣工验收之前，建设单位应当按照规定组织建筑节能专项验收。

**第十七条** 市住房城乡建设行政主管部门应当建立全市建筑材料使用管理信息化监控平台，实行建筑节能材料信用信息管理制度，定期发布建筑节能材料的相关信息，对涉及建筑节能效能的建筑材料实施重点监管。

施工总承包单位应当按照规定报送相关建筑节能材料的数据信息。

**第十八条** 新建民用建筑应当按标准和规定安装能耗计量设施，大型公共建筑应当安装能耗分项计量设施。新建民用建筑安装供热计量与温控装置应当符合下列要求：

- （一）热量表经计量检定合格；
- （二）温控装置具有检测合格报告；
- （三）供热计量装置达到数据远传通讯功能；
- （四）建筑物室内分户安装采暖温度采集远传装置。

供热计量与温控装置安装应当便于日常巡检、维修，并保证正常运行。

**第十九条** 采用集中供热的建设工程，建设单位应当在建设工程开工前与供热单位签订集中供热设施的运行管理合同，明确供热计量与温控装置的采购、技术标准及安装要求。供热单位采购供热计量与温控装置，对装置安装工作进行技术指导，参与采暖节能工程分项验收中的供热计量与温控装置安装工程验收工作。供热计量与温控装置不符合要求的，供热单位不予验收。

**第二十条** 本市新建民用建筑执行一星级绿色建筑标准。

根据民用建筑节能管理需要，部分新建民用建筑应当按照二星级以上绿色建筑标准或者住宅产业化要求进行建设，具体范围由市住房城乡建设行政主管部门会同规划



for the design documents of construction drawings again.

**Article 16** The construction units shall carry out construction in accordance with the design drawings of construction engineering and technical standards for construction, adopt building materials, equipment and techniques that meet the requirements on energy conservation; during the construction, green construction shall be carried out in accordance with the norms on green construction management of this Municipality.

Before the acceptance of construction projects upon check, the development units shall organize specialized acceptance of energy conservation in buildings as stipulated.

**Article 17** The administrative department for housing and rural-urban construction at the municipal level shall establish an informationized monitoring platform for administration of the use of construction materials of the whole city so as to implement the system for administration of credit information of energy-saving materials for buildings, regularly publish relevant information of energy-saving materials and focus on the supervision of construction materials involving the efficiency of energy-saving for buildings.

The general contracting units shall submit the data information of relevant energy-saving materials for buildings as stipulated.

**Article 18** The new civil buildings shall be installed with energy consumption metering devices in accordance with standards and provisions and large public buildings shall be installed with itemized metering devices of energy consumption. The installment of heat metering and temperature control devices in new civil buildings shall meet the following requirements:

- (1) heat meters qualified upon metering verification;
- (2) temperature control devices qualified with testing reports;
- (3) heat consumption metering devices have reached the functions of remote transmission and communication of data;
- (4) devices of collection and remote transmission of heating temperature are installed in each indoor households.

The installation of heat metering and temperature control devices shall be for the convenience of daily patrol and maintenance, and normal operation shall be guaranteed.

**Article 19** As to a construction project with central heating, the development unit shall, before the commencement of construction project, enter into a contract of central heating facilities' operation and management with the heat supply unit specifying the purchase, technical standards and installment requirements of heat metering and temperature control devices. The heat supply unit shall purchase heat metering and temperature control devices, carry out technical guidance on the installment of such devices and participate in the acceptance of the installment projects of heat metering and temperature control devices in itemized acceptance of energy-saving projects of heating. The heat supply unit shall not accept the heat metering and temperature control devices that fail to meet requirements.

**Article 20** New civil buildings in this Municipality shall implement the standards of one-star green buildings.

In accordance with the need of administration of energy conservation in civil buildings, certain new civil buildings shall be constructed in accordance with the standards of green buildings above two stars or requirements of housing industrialization. The specific scope shall be determined by the administrative department for housing and rural-urban construction at the municipal level together with the department for planning and



等部门确定，根据经济社会发展情况实行动态调整，并制定年度建设计划。

确定为按照二星级以上绿色建筑标准或者住宅产业化要求进行建设的项目，相关建设标准或者要求应当在土地出让条件、选址意见书或者规划条件中明确。

**第二十一条** 市规划、住房城乡建设行政主管部门负责组织对按照二星级以上绿色建筑标准进行建设的民用建筑进行绿色建筑评审，对评审合格的民用建筑，颁发绿色建筑标识、运行标识，并按照规定给予补贴或者奖励。

**第二十二条** 建设单位应当在房屋销售场所、房屋买卖合同、住宅质量保证书、住宅使用说明书中明示所售房屋的建筑节能设计指标、绿色建筑星级、可再生能源利用情况、供热方式、供热单位及供热计量收费方式、节能设施的使用与保护要求等基本信息。

**第二十三条** 由农村集体组织统一规划、统一建设的三层以上建设项目应当执行本市建筑节能设计标准。

农村村民自建住宅的，鼓励其采用建筑节能设计，使用新型建筑材料和清洁能源。经住房城乡建设行政主管部门认定，农村村民自建住宅符合本市农村村民住宅节能标准、采用清洁能源的，市和区县财政部门可以按照规定给予补贴。

### 第三章 既有民用建筑节能改造

**第二十四条** 本市对不符合民用建筑节能强制性标准且有改造价值的民用建筑逐步实行节能改造。区、县人民政府负责统筹推进本行政区域内的节能改造工作。在实行抗震加固、老旧小区改造时，应当同时进行节能改造。

**第二十五条** 既有普通公共建筑不符合民用建筑节能强制性标准的，所有权人在进行改建、扩建和外部装饰装修工程时，应当同时进行围护结构的节能改造和能耗计量监控设施改造，并依法进行施工图设计审查。既有大型公共建筑不符合民用建筑节能

dynamically adjusted according to the situation of economic and social development, and an annual construction plan also be made.

As to the construction projects which are determined to be constructed in accordance with the standards of green buildings above two stars or requirements of housing industrialization, related standards or requirements shall be specified in land transfer conditions, opinions for site selection or planning conditions.

**Article 21** The administrative departments for planning, and housing and rural-urban construction at the municipal level shall be responsible for organizing green building evaluation on civil buildings constructed in accordance with the standards of green buildings above two stars, and as to those qualified upon evaluation, issue design and operation identification of green buildings and provide subsidies or rewards as stipulated.

**Article 22** The development units shall specify in house sales sites, house sales contracts, residential quality guarantees and house using manuals such basic information as the design indicators of energy conservation in buildings, green building star rating, utilization of renewable energy resources, heat supply modes, heat supply units and modes of heat metering and charging, as well as utilization and protection requirements of energy-saving facilities.

**Article 23** The construction projects with more than three floors planned or constructed by rural collective organizations in a unified manner shall follow the design standards for energy conservation in buildings of this Municipality.

Villagers constructing houses by themselves shall be encouraged to adopt the design of energy conservation and utilize new type building materials and clean energy. Upon the recognition of the administrative department for housing and rural-urban construction, the villagers constructing houses by themselves which meet the standards for energy conservation in rural houses in villages of this Municipality by adopting clean energy, the departments for finance at the municipal and the district or county level may provide subsidies as stipulated.

### **Chapter III Energy-saving Renovation of Existing Civil Buildings**

**Article 24** This Municipality shall gradually carry out energy-saving renovation of civil buildings worthy of being renovated that fail to meet the compulsory standards for energy conservation in civil buildings. The people's governments at the district or county level shall be responsible for promoting the energy-saving renovation within their respective administrative areas in an overall manner. When the seismic reinforcement or renovation is carried out in old communities, the energy-saving renovation shall be conducted simultaneously.

**Article 25** Where the existing common public buildings fail to meet the compulsory standards for energy conservation in civil buildings, the owners shall, at the time of the project of reconstruction, expansion or exterior decoration, simultaneously carry out energy-saving renovations of enclosure structures and renovations of energy consumption metering and monitoring devices, and go through the procedures for design review of construction drawings in accordance with law. Where the existing large public buildings fail to meet the compulsory standards for energy conservation in civil buildings, at the time of reconstruction or expansion, the renovation of itemized energy consumption metering and

能强制性标准的，在进行改建、扩建时，应当同时进行能耗分项计量监控设施和用能系统节能改造。

未同步进行节能改造的，相关行政主管部门不予办理改建、扩建和外部装饰装修工程的相关手续。

**第二十六条** 本市鼓励对不符合建筑节能强制性标准的既有居住建筑进行围护结构和供热计量改造，改造资金由政府、所有权人共同承担。既有居住建筑属于职工购买公有住宅楼房性质的，改造资金按照本市有关规定及原售房合同的约定承担。

**第二十七条** 公共建筑的节能改造由建筑物所有权人负责组织实施，公共建筑的所有权人为分散业主的，由公共建筑的运行管理单位负责组织实施工作。

居住建筑的节能改造，属于政府直管或者单位自管的，由房屋管理单位负责组织实施工作；其他居住建筑由区县住房城乡建设行政主管部门或者区县人民政府指定的有关机构负责组织实施工作。集中供热系统热计量改造由供热单位组织实施，负责供热计量与温控装置的采购和组织安装。

中央在京机关、军队、企业、事业单位的居住建筑，由房屋管理单位按照国家主管部门和市人民政府的规定组织实施。本市国有资产监督管理机构按照规定督促所监管企业做好既有建筑节能改造工作。

建筑物所有权人、管理人、使用人应当依法配合节能改造工作。

**第二十八条** 既有居住建筑实施节能改造应当制定改造工作方案。改造工作方案由本办法第二十七条确定的负责组织实施工作的主体制定，并征求房屋所有权人的意见。改造工作方案应当确定实施改造的项目管理人，项目管理人承担建设单位的法律责任。

## 第四章 民用建筑节能运行

**第二十九条** 实行物业管理的民用建筑，物业服务单位应当按照物业服务合同的

monitoring devices and energy-saving renovation of energy-using systems shall be conducted simultaneously.

Where the energy-saving renovation is not conducted simultaneously, relevant administrative department shall not handle relevant procedures for the project of reconstruction, expansion or exterior decoration.

**Article 26** This Municipality encourages renovation of enclosure structures and heat metering of existing residential buildings that fail to meet the compulsory standards for energy conservation, and funds for renovation shall be born jointly by the governments and owners thereof. Where the existing residential buildings belong to the publicly-owned residential buildings purchased by employees, the funds for renovation shall be born in accordance with relevant provisions of this Municipality and the agreements of original house sales contracts.

**Article 27** The owners of buildings shall be responsible for the organization of the implementation of energy-saving renovation of public buildings. Where the owners of public buildings are different ones, the operation management units of public buildings shall be responsible for the organization of the implementation.

As to the residential buildings under direct administration of governments or self-administration of units, the building management units shall be responsible for the organization of their energy-saving renovation; as to other residential buildings, the administrative departments for housing and rural-urban construction at the district or county level or relevant institutions designated by the people's government at the district or county level shall be responsible for the organization of their energy-saving renovation. The heat supply units shall organize the heat metering renovation of central heating systems, responsible for purchase and organization of the installment of heat metering and temperature control devices.

As to the residential buildings of agencies, armies, enterprises and institutions of central authorities stationed in Beijing, the building management units shall organize relevant implementation in accordance with the provisions of the competent departments of the State and the Municipal People's Government. The State-owned assets supervision and administration authority of this Municipality shall urge the enterprises under its supervision to bring to success the work related to the energy-saving renovation of existing buildings as stipulated.

Owners, managers and users of buildings shall provide cooperation in energy-saving renovation in accordance with law.

**Article 28** The renovation programs shall be formulated for energy-saving renovation of existing residential buildings. The renovation programs shall be formulated by the subjects determined to be responsible for the organization of implementation by Article 27 of these Measures and the opinions of owners thereof shall be solicited. The renovation programs shall specify the project managers for the renovation who shall assume legal liabilities of the development units.

## **Chapter IV Energy Conservation in Operation of Civil Buildings**

**Article 29** As to the civil buildings under property management, the property service units shall undertake the management responsibility for energy conservation in operation of

约定承担建筑节能运行管理责任。物业服务单位应当向建筑物所有权人提出建筑物节能运行的方案。

居住建筑的物业服务单位应当建立健全节能管理制度，开展节能宣传教育，负责物业管理区域内共用部位的节能管理工作。公共建筑的物业服务单位应当设立能源管理岗位，采用节能技术和管理措施，负责用能分类分项计量调控系统、数据远传系统的运行管理。

**第三十条** 公共建筑的所有权人应当采取节能技术和措施，采取建筑物用能系统节能运行方案，减少能源消耗。公共建筑和居住建筑的使用人应当提高节能意识，在日常使用中注意节电、节水、节能。

**第三十一条** 市住房城乡建设行政主管部门会同发展改革等主管部门确定重点公共建筑的年度能耗限额，对具有标杆作用的低能耗公共建筑、超过年度能耗限额的公共建筑和公共建筑的所有权人、运行管理单位定期向社会公布。

对超过年度能耗限额的重点公共建筑，有关行政主管部门应当要求建筑物所有权人制定整改方案，并督促其采用节能技术，减少能源消耗。

**第三十二条** 本市建立公共建筑能源利用状况报告和能源审计制度。大型公共建筑的所有权人应当每年向市住房城乡建设行政主管部门报送年度能源利用状况报告。

年度能源利用状况报告显示建筑物出现能源利用状况明显异常或者超过公共建筑年度能耗限额 20% 的，市住房城乡建设行政主管部门应当责令该公共建筑的所有权人实施能源审计。所有权人应当聘请能源审计机构进行能源审计，将审计结果报送市住房城乡建设行政主管部门，并依据能源审计结果加强节能管理和实施节能改造。

**第三十三条** 任何人不得损坏、擅自拆改建筑物围护结构保温层、供热计量装置与调控系统、能耗计量设施等。

**第三十四条** 使用空调采暖、制冷的公共建筑所有权人应当改进空调运行管理，充分利用自然通风，管理运行单位和使用人应当按照国家规定实行室内温度控制。

civil buildings in accordance with the agreements in property service contracts. The property service units shall put forward the programs of energy conservation in operation of buildings to the owners of the buildings.

The property service units of residential buildings shall establish and improve the management systems for energy conservation, carry out the publicity and education of energy conservation and be responsible for management of energy conservation in commonly used parts within the areas under property management. The property service units of public buildings shall set up energy management positions, adopt energy conservation technologies and management measures and be responsible for the operation management of categorized and itemized metering control systems and data transmission systems.

**Article 30** The owners of public buildings shall take energy conservation technologies and measures, and adopt the operation programs for energy conservation of energy using systems in buildings so as to reduce energy consumption. The owners of public buildings and residential buildings shall raise the awareness of energy conservation and pay attention to saving electricity, water and energy in daily life.

**Article 31** The administrative department for housing and rural-urban construction at the municipal level shall, together with the department for development and reform, determine the annual energy consumption quota of key public buildings, and make public the public buildings with low energy consumption setting a good example, public buildings exceeding the annual energy consumption quota as well as the owners and operation management units thereof to the society.

As to the key public buildings exceeding the annual energy consumption quota, relevant administrative departments shall require the owners of buildings to prepare the improvement programs and urge them to adopt energy conservation technologies so as to reduce energy consumption.

**Article 32** This Municipality shall establish an energy utilization reporting and energy auditing system for public buildings. The owners of large public buildings shall annually submit its annual energy utilization report to the administrative department for housing and rural-urban construction at the municipal level.

Where the annual energy utilization report indicates that an obvious anomaly is found in energy utilization for buildings or energy utilized for buildings has exceeded 20 percent of the annual energy consumption quota for public buildings, the administrative department for housing and rural-urban construction at the municipal level shall order the owner of the public building concerned to conduct energy audit. The owner shall recruit an energy audit organ to conduct energy audit, submit the audit results to the administrative department for housing and rural-urban construction at the municipal level and strengthen energy conservation management and implement energy-saving renovation according to the audit results.

**Article 33** No one may destroy, arbitrarily remove or reconstruct the insulting layers of enclosure structures of buildings, heat metering devices and control systems, as well as energy consumption metering devices.

**Article 34** The owners of public buildings with heating and refrigeration by air conditioners shall improve the operation management of the air conditioners, make full use of natural ventilation, and the operation management units and users shall implement indoor temperature control in accordance with the provisions of the State.

**第三十五条** 新建民用建筑、既有建筑节能改造项目的供热计量和温控装置经验收交付后，供热单位应当按照本市规定实行供热计量，并与用户签订按照供热计量收费的供用热合同。

供热单位应当在民用建筑区的显著位置公示实行供热计量信息及其收费标准和收费办法。应当实行供热计量的民用建筑，供热单位未按照供热计量方式收取费用的，用户可以按照供热计量收费的基本热价标准交纳采暖费。

**第三十六条** 供热单位应当负责并做好供热计量与温控装置的管理、维护、抢修、更新改造等工作，并加强巡检，提高节能运行水平。供热单位应当定期监测水质，并在非供暖季，对供热系统实施充水保养。

市政市容行政主管部门应当做好本市供热计量监督管理工作，畅通供热计量投诉、举报渠道，对用户反映的供热计量意见，及时受理和处理；发现供热单位不按照规定实行供热计量的，应当督促供热单位及时整改，并移送城市管理综合执法部门处理。

## 第五章 法律责任

**第三十七条** 建设单位、设计单位、施工单位、监理单位违反本办法规定，未按照民用建筑节能要求建设、设计、施工、监理的，按照《建设工程质量管理条例》、《民用建筑节能条例》及相关法律法规处理。

**第三十八条** 违反本办法第二十二条规定，建设单位未按照规定履行相关信息告知义务的，由住房城乡建设行政主管部门责令限期改正，处1万元以上3万元以下罚款。

**第三十九条** 违反本办法第二十五条规定，公共建筑的所有权人在进行改建、扩建或者外部装饰装修工程时，未按照规定同时进行相关节能改造的，由住房城乡建设行政主管部门责令限期改正，处3万元以上10万元以下罚款。

**第四十条** 违反本办法第三十一条第二款规定，重点公共建筑连续两年超过年度



**Article 35** After the heat metering and temperature control devices in energy-saving renovation projects for new civil buildings or existing buildings have been delivered after acceptance upon check, the heat supply units shall implement heat metering in accordance with the provisions of this Municipality and enter into contracts of heat supply and use charged in accordance with heat metering.

The heat supply units shall publish the information of heat metering, charging standards and measures thereof in conspicuous positions of civil building zones. Where the heat supply units fail to charge in accordance with the mode of heat metering as to the civil buildings implementing heat metering, the users may pay heating fees in accordance with the standards of basic heat price charged according to heat metering.

**Article 36** The heat supply units shall be responsible for and bring to success the work related to the management, maintenance, urgent repair and renewal of heat metering and temperature control devices, and strengthen patrol so as to raise the level of operation in energy conservation. The heat supply units shall regularly monitor water quality and maintain heating systems by filling water in seasons other than heating season.

The administrative department for municipal administration and city appearances shall bring to success the work related to the supervision and administration of heat metering in this Municipality, open channels for complaints of and reports on heat metering and accept and deal with opinions of users on heat metering in a timely manner; where the heat supply units are found not to implement heat metering as stipulated, it shall urge them to make corrections timely and transfer the matters to the department for comprehensive law enforcement in urban administration for disposal.

## **Chapter V Legal Liability**

**Article 37** The development units, design units, construction units and supervision units, in violation of the provisions of these Measures, failing to carry out development, design, construction and supervision in accordance with the requirements on energy conservation in civil buildings shall be dealt with in accordance with the Regulations on Quality Administration of Construction Projects or Regulations on Energy Conservation in Civil Buildings, and relevant laws and regulations.

**Article 38** The development units, in violation of the provisions of Article 22 of these Measures, failing to perform their obligations to disclose relevant information as stipulated shall be ordered to make corrections and may be fined not less than 10,000 Yuan but not more than 30,000 Yuan by the administrative department for housing and rural-urban construction.

**Article 39** The owners of public buildings, in violation of the provisions of Article 25 of these Measures, failing to carry out relevant energy-saving renovations simultaneously at the time of reconstruction, expansion or external decoration as stipulated shall be ordered to make corrections and may be fined not less than 30,000 Yuan but not more than 100,000 Yuan by the competent administrative department for housing and rural-urban construction.

**Article 40** The key public buildings, in violation of the provisions of Paragraph 2, Article 31 of these Measures, having exceeded 20% of the annual energy consumption quota



能耗限额 20%的，由住房城乡建设行政主管部门责令改正，处 3 万元以上 10 万元以下罚款。

**第四十一条** 违反本办法第三十二条规定，未按照要求开展能源审计、未按照规定报送能源审计结果或者报送虚假审计报告的，由住房城乡建设行政主管部门责令改正，逾期不改正的，处 1 万元以上 3 万元以下罚款。

**第四十二条** 违反本办法第三十三条规定，损坏建筑物围护结构保温层的，由住房城乡建设行政主管部门责令改正，情节严重的，可处 1000 元以上 1 万元以下罚款。损坏供热计量装置与调控系统的，由城市管理综合执法部门责令改正，可处 500 元以上 1000 元以下罚款；情节严重，影响正常供热的，可处 1000 元以上 1 万元以下罚款。

**第四十三条** 违反本办法第三十四条规定，公共建筑的运行管理单位或者使用人不按照规定执行公共建筑室内温度控制的，由住房城乡建设行政主管部门责令限期改正，逾期不改正的，处 1000 元以上 5000 元以下罚款。

**第四十四条** 违反本办法第三十五条规定，新建民用建筑、既有建筑节能改造项目的供热计量和温控装置经验收交付后，供热单位不实行供热计量的，由城市管理综合执法部门责令供热单位限期整改，逾期不改正的，处 3 万元罚款。

## 第六章 附 则

**第四十五条** 本办法所称的新建民用建筑包括新建、改建、扩建和翻建的民用建筑。

**第四十六条** 本办法自 2014 年 8 月 1 日起施行。2001 年 8 月 14 日北京市人民政府令第 80 号发布的《北京市建筑节能管理规定》同时废止。

for two years in succession shall be ordered to make corrections and may be fined not less than 30,000 Yuan but not more than 100,000 Yuan by the administrative department for housing and rural-urban construction.

**Article 41** Those, in violation of the provisions of Article 32 of these Measures, failing to carry out energy audit as required or failing to submit energy audit results as stipulated or submitting false audit reports shall be ordered to make corrections by the administrative department for housing and rural-urban construction. Where they fail to make corrections within the prescribed time limit, they shall be fined not less than 10,000 Yuan but not more than 30,000 Yuan.

**Article 42** Those, in violation of the provisions of Article 33 of these Measures, destroying the insulating layers of enclosure structures of buildings shall be ordered to make corrections by the administrative department for housing and rural-urban construction; where the circumstances are serious, they shall be fined not less than 1,000 Yuan but not more than 10,000 Yuan. Those destroying heat metering devices and control systems shall be ordered to make corrections and may be fined not less than 500 Yuan but not more than 1,000 Yuan by the department for comprehensive law enforcement in urban administration; where the circumstances are serious affecting normal heating, they shall be fined not less than 1,000 Yuan but not more than 10,000 Yuan.

**Article 43** The operation management units or users of public buildings, in violation of the provisions of Article 34 of these Measures, failing to implement indoor temperature control in public buildings as stipulated shall be ordered to make corrections within a prescribed time limit by the administrative department for housing and rural-urban construction; where they fail to make corrections within the prescribed time limit, they shall be fined not less than 1,000 Yuan but not more than 5,000 Yuan.

**Article 44** The heat supply units, in violation of the provisions of Article 35 of these Measures, failing to implement heat metering after the heat metering and temperature control devices in energy-saving renovation projects for new civil buildings or existing buildings have been delivered after acceptance upon check, shall be ordered to make corrections within a prescribed time limit by the department for comprehensive law enforcement in urban administration; where they fail to make corrections within the prescribed time limit, they shall be fined 30,000 Yuan shall be imposed.

## **Chapter VI supplementary Provisions**

**Article 45** As used in these Measures, new civil buildings include civil buildings new constructed, reconstructed, expanded and renovated.

**Article 46** These Measures shall be effective as of August 1, 2014. The Provisions of Beijing Municipality on Administration of Energy Conservation in Buildings promulgated by Decree No. 80 of the People's Government of Beijing Municipality on August 14, 2001 shall be repealed simultaneously.

# 北京市禁止违法建设若干规定

(2020年9月29日市人民政府第295号令公布)

**第一条** 为了落实《北京市城乡规划条例》，制止和查处违法建设，维护《北京市总体规划(2016年-2035年)》的严肃性和权威性，制定本规定。

**第二条** 本规定所称的违法建设，包括城镇违法建设和乡村违法建设。城镇违法建设是指未依法取得建设工程规划许可证、临时建设工程规划许可证或者未按照许可内容进行建设的城镇建设工程，以及逾期未拆除的城镇临时建设工程。乡村违法建设是指未依法取得乡村建设规划许可证、临时乡村建设规划许可证或者未按照许可内容进行建设的乡村建设工程。

本规定所称的违法建设当事人，包括违法建设的建设单位、施工单位、所有人或者管理人。

**第三条** 区人民政府领导本行政区域内城乡规划的实施，组织、协调、监督违法建设制止和查处工作，将制止和查处违法建设情况纳入相关考核。

街道办事处、乡镇人民政府根据职责具体组织、协调本行政区域内违法建设的制止和查处工作。

**第四条** 市规划和自然资源主管部门负责本市城乡规划管理工作，制定、公布规划许可动态清单目录，负责查处职责范围内的重大、复杂违法建设案件，指导各区规划和自然资源主管部门按照职责分工做好有关城乡规划工作和辖区内违法建设的制止和查处工作。

市城管综合行政执法机关负责统筹指导和综合协调基层综合行政执法工作，组织制定违法建设查处工作流程、执法程序和标准，开展违法建设查处基层执法培训。

# Several Provisions of Beijing Municipality on Banning Illegal Construction

(Promulgated by Decree No. 295 of the Beijing Municipal People's Government on September 29, 2020)

**Article 1** The Provisions are formulated to implement the Regulations of Beijing Municipality on Urban and Rural Planning, stop, investigate and handle illegal construction, and maintain the solemnity and authority of the Overall Beijing Urban Plan (2016-2035).

**Article 2** The term “illegal construction” referred to in the Provisions includes urban and rural illegal construction. Urban illegal construction refers to urban construction projects that haven't legally obtained planning permits for construction projects or for temporary construction projects, or are not developed in compliance with the contents permitted in such permits, and temporary urban construction projects that are not demolished within a prescribed time limit. Rural illegal construction refers to rural construction projects that haven't legally obtained planning permits for rural construction or for temporary rural construction, or are not developed in compliance with the contents permitted in such permits.

The term “parties to illegal construction” referred to in the Provisions includes the development organizations, construction organizations, owners or managers of illegal construction.

**Article 3** The district people's governments shall exercise leadership over the implementation of urban and rural planning within their respective administrative areas, organize, coordinate and supervise the work of stopping, investigating and handling illegal construction, and incorporate the performance of such work into relevant assessment.

Sub-district offices and the township or town people's governments shall exercise their respective duties and functions, and organize and coordinate the specific work of stopping, investigating and handling illegal construction within their administrative areas.

**Article 4** The municipal government department for planning and natural resources shall be responsible for the management of urban and rural planning of Beijing City, formulate and issue the dynamic checklists and directories of planning permission, exercise its duties and functions to investigate and handle major and complicated illegal construction cases, and provide guidance for the government departments for planning and natural resources at the district level to exercise their respective duties and functions and bring to success the work related to urban and rural planning and the work of stopping, investigating and handling illegal construction within their respective administrative areas.

The municipal urban management and comprehensive law enforcement department shall be responsible for the overall planning, guidance and coordination of the comprehensive administrative law enforcement work at the grassroots level, organize the formulation of the working procedures, law enforcement procedures and standards for investigating and handling illegal construction, and carry out law enforcement training at the grassroots level for the investigation and handling of illegal construction.

住房和城乡建设、公安、经济和信息化、城市管理、农业农村等部门在各自职责范围内做好制止和查处违法建设相关工作。

**第五条** 规划和自然资源主管部门、街道办事处和乡镇人民政府（以下统称为行政执法机关）具体承担违法建设查处工作。

规划和自然资源主管部门负责下列情形的查处：

（一）已经取得建设工程规划许可证、临时建设工程规划许可证、乡村建设规划许可证或者临时乡村建设规划许可证，但未按照许可内容进行建设，或者临时建设逾期未拆除的；

（二）未依法取得建设工程规划许可证，但已经取得选址意见书、规划综合实施方案等规划文件，未按照前述规划文件内容进行建设的；

（三）其他不属于街道办事处、乡镇人民政府负责查处的情形。

街道办事处、乡镇人民政府负责对本行政区域内未依法取得建设工程规划许可证、临时建设工程规划许可证、乡村建设规划许可证、临时乡村建设规划许可证以及选址意见书、规划综合实施方案等规划文件但进行建设的情形进行查处。

**第六条** 行政执法机关应当建立日常巡查制度，发现违法建设行为的，应当立即制止，并依法予以处理。

居民委员会、村民委员会发现辖区内有违法建设的，应当予以劝阻，并报告行政执法机关。

业主委员会或者物业管理委员会、物业服务人发现本物业管理区域内有违法建设的，应当及时劝阻；对劝阻无效的，应当向行政执法机关报告。

**第七条** 首先发现违法建设或者接到举报的行政执法机关，应当及时核实有关情况，对属于本行政执法机关职责范围的，及时查处；对不属于本行政执法机关职责范围的，在发现违法建设或者接到举报之日起2日内将案件线索移送负有查处职责的行政执法机关，接受移送的行政执法机关应当依法及时查处。同时发现有违反其他法律规定情况的，应当在2日内通报其他行政执法机关。

The government departments for housing and urban-rural development, public security, economy and information technology, urban management, agriculture and rural affairs, etc. shall exercise their respective duties and functions, and bring to success the work of stopping, investigating and handling illegal construction.

**Article 5** The government departments for planning and natural resources, sub-district offices, and the township or town people's governments (hereinafter collectively referred to as "administrative law enforcement agencies") shall undertake the specific work of investigating and handling illegal construction.

The government departments for planning and natural resources shall be responsible for investigation and handling under any of the following circumstances:

(1) A planning permit for construction projects or for temporary construction projects, or a planning permit for rural construction or for temporary rural construction has been legally obtained for a construction project, but the construction project is not developed in compliance with the contents permitted in the permit, or a temporary construction project hasn't been demolished within a prescribed time limit;

(2) For a construction project, a planning permit for construction projects hasn't been legally obtained while the permission notes for location, the comprehensive implementation scheme of planning and other planning documents have been procured, but the construction project is not developed in compliance with the contents of such planning documents; or

(3) Other circumstances arise under which sub-district offices and the township or town people's governments do not assume the responsibility for investigation and handling.

Sub-district offices and the township or town people's governments shall be responsible for investigating and handling construction projects within their respective administrative areas that are developed without having legally obtained planning permits for construction projects or for temporary construction projects, planning permits for rural construction or for temporary rural construction, as well as planning documents such as permission notes for location and comprehensive implementation schemes of planning.

**Article 6** Administrative law enforcement agencies shall establish a routine inspection system, and shall immediately stop and handle illegal construction acts upon discovery in accordance with the law.

Residents' committees and villagers' committees shall discourage and report to administrative law enforcement agencies illegal construction upon discovery within their respective administrative areas.

Property owners' committees, property management committees or property management personnel shall promptly discourage illegal construction upon discovery in their property management areas, and shall report to administrative law enforcement agencies when such discouragement fails.

**Article 7** An administrative law enforcement agency that first finds or receives reports on illegal construction shall verify relevant information in a timely manner, and exercise its duties and functions to promptly investigate and handle the illegal construction, or, in the case of illegal construction beyond its duties and functions, transfer case clues within 2 days from finding or receiving reports on illegal construction to the competent administrative law enforcement agency, and the latter shall promptly investigate and handle such illegal construction in accordance with the law. If other legal provisions are violated at the same time, the matter shall be reported to other competent administrative law enforcement agencies within 2 days.

**第八条** 行政执法机关实施监督检查，可以查阅、调取、复制有关证据材料，进入或者查封现场、扣押工具和材料、责令停止违法行为，有权要求有关单位和个人提供下列材料或者就有关情况作出说明：

- （一）工程用地审批手续；
- （二）工程建设审批手续；
- （三）建设单位、施工单位主体名称等基本信息。

行政执法机关依法履行查处职责，有关单位和人员应当配合，不得以任何方式或者手段妨碍和阻挠；妨碍和阻挠行政执法机关查处违法建设的，由公安机关依法处理。

**第九条** 行政执法机关采取查封、扣押措施或实施强制拆除的，应当事先制定工作方案，确定公安机关、消防救援机构、市政公用服务单位、属地居民委员会、村民委员会以及物业服务人等配合单位的职责。

配合单位应当依照工作方案履行配合职责。

**第十条** 行政执法机关发现正在搭建、开挖违法建设的，应当书面责令违法建设当事人立即停止建设，在 3 日内自行拆除或者回填。

违法建设当事人不立即停止建设的，行政执法机关可以查封违法建设施工现场、扣押违法建设施工工具和材料；违法建设当事人拒不拆除或者回填的，街道办事处、乡镇人民政府应当依法立即拆除或者回填。

**第十一条** 行政执法机关发现已经建成的违法建设，尚可采取改正措施消除对规划实施的影响的，应当在 20 日内书面责令违法建设当事人限期改正、消除对规划实施的影响，并处该建设工程造价 5% 以上 10% 以下的罚款。对逾期不改正或者无法采取改正措施消除对规划实施的影响的，责令限期拆除，不能拆除的，没收实物或者违法收入，可以并处该建设工程造价 10% 以下的罚款。责令限期改正期限和限期拆除的期限一般不超过 15 日。

行政执法机关应当加强对没收实物的处置和管理，按照国家和本市有关规定严格



**Article 8** Administrative law enforcement agencies may, when carrying out supervision and inspection, consult, collect and copy relevant evidence materials, enter or place under seal the sites, impound tools and materials, or order a stop to illegal acts, and shall have the right to ask relevant institutions and individuals to provide the following materials or make explanations on relevant matters:

- (1) approval papers for the land for construction;
- (2) approval papers for construction; and
- (3) names and other basic information of the development organizations and construction organizations.

Relevant institutions and individuals shall render cooperation and shall not hinder or obstruct administrative law enforcement agencies by any means or in any way when they perform their duties of investigation and handling in accordance with the law; any institution or individual who hinders and obstructs administrative law enforcement agencies in the investigation and handling of illegal construction shall be dealt with by public security organs in accordance with the law.

**Article 9** Administrative law enforcement agencies shall, before adopting the measures of placement under seal or impoundment or implementing forceful demolition, develop a work plan to determine the duties of public security organs, fire fighting organs, municipal public service institutions, residents' committees, villagers' committees, property management personnel and other cooperative institutions.

Cooperative institutions shall perform their duties of rendering cooperation according to the work plan.

**Article 10** Where administrative law enforcement agencies find a building or structure being constructed or a site being excavated for illegal construction, they shall order the parties to illegal construction in writing to immediately stop construction and have the building or structure demolished or the site backfilled within 3 days by the latter.

Where the parties to illegal construction fail to immediately stop construction, administrative law enforcement agencies may place the illegal construction site under seal and impound the illegal construction tools and materials; where the parties to illegal construction refuse to follow the order of demolition or backfilling, sub-district offices or the township or town people's governments shall immediately have the building or structure demolished or the site backfilled in accordance with the law.

**Article 11** Where administrative law enforcement agencies find any completed illegal construction whose impact on the implementation of planning may be eliminated by corrective measures, they shall issue a written order within 20 days to the parties to illegal construction, requiring the latter to make corrections within a prescribed time limit and eliminate the impact on the implementation of planning, and concurrently impose a fine of not less than 5% but not more than 10% of the construction cost. Where the parties to illegal construction fail to make corrections within the prescribed time limit, or the impact on the implementation of planning cannot be eliminated by corrective measures, an order on demolition within a prescribed time limit shall be issued, or, if the demolition fails, the completed constructions or illegal gains shall be confiscated, and a fine of not more than 10% of the construction cost may be imposed concurrently. The respective time limit in the order on correction within a prescribed time limit and the order on demolition within a prescribed time limit shall not generally exceed 15 days.

Administrative law enforcement agencies shall strengthen disposal and management of the completed constructions that have been confiscated, and exercise strict supervision



监管。

**第十二条** 本规定第十一条所称尚可采取改正措施消除对规划实施的影响的违法建设，包括：

（一）未依法取得规划许可证件，但已经取得选址意见书、规划综合实施方案等规划文件，且按照前述规划文件的内容进行建设的；

（二）未按照规划许可证件许可内容进行建设，但可以通过改建或者部分拆除达到符合许可的内容的。

**第十三条** 本规定第十一条所称建设工程造价，按照下列规定方式确定：

（一）已经完成竣工结算的违法建设，应当按照竣工结算价确定；

（二）尚未完成竣工结算的违法建设，可以根据工程已完工部分的施工合同价确定；未依法签订施工合同或者当事人提供的施工合同价明显低于市场价格的，行政执法机关应当委托有资质的造价咨询机构评估确定。

**第十四条** 村民使用宅基地建设住宅应当履行规划许可手续；特定时期未经批准使用宅基地进行村民住宅建设，符合村庄规划的，乡镇人民政府责令其依法补办审批手续；不符合村庄规划的，责令限期拆除，逾期不拆除的，乡镇人民政府依法实施强制拆除；有租金收入的，没收租金收入，并处租金收入一倍的罚款。

前款规定的租金收入，依据租赁合同、租金收据等确定。租金收入无法确定或者违法建设当事人提供的租金标准明显低于周边同类型房屋租金价格的，乡镇人民政府应当委托专业评估机构参照委托时周边同类型房屋租赁市场价格进行评估确定。

**第十五条** 违法建设的建筑面积，依照下列规定确定：

（一）未取得建设工程规划许可证和其他规划文件进行建设的，按照实际建筑面积数计算；

（二）未按照建设工程规划许可内容进行建设的，按照实际增加的建筑面积数计算；

（三）未按照建设工程规划许可内容进行建设，建筑高度增加但建筑面积未增加的，

according to relevant regulations of the State and Beijing Municipality.

**Article 12** The illegal construction referred to in Article 11 of the Provisions whose impact on the implementation of planning may be eliminated by corrective measures include:

- (1) construction projects that haven't legally obtained planning permits while are developed in compliance with the contents of procured planning documents such as permission notes for location and comprehensive implementation schemes of planning; and
- (2) construction projects that are not developed in compliance with the contents permitted in the planning permits while may be altered or partly demolished to comply with the contents in the permits.

**Article 13** The construction cost referred to in Article 11 of the Provisions shall be determined in the following ways:

- (1) For illegal construction that has finished completion settlement, the construction cost shall be determined according to the completion settlement price; and
- (2) For illegal construction that has not finished completion settlement, the construction cost may be determined according to the construction contract price of the completed part of the construction project; if no construction contract has been concluded in accordance with the law or the construction contract price offered by the parties is obviously lower than the market price, administrative law enforcement agencies shall authorize qualified cost consultation agencies to make an assessment and determine the construction cost.

**Article 14** Villagers who build residential houses on their house sites shall obtain approval for planning; where a villager builds a residential house on the house site in a specific period without approval while in compliance with the village planning, the township or town people's government shall order the villager to go through the procedures for examination and approval in accordance with the law; where such construction does not comply with the village planning, the villager shall be ordered to demolish the residential house within a prescribed time limit. If the demolition fails within the prescribed time limit, the township or town people's government shall implement forceful demolition in accordance with the law, confiscate the rental income, if any, and concurrently impose a fine that equals to the rental income.

The rental income referred to in the preceding paragraph shall be determined based on leasing contracts, rent receipts, etc. Where the rental income cannot be determined or the rent standard provided by the parties to illegal construction is obviously lower than the rental prices of surrounding housing of the same type, the township or town people's governments shall authorize professional assessment agencies to assess and determine the rents with reference to the prices in the leasing market of surrounding housing of the same type.

**Article 15** The floorage of illegal construction projects shall be determined according to the following provisions:

- (1) Where construction projects haven't obtained planning permits for construction projects and other planning documents, the floorage shall be calculated according to the actual floor area;
- (2) Where construction projects are not developed in compliance with the contents permitted in planning permits for construction projects, the floorage shall be calculated according to the actually increased floor area;
- (3) Where construction projects are not developed in compliance with the contents permitted in planning permits for construction projects, with the building height increased

按照超出部分的高度与许可建筑高度的比值乘以许可的建筑面积数折算；

（四）未按照建设工程规划许可内容进行建设，建筑位置与许可不符但建筑面积未增加的，按照其位置超出部分折算。

同时有上述第（二）项至第（四）项规定两种以上情形的，违法建设的建筑面积分别计算或者折算后累计。

**第十六条** 对街道办事处、乡镇人民政府负责查处的已建成违法建设，当事人逾期不拆除或者回填的，区人民政府依法责成街道办事处、乡镇人民政府作出强制拆除或者回填决定并组织实施。

规划和自然资源主管部门负责查处的已建成违法建设，当事人逾期不拆除或者回填的，规划和自然资源主管部门应当将限期拆除或者回填决定及逾期未拆除或者回填的情况报告违法建设所在地的区人民政府，区人民政府责成违法建设所在地的街道办事处、乡镇人民政府作出强制拆除或者回填决定并组织实施。

**第十七条** 强制拆除或者回填已建成的违法建设，行政执法机关应当提前 5 日在现场公告强制拆除或者回填决定，告知实施强制拆除或者回填的时间、依据、当事人的权利义务等。违法建设当事人是自然人的，通知本人或者其成年家属到场；违法建设当事人是法人或者其他组织的，通知其法定代表人、主要负责人或者其上级单位负责人到场。

前款规定的应当到场的人员拒不到场的，行政执法机关应当邀请违法建设所在地居民委员会、村民委员会代表或者公证机构作为见证人见证强制拆除或者回填的实施。

行政执法机关对实施强制拆除或者回填应当制作笔录并全程录像。

**第十八条** 行政执法机关采取查封、扣押措施或者强制拆除、回填已建成的违法建设，应当事先通知当事人清理违法建设内的有关物品。当事人拒不清理的，行政执法机关应当制作物品清单，由违法建设当事人签字确认；违法建设当事人不签字的，行政执法机关可以邀请违法建设所在地居民委员会、村民委员会代表或者公证机构作

while the floor area remaining unchanged, the floorage shall be converted by multiplying the ratio of the increase in building height to the permitted building height and the permitted floor area; and

(4) Where construction projects are not developed in compliance with the contents permitted in planning permits for construction projects, with the construction sites being not in conformity with the permits while the floor area remaining unchanged, the floorage shall be converted according to the excessive part of the construction sites.

The floorage of illegal construction projects under two or more circumstances in Items (2) to (4) of Article 15 shall be subject to accumulative calculation after respective calculation or conversion.

**Article 16** Where the parties to illegal construction fail to take the actions of demolition or backfilling against completed illegal construction as being ordered by the sub-district office or the township or town people's government that is responsible for investigation and handling, the district people's government shall, in accordance with the law, order the sub-district office or the township or town people's government to make decisions on forceful demolition or backfilling and organize the implementation thereof.

Where the parties to illegal construction fail to take the actions of demolition or backfilling against completed illegal construction as being ordered by the government department for planning and natural resources that is responsible for investigation and handling, the government department for planning and natural resources shall report its decisions on demolition or backfilling within a prescribed time limit and the circumstances that the decisions are not being followed to the district people's government of the place where such illegal construction is located, and the district people's government shall order the sub-district office or the township or town people's government of the place where such illegal construction is located to make decisions on forceful demolition or backfilling and organize the implementation thereof.

**Article 17** Where the actions of forceful demolition or backfilling are to be taken, administrative law enforcement agencies shall issue a public announcement on the forceful demolition or backfilling on the site 5 days in advance, announcing, among others, the time of and basis for implementing the forceful demolition or backfilling, and the rights and obligations of the parties to illegal construction. Where the parties to illegal construction are natural persons, they or their adult family members shall be instructed to be present on the site; where the parties to illegal construction are legal persons or other organizations, their legal representatives, chief persons in charge or persons in charge of superior institutions shall be instructed to be present on the site.

Where the persons to be present on the site referred to in the preceding paragraph refuse to be present, administrative law enforcement agencies shall invite the representatives of the residents' committee or villagers' committee of the place where such illegal construction is located or notary offices to serve as witnesses of the implementation of the forceful demolition or backfilling.

Administrative law enforcement agencies shall make a written record and whole-process video recording of the implementation of the forceful demolition or backfilling.

**Article 18** Where administrative law enforcement agencies adopt the measures of placement under seal and impoundment or implement forceful demolition or backfilling against completed illegal construction projects, they shall first instruct the parties to illegal construction to clean up relevant articles in such projects. If the parties to illegal construction refuse to do the same, administrative law enforcement agencies shall make a

为见证人见证。

行政执法机关应当将有关物品运送到指定场所，交还违法建设当事人；对违法建设当事人拒绝接收的，行政执法机关可以在留存证据后根据实际情况妥善处理。

**第十九条** 街道办事处、乡镇人民政府作出强制拆除或者回填决定的，应当告知违法建设当事人，其主张拆除或者回填后的违法建设残值，应当在强制拆除或者回填前提出书面声明，并在限定期限内自行处置；违法建设当事人未事先提出书面声明，或者事先提出书面声明但未在限定期限内处置完毕的，街道办事处、乡镇人民政府予以清理。

**第二十条** 违法建设当事人未按照规定期限缴纳强制拆除或者回填违法建设费用、安全鉴定费用、建筑垃圾清运处置费用、相关物品保管费用的，行政执法机关可以按照每日 3% 的标准加处滞纳金，滞纳金数额不得超过前款规定的费用总额。

行政执法机关实施加处滞纳金超过 30 日，经催告当事人仍不履行的，应当依法申请人民法院强制执行。

**第二十一条** 市规划和自然资源主管部门会同市城管综合执法机关推进多规合一协同平台与综合执法平台信息互通，建立市、区、街乡三级规划管理信息和违法建设查处信息共享和执法协作机制。

本市行政区域内违法建设查处发生跨区管辖争议的，由市人民政府指定管辖；各区行政区域内发生跨街乡管辖争议的，由区人民政府指定管辖。

**第二十二条** 区人民政府应当对拆除违法建设后的腾退用地依法进行管理。

**第二十三条** 本规定自 2020 年 11 月 15 日起施行。

list of articles which shall be confirmed and signed by the parties to illegal construction; if the parties to illegal construction refuse to sign the list, administrative law enforcement agencies may invite the representatives of the residents' committees or villagers' committees of the places where such illegal construction projects are located or notary offices to serve as witnesses.

Administrative law enforcement agencies shall transport relevant articles to a designated site and return them to the parties to illegal construction. If the parties to illegal construction refuse to accept such articles, administrative law enforcement agencies may properly handle them in light of actual conditions after preserving the evidence.

**Article 19** Where sub-district offices or the township or town people's governments make decisions on forceful demolition or backfilling, they shall inform the parties to illegal construction that the residual value claimed by the parties regarding such illegal construction after the demolition or backfilling shall be indicated in a written statement submitted before the forceful demolition or backfilling, and such residual value shall be handled by the parties within a prescribed time limit; if the parties to illegal construction fail to submit the said written statement, or fail to handle the residual value within the prescribed time limit though the written statement has been submitted, sub-district offices or the township or town people's governments shall handle such residual value.

**Article 20** Where the parties to illegal construction fail to pay costs of forceful demolition or backfilling of illegal construction, safety appraisal costs, clearance and disposal costs of construction wastes or storage costs of relevant articles within a prescribed time limit, administrative law enforcement agencies may impose an additional overdue fine based on the standard of 3% per day, but the amount of the overdue fine shall not exceed the total amount of such costs.

Where administrative law enforcement agencies have implemented the measure of imposing an additional overdue fine for more than 30 days, while the parties still fail to pay the fine after being prompted, an application shall be filed to a people's court for compulsory enforcement in accordance with the law.

**Article 21** The municipal government department for planning and natural resources shall, together with the municipal urban management and comprehensive law enforcement department, promote the exchange of information between the multi-plan collaboration platform and the comprehensive law enforcement platform, and establish a mechanism for information exchange and law enforcement collaboration regarding planning management and investigation and handling of illegal construction at the municipal, district and sub-district/township levels.

If a dispute arises among districts over the power of investigating and handling illegal construction within the administrative area of Beijing Municipality, the Municipal People's Government shall designate the administration that exercises the power; if such a dispute arises among sub-districts or townships within the administrative area of a district, the district people's government shall designate the administration that exercises the power.

**Article 22** The district people's governments shall exercise management of the land vacated and returned after the demolition of illegal construction in accordance with the law.

**Article 23** The Provisions shall come into force as of November 15, 2020.

## （六）房地产

### 北京市物业管理条例

（2020年3月27日北京市第十五届人民代表大会常务委员会  
第二十次会议通过）

#### 目 录

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第二章 物业管理区域
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第八章 附 则

#### 第一章 总 则

**第一条** 为了构建党建引领社区治理框架下的物业管理体系，建设和谐宜居社区，规范物业管理，维护物业管理相关主体的合法权益，保障物业的依法、安全、合理使用，根据相关法律法规，结合本市实际，制定本条例。

**第二条** 本市行政区域内的住宅物业管理活动适用本条例；非住宅物业管理参照执行。

本条例所称物业管理，是指业主通过自行管理或者共同决定委托物业服务人的形

## vi. Real Estate

### Regulations of Beijing Municipality on Property Management

(Adopted at the 20<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup>  
People's Congress of Beijing Municipality on March 27, 2020)

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#### Chapter I General Provisions

**Article 1** The Regulations are formulated to develop a property management system under the framework of community governance led by Party building, build harmonious and livable communities, regulate property management, protect the lawful rights and interests of relevant parties to property management, and ensure the law-based, safe, and rational use of properties in accordance with relevant laws and regulations and in light of actual conditions of this Municipality.

**Article 2** The Regulations apply to residential property management activities within the administrative area of this Municipality. Non-residential property management shall be conducted with reference to the Regulations.

The term “property management” in the Regulations refers to property owners’ activities of repairing, maintaining and managing the buildings and structures in property management areas and their supporting facilities and equipment and relevant places, and maintaining environmental sanitation and relevant order through management on their own or joint decisions on entrusting property service practitioners. Property service practitioners include property service enterprises, professional institutions and other property



式，对物业管理区域内的建筑物、构筑物及其配套的设施设备和相关场地进行维修、养护、管理，维护环境卫生和相关秩序的活动。物业服务人包括物业服务企业、专业单位和其他物业管理人。

**第三条** 本市物业管理纳入社区治理体系，坚持党委领导、政府主导、居民自治、多方参与、协商共建、科技支撑的工作格局。建立健全社区党组织领导下居民委员会、村民委员会、业主委员会或者物业管理委员会、业主、物业服务人等共同参与的治理架构。

推动在物业服务企业、业主委员会、物业管理委员会中建立党组织，发挥党建引领作用。

**第四条** 物业管理相关主体应当遵守权责一致、质价相符、公平公开的物业服务市场规则，维护享受物业服务并依法付费的市场秩序，优化市场环境。

支持社会资本参与老旧小区综合整治和物业管理。

**第五条** 本市支持在物业管理区域内成立业主大会、选举产生业主委员会决定物业管理区域内的重大事项及有关共有部分利用和管理等事项。

**第六条** 市住房和城乡建设主管部门履行下列职责：

- （一）制定本市物业管理相关政策并组织实施；
- （二）指导和监督区住房和城乡建设或者房屋主管部门开展物业管理的监督管理工作；
- （三）指导和监督本市住宅专项维修资金的筹集、管理和使用；
- （四）建立健全业主委员会、物业管理委员会委员培训制度；
- （五）制定临时管理规约、管理规约、业主大会议事规则、物业服务合同等示范文本和相关标准；
- （六）建立全市统一的物业管理信用信息、业主电子共同决策等信息系统；
- （七）指导行业协会制定和实施自律性规范；
- （八）实施物业管理方面的其他监督管理职责。

management practitioners.

**Article 3** Property management in this Municipality shall be incorporated into the community governance system, and the work pattern of leadership of the Party committee, dominance by the government, residents' self-governance, multi-party participation, consultation, joint construction, and support in science and technology shall be adhered to. A governance structure in which residents' committees, villagers' committees, property owners' committees or property management committees, property owners, and property service practitioners, among others, participate under the leadership of community Party organizations shall be established and improved.

The establishment of Party organizations in property service enterprises, property owners' committees and property management committees shall be promoted, to give full play to the leading role of Party building.

**Article 4** Relevant parties to property management shall comply with the property service market rules featuring alignment of power and responsibility, consistency between quality and price, fairness and openness, maintain the market order of enjoying property services and making payment therefor in accordance with the law, and optimize the market environment.

Social capital shall be supported in participating in the comprehensive improvement and property management of old communities.

**Article 5** This Municipality shall support the establishment of a property owners' general meeting and election of a property owners' committee in a property management area to make decisions on major issues in the property management area, and on the use, management and other matters of relevant common parts.

**Article 6** The municipal government department for housing and urban-rural development shall perform the following duties:

(1) to develop relevant policies of this Municipality on property management and organize the implementation thereof;

(2) to direct and supervise the work of supervision and administration of property management of the district government departments for housing and urban-rural development or for housing;

(3) to direct and supervise the collection, management and use of special maintenance funds for housing in this Municipality;

(4) to establish and improve the training systems for members of property owners' committees and property management committees;

(5) to develop model texts and relevant standards for interim management covenants, management covenants, rules of procedure of property owners' general meetings and property service contracts;

(6) to establish a unified information system for property management credit information and joint electronic decision-making by property owners in this Municipality;

(7) to provide guidance to industry associations on developing and implementing self-regulatory norms; and

(8) to perform other supervision and administration duties in terms of property management.

区住房和城乡建设或者房屋主管部门履行下列职责：

- （一）贯彻执行物业管理相关政策和制度；
- （二）监督管理辖区内物业服务企业和从业人员；
- （三）指导、监督辖区内住宅专项维修资金的筹集、管理和使用；
- （四）组织对辖区内业主委员会、物业管理委员会委员开展培训；
- （五）指导街道办事处、乡镇人民政府实施与物业管理相关工作；
- （六）落实物业管理方面的其他监督管理职责。

发展改革、民政、财政、规划自然资源、城市管理、水务、市场监管、园林绿化、人防等相关主管部门，按照各自职责，负责物业管理相关监督管理工作。

**第七条** 区人民政府应当加强对本辖区内物业管理工作的组织领导，建立物业管理综合协调工作机制，组织辖区内街道办事处、乡镇人民政府、住房和城乡建设或者房屋主管部门及相关部门和单位，统筹推进辖区内物业管理各项工作，协调解决辖区内物业管理重大问题。

**第八条** 街道办事处、乡镇人民政府组织、协调、指导本辖区内业主大会成立和业主委员会选举换届、物业管理委员会组建，并办理相关备案手续；指导、监督业主大会、业主委员会、物业管理委员会依法履行职责，有权撤销其作出的违反法律法规和规章的决定；参加物业承接查验，指导监督辖区内物业管理项目的移交和接管，指导、协调物业服务人依法履行义务，调处物业管理纠纷，统筹协调、监督管理辖区内物业管理活动。

居民委员会、村民委员会在街道办事处、乡镇人民政府的指导下开展具体工作，建立党建引领下的物业管理协商共治机制；有权就业主反映的物业管理事项向业主大会、业主委员会进行询问，引导规范运作；指导、监督物业服务人依法履行义务，调解物业管理纠纷。

**第九条** 街道办事处、乡镇人民政府根据市人民政府确定的行政执法事项清单，依法行使行政执法权，建立综合执法工作机制，加强对住宅小区内违法行为的巡查、

The district government departments for housing and urban-rural development or for housing shall perform the following duties:

- (1) to implement relevant policies and systems on property management;
- (2) to supervise and administer the property service enterprises and practitioners within their respective administrative areas;
- (3) to direct and supervise the collection, management and use of special maintenance funds for housing within their respective administrative areas;
- (4) to organize training for members of property owners' committees and property management committees within their respective administrative areas;
- (5) to provide guidance to sub-district offices and the township or town people's governments on work related to property management; and
- (6) to perform other supervision and administration duties in terms of property management.

The relevant government departments for development and reform, civil affairs, finance, planning and natural resources, urban management, water affairs, market regulation, landscaping, civil air defense, etc. shall exercise their respective duties and functions, and be responsible for supervision and administration related to property management.

**Article 7** The district people's governments shall strengthen organization and leadership of the property management within their respective administrative areas, establish a comprehensive coordination mechanism for property management, and organize the sub-district offices, township or town people's governments, government departments for housing and urban-rural development or for housing, and relevant departments and institutions within their respective administrative areas, in order to make overall plans for promoting various property management activities and join efforts to solve major issues in property management within their respective administrative areas.

**Article 8** Sub-district offices and the township or town people's governments shall organize, coordinate and direct the establishment of property owners' general meetings, election of property owners' committees, and establishment of property management committees within their respective administrative areas, and undertake the relevant procedures for filing such matters for record; direct and supervise property owners' general meetings, property owners' committees and property management committees in performance of duties in accordance with the law, and revoke the decisions made in violation of laws, regulations and rules; and participate in property undertaking inspections, direct and supervise the transfer and takeover of property management items within their respective areas, direct and coordinate the performance of obligations in accordance with the law by property service practitioners, mediate in property management disputes, and make overall plans for the coordination, supervision and administration of property management activities within their respective administrative areas.

Residents' committees and villagers' committees shall, under the guidance of sub-district offices and the township or town people's governments, carry out specific work, establish a consultation and co-governance mechanism for property management under the leadership of Party building, have the right to inquire the property management issues reflected by property owners of property owners' general meetings and property owners' committees, provide guidance on regulated operation, direct and supervise the performance of obligations in accordance with the law by property service practitioners, and mediate into property management disputes.

**Article 9** Sub-district offices and the township or town people's governments shall,

检查和处理。

**第十条** 突发事件应对期间，街道办事处、乡镇人民政府负责落实市人民政府依法采取的各项应急措施；指导物业服务人开展相应级别的应对工作，并给予物资和资金支持。

物业服务人应当按照要求服从政府统一指挥，在街道办事处、乡镇人民政府指导下积极配合居民委员会、村民委员会开展工作，依法落实应急预案和各项应急措施。

**第十一条** 业主大会和业主委员会，对任意弃置垃圾、排放污染物或者噪声、违反规定饲养动物、违法搭建、侵占通道、拒付物业费等损害他人合法权益的行为，有权依照法律法规以及管理规约，要求行为人停止侵害、排除妨碍、消除危险、恢复原状、赔偿损失。

**第十二条** 本市支持物业管理、专业评估机构等行业协会依法制定和组织实施自律性规范，实行自律管理，编制团体标准、调解行业纠纷，组织业务培训，维护企业合法权益，推动行业健康有序发展。

支持、鼓励物业服务企业加入行业协会。

**第十三条** 本市支持法律、会计、工程、评估、咨询等专业服务机构和人员参与物业管理和服务活动，为物业管理相关主体提供公正、专业的咨询、培训、评价、检验、监督和审计等服务。支持非营利性社会组织参与物业服务活动。

业主、物业使用人、物业服务人因物业管理事项需要法律咨询的，可以向公共法律服务机构咨询；符合法律援助条件的，可以依法申请法律援助。

**第十四条** 本市建立健全人民调解、行业调解、行政调解、司法调解构成的多元纠纷解决机制，化解物业管理纠纷。

## 第二章 物业管理区域

**第十五条** 物业管理区域的划分应当符合法律法规的规定，综合考虑建设用地的宗地范围、共用设施设备、建筑物规模和类型、社区建设等因素，以利于服务便利、资

on the basis of the list of administrative law enforcement items determined by the Municipal People's Government, exercise the power of administrative law enforcement in accordance with the law, establish a comprehensive law enforcement mechanism, and strengthen inspection, examination and handling of illegal activities in residential communities.

**Article 10** Sub-district offices and the township or town people's governments shall, when responding to emergencies, be responsible for implementing various emergency measures taken by the Municipal People's Government in accordance with the law, direct corresponding level of response by property service practitioners, and provide material and financial support.

Property service practitioners shall obey the unified command of the government as required, actively cooperate with the work of residents' committees and villagers' committees under the guidance of sub-district offices and the township or town people's governments, and implement contingency plans and various emergency measures in accordance with the law.

**Article 11** Property owners' general meetings and property owners' committees shall have the right to request individuals that arbitrarily throw garbage, discharge pollutants or noises, raise animals in violation of regulations, illegally conduct construction or encroach on passages, refuse to pay property management fees, or commit other acts damaging the lawful rights and interests of others to cease infringement, remove obstacles, eliminate dangers, restore to the original state and compensate for losses in accordance with laws, regulations and management covenants.

**Article 12** This Municipality shall support property management associations, professional evaluation institutions and other industry associations in developing and organizing the implementation of self-regulatory norms in accordance with the law, implementing self-regulatory management, formulating group standards, mediating in industrial disputes, organizing business training, and protecting the lawful rights and interests of enterprises, in order to promote the sound and orderly development of the industry.

Property service enterprises shall be supported and encouraged to join industry associations.

**Article 13** This Municipality shall support legal, accounting, engineering, evaluation, consulting and other professional service institutions and personnel in participating in property management and service activities, and providing fair and professional consultation, training, evaluation, inspection, examination, audit and other services for relevant parties to property management. Non-profit social organizations shall be supported in participating in property service activities.

Property owners, property users and property service practitioners may, when they need legal advice for property management matters, consult public legal service institutions, and may apply for legal aid in accordance with the law if the legal aid conditions are met.

**Article 14** This Municipality shall establish and improve the multiple dispute resolution mechanism consisting of people's mediation, industry mediation, administrative mediation and judicial mediation to resolve property management disputes.

## **Chapter II Property Management Areas**

**Article 15** Property management areas shall be divided in compliance with the provisions of laws and regulations, taking into comprehensive consideration the scope of the

源共享、协商议事。

规划城市道路、城市公共绿地、城市河道等公共区域不得划入物业管理区域。

**第十六条** 新开发建设项目的土地使用权划拨、出让前，住房和城乡建设主管部门应当就物业管理区域的划分提出意见，纳入区域规划综合实施方案、土地出让合同或者划拨文件，并向社会公布。

建设单位应当在房屋买卖合同中明示核定的物业管理区域。

**第十七条** 已投入使用、尚未划分物业管理区域或者划分的物业管理区域确需调整的，物业所在地的街道办事处、乡镇人民政府会同区住房和城乡建设或者房屋主管等部门，结合物业管理实际需要，征求业主意见后确定物业管理区域并公告。

**第十八条** 新开发建设项目，一个物业管理区域内应当配建独立且相对集中的物业服务用房，满足物业管理设施设备、办公及值班需求，具体面积按照本市公共服务设施配置指标执行。物业服务用房的面积、位置应当在规划许可证、房屋买卖合同中载明。

已投入使用但是未配建物业服务用房的，建设单位或者产权单位应当通过提供其他用房、等值的资金等多种方式提供；建设单位和产权单位已不存在的，由街道办事处、乡镇人民政府统筹研究解决。

### 第三章 前期物业

**第十九条** 建设单位承担前期物业服务责任。建设单位销售房屋前，应当选聘前期物业服务人，签订前期物业服务合同。

前期物业服务合同应当就前期物业服务是否收费、服务内容以及收费标准进行约定，约定的内容作为房屋买卖合同的附件或者直接纳入房屋买卖合同。

前期物业服务合同期限最长不超过二年，具体期限在前期物业服务合同中约定。期限届满前三个月，由业主共同决定是否继续使用前期物业服务人。期限届满，业主



land for construction, common facilities and equipment, building size and type, community construction and other factors, in order to facilitate service convenience, resource sharing, negotiation and deliberation.

Public areas such as planned urban roads, urban public green spaces and urban river channels shall not be classified into property management areas.

**Article 16** The government departments for housing and urban-rural development shall, before the transfer or assignment of land use rights for newly developed construction projects, bring forward opinions on the division of property management areas, incorporate them into the comprehensive implementation plans for regional planning, land transfer contracts or assignment documents, and make an announcement to the public.

Construction project owners shall specify in housing contracts the property management areas approved.

**Article 17** Where the property management area has not been divided or an adjustment in the property management area divided is necessary for a property that has been put into use, the sub-district office or the township or town people's government in the place where the property is located shall, together with the district government department for housing and urban-rural development or for housing and in light of the actual needs of property management, determine the property management area after seeking opinions from property owners and make a public announcement.

**Article 18** For a newly developed construction project, independent and relatively concentrated property service rooms shall be allocated in the property management area to meet the needs of property management facilities and equipment as well as office and duty needs, the specific area of which shall follow the allocation indicators of this Municipality for public service facilities. The area and location of property service rooms shall be specified in the planning permission and housing contracts.

For a property that has been put into use without supporting property service rooms, the construction project owner or property right owner shall provide other rooms, equivalent funds, etc.; where the construction project owner or property right owner no longer exists, the sub-district office or the township or town people's government shall make overall arrangements for study and solution.

### **Chapter III Preliminary Property Management**

**Article 19** A construction project owner shall assume preliminary property service responsibilities, which shall, before housing selling, select and hire a preliminary property service practitioner and sign a preliminary property service contract.

A preliminary property service contract shall specify whether preliminary property services are to be charged, service contents and charging standards, and the contents agreed shall be attached as an annex to the housing contract or be directly incorporated into the housing contract.

The maximum term of a preliminary property service contract shall not exceed 2 years, and the specific term shall be agreed in the preliminary property service contract.



与新物业服务人签订的物业服务合同生效之前，前期物业服务人继续提供服务；期限未满或者未约定前期物业服务期限，业主与新物业服务人签订的物业服务合同生效的，前期物业服务合同终止。

**第二十条** 建设单位与前期物业服务人应当在区住房和城乡建设或者房屋主管部门的指导、监督下，共同确认物业管理区域，对物业管理区域内的共用部位、共用设施设备进行查验，确认现场查验结果，形成查验记录，签订物业承接查验协议，并向业主公开查验的结果。

承接查验协议应当对物业承接查验基本情况、存在问题、解决方法及其时限、双方权利义务、违约责任等事项作出约定。对于承接查验发现的问题，建设单位应当在三十日内予以整改，或者委托前期物业服务人整改。

未经业主同意，建设单位不得占用物业管理区域内的共用部位、共用设施设备。

**第二十一条** 在办理物业承接查验手续时，建设单位应当向前期物业服务人移交下列资料：

（一）物业管理区域划分相关文件；

（二）竣工总平面图，单体建筑、结构、设备的竣工图，配套设施、地下管网工程竣工图等竣工验收资料；

（三）设施设备的安装、使用和维护保养等技术资料；

（四）物业质量保修文件和物业使用说明文件；

（五）物业管理必需的其他资料。

物业已投入使用，上述资料未移交的，应当移交；资料不全的，应当补齐。

**第二十二条** 前期物业服务合同生效之日至出售房屋交付之日的当月发生的物业费，由建设单位承担。

出售房屋交付之日的次月至前期物业服务合同终止之日的当月发生的物业费，由业主按照房屋买卖合同的约定承担；房屋买卖合同未约定的，由建设单位承担。

Property owners shall jointly decide whether to continue to use the preliminary property service practitioner 3 months before the expiration of the term. Upon expiration of the term, the preliminary property service practitioner shall continue to provide services until the property service contract between property owners and a new property service practitioner takes effect; where the preliminary property service contract has not expired or there is no agreement on the term of the preliminary property service, the preliminary property service contract shall terminate when the property service contract between property owners and a new property service practitioner takes effect.

**Article 20** A construction project owner and a preliminary property service practitioner shall, under the guidance and supervision of the district government department for housing and urban-rural development or for housing, jointly confirm the property management area, inspect the common parts, facilities and equipment in the property management area, confirm the on-site inspection results, produce inspection records, enter into a property undertaking inspection agreement, and announce the inspection results to property owners.

An undertaking inspection agreement shall specify, among others, the basic information of property undertaking inspections, existing problems, solutions and duration, the rights and obligations of both parties, and the liability for breach of contract. For the problems found in undertaking inspections, the construction project owner shall, within 30 days, make rectification or entrust the preliminary property service practitioner to make rectification.

Without the consent of property owners, the construction project owner shall not occupy any common part, facility or equipment in the property management area.

**Article 21** Construction project owners shall, when going through the procedures for property undertaking inspections, hand over the following materials to preliminary property service practitioners:

- (1) relevant documents on division of property management areas;
- (2) completion acceptance materials such as as-built general layout plans, as-built drawings for single buildings, structures or equipment, and as-built drawings for supporting facilities and underground pipe network projects;
- (3) technical materials on the installation, use and maintenance of facilities and equipment;
- (4) property quality warranty documents and property instruction documents; and
- (5) other materials required for property management.

Where a property has been put into use and the aforesaid materials have not been handed over, they shall be handed over; in the case of incomplete materials, supplementary materials shall be handed over.

**Article 22** The property management fees incurred from the effective date of a preliminary property service contract to the month in which the date of delivery of the housing sold falls shall be borne by the construction project owner.

The property management fees incurred from the month following the date of delivery of the housing sold to the month in which the date of termination of a preliminary property service contract falls shall be borne by property owners in accordance with the housing

**第二十三条** 建设单位在销售物业前，应当制定临时管理规约，对有关物业的使用、维护、管理，业主的共同利益，业主应当履行的义务，违反临时管理规约应当承担的责任等事项依法作出约定，并在销售场所显著位置公示。临时管理规约不得侵害物业买受人的合法权益。

市住房和城乡建设主管部门应当制定并发布临时管理规约的示范文本。

**第二十四条** 前期物业服务合同期限届满前六个月，街道办事处、乡镇人民政府应当组织业主成立业主大会，选举产生业主委员会或者组建物业管理委员会，就物业管理事项进行表决。

## 第四章 业主、业主组织和物业管理委员会

### 第一节 业主和业主大会

**第二十五条** 房屋的所有权人为业主。

公房尚未出售的，产权单位是业主；已出售的，购房人是业主。

本条例所称业主还包括：

（一）尚未登记取得所有权，但是基于买卖、赠与、拆迁补偿等旨在转移所有权的行爲已经合法占有建筑物专有部分单位或者个人；

（二）因人民法院、仲裁机构的生效法律文书取得建筑物专有部分所有权的单位或者个人；

（三）因继承取得建筑物专有部分所有权的个人；

（四）因合法建造取得建筑物专有部分所有权的单位或者个人；

（五）其他符合法律法规规定的单位或者个人。

**第二十六条** 物业管理区域内的以下部分属于业主共有：

（一）道路、绿地，但是属于城市公共道路、城市公共绿地或者明示属于私人所有的除外；

contract, and shall be borne by the construction project owner in the absence of agreement in the housing contract.

**Article 23** A construction project owner shall, before selling a property, develop interim management covenants, specifying, among others, the use, maintenance and management of the property, common interests of property owners, obligations to be performed by property owners, and the responsibilities to be assumed for violation of interim management covenants in accordance with the law, and announce them at a prominent position of the sales place. The interim management covenants developed shall not infringe upon the lawful rights and interests of any property buyer.

The municipal government department for housing and urban-rural development shall develop and issue a model text for interim management covenants.

**Article 24** Sub-district offices or the township or town people's governments shall, 6 months before the expiration of a preliminary property service contract, organize property owners to establish a property owners' general meeting and elect members of the property owners' committee or establish a property management committee to vote on property management matters.

## **Chapter IV Property Owners, Property Owners' Organizations and Property Management Committees**

### **Section 1 Property Owners and Property Owners' General Meetings**

**Article 25** The owner of a house is a property owner.

For a public house having not been sold, the property right owner is the property owner; and for a public house having been sold, the purchaser is the property owner.

The "property owner" referred to in the Regulations also includes:

- (1) an institution or individual that has not yet registered for ownership while has already legally occupied any proprietary part of a building based on sales, presentation, compensation for demolition or other acts aimed at transferring the ownership;
- (2) an institution or individual that has acquired ownership of any proprietary part of a building due to the effective legal documents of a people's court or an arbitration institution;
- (3) an individual that has acquired ownership of any proprietary part of a building due to inheritance;
- (4) an institution or individual that has acquired ownership of any proprietary part of a building due to legal construction; and
- (5) other institutions or individuals that conform to the provisions of laws and regulations.

**Article 26** The following parts in a property management area are owned in common by property owners:

- (1) roads and green spaces, excluding those belonging to urban public roads, urban public green spaces or expressly owned by private persons;

(二) 占用业主共有的道路或者其他场地用于停放汽车的车位;

(三) 建筑物的基础、承重结构、外墙、屋顶等基本结构部分, 通道、楼梯、大堂等公共通行部分, 消防、公共照明等附属设施、设备, 避难层、架空层、设备层或者设备间等;

(四) 物业服务用房和其他公共场所、共用设施;

(五) 法律法规规定或者房屋买卖合同依法约定的其他共有部分。

**第二十七条** 业主在物业管理活动中, 享有下列权利:

(一) 自行管理物业;

(二) 要求物业服务人按照物业服务合同的约定提供服务;

(三) 提议召开业主大会, 并就物业管理的有关事项提出建议;

(四) 提出制定和修改临时管理规约、管理规约、业主大会议事规则的建议;

(五) 参加业主大会会议, 行使投票权;

(六) 选举业主委员会委员, 并享有被选举权;

(七) 监督业主大会筹备组、业主委员会或者物业管理委员会的工作;

(八) 监督物业服务人履行物业服务合同;

(九) 对共用部位、共用设施设备和相关场地使用享有知情权、监督权和收益权;

(十) 监督专项维修资金的管理和使用;

(十一) 法律法规规定的其他权利。

业主行使权利不得危及物业的安全, 不得损害其他业主的合法权益。

**第二十八条** 业主应当履行下列义务:

(一) 遵守临时管理规约、管理规约和业主大会议事规则;

(二) 遵守物业管理区域内共用部位和共用设施设备的使用、公共秩序和环境卫生的维护以及应对突发事件等方面的制度要求;

(三) 执行业主大会的决定和业主大会授权业主委员会或者物业管理委员会作出的决定;

(2) parking spaces occupying roads or other sites owned in common by property owners;

(3) foundations, bearing structures, exterior walls, roofs and other basic structures of buildings, public access parts such as passages, stairs and lobbies, fire safety, public lighting and other ancillary facilities and equipment, refuge floors, open floors, mechanical floors or equipment rooms, etc.;

(4) property service rooms and other public places and common facilities; and

(5) other common parts stipulated in laws and regulations or agreed in housing contracts in accordance with the law.

**Article 27** A property owner shall enjoy the following rights in property management activities:

(1) to manage the property by himself or herself;

(2) to request the property service practitioner to provide services as agreed in the property service contract;

(3) to propose a property owners' general meeting and offer suggestions on matters concerning property management;

(4) to offer suggestions on the development and modification of the interim management covenants, management covenants and rules of procedure of the property owners' general meeting;

(5) to attend property owners' general meetings and exercise the right to vote;

(6) to elect members of the property owners' committee and enjoy the right to be elected;

(7) to supervise the work of the preparatory group of the property owners' general meeting, the property owners' committee or the property management committee;

(8) to supervise the performance of the property service contract by the property service practitioner;

(9) to enjoy the right to know, the right of supervision and the right to yields as to the use of common parts, facilities and equipment, and relevant sites;

(10) to supervise the management and use of special maintenance funds; and

(11) other rights stipulated in laws and regulations.

The exercise of rights by a property owner shall not endanger the safety of the property or damage the lawful rights and interests of other property owners.

**Article 28** A property owner shall perform the following obligations:

(1) to abide by the interim management covenants, management covenants and rules of procedure of the property owners' general meeting;

(2) to satisfy the system requirements on the use of common parts, facilities and equipment, maintenance of public order and environmental sanitation, and response to emergencies in the property management area;

(3) to implement the decisions of the property owners' general meeting and the decisions made by the property owners' committee or property management committee upon authorization of the property owners' general meeting;

- (四) 配合物业服务人实施物业管理;
- (五) 按照国家和本市有关规定交纳专项维修资金;
- (六) 按时足额交纳物业费;
- (七) 履行房屋安全使用责任;
- (八) 按照规定分类投放生活垃圾;
- (九) 法律法规规定的其他义务。

业主对建筑物专有部分以外的共有部分,享有权利,承担义务;不得以放弃权利不履行义务。

**第二十九条** 业主可以成立业主大会。业主大会由物业管理区域内全体业主组成,代表和维护物业管理区域内全体业主在物业管理活动中的合法权益。

一个物业管理区域成立一个业主大会。

**第三十条** 一个物业管理区域内,已交付业主的专有部分达到建筑物总面积百分之五十以上的,百分之五以上的业主、专有部分占建筑物总面积百分之五以上的业主或者建设单位均可以向街道办事处、乡镇人民政府提出成立业主大会的申请,居民委员会、村民委员会也可以组织达到前述条件的业主或者建设单位提出成立业主大会的申请。

**第三十一条** 街道办事处、乡镇人民政府应当在接到成立业主大会书面申请后三十日内,对提出申请的业主身份和申请进行审核,对符合业主大会成立条件的,指定居民委员会、村民委员会工作人员担任筹备组组长。

筹备组组长应当于三十日内组织业主代表、建设单位、产权单位、街道办事处、乡镇人民政府、社区党组织、居民委员会、村民委员会代表召开首次筹备组会议,成立筹备组。

筹备组中的业主代表可以由业主自荐或者居民委员会、村民委员会推荐产生,由街道办事处、乡镇人民政府确定;业主代表资格应当参照适用本条例第三十九条有关业主委员会委员候选人资格的规定。

- (4) to cooperate with the property service practitioner in property management;
- (5) to contribute to special maintenance funds pursuant to the relevant regulations of the State and this Municipality;
- (6) to pay property management fees on time and in full;
- (7) to fulfill the responsibility for safe use of the house;
- (8) to conduct household waste sorting as stipulated; and
- (9) other obligations stipulated in laws and regulations.

A property owner shall enjoy rights and assume obligations for the common parts other than the proprietary parts of a building, and shall not refuse to perform his or her obligations by waiving his or her rights.

**Article 29** Property owners may establish a property owners' general meeting. The property owners' general meeting shall be composed of all property owners in the property management area, which shall represent and protect the lawful rights and interests of all property owners in the property management area in property management activities.

A property owners' general meeting shall be established in a property management area.

**Article 30** Where, in a property management area, the proprietary parts of property owners that have accepted delivery account for 50% or more of the total area of the building, 5% or more of property owners, property owners of proprietary parts accounting for 5% or more of the total area of the building or the construction project owner may apply to the sub-district office or the township or town people's government for the establishment of a property owners' general meeting, and the residents' committee or villagers' committee may also organize property owners or the construction project owner meeting the aforesaid conditions to apply for the establishment of a property owners' general meeting.

**Article 31** The sub-district office or the township or town people's government shall, within 30 days after receiving a written application for the establishment of a property owners' general meeting, examine the identities and application of the property owners that have filed the application, and appoint a staff member of the residents' committee or villagers' committee as head of the preparatory group if the conditions for establishing a property owners' general meeting are met.

The head of the preparatory group shall, within 30 days, organize representatives of property owners, the construction project owner, property right owner, sub-district office, township or town people's government, community Party organization, residents' committee and villagers' committee to hold the first meeting of the preparatory group, and establish the preparatory group.

Representatives of property owners in the preparatory group may be recommended by property owners or by the residents' committee or villagers committee, and shall be determined by the sub-district office or the township or town people's government; the qualifications of representatives of property owners shall be determined with reference to the provisions of Article 39 of the Regulations on the qualifications of the candidates for membership of property owners' committees.



筹备组人数应当为单数，其中业主代表人数不低于筹备组人数的二分之一。

筹备组成立七日内，筹备组组长应当将筹备组成员名单、分工、联系方式等在物业管理区域内显著位置公示。

**第三十二条** 筹备组应当开展以下工作，并就其确定的事项在首次业主大会会议召开十五日前在物业管理区域内显著位置公示：

- （一）确认业主身份、人数及所拥有的专有部分面积；
- （二）制定首次业主大会会议召开方案；
- （三）拟订管理规约和业主大会议事规则草案；
- （四）制定业主委员会委员候选人产生办法，确定业主委员会委员候选人名单；
- （五）制定业主委员会选举办法；
- （六）完成召开首次业主大会会议的其他准备工作。

前款规定的业主大会议事规则，至少应当包括业主大会的议事方式、表决程序，业主委员会的组成、任期、罢免和递补等事项，并不得违反法律法规的强制性规定。

业主对公示内容有异议的，筹备组应当研究处理并在首次业主大会会议召开前作出答复。

筹备组应当自成立之日起六十日内，组织召开首次业主大会会议。

**第三十三条** 首次业主大会应当通过管理规约、业主大会议事规则，选举产生业主委员会委员和候补委员。

**第三十四条** 业主大会依照法律法规的规定召开，决定下列事项：

- （一）制定或者修改管理规约、业主大会议事规则；
- （二）选举或者更换业主委员会委员和候补委员；
- （三）确定或者调整物业服务方式、服务内容、服务标准和服务价格；
- （四）选聘、解聘物业服务人或者不再接受事实服务；
- （五）筹集、管理和使用专项维修资金；
- （六）申请改建、重建建筑物及其附属设施；

The number of members of the preparatory group shall be in the singular form, and the number of representatives of property owners shall not be less than a half of the number of members of the preparatory group.

The head of the preparatory group shall, within 7 days from the establishment of the preparatory group, publicize, among others, the list of members of the preparatory group, their division of labor and contact information at a prominent position in the property management area.

**Article 32** A preparatory group shall carry out the following work, and publicize the matters determined by it at a prominent position in the property management area 15 days before the first property owners' general meeting:

- (1) to confirm the identities and number of property owners, and the area of the proprietary parts owned by them;
- (2) to develop a plan for convening the first property owners' general meeting;
- (3) to draft the management covenants and rules of procedure of the property owners' general meeting;
- (4) to develop measures for selecting candidates for membership of the property owners' committee and determine the list of these candidates;
- (5) to develop measures for election of the property owners' committee; and
- (6) to make other preparations for convening the first property owners' general meeting.

The rules of procedure of the property owners' general meeting stipulated in the preceding paragraph shall at a minimum include, among others, the deliberation methods and voting procedures of the property owners' general meeting, and the composition, term of office, removal and replacement of the property owners' committee, and shall not violate the mandatory provisions of laws and regulations.

Where property owners have objections to the contents publicized, the preparatory group shall study and handle such objections, and make a reply before the first property owners' general meeting.

The preparatory group shall, within 60 days from the date of establishment, organize and convene the first property owners' general meeting.

**Article 33** At the first property owners' general meeting, the management covenants and rules of procedure of the property owners' general meeting shall be adopted, and members and alternate members of the property owners' committee shall be elected.

**Article 34** A property owners' general meeting shall be convened in accordance with the provisions of laws and regulations, and decide on the following matters:

- (1) to develop or modify the management covenants and rules of procedure of the property owners' general meeting;
- (2) to elect or replace members and alternate members of the property owners' committee;
- (3) to determine or adjust the property service methods, service contents, service standards and service prices;
- (4) to select, appoint or dismiss the property service practitioner, or to stop accepting factual services;
- (5) to raise, manage and use special maintenance funds;
- (6) to apply for renovating or reconstructing a building and its ancillary facilities;

(七) 决定共用部分的经营方式, 管理、使用共用部分经营收益等共有资金;

(八) 确定业主委员会委员津贴或者补助的标准, 对业主委员会主任实施任期、离任经济责任审计;

(九) 改变或者撤销业主委员会作出的与业主大会决定相抵触的决议;

(十) 有关共有和共同管理权利的其他重大物业管理事项。

业主委员会应当就前款规定的决定事项向业主大会提出讨论方案。

**第三十五条** 业主大会会议分为定期会议和临时会议。

业主大会定期会议应当按照业主大会议事规则的规定召开, 每年至少召开一次。

经百分之二十以上业主提议, 业主委员会应当组织召开业主大会临时会议。

业主大会会议可以采用书面形式或者通过互联网方式召开; 采用互联网方式表决的, 应当通过市住房和城乡建设主管部门建立的电子投票系统进行。

召开业主大会会议的, 业主委员会应当于会议召开十五日前通知全体业主, 将会议议题及其具体内容、时间、地点、方式等在物业管理区域内显著位置公示, 并报物业所在地的居民委员会、村民委员会。居民委员会、村民委员会应当派代表列席会议。

业主大会会议不得就已公示议题以外的事项进行表决。

**第三十六条** 业主委员会未按照规定召集业主大会会议的, 业主可以请求物业所在地的街道办事处、乡镇人民政府责令限期召集; 逾期仍未召集的, 由物业所在地的街道办事处、乡镇人民政府组织召集。

**第三十七条** 业主大会会议依法作出的决定, 对本物业管理区域内的全体业主具有约束力。

业主大会会议的决定应当自作出之日起三日内在物业管理区域内显著位置公示。

物业使用人应当依法遵守业主大会会议的决定。物业使用人, 是指除业主以外合法占有、使用物业的单位或者个人, 包括但是不限于物业的承租人。

**第三十八条** 业主大会可以委托街道办事处、乡镇人民政府或者居民委员会、村民委员会代为保管业主大会印章; 需要使用业主大会印章的, 由业主委员会向街道办

(7) to decide on the mode of operation of the common parts, and to manage and use the proceeds from the operation of the common parts and other common funds;

(8) to determine the standards for the allowances or subsidies for members of the property owners' committee, and to audit the economic responsibility of the director of the property owners' committee during his or her term of office and after he or she leaves office;

(9) to change or revoke the resolutions made by the property owners' committee that is in conflict with the decisions of the property owners' general meeting; and

(10) other important property management matters concerning co-ownership and co-management rights.

The property owners' committee shall put forward a proposal for discussion to the property owners' general meeting on the decision items prescribed in the preceding paragraph.

**Article 35** Property owners' general meetings are divided into regular meetings and extraordinary meetings.

Regular meetings of a property owners' general meeting shall be convened at least once a year according to the rules of procedure of the property owners' general meeting. Upon proposal by 20% or more of property owners, the property owners' committee shall organize and convene an extraordinary meeting of the property owners' general meeting.

A property owners' general meeting may be convened in written form or through the Internet; where a vote is to be casted through the Internet, the electronic voting system established by the municipal government department for housing and urban-rural development shall be used.

To convene a property owners' general meeting, the property owners' committee shall, 15 days in advance of the meeting, notify all property owners, publicize, among others, the topic for discussion and its specific content, time, place, and method of the meeting at a prominent position in the property management area, and report to the residents' committee or villagers' committee in the place where the property is located. The residents' committee or villagers' committee shall send representatives to attend the meeting as nonvoting delegates.

At a property owners' general meeting, it is prohibited to have a vote on matters other than those having been publicized.

**Article 36** Where the property owners' committee fails to convene a property owners' general meeting as stipulated, property owners may request the sub-district office or the township or town people's government in the place where the property is located to order it to convene a meeting within a prescribed time limit; where a meeting is not convened within the prescribed time limit, the sub-district office or the township or town people' government in the place where the property is located shall organize convening of a meeting.

**Article 37** Decisions made at a property owners' general meeting in accordance with the law shall be binding on all property owners in the property management area.

A decision made at a property owners' general meeting shall, within 3 days from the date when the decision is made, be publicized at a prominent position in the property management area.

Property users shall abide by the decisions made at a property owners' general meeting in accordance with the law. The term "property user" refers to any institution or individual who legally occupies or uses a property other than the property owner, including but not limited to property tenants.

**Article 38** A property owners' general meeting may entrust the sub-district office,

事处、乡镇人民政府或者居民委员会、村民委员会提出。

## 第二节 业主委员会

**第三十九条** 业主委员会由五人以上单数组成，具体人数根据本物业管理区域的实际情况确定。户数一百户以下的住宅小区，业主委员会可以由三人组成。候补委员人数按照不超过业主委员会委员人数确定。

业主委员会委员、候补委员应当为本物业管理区域的自然人业主或者单位业主授权的自然人代表。

业主是自然人的，应当符合下列条件：

- （一）遵纪守法、热心公益事业、责任心强、具有一定组织能力；
- （二）具有完全民事行为能力；
- （三）符合业主委员会委员候选人产生办法中关于居住期限的要求；
- （四）按时足额交纳物业费、不存在欠缴专项维修资金及其他需要业主共同分担费用的情况；
- （五）本人、配偶及其直系亲属与物业服务人无直接的利益关系；
- （六）未被列为失信被执行人；
- （七）未有本条例规定的房屋使用禁止规定的行为；
- （八）未有法律法规规定的其他不宜担任业主委员会委员的情形。

**第四十条** 业主委员会委员候选人通过下列方式产生：

- （一）社区党组织推荐；
- （二）居民委员会、村民委员会推荐；
- （三）业主自荐或者联名推荐。

筹备组根据业主委员会委员候选人产生办法从按照前款方式推荐的人员中确定业主委员会委员候选人名单，报社区党组织。

township or town people's government, residents' committee or villagers' committee to keep the seal of the property owners' general meeting on its behalf; where it is necessary to use the seal of the property owners' general meeting, the property owners' committee shall apply to the sub-district office, township or town people's government, residents' committee or villagers' committee for the use.

## **Section 2 Property Owners' Committees**

**Article 39** A property owners' committee shall consist of 5 or more members in the singular form, the specific number of which shall be determined in light of actual conditions of the property management area. For a residential community with less than 100 households, the property owners' committee may consist of 3 members. The number of alternate members shall not exceed the number of members of the property owners' committee.

The members and alternate members of the property owners' committee shall be natural person property owners in the property management area or natural person representatives authorized by entity property owners in the property management area.

A natural person property owner shall meet the following conditions:

- (1) He or she complies with laws and regulations, is enthusiastic about the public welfare undertakings, has a strong sense of responsibility, and has certain organizing capacity;
- (2) He or she has full capacity for civil conduct;
- (3) He or she satisfies the requirements on the length of residence in the measures for selecting candidates for membership of the property owners' committee;
- (4) He or she pays property management fees on time and in full, and is not in arrears with special maintenance funds or other expenses to be shared by property owners;
- (5) He/she, his/her spouse and their immediate family members have no direct interest relationship with the property service practitioner;
- (6) He or she is not listed as a dishonest person subject to enforcement;
- (7) He or she has no acts of using the house as prohibited in the Regulations; and
- (8) He or she does not fall under other circumstances where it is inappropriate for him or her to serve as a member of the property owners' committee as stipulated in laws and regulations.

**Article 40** Candidates for membership of a property owners' committee shall be elected in the following ways:

- (1) to be recommended by the community Party organization;
- (2) to be recommended by the residents' committee or villagers' committee; and
- (3) to be recommended by property owners either for themselves or jointly for others.

The preparatory group shall, according to the measures for selecting candidates for membership of the property owners' committee, determine the list of candidates for membership of the property owners' committee from among the persons recommended in the way stipulated in the preceding paragraph, and report to the community Party organization.

社区党组织引导和支持业主中的党员积极参选业主委员会委员，通过法定程序担任业主委员会委员。

**第四十一条** 业主委员会委员实行任期制，每届任期不超过五年，可以连选连任。

业主委员会委员具有同等表决权。

任期内业主委员会委员出现空缺的，由候补委员递补剩余任期。具体递补办法由业主大会议事规则约定。

**第四十二条** 业主委员会应当自选举产生之日起七日内召开首次会议，在业主委员会委员中推选业主委员会主任和副主任，并在推选完成之日起三日内，在物业管理区域内显著位置公示业主委员会主任、副主任和其他委员的名单。

**第四十三条** 业主委员会应当自选举产生之日起三十日内，持下列材料向物业所在地的街道办事处、乡镇人民政府申请备案：

- （一）首次业主大会会议记录和会议决定；
- （二）业主大会议事规则；
- （三）管理规约；
- （四）业主委员会首次会议记录和会议决定；
- （五）业主委员会委员和候补委员的名单、基本情况。

街道办事处、乡镇人民政府对以上材料的真实性、规范性进行核实，符合要求的，五个工作日内予以备案，并出具业主大会、业主委员会备案证明和印章刻制证明，解散筹备组。

业主委员会可持备案证明和印章刻制证明向公安机关申请刻制业主大会印章和业主委员会印章。

业主委员会印章由业主委员会保管，需要使用业主委员会印章的，应当有业主委员会过半数委员签字。

**第四十四条** 业主委员会应当执行业主大会的决定，接受业主大会和业主的监督，并履行下列职责：

- （一）召集业主大会会议，报告年度物业管理的实施情况、业主委员会履职情况；

The community Party organization shall direct and support the Party members among property owners to actively stand for election of members of the property owners' committee, and serve as members of the property owners' committee through legal procedures.

**Article 41** Members of a property owners' committee to which the tenure system applies shall be appointed for a term of no more than 5 years and may be re-elected.

Members of a property owners' committee shall have equal rights to vote.

In the event of a vacancy for members of the property owners' committee during a term of office, an alternate member shall fill the vacancy in the proper order within the remaining term of office. The specific measures for filling vacancies in the proper order shall be agreed in the rules of procedure of the property owners' general meeting.

**Article 42** A property owners' committee shall, within 7 days from the date of election, convene the first meeting and elect the director and deputy director of the property owners' committee from among the members of the property owners' committee, and shall, within 3 days from the date of completing the election, publicize the list of the director, deputy director and other members of the property owners' committee at a prominent position in the property management area.

**Article 43** A property owners' committee shall, within 30 days from the date of election, apply to the sub-district office or the township or town people's government in the place where the property is located for filing with the following materials:

- (1) the minutes of and decisions made at the first property owners' general meeting;
- (2) the rules of procedure of the property owners' general meeting;
- (3) the management covenants;
- (4) the minutes of and decisions made at the first meeting of the property owners' committee; and
- (5) the list and basic information of the members and alternate members of the property owners' committee.

The sub-district office or the township or town people's government shall verify the authenticity and standardization of the aforesaid materials, grant approval for filing within 5 working days if the requirements are satisfied, issue the filing certificate and seal engraving certificate for the property owners' general meeting and the property owners' committee, and dissolve the preparatory group.

The property owners' committee may apply to the public security organ for engraving a seal of the property owners' general meeting and a seal of the property owners' committee with the filing certificate and seal engraving certificate.

The seal of the property owners' committee shall be kept by the property owners' committee. Where it is necessary to use the seal of the property owners' committee, the signatures of a half or more of the members of the property owners' committee shall be required.

**Article 44** The property owners' committee shall implement the decisions of the property owners' general meeting, accept the supervision of the property owners' general meeting and property owners, and perform the following duties:

- (1) to convene property owners' general meetings, and to report the annual



（二）代表业主与业主大会选聘的物业服务人签订物业服务合同，与解聘的物业服务人进行交接；

（三）拟定共有部分、共有资金使用与管理办法；

（四）监督专项维修资金的使用以及组织专项维修资金的补建、再次筹集；

（五）及时了解业主、物业使用人的意见和建议，督促业主交纳物业费，监督物业服务人履行物业服务合同；

（六）监督管理规约的实施，对业主、物业使用人违反管理规约的行为进行制止；

（七）制作和保管会议记录、共有部分的档案、会计凭证和账簿、财务报表等有关文件；

（八）定期向业主通报工作情况，每半年公示业主委员会委员、候补委员交纳物业费、停车费情况；

（九）协调解决因物业使用、维护和管理产生的纠纷；

（十）在物业管理区域内配合行政执法机关开展执法工作；

（十一）配合、支持居民委员会、村民委员会依法履行职责，并接受其指导和监督；

（十二）业主大会赋予的其他职责。

业主委员会不得擅自决定本条例第三十四条第一款规定事项；业主大会不得授权业主委员会决定本条例第三十四条第一款规定事项。

**第四十五条** 业主委员会会议分为定期会议和临时会议。业主委员会定期会议应当按照业主大会议事规则的规定召开，至少每两个月召开一次；经三分之一以上业主委员会委员提议，业主委员会应当召开临时会议。

定期会议和临时会议应当有过半数委员参加，委员不得委托他人参会。

业主委员会应当在会议召开五日前将会议议题告知物业所在地的居民委员会、村民委员会，并听取意见和建议。居民委员会、村民委员会可以根据情况派代表参加。

implementation of property management and performance of duties by the property owners' committee;

(2) to enter into a property service contract with the property service practitioner selected by the property owners' general meeting on behalf of property owners, and to conduct handover with the dismissed property service practitioner;

(3) to develop measures for the use and management of common parts and common funds;

(4) to supervise the use of special maintenance funds, and to organize the subsequent establishment and re-raising of special maintenance funds;

(5) to understand the opinions and suggestions of property owners and property users in a timely manner, to urge property owners to pay property management fees, and to supervise the performance of the property service contract by the property service practitioner;

(6) to supervise the implementation of the management covenants, and to stop the acts of property owners and property users in violation of the management covenants;

(7) to make and keep meetings minutes, archives of common parts, accounting vouchers and books, financial statements, and other relevant documents;

(8) to notify property owners of the work undertaken on a regular basis, and to publicize the payment of property management fees and parking fees by members and alternate members of the property owners' committee every half year;

(9) to coordinate the solution of disputes arising from the use, maintenance and management of the property;

(10) to cooperate with administrative law enforcement organs in the law enforcement work in the property management area;

(11) to cooperate with and support the performance of duties in accordance with the law by the residents' committee or villagers' committee, and to accept the guidance and supervision thereof; and

(12) other duties assigned by the property owners' general meeting.

The property owners' committee shall not arbitrarily decide on any matter specified in paragraph 1 of Article 34 of the Regulations; and the property owners' general meeting shall not authorize the property owners' committee to decide on any matter specified in paragraph 1 of Article 34 of the Regulations.

**Article 45** Meetings of the property owners' committee are divided into regular meetings and extraordinary meetings. The regular meetings of the property owners' committee shall be convened at least once every two months according to the rules of procedure of the property owners' general meeting; and upon proposal of one third or more of members of the property owners' committee, the property owners' committee shall convene an extraordinary meeting.

Regular meetings and extraordinary meetings shall be attended by more than half of the members, who shall not attend any meeting by proxy.

The property owners' committee shall, 5 days in advance of a meeting, notify the residents' committee or villagers' committee in the place where the property is located of the topics for discussion at the meeting, and listen to its opinions and suggestions. The residents' committee or villagers' committee may send representatives to attend the meeting in light of the conditions.

业主委员会确定的事项应当经过半数委员签字同意。会议结束后三日内，业主委员会应当将会议情况以及确定事项在物业管理区域内显著位置公示。

业主委员会主任、副主任无正当理由不召集业主委员会会议的，业主委员会其他委员或者业主可以请求物业所在地的居民委员会、村民委员会或者街道办事处、乡镇人民政府责令限期召集；逾期仍未召集的，由物业所在地的居民委员会、村民委员会或者街道办事处、乡镇人民政府组织召集，并重新推选业主委员会主任、副主任。

**第四十六条** 业主委员会委员有下列情形之一的，委员资格自情形发生之日起自然终止，由业主委员会向业主公示，并提请业主大会确认：

- （一）不再是本物业管理区域内业主；
- （二）以书面形式向业主委员会提出辞职；
- （三）因健康等原因无法履行职责且未提出辞职。

业主委员会委员一年内累计缺席业主委员会会议总次数一半以上，或者不再符合本条例第三十九条规定的委员条件的，业主委员会应当提请业主大会罢免其委员资格；业主委员会未提请的，街道办事处、乡镇人民政府可以责令业主委员会提请业主大会罢免有关委员资格。在委员资格被罢免前，业主委员会应当停止该委员履行职责，并向业主公示。

**第四十七条** 业主委员会委员、候补委员不得实施下列行为：

- （一）阻挠、妨碍业主大会行使职权或者不执行业主大会决定；
- （二）虚构、篡改、隐匿、毁弃物业管理活动中形成的文件资料；
- （三）拒绝、拖延提供物业管理有关的文件资料，妨碍业主委员会换届交接工作；
- （四）擅自使用业主大会、业主委员会印章；
- （五）违反业主大会议事规则或者未经业主大会授权与物业服务人签订、修改物业服务合同；

The matters decided by the property owners' committee shall be signed and approved by more than half of the members. The property owners' committee shall, within 3 days after the end of a meeting, publicize the situation of the meeting and the matters decided at a prominent position in the property management area.

Where the director and deputy director of the property owners' committee fail to convene a meeting of the property owners' committee without justified reasons, other members of the property owners' committee or property owners may request the residents' committee, villagers' committee, sub-district office or township or town people's government in the place where the property is located to order convening of a meeting within a prescribed time limit; where a meeting is still not convened within the prescribed time limit, the residents' committee, villagers' committee, sub-district office or township or town people's government in the place where the property is located shall convene a meeting, and re-elect the director and deputy director of the property owners' committee.

**Article 46** Where a member of the property owners' committee falls under any of the following circumstances, the membership shall terminate naturally from the date when he or she falls under the circumstance, and the property owner's committee shall make a public announcement to property owners and submit a request to the property owners' general meeting for confirmation:

- (1) He or she is no longer a property owner in the property management area;
- (2) He or she offers a resignation in writing to the property owners' committee; or
- (3) He or she is unable to perform duties due to health or other reasons and has not offered a resignation.

Where a member of the property owners' committee has been absent from a half or more of the total number of meetings of the property owners' committee within one year or no longer meets the conditions for members as stipulated in Article 39 of the Regulations, the property owners' committee shall submit a request to the property owners' general meeting for dismissing him or her from his or her post; where the property owners' committee fails to submit such a request, the sub-district office or the township or town people's government may order the property owners' committee to submit a request to the property owners' general meeting for dismissing the member from his or her post. Before a member is dismissed from his or her post, the property owners' committee shall stop performance of duties by the member and make a public announcement to property owners.

**Article 47** The members and alternate members of the property owners' committee shall not commit any of the following acts:

- (1) obstructing or hindering the property owners' general meeting from exercising its functions and powers or failing to implement the decisions of the property owners' general meeting;
- (2) fabricating, tampering with, concealing or destroying the documents and materials formed in property management activities;
- (3) refusing or delaying the provision of documents and materials related to property management, which hinders the handover work of the property owners' committee;
- (4) using the seals of the property owners' general meeting and the property owners' committee without permission;
- (5) violating the rules of procedure of the property owners' general meeting, or entering into or modifying a property service contract with the property service practitioner without

(六) 将业主共有财产借给他人或者设定担保等挪用、侵占业主共有财产;

(七) 与物业服务人有可能影响其公正履行职务的经济往来或者利益交换;

(八) 泄露业主信息;

(九) 侵害业主合法权益的其他行为。

业主委员会委员、候补委员有前款规定的第(一)项至第(五)项行为的,街道办事处、乡镇人民政府责令业主委员会提请业主大会罢免有关委员资格。在委员资格被罢免前,业主委员会应当停止该委员履行职责,并向业主公示。

**第四十八条** 一个任期内,出现业主委员会委员经递补人数仍不足总数的二分之一等无法正常履行职责的情形,或者业主委员会拒不履行职责的,物业所在地的居民委员会、村民委员会或者街道办事处、乡镇人民政府应当组织召开业主大会临时会议,重新选举业主委员会。

**第四十九条** 业主委员会任期届满前六个月,应当书面报告街道办事处、乡镇人民政府。街道办事处、乡镇人民政府应当在收到书面报告之日起六十日内组建换届小组,并在业主委员会任期届满前,由换届小组组织召开业主大会会议选举产生新一届业主委员会。业主委员会未按规定提出申请的,街道办事处、乡镇人民政府应当督促其履行职责。

街道办事处、乡镇人民政府也可以应业主书面要求组建换届小组。

换届小组依照筹备组的人员构成组建。

**第五十条** 业主委员会的名称、委员、业主大会议事规则和管理规约发生变更的,业主委员会或者物业管理委员会应当在三十日内向街道办事处、乡镇人民政府办理变更备案手续。

因物业管理区域调整、房屋灭失等客观原因致使业主大会、业主委员会无法存续的,街道办事处、乡镇人民政府应当办理业主大会、业主委员会注销手续,并公告其印章作废。

authorization of the property owners' general meeting;

(6) misappropriating or embezzling property owners' common property by lending it to others or creating an encumbrance over it;

(7) having economic exchanges or exchange of interests with the property service practitioner that may affect its fair performance of functions;

(8) disclosing property owners' information; or

(9) other acts that infringe upon the lawful rights and interests of property owners.

Where a member or alternate member of the property owners' committee commits any of the acts specified in Items (1) to (5) in the preceding paragraph, the sub-district office or the township or town people's government shall order the property owners' committee to request the property owners' general meeting to dismiss the member from his or her post. Before a member is dismissed from his or her post, the property owners' committee shall stop performance of duties by the member and make a public announcement to property owners.

**Article 48** Where, during a term of office, the number of members is still less than a half of the total number of members of the property owners' committee after vacancies are filled in the proper order or other circumstances arise where the property owners' committee is unable to perform functions normally, or the property owners' committee refuses to perform duties, the residents' committee, villagers' committee, sub-district office, or township or town people's government in the place where the property is located shall organize and convene a property owners' extraordinary general meeting and re-elect members of the property owners' committee.

**Article 49** The property owners' committee shall, 6 months prior to the expiration of its term of office, report in writing to the sub-district office or the township or town people's government. The sub-district office or the township or town people's government shall, within 60 days from the date of receiving the written report, form a replacement group, which shall, prior to the expiration of the term of office of the property owners' committee, convene a property owners' general meeting to elect a new property owners' committee. Where the property owners' committee fails to file an application as stipulated, the sub-district office or the township or town people's government shall urge it to perform duties.

The sub-district office or the township or town people's government may form a replacement group upon the written request of property owners.

The replacement group shall be formed according to the composition of the preparatory group.

**Article 50** In the event of any change in the name or member of the property owners' committee, the rules of procedure of the property owners' general meeting, or the management covenants, the property owners' committee or the property management committee shall, within 30 days, register the change with the sub-district office or the township or town people's government.

Where the property owners' general meeting and property owners' committee are unable to survive due to adjustment in the property management area, housing loss or other objective reasons, the sub-district office or the township or town people's government shall undertake the procedures for cancellation of the property owners' general meeting and property owners' committee, and announce that their seals become invalid.

**第五十一条** 业主大会、业主委员会应当依法履行职责。街道办事处、乡镇人民政府对业主大会、业主委员会作出的违反法律法规和规章的决定，应当责令限期改正或者撤销其决定，并通告全体业主。

### 第三节 物业管理委员会

**第五十二条** 街道办事处、乡镇人民政府负责组建物业管理委员会。物业管理委员会作为临时机构，依照本条例承担相关职责，组织业主共同决定物业管理事项，并推动符合条件的物业管理区域成立业主大会、选举产生业主委员会。

**第五十三条** 有下列情形之一的，可以组建物业管理委员会：

- （一）不具备成立业主大会条件；
- （二）具备成立业主大会条件，但是确有困难未成立；
- （三）业主大会成立后，未能选举产生业主委员会。

**第五十四条** 物业管理委员会由居民委员会、村民委员会、业主、物业使用人代表等七人以上单数组成，其中业主代表不少于物业管理委员会委员人数的二分之一。

物业管理委员会主任由居民委员会、村民委员会代表担任，副主任由居民委员会、村民委员会指定一名业主代表担任。物业管理委员会委员名单应当在物业管理区域内显著位置公示。

**第五十五条** 成立业主大会但是尚未成立业主委员会的，物业管理委员会自成立之日起三十日内，持下列材料向物业所在地的街道办事处、乡镇人民政府申请备案：

- （一）业主大会会议记录和会议决定；
- （二）业主大会议事规则；
- （三）管理规约。

街道办事处、乡镇人民政府对以上材料进行核实，符合要求的，五个工作日内予以备案，并出具业主大会备案证明和印章刻制证明。物业管理委员会持业主大会备案

**Article 51** The property owners' general meeting and property owners' committee shall perform duties in accordance with the law. Where the property owners' general meeting and property owners' committee make decisions in violation of laws, regulations or rules, the sub-district office or the township or town people's government shall order them to make corrections within a prescribed time limit or revoke their decisions, and make a public announcement to all property owners.

### **Section 3 Property Management Committees**

**Article 52** Sub-district offices and the township or town people's governments shall be responsible for the establishment of property management committees. Property management committees, as temporary institutions, shall assume relevant duties according to the Regulations, organize property owners to jointly decide on property management matters, and promote the establishment of property owners' general meetings and election of property owners' committees in eligible property management areas.

**Article 53** Under any of the following circumstances, a property management committee may be established:

- (1) The conditions for the establishment of a property owners' general meeting are not met;
- (2) The conditions for the establishment of a property owners' general meeting are met, but there is indeed difficulty in establishing one; or
- (3) After the establishment of a property owners' general meeting, a property owners' committee is not elected.

**Article 54** A property management committee shall consist, in the singular form, of 7 or more representatives of the residents' committee, villagers' committee, property owners and property users, of which representatives of property owners shall be not less than a half of the number of members of the property management committee.

The director of a property management committee shall be the representative of the residents' committee or villagers' committee, and the deputy director shall be a representative of property owners designated by the residents' committee or villager' committee. The list of members of the property management committee shall be publicized at a prominent position in the property management area.

**Article 55** Where a property owners' general meeting is established while a property owners' committee has not been established, the property management committee shall, within 30 days from the date of establishment, apply to the sub-district office or the township or town people's government in the place where the property is located for filing with the following materials:

- (1) the minutes of and decisions made at the meetings of the property owners' general meeting;
- (2) the rules of procedure of the property owners' general meeting; and
- (3) the management covenants.

The sub-district office or the township or town people's government shall verify the aforesaid materials, grant approval for filing within 5 working days if the requirements are satisfied, and issue the filing certificate and seal engraving certificate for the property owners' general meeting. The property management committee shall apply to the public



证明和印章刻制证明向公安机关申请刻制业主大会印章，持街道办事处、乡镇人民政府出具的成立证明申请刻制物业管理委员会印章。

未成立业主大会的，物业管理委员会持街道办事处、乡镇人民政府出具的成立证明申请刻制物业管理委员会印章。

**第五十六条** 成立业主大会但是尚未成立业主委员会的，物业管理委员会组织业主大会按照本条例第三十四条的规定履行职责，并组织执行业主大会的决定。

未成立业主大会的，物业管理委员会组织业主行使本条例第三十四条和第四十四条规定的业主大会和业主委员会的职责。

**第五十七条** 物业管理委员会会议由主任或者由主任委托副主任召集和主持，三分之一以上委员提出召开物业管理委员会会议的，主任应当组织召开会议。

会议应当有过半数委员且过半数业主代表委员参加，业主代表委员不能委托代理人参加会议。

物业管理委员会按照本条例第五十六条确定的事项应当经过半数委员签字同意。会议结束后三日内，物业管理委员会应当将会议情况以及确定事项在物业管理区域内显著位置公示十个工作日。

**第五十八条** 物业管理委员会的任期一般不超过三年。期满仍未推动成立业主大会、选举产生业主委员会的，由街道办事处、乡镇人民政府重新组建物业管理委员会。

**第五十九条** 已成立业主大会、选举产生业主委员会，并按照本条例第四十三条规定备案的，或者因物业管理区域调整、房屋灭失等其他客观原因致使物业管理委员会无法存续的，街道办事处、乡镇人民政府应当在三十日内解散物业管理委员会，并在物业管理区域内显著位置公示。

**第六十条** 物业管理委员会组建的具体办法，由市住房和城乡建设主管部门制定。

security organ for engraving a seal of the property owners' general meeting with the filing certificate and seal engraving certificate of the property owners' general meeting, and apply for engraving a seal of the property management committee with the certificate of establishment issued by the sub-district office or the township or town people's government.

Where the property owners' general meeting has not been established, the property management committee shall apply for engraving a seal of the property management committee with the certificate of establishment issued by the sub-district office or the township or town people's government.

**Article 56** Where a property owners' general meeting is established while a property owners' committee has not been established, the property owners' committee shall organize the property owners' general meeting to perform duties in accordance with the provisions of Article 34 of the Regulations, and organize implementation of the decisions of the property owners' general meeting.

Where a property owners' general meeting is not established, the property management committee shall organize property owners to perform the duties of the property owners' general meeting and the property owners' committee as stipulated in Articles 34 and 44 of the Regulations.

**Article 57** A meeting of the property management committee shall be convened and presided over by the director or by the deputy director as entrusted by the director. Upon proposal by one third or more of the members, the director shall organize the convening of a meeting of the property management committee.

A meeting shall be attended by more than half of the members and more than half of members who are representatives of property owners, and members who are representatives of property owners shall not attend any meeting by proxy.

The matters decided by the property management committee according to Article 56 of the Regulations shall be signed and approved by more than half of the members. The property management committee shall, within 3 days after the end of a meeting, publicize the situation of the meeting and the matters decided at a prominent position in the property management area for 10 working days.

**Article 58** The term of office of a property management committee shall generally not exceed 3 years. Where, upon expiration of the term of office, no efforts are made to promote the establishment of a property owners' general meeting and the election of a property owners' committee, the sub-district office or the township or town people's government shall reorganize a property management committee.

**Article 59** Where the property owners' general meeting has been established and the property owners' committee has been elected, which have been filed for record in accordance with the provisions of Article 43 of the Regulations, or the property management committee is unable to survive due to adjustment to the property management area, housing loss or other objective reasons, the sub-district office or the township or town people's government shall, within 30 days, dismiss the property management committee and make a public announcement at a prominent position in the property management area.

**Article 60** The specific measures for establishment of property management committees shall be developed by the municipal government department for housing and urban-rural development.

## 第五章 物业服务

**第六十一条** 业主可以自行管理物业，也可以委托他人管理；委托物业服务企业提供物业服务的，一个物业管理区域应当选定一个物业服务企业提供物业服务。

电梯、消防等具有专业技术要求的设施设备的维修和养护，应当由符合资质的专业机构或者人员实施。

**第六十二条** 接受委托提供物业服务的企业应当具有独立法人资格，拥有相应的专业技术人员，具备为业主提供物业管理专业服务的能力，有条件在物业管理区域设立独立核算的服务机构。

**第六十三条** 业主委员会或者物业管理委员会应当代表业主与业主共同选聘的物业服务人签订书面合同，就物业服务内容和标准、费用、物业服务用房、合同期限、违约责任等内容进行约定。

业主与物业服务人对收费标准未能达成一致意见的，双方可以委托专业评估机构评估；双方对委托专业评估机构未能达成一致意见的，可以从区住房和城乡建设或者房屋主管部门确定的专业评估机构目录中随机选定。

物业服务合同签订或者变更之日起十五日内，物业服务人应当将物业服务合同报街道办事处、乡镇人民政府、区住房和城乡建设或者房屋主管部门备案。

市住房和城乡建设主管部门应当会同有关部门、协会制定物业服务合同示范文本，并向社会公布。

**第六十四条** 业主共同决定由物业服务企业提供物业服务的，可以授权业主委员会或者物业管理委员会进行招标，继续聘用原物业服务企业的除外。

鼓励业主通过市住房和城乡建设主管部门建立的招投标平台选聘物业服务企业。

**第六十五条** 物业服务人应当按照物业服务合同的约定提供物业服务，并且遵守下列规定：

（一）提供物业服务符合国家和本市规定的标准、规范；

## Chapter V Property Services

**Article 61** Property owners may manage the property on their own or entrust others to manage it; where a property service enterprise is to be entrusted to provide property services, a property service enterprise shall be selected to provide property services in one property management area.

The repair and maintenance of elevators, firefighting equipment, and other facilities and equipment with professional technical requirements shall be carried out by qualified professional institutions or personnel.

**Article 62** An enterprise entrusted to provide property services shall be an independent legal entity, have corresponding professional technicians, have the ability to provide professional property management services for property owners, and be eligible to establish an independent accounting service institution in the property management area.

**Article 63** The property owners' committee or the property management committee shall enter into a written contract with a property service practitioner jointly selected and hired by property owners on their behalf, agreeing, among others, on the contents, standards and fees of property services, property service rooms, term of contract, and liability for breach of contract.

Where property owners and the property service practitioner fail to reach an agreement on the charging standards, the parties may entrust a professional evaluation institution to conduct evaluation; where the parties fail to reach an agreement on the entrustment of a professional evaluation institution, a professional evaluation institution may be randomly selected from the list of professional evaluation institutions determined by the district government department for housing and urban-rural development or for housing.

The property service practitioner shall, within 15 days from the date of conclusion of or change in a property service contract, submit the property service contract to the sub-district office, the township or town people's government, or the district government department for housing and urban-rural development or for housing for record.

The municipal government department for housing and urban-rural development shall, together with the relevant departments and associations, develop a model text for the property service contract, and announce it to the public.

**Article 64** Where property owners jointly decide to have a property service enterprise provide property services, they may authorize the property owners' committee or the property management committee to invite for bids, unless they continue to hire the original property service enterprise.

Property owners shall be encouraged to select and hire a property service enterprise through the bidding platform established by the municipal government department for housing and urban-rural development.

**Article 65** Property service practitioners shall provide property services as agreed in property service contracts, and abide by the following provisions:

(1) to provide property services in compliance with the standards and norms prescribed by the State and this Municipality;

- （二）及时向业主、物业使用人告知安全、合理使用物业的注意事项；
- （三）定期听取业主的意见和建议，接受业主监督，改进和完善服务；
- （四）对违法建设、违规出租房屋、私拉电线、占用消防通道等行为进行劝阻、制止，劝阻、制止无效的，及时报告行政执法机关；
- （五）发现有安全风险隐患的，及时设置警示标志，采取措施排除隐患或者向有关专业机构报告；
- （六）对业主、物业使用人违反临时管理规约、管理规约的行为进行劝阻、制止，并及时报告业主委员会或者物业管理委员会；
- （七）不得泄露在物业服务活动中获取的业主信息；
- （八）履行生活垃圾分类管理责任人责任，指导、监督业主和物业使用人进行生活垃圾分类；
- （九）配合街道办事处、乡镇人民政府、行政执法机关和居民委员会、村民委员会做好物业管理相关工作。

**第六十六条** 物业服务企业应当指派项目负责人。项目负责人应当在到岗之日起三日内到项目所在地的居民委员会、村民委员会报到，在居民委员会、村民委员会的监督、指导下参与社区治理工作。

**第六十七条** 区住房和城乡建设或者房屋主管部门、街道办事处、乡镇人民政府、居民委员会、村民委员会可以根据物业服务标准和社区治理要求，委托专业评估机构对物业服务企业参与社区治理情况和共用部分管理状况进行评估。

物业管理相关主体可以委托专业评估机构对物业承接和查验、物业服务标准和费用测算、专项维修资金使用方案、物业服务质量等进行评估。具体办法由市住房和城乡建设主管部门制定。

专业评估机构应当按照本市相关规定提供专业服务，提供客观、真实、准确的评估报告。

**第六十八条** 市住房和城乡建设主管部门应当根据物业服务合同履行、投诉处理和日常检查等情况，对物业服务企业实施分类监管，建立激励和惩戒制度。具体办法

(2) to notify property owners and property users of matters needing attention on the safety and rational use of properties in a timely manner;

(3) to listen to the opinions and suggestions of property owners on a regular basis, accept the supervision of property owners, and improve the services;

(4) to discourage and stop illegal construction, illegal housing leasing, installation of electric wires without permission, occupation of fire fighting accesses, and other acts, and report to administrative law enforcement organs in a timely manner if such discouragement and stop fail;

(5) in case of hidden dangers of safety risks, to promptly install warning signs and take measures to eliminate hidden dangers or report to relevant professional institutions;

(6) to discourage and stop violations of the interim management covenants or management covenants by property owners and property users, and report to property owners' committees or property management committees in a timely manner;

(7) not to disclose property owners' information obtained in property service activities;

(8) to perform the responsibility of the person responsible for the management of household waste sorting, and direct and supervise household waste sorting by property owners and property users; and

(9) to cooperate with sub-district offices, the township or town people's governments, administrative law enforcement organs, residents' committees and villagers' committees in the work concerning property management.

**Article 66** A property service enterprise shall appoint a project manager. The project manager shall, within 3 days from the date of arrival, report for duty at the residents' committee or villagers' committee in the place where the project is located, and shall participate in community governance under the supervision and guidance of the residents' committee or villagers' committee.

**Article 67** The district government departments for housing and urban-rural development or for housing, sub-district offices, the township or town people's governments, residents' committees and villagers' committees may, according to property service standards and community governance requirements, entrust professional evaluation institutions to evaluate property service enterprises' participation in community governance and management of the common parts.

Relevant parties to property management may entrust professional evaluation institutions to evaluate, among others, property undertaking and inspections, property service standards and cost measurement, plans for the use of special maintenance funds, and property service quality. The specific measures shall be developed by the municipal government department for housing and urban-rural development.

Professional evaluation institutions shall, in accordance with relevant regulations of this Municipality, provide professional services, and issue objective, authentic and accurate evaluation reports.

**Article 68** The municipal government department for housing and urban-rural development shall, in light of the performance of property service contracts, handling of complaints, routine inspections, etc., exercise classified supervision over property service

由市住房和城乡建设主管部门制定。

**第六十九条** 物业服务人可以将物业服务合同中的专项服务事项委托给专业服务企业，但是不得将物业服务合同约定的全部事项一并委托给第三方。

**第七十条** 物业服务人应当在物业管理区域内显著位置设置公示栏，如实公示、及时更新下列信息，并且可以通过互联网方式告知全体业主：

（一）物业服务企业的营业执照、项目负责人的基本情况、联系方式以及物业服务投诉电话；

（二）物业服务内容和标准、收费标准和方式等；

（三）电梯、消防等具有专业技术要求的设施设备的日常维修保养单位名称、资质、联系方式、维保方案和应急处置方案等；

（四）上一年度物业服务合同履行及物业服务项目收支情况、本年度物业服务项目收支预算；

（五）上一年度公共水电费用分摊情况、物业费、公共收益收支与专项维修资金使用情况；

（六）业主进行房屋装饰装修活动的情况；

（七）物业管理区域内车位、车库的出售和出租情况；

（八）其他应当公示的信息。

业主对公示内容提出异议的，物业服务人应当予以答复。

**第七十一条** 物业服务人应当建立、保存下列档案和资料：

（一）小区共有部分经营管理档案；

（二）小区监控系统、电梯、水泵、有限空间等共用部位、共用设施设备档案及其管理、运行、维修、养护记录；

（三）水箱清洗记录及水箱水质检测报告；

（四）住宅装饰装修管理资料；

（五）业主名册；

（六）签订的供水、供电、垃圾清运等书面协议；

（七）物业服务活动中形成的与业主利益相关的其他资料。

enterprises and establish incentive and disciplinary systems. The specific measures shall be developed by the municipal government department for housing and urban-rural development.

**Article 69** Property service practitioners may entrust the special service matters in property service contracts to professional service enterprises, but shall not entrust all the matters agreed in property service contracts to third parties.

**Article 70** A property service practitioner shall set up a notice board at a prominent position in the property management area to truthfully publicize and update the following information in a timely manner, and may notify all property owners through the Internet:

(1) the business license of the property service enterprise, the basic information and contact information of the project manager, and the property service complaints hotline;

(2) the contents and standards of property services, charging standards and methods, etc.;

(3) the names, qualifications, contact information, maintenance programs and emergency disposal plans, among others, of entities for the routine repair and maintenance of elevators, firefighting equipment, and other facilities and equipment with professional technical requirements;

(4) the performance of the property service contract and the revenues and expenditures of property service items in the previous year, and the budget for revenues and expenditures for property service items in the current year;

(5) the allocation of public water and electricity costs, property management fees, public revenues and expenditures, and use of special maintenance funds in the previous year;

(6) the house decoration activities carried out by property owners;

(7) the sale and leasing of parking spaces and garages in the property management area; and

(8) other information to be publicized.

Where a property owner raises an objection to the contents publicized, the property service practitioner shall give a reply.

**Article 71** A property service practitioner shall establish and keep the following archives and materials:

(1) archives on the operation and management of the common parts in the community;

(2) archives on the monitoring systems, elevators, water pumps, confined spaces and other common parts, facilities and equipment, and their management, operation, repair and maintenance records;

(3) water tank cleaning records and water quality test reports of water tanks;

(4) materials on the management of residential decoration;

(5) register of property owners;

(6) written agreements signed on water supply, power supply, garbage clearance, etc.; and

(7) other materials related to the interests of property owners produced in property service activities.



**第七十二条** 业主应当根据物业服务合同约定的付费方式和标准，按时足额交纳物业费。业主逾期不交纳物业费的，业主委员会或者物业管理委员会应当督促其交纳；拒不交纳的，物业服务人可以依法提起诉讼或者申请仲裁。业主拒不执行人民法院生效法律文书的，人民法院可以依法对业主作出限制消费令、纳入失信被执行人名单。

采取酬金制交纳物业费的，物业服务企业应当与业主委员会或者物业管理委员会建立物业费和共用部分经营收益的共管账户。业主委员会或者物业管理委员会可以委托第三方对物业服务收支情况进行审计。

**第七十三条** 物业服务收费实行市场调节价并适时调整。

市住房和城乡建设主管部门应当发布住宅小区物业服务项目清单，明确物业服务内容和标准。物业管理行业协会应当监测并定期发布物业服务项目成本信息和计价规则，供业主和物业服务人在协商物业费时参考。

**第七十四条** 物业服务人利用共用部分从事经营活动的，应当将公共收益单独列账。

公共收益归全体业主所有。专项维修资金余额不足首期应筹集金额百分之三十的，百分之五十以上的公共收益金额应当优先用于补充专项维修资金，剩余部分的使用由业主共同决定。

**第七十五条** 物业服务合同期限届满前六个月，业主委员会或者物业管理委员会应当组织业主共同决定续聘或者另聘物业服务人，并将决定书面告知原物业服务人。原物业服务人接受续聘的，双方应当在物业服务合同届满前重新签订物业服务合同。物业服务人不接受续聘的，应当提前九十日书面告知业主委员会或者物业管理委员会。

物业服务合同期限届满、业主没有共同作出续聘或者另聘物业服务人决定，物业服务人按照原合同继续提供服务的，原合同权利义务延续。在合同权利义务延续期间，任何一方提出终止合同的，应当提前六十日书面告知对方。

**第七十六条** 业主共同决定解聘物业服务人的，物业服务人应当自接到通知之日起三十日内履行下列交接义务，并且退出物业管理区域：

**Article 72** Property owners shall pay property management fees on time and in full according to the payment methods and standards agreed in property service contracts. Where a property owner fails to pay property management fees within the prescribed time limit, the property owners' committee or property management committee shall urge him or her to make payment; where a property owner refuses to pay property management fees, the property service practitioner may institute a lawsuit or apply for arbitration in accordance with the law. Where a property owner refuses to implement an effective legal document of a people's court, the people's court may issue a consumption restriction order on the property owner in accordance with the law and include him or her in the list of dishonest persons subject to enforcement.

Where property management fees are to be paid by the remuneration system, a property service enterprise shall establish a joint account with the property owners' committee or the property management committee for the property management fees and operation income from the common parts. The property owners' committee or the property management committee may entrust a third party to audit the income and expenditure of property services.

**Article 73** Property service charges shall be subject to market regulation and be adjusted at appropriate time.

The municipal government department for housing and urban-rural development shall issue a list of property service items for residential communities, and specify the contents and standards of property services. The industry association of property management shall monitor and regularly issue the cost information and pricing rules on property service items, for reference by property owners and property service practitioners during negotiation on property management fees.

**Article 74** Property service practitioners using the common parts to engage in business activities shall separately account for public income.

Public income shall be owned by all property owners. Where the balance of special maintenance funds is less than 30% of the amount to be raised in the first period, 50% or more of the public income shall be used to supplement special maintenance funds in priority, while the use of the remaining part shall be determined jointly by property owners.

**Article 75** The property owners' committee or the property management committee shall, 6 months before the expiration of a property service contract, organize property owners to jointly decide on further employment or employment of another property service practitioner and notify the original property service practitioner of the decision in writing. Where the original property service practitioner accepts further employment, the parties shall, before expiration of the property service contract, enter into a property service contract anew. A property service practitioner that does not accept further employment shall notify the property owners' committee or the property management committee in writing 90 days in advance.

Where, upon expiration of the property service contract, property owners fail to jointly decide on further employment or employment of another property service practitioner, and the property service practitioner continues to provide services in accordance with the original contract, the rights and obligations under the original contract shall survive. Where, during the survival of the contractual rights and obligations, either party proposes termination of the contract, it shall notify the other party in writing 60 days in advance.

**Article 76** Where property owners jointly decide to dismiss a property service practitioner, the property service practitioner shall, within 30 days from the date of receipt of

- (一) 移交物业共用部分；
- (二) 移交本条例第二十一条、第七十一条规定的档案和资料；
- (三) 结清预收、代收的有关费用；
- (四) 物业服务合同约定的其他事项。

原物业服务人不得以业主欠交物业费、对业主共同决定有异议等为由拒绝办理交接，不得以任何理由阻挠新物业服务人进场服务。原物业服务人拒不移交有关资料或者财物的，或者拒不退出物业管理区域的，业主委员会或者物业管理委员会可以向街道办事处、乡镇人民政府、区住房和城乡建设或者房屋主管部门报告，并向辖区内公安机关请求协助，或者依法向人民法院提起诉讼，要求原物业服务人退出物业管理区域。物业所在地的街道办事处、乡镇人民政府、区住房和城乡建设或者房屋主管部门应当加强对物业服务人交接工作的监管。

原物业服务人应当在办理交接至退出物业管理区域期间，维持正常的物业管理秩序。

新物业服务人不得强行接管物业，按照约定承接物业时，应当对共用部位、共用设施设备进行查验。

**第七十七条** 本市建立应急物业服务机制。物业管理区域突发失管状态时，街道办事处、乡镇人民政府应当组织有关单位确定应急物业服务人，提供供水、垃圾清运、电梯运行等维持业主基本生活服务事项的应急服务。

提供应急物业服务的，街道办事处、乡镇人民政府应当将服务内容、服务期限、服务费用等相关内容在物业管理区域内显著位置公示。应急物业服务期限不超过六个月，费用由全体业主承担。

应急物业服务期间，街道办事处、乡镇人民政府应当组织业主共同决定选聘新物业服务人，协调新物业服务人和应急物业服务人做好交接。

a notice, perform the following handover obligations and exit from the property management area:

- (1) to hand over the common parts of the property;
- (2) to hand over the archives and materials specified in Articles 21 and 71 of the Regulations;
- (3) to settle the relevant fees received in advance and collected on others' behalf; and
- (4) other matters as agreed in the property service contract.

The original property service practitioner shall not refuse to handle handover on the grounds that property owners owe property management fees or it has objections to the joint decision of property owners, etc., or obstruct the new property service practitioner from entering the area to provide services for any reason. Where the original property service practitioner refuses to hand over the relevant materials or property, or refuses to exit from the property management area, the property owners' committee or property management committee may report to the sub-district office, the township or town people's government, or the district government department for housing and urban-rural development or for housing, and submit a request to the local public security organ for assistance, or institute a lawsuit with a people's court in accordance with the law, requesting the original property service practitioner to exit from the property management area. The sub-district office or the township or town people's government in the place where the property is located, or the district government department for housing and urban-rural development or for housing shall strengthen supervision over the handover of the property service practitioner.

The original property service practitioner shall maintain the normal order of property management during the period from the handover to exit from the property management area.

The new property service practitioner shall not take over the property forcibly, and shall, when undertaking the property as agreed, check the common parts, facilities and equipment.

**Article 77** This Municipality shall establish an emergency property service mechanism. In the event of a sudden situation out of control in the property management area, the sub-district office or the township or town people's government shall organize relevant institutions to determine the emergency property service practitioner, and provide emergency services for water supply, garbage clearance, elevator running and other service items to maintain the basic life of property owners.

Where emergency property services are to be provided, the sub-district office or the township or town people's government shall publicize the service contents, term of service, service fees and other relevant contents at a prominent position in the property management area. The term of emergency property services shall not exceed 6 months and the costs shall be borne by all property owners.

During the term of emergency property services, the sub-district office or the township or town people's government shall organize property owners to jointly decide to select and hire a new property service practitioner, and coordinate the handover between the new property service practitioner and the emergency property service practitioner.

## 第六章 物业的使用和维护

**第七十八条** 业主、物业使用人应当遵守法律法规和规章的规定以及临时管理规约、管理规约的约定，按照规划用途合理、安全使用物业。

业主、物业使用人、物业服务人等不得实施下列行为：

- （一）损坏、擅自拆改建筑物承重结构、主体结构；
- （二）擅自利用共用部位、共用设施设备进行经营；
- （三）违法搭建建筑物、构筑物、障碍物或者私挖地下空间；
- （四）违反国家规定，制造、储存、使用、处置爆炸性、毒害性、放射性、腐蚀性物质或者传染病病原体等危险物质；
- （五）违规私拉电线、电缆为电动汽车、电动自行车、电动摩托车和电动三轮车等充电；
- （六）擅自拆改供水、排水、再生水等管线；
- （七）从建筑物中抛掷物品；
- （八）制造超标噪音；
- （九）侵占绿地、毁坏绿化植物和绿化设施；
- （十）擅自通过设置地锁、石墩、栅栏等障碍物和乱堆乱放杂物等方式，占用、堵塞、封闭消防通道、疏散通道等共用部位，或者损坏消防设施等共用设施设备；
- （十一）擅自改变物业规划用途；
- （十二）违反规定饲养动物；
- （十三）违反规定出租房屋。

发生本条第二款规定行为的，利害关系人有权投诉、举报，业主委员会或者物业管理委员会、物业服务人应当及时劝阻；劝阻无效的，应当向街道办事处、乡镇人民政府或者行政执法机关报告。

**第七十九条** 业主、物业使用人装饰装修房屋的，应当事先告知物业服务人，与物业服务人签订装饰装修服务协议，并配合其进行必要的现场检查。协议应当包括装饰装修工程的禁止行为、垃圾堆放和清运要求以及费用、施工时间等内容。

## **Chapter VI Use and Maintenance of Properties**

**Article 78** Property owners and property users shall comply with the provisions of laws, regulations and rules, as well as the contents of the interim management covenants and management covenants, and shall use properties reasonably and safely for planned purposes.

A property owner, property user or property service practitioner shall not commit any of the following acts:

- (1) damaging or arbitrarily demolishing or altering the bearing structure or main structure of a building;
- (2) using the common parts, facilities and equipment for business purpose without permission;
- (3) illegally constructing buildings, structures, obstacles or privately digging underground spaces;
- (4) manufacturing, storing, using, or disposing of explosive, toxic, radioactive, corrosive substances or pathogens of infectious diseases and other dangerous substances in violation of the provisions of the State;
- (5) illegally installing wires and cables to charge electric vehicles, electric bicycles, electric motorcycles, electric tricycles, etc. without permission;
- (6) dismantling or altering pipelines for water supply, drainage, reclaimed water, etc. without permission;
- (7) conducting high-rise littering;
- (8) making excessive noise;
- (9) encroaching on green spaces, destroying green plants and greening facilities;
- (10) occupying, blocking or closing fire fighting accesses, evacuation exits and other common parts by installing parking locks, stone piers, fences and other obstacles, or by piling up or leaving about debris without permission, or destroying fire protection facilities and other common facilities and equipment;
- (11) changing the planned use of the property without permission;
- (12) raising animals in violation of regulations; or
- (13) renting out a house in violation of regulations.

In the event of an act prescribed in paragraph 2 of this article, an interested party shall have the right to file a complaint and tip-off, and the property owners' committee or the property management committee and property service practitioner shall discourage such act in a timely manner; where the discouragement fails, the matter shall be reported to the sub-district office, the township or town people's government or administrative law enforcement organs.

**Article 79** A property owner or a property user renovating and/or decorating a house shall notify the property service practitioner in advance, enter into a renovation/decoration service agreement with the property service practitioner, and cooperate with it to carry out necessary on-site inspections. The agreement shall include the prohibited acts in renovation/decoration, requirements for garbage dumping and removal, expenses, construction time,

业主、物业使用人或者物业服务人应当将装饰装修的时间、地点等情况在拟装饰装修的物业楼内显著位置公示。

物业服务人应当加强对装饰装修活动的巡查和监督。业主或者物业使用人未签订装饰装修服务协议或者违反相关规定及装饰装修服务协议的，物业服务人应当及时劝阻；拒不改正的，物业服务人应当及时向有关主管部门报告。

**第八十条** 物业管理区域内规划用于停放车辆的车位、车库，应当首先满足业主的需要。用于出售的，应当优先出售给本物业管理区域内的业主；不出售或者尚未售出的，应当提供给本物业管理区域内的业主使用。满足业主需要后仍有空余的，可以临时按月出租给物业管理区域外的其他人。

**第八十一条** 物业买受人应当遵守国家有关专项维修资金制度，按照规定足额交纳专项维修资金。

业主转让物业、办理转移登记后，转让物业的专项维修资金余额随物业一并转让，业主无权要求返还；因征收或者其他原因造成物业灭失的，专项维修资金余额归业主所有。

已售公房的业主转让公房前，应当按照届时适用的商品房标准补足公房的专项维修资金；因继承、赠予、执行生效法律文书而发生已售公房产权人变更的，继承人、受赠人、受偿人应当按照届时适用的商品房标准补足专项维修资金。

**第八十二条** 国家实施专项维修资金制度之前的未售公房，没有专项维修资金的，产权单位应当按照规定建立并足额交纳专项维修资金。

国家实施专项维修资金制度之后出售的公房，业主和售房单位应当按照国家和本市规定的比例交纳专项维修资金；未按规定交纳专项维修资金的，业主和售房单位应当足额补交，未足额补交的，已出售的公房不得再次转让。

**第八十三条** 专项维修资金余额不足首期筹集金额百分之三十的，业主委员会或者物业管理委员会应当及时通知、督促业主按照届时适用的标准补足专项维修资金。



etc.

The property owner, property user or property service practitioner shall publicize the time and place, among others, of renovation/decoration at a prominent position in the property building to be decorated.

The property service practitioner shall strengthen inspection and supervision of the renovation/decoration activities. Where a property owner or property user has not entered into a renovation/decoration service agreement or violates relevant regulations and the renovation/decoration service agreement, the property service practitioner shall dissuade him in a timely manner; where he or she refuses to make corrections, the property service practitioner shall report to the relevant government department in a timely manner.

**Article 80** Parking spaces and garages planned in a property management area shall first meet the needs of property owners. Where they are to be sold, they shall be sold to property owners in the property management area in priority; where they are not to be sold or have not been sold, they shall be provided to property owners in the property management area. Where there are still vacancies after the needs of property owners are met, they may be temporarily leased to others outside the property management area on a monthly basis.

**Article 81** A property buyer shall abide by relevant systems of the State on special maintenance funds and contribute to special maintenance funds in full as stipulated.

After a property owner transfers a property and handles transfer registration, the balance of the special maintenance funds for the transferred property shall be transferred with the property, and the property owner has no right to request a refund; where the property is lost due to expropriation or other reasons, the balance of the special maintenance funds shall be owned by the property owner.

The property owner of a public house sold shall, before the transfer thereof, make up for the special maintenance funds of the public house according to the then applicable standards for commercial housing; in the event of change in the property owner of a public house sold due to inheritance, grant or execution of an effective legal instrument, the inheritor, grantee or indemnified person shall make up for the special maintenance funds according to the then applicable standards for commercial housing.

**Article 82** For an unsold public house lack of special maintenance funds before the State implements the systems on special maintenance funds, the property right owner shall establish and contribute to special maintenance funds in full as stipulated.

For a public house sold after the State implements the systems on special maintenance funds, the property owner and selling entity shall contribute to special maintenance funds in accordance with the proportion prescribed by the State and this Municipality; in the event of failure to contribute to special maintenance funds as stipulated, the property owner and selling entity shall make payment in full amount, and if they fail to do the same, the public house sold shall not be transferred anew.

**Article 83** Where the balance of the special maintenance funds is less than 30% of the amount raised in the first period, the property owners' committee or property management committee shall promptly issue a notice and urge property owners to make up for the special maintenance funds in accordance with the then applicable standards.



业主申请不动产转移登记或者抵押登记时，应当向不动产登记机构提供已足额交纳专项维修资金的相关凭证。

**第八十四条** 未选举产生业主委员会的，专项维修资金由市住房资金管理部门代管，存入银行专用账户。

选举产生业主委员会的，业主大会可以决定自行管理专项维修资金，或者委托市住房资金管理部门代管。业主大会决定自行管理的，应当以自己名义设立专用账户，区住房和城乡建设或者房屋主管部门应当监督、指导专项维修资金的使用管理。

业主大会可以委托具有资质的中介机构对共有资金进行财务管理。业主大会或者业主委员会自行管理共有资金的，应当每季度公布一次自行管理账目。

**第八十五条** 专项维修资金属于业主共有，应当专项用于共用部位、共用设施设备保修期满后的维修、更新和改造，不得挪作他用。

**第八十六条** 维修、更新和改造共用部位、共用设施设备，需要使用专项维修资金的，应当按照下列规定分摊：

（一）商品住宅之间或者商品住宅和非住宅之间共用部位、共用设施设备的维修、更新和改造费用，由相关业主按照各自专有物业建筑面积比例分摊。

（二）售后公房之间共用部位、共用设施设备的维修、更新和改造费用，由相关业主和售房单位按照所交存专项维修资金的比例分摊；其中，应当由业主承担的，再由相关业主按照各自专有物业建筑面积的比例分摊。

（三）售后公房与商品房住宅或者非住宅之间共用部位、共用设施设备的维修、更新和改造费用，先按照建筑面积比例分摊到各相关物业，再按照第（一）项、第（二）项的规定比例分摊。

共用部位、共用设施设备需要维修、更新和改造，但是没有专项维修资金的，维修、更新和改造费用按照前款的规定由业主共同分摊。

**第八十七条** 新开发建设项目，建设单位可以接受专业设施设备专业运营单位委托，按照国家技术标准和专业技术规范建设物业管理区域内业主专有部分以外的水、

A property owner shall, when applying for registration of transfer or mortgage of real estate, provide the real estate registration institution with relevant vouchers proving that he or she has contributed to special maintenance funds in full.

**Article 84** Where no property owners' committee is elected, the special maintenance funds shall be held by the municipal housing fund management department in escrow and deposited into a special bank account.

Where a property owner's committee is elected, the property owners' general meeting may decide to manage the special maintenance funds on its own, or entrust the municipal housing fund management department to manage them on its behalf. A property owners' general meeting deciding to manage on its own shall set up a special account in its own name, and the district government department for housing and urban-rural development or for housing shall supervise and direct the use and management of the special maintenance funds.

The property owners' general meeting may entrust a qualified intermediary institution to conduct financial management of the common funds. The property owners' general meeting or property owners' committee managing the common funds on its own shall publicize the self-management accounts on a quarterly basis.

**Article 85** The special maintenance funds shall be jointly owned by property owners, and be earmarked for the maintenance, renewal and renovation of the common parts, facilities and equipment upon expiry of the warranty period, which shall not be diverted for any other purpose.

**Article 86** The expenses of maintenance, renewal and renovation of the common parts, facilities and equipment shall be apportioned in accordance with the following provisions if special maintenance funds are to be used:

(1) The expenses of maintenance, renewal and renovation of the common parts, facilities and equipment between commercial residential buildings or between a commercial residential building and a non-residential building shall be apportioned among the relevant property owners in proportion to the floorage of the proprietary property of each property owner.

(2) The expenses of maintenance, renewal and renovation of the common parts, facilities and equipment between sold public houses shall be apportioned among the relevant property owners and selling entity in proportion to their respective contribution to special maintenance funds; and those to be assumed by property owners shall be apportioned among the relevant property owners in proportion to the floorage of the proprietary property of each property owner.

(3) The expenses of maintenance, renewal and renovation of the common parts, facilities and equipment between a sold public house and a commercial residential building or a non-residential building shall be apportioned to every relevant property in proportion to the floorage, and then be apportioned according to the proportion prescribed in Items (1) and (2).

Where the maintenance, renewal or renovation of the common parts, facilities and equipment is necessary while there are no special maintenance funds, the expenses of maintenance, renewal and renovation shall be jointly shared by property owners in accordance with the provisions of the preceding paragraph.

**Article 87** For a newly developed construction project, the construction project owner may accept the entrustment of a professional operator of professional facilities and

电、气、热以及通讯等专业设施设备；经验收合格，将专业设施设备与工程图纸等资料交由专业运营单位承担维修、养护和更新改造责任。

已入住项目，物业管理区域内业主专有部分以外的水、电、气、热以及通讯等专业设施设备发生故障、不能正常使用的，物业服务人应当立即报告相关专业运营单位；专业运营单位应当及时采取措施，排除故障。

专业运营单位对专业设施设备进行维修、养护和更新改造，进入物业管理区域的，业主、物业使用人和物业服务人应当予以配合，不得以任何方式阻挠、妨碍其正常作业。

**第八十八条** 物业服务人应当对物业管理区域内的电梯、消防设施等易于发生安全风险的设施设备和部位加强日常巡查和定期养护；采取必要的安全保障措施，防止建筑物、构筑物或者其他设施及其搁置物、悬挂物发生脱落、坠落。

排除安全风险隐患需要使用专项维修资金的，按照本市相关规定办理。

**第八十九条** 建筑物专有部分存在安全隐患，危及公共利益或者他人合法权益的，相关业主应当及时采取修缮以及其他消除危险的安全治理措施。

业主不履行维修养护义务的，可以由物业服务人报经业主委员会、物业管理委员会同意，或者按照临时管理规约、管理规约的约定，代为维修养护或者采取应急防范措施，费用由业主承担。

经鉴定为停止使用、整体拆除的危险房屋的，业主或者物业使用人应当停止使用，立即搬出；拒不搬出的，区住房和城乡建设或者房屋主管部门应当书面责令业主或者物业使用人搬出，情况紧急危及公共安全的，区人民政府可以责成有关部门组织强制搬出，并妥善安置。

## 第七章 法律责任

**第九十条** 违反本条例第二十一条规定，建设单位不移交或者补齐资料的，由区住房和城乡建设或者房屋主管部门责令限期改正；逾期不改的，处五万元以上十万元

equipment to construct water, electricity, gas, heat, communication, and other professional facilities and equipment in the property management area other than the proprietary parts of property owners in accordance with the technical standards and professional technical specifications of the State, and shall, upon acceptance, hand over the professional facilities and equipment, engineering drawings, and other materials to the professional operator for assuming the responsibility of repair, maintenance and renovation.

Where, for a project with dwellers, the water, electricity, gas, heat, communication, and other professional facilities and equipment in the property management area other than the proprietary parts of property owners are out of order and cannot be used normally, the property service practitioner shall immediately report to the relevant professional operator, and the professional operator shall promptly take measures to remove the fault.

Where a professional operator enters the property management area for the repair, maintenance and renovation of the professional facilities and equipment, property owners, property users and property service practitioners shall render cooperation, and shall not obstruct or hinder its normal operation in any way.

**Article 88** Property service practitioners shall strengthen routine inspections and regular maintenance of elevators, firefighting facilities, and other facilities, equipment and parts prone to safety risks in property management areas, and take necessary safety guarantee measures to prevent buildings, structures or other facilities and articles laid or hung thereon from falling.

The use of special maintenance funds to eliminate hidden safety dangers shall be handled in accordance with relevant regulations of this Municipality.

**Article 89** In the event of hidden safety dangers in the proprietary parts of a building, endangering public interests or the lawful rights and interests of others, the relevant property owners shall take repair and other safety management measures in a timely manner to eliminate the dangers.

Where property owners fail to perform the repair and maintenance obligations, the property service practitioner may, after reporting to the property owners' committee or property management committee for consent, or following the contents of the interim management covenants or management covenants, conduct repair and maintenance or take emergency measures at the expense of property owners.

For a dangerous building identified to be disused or demolished as a whole, property owners or users shall stop using it and move out immediately; where they refuse to move out, the district government department for housing and urban-rural development or for housing shall order the property owners or users in writing to move out, and in emergency endangering the public security, the district people's government may order the relevant departments to organize forced eviction and appropriately resettle them.

## **Chapter VII Legal Liability**

**Article 90** Where a construction project owner, in violation of the provisions of Article 21 of the Regulations, fails to hand over or supplement materials, it shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit; where it fails to make corrections within the prescribed time limit, it shall be fined not less than 50,000 yuan but not more

以下的罚款。

**第九十一条** 违反本条例第六十三条规定，物业服务人未按规定将物业服务合同报街道办事处、乡镇人民政府、区住房和城乡建设或者房屋主管部门备案的，由街道办事处、乡镇人民政府责令限期改正，给予警告；逾期不改的，处五千元以上一万元以下的罚款。

**第九十二条** 违反本条例第六十五条第（一）项至第（六）项规定，物业服务人提供服务未遵守相关规定的，由区住房和城乡建设或者房屋主管部门给予警告，处五千元以上一万元以下的罚款；违反第（七）项规定，物业服务人泄露业主个人信息的，由公安机关依法处理；违反第（八）项规定，物业服务人未履行生活垃圾分类管理责任人责任的，由城市管理综合行政执法部门依照生活垃圾管理法律法规予以处理。

**第九十三条** 违反本条例第六十六条规定，物业服务企业项目负责人未按时报到的，由街道办事处、乡镇人民政府责令限期改正；逾期不改的，处五千元以上一万元以下的罚款。

**第九十四条** 违反本条例第七十条规定，物业服务人未按照规定如实公示有关信息的，由区住房和城乡建设或者房屋主管部门责令限期改正，给予警告；逾期不改的，处一千元以上五千元以下的罚款。

**第九十五条** 违反本条例第七十一条规定，物业服务人未建立、保存相关档案和资料的，由区住房和城乡建设或者房屋主管部门责令限期改正，处二万元以上五万元以下的罚款。

**第九十六条** 违反本条例第七十四条规定，物业服务人挪用、侵占公共收益的，由区住房和城乡建设或者房屋主管部门责令退还，并处挪用、侵占金额二倍以下的罚款。

than 100,000 yuan.

**Article 91** Where a property service practitioner, in violation of the provisions of Article 63 of the Regulations, fails to submit the property service contract to the sub-district office, the township or town people's government, or the district government department for housing and urban-rural development or for housing for record as stipulated, it shall be ordered by the sub-district office or the township or town people's government to make corrections within a prescribed time limit and be given a warning; where it fails to make corrections within the prescribed time limit, it shall be fined not less than 5,000 yuan but not more than 10,000 yuan.

**Article 92** Where a property service practitioner, in violation of the provisions of Items (1) to (6) of Article 65 of the Regulations, fails to comply with the relevant provisions in the provision of services, it shall be given a warning by the district government department for housing and urban-rural development or for housing, and be fined not less than 5,000 yuan but not more than 10,000 yuan; a property service practitioner disclosing personal information on a property owner in violation of the provisions of Item (7) shall be punished by the public security organ in accordance with the law; and a property service practitioner failing to fulfill the responsibilities of the person responsible for management of household waste sorting in violation of the provisions of Item (8) shall be punished by the municipal urban management and comprehensive law enforcement department in accordance with the laws and regulations on management of household wastes.

**Article 93** A project manager of a property service enterprise failing to report for duty on time in violation of the provisions of Article 66 of the Regulations shall be ordered by the sub-district office or the township or town people's government to make corrections within a prescribed time limit; where it fails to make corrections within the prescribed time limit, it shall be fined not less than 5,000 yuan but not more than 10,000 yuan.

**Article 94** A property service practitioner failing to truthfully publicize the relevant information as stipulated in violation of the provisions of Article 70 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit and be given a warning; where it fails to make corrections within the prescribed time limit, it shall be fined not less than 1,000 yuan but not more than 5,000 yuan.

**Article 95** A property service practitioner failing to establish and keep relevant archives and materials in violation of the provisions of Article 71 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit, and be fined not less than 20,000 yuan but not more than 50,000 yuan.

**Article 96** A property service practitioner misappropriating or embezzling public income in violation of the provisions of Article 74 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make a refund, and be fined not more than twice the amount of income misappropriated or embezzled.

**第九十七条** 物业服务人违反本条例第七十六条第一款规定的，由区住房和城乡建设或者房屋主管部门责令限期改正；逾期不改的，对物业服务人予以通报，对拒不移交有关资料或者财物的，处一万元以上十万元以下的罚款；拒不退出物业管理区域的，自规定时间届满次日起处每日一万元的罚款。物业服务人有违反治安管理行为的，由公安机关依法给予治安管理处罚。

**第九十八条** 物业管理区域内有下列行为之一的，由有关主管部门按照下列规定予以查处：

（一）违反本条例第七十八条第二款第（一）项规定的，由区住房和城乡建设或者房屋主管部门责令限期改正，处五万元以上十万元以下的罚款；

（二）违反本条例第七十八条第二款第（二）项规定的，由区住房和城乡建设或者房屋主管部门责令限期改正，给予警告，对单位处五万元以上二十万元以下的罚款；对个人处一千元以上一万元以下的罚款；有违法所得的，责令退还违法所得；

（三）违反本条例第七十八条第二款第（三）项规定的，由城市管理综合行政执法部门依照城乡规划法律法规给予责令拆除或者回填、罚款等处罚；

（四）违反本条例第七十八条第二款第（四）项规定的，由公安机关依照治安管理处罚法律法规予以处罚；

（五）违反本条例第七十八条第二款第（五）项规定的，由消防救援机构责令改正，拒不改正的，处五百元以上五千元以下的罚款；

（六）违反本条例第七十八条第二款第（六）项规定的，由水主管部门责令限期改正，处一万元以上三万元以下的罚款；

（七）违反本条例第七十八条第二款第（七）项规定的，由公安机关给予警告，处五百元以上五千元以下的罚款；

（八）违反本条例第七十八条第二款第（八）项规定的，由公安机关责令改正，拒不改正的，处二百元以上五百元以下的罚款；



**Article 97** A property service practitioner violating the provisions of Paragraph 1 of Article 76 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit; the property service practitioner shall be notified if it refuses to make corrections within the prescribed time limit, and be fined not less than 10,000 yuan but not more than 100,000 yuan if it refuses to hand over relevant materials or property; where it refuses to exit from the property management area, it shall be fined 10,000 yuan per day from the day after the expiration of the prescribed time limit. A property service practitioner committing acts against public security administration shall be given penalties for public security administration by the public security organ in accordance with the law.

**Article 98** Whoever commits any of the following acts in a property management area shall be investigated and handled by the relevant government department in accordance with the following provisions:

(1) Whoever violates the provisions of Item (1) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit, and be fined not less than 50,000 yuan but not more than 100,000 yuan;

(2) Whoever violates the provisions of Item (2) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit, given a warning, fined not less than 50,000 yuan but not more than 200,000 yuan in the case of an institution, or not less than 1,000 yuan but not more than 10,000 yuan in the case of an individual, and ordered to return the illegal gains, if any;

(3) Whoever violates the provisions of Item (3) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the municipal urban management and comprehensive law enforcement department in accordance with the laws and regulations on urban and rural planning to conduct demolition or backfilling, or be fined, etc.;

(4) Whoever violates the provisions of Item (4) of Paragraph 2 of Article 78 of the Regulations shall be punished by the public security organ in accordance with the laws and regulations on penalties for public security administration;

(5) Whoever violates the provisions of Item (5) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the fire fighting institution to make corrections, and be fined not less than 500 yuan but not more than 5,000 yuan if it refuses to make corrections;

(6) Whoever violates the provisions of Item (6) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the government department for water affairs to make corrections within a prescribed time limit, and be fined not less than 10,000 yuan but not more than 30,000 yuan;

(7) Whoever violates the provisions of Item (7) of Paragraph 2 of Article 78 of the Regulations shall be given a warning by the public security organ, and be fined not less than 500 yuan but not more than 5,000 yuan;

(8) Whoever violates the provisions of Item (8) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the public security organ to make corrections, and be fined not less than 250 yuan but not more than 500 yuan if it refuses to make corrections;



（九）违反本条例第七十八条第二款第（九）项规定的，由城市管理综合行政执法部门责令改正，拒不改正的，处五百元以上五千元以下的罚款；

（十）违反本条例第七十八条第二款第（十）项规定，占用、堵塞、封闭消防通道、疏散通道，或者损坏消防设施的，由消防救援机构责令改正，对单位处五千元以上五万元以下的罚款，对个人处五百元的罚款；占用、堵塞、封闭其他共用部位，或者损坏其他共用设施设备的，由城市管理综合行政执法部门责令改正，给予警告，对单位处二千元以上二万元以下的罚款，对个人处二百元以上五百元以下的罚款；

（十一）违反本条例第七十八条第二款第（十一）项规定的，由规划自然资源主管部门责令当事人限期改正、按照实际使用用途类型应当缴纳的土地使用权地价款数额的二倍处以罚款；情节严重的，依法无偿收回土地使用权；

（十二）违反本条例第七十八条第二款第（十二）项、第（十三）项规定的，由公安机关依照治安管理处罚法律法规予以处罚。

**第九十九条** 违反本条例第八十条规定，将车位、车库提供给业主以外的其他人的，由区住房和城乡建设或者房屋主管部门责令限期改正，有违法出租所得的，责令退还违法所得，按每个违法出租车位处五千元以上一万元以下的罚款；拒不改正的，按每个违法出租车位处每月二千元的罚款。

**第一百条** 物业服务人违反本条例第八十八条第一款规定的，由区住房和城乡建设或者房屋主管部门责令限期改正，处二万元以上五万元以下的罚款。

**第一百零一条** 本条例规定退还的违法所得，应当用于物业管理区域内共用部位、共用设施设备的维修、养护，剩余部分按照业主大会的决定使用。

**第一百零二条** 违反本条例规定，造成他人损失的，依法承担民事责任；构成违反治安管理行为的，依法给予治安管理处罚；构成犯罪的，依法追究刑事责任。

**第一百零三条** 行政执法机关应当将物业管理相关主体受到行政处罚或者行政强制的情况共享到本市的公共信用信息平台。行政机关根据本市关于公共信用信息管理规定可以对其采取惩戒措施。

(9) Whoever violates the provisions of Item (9) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the municipal urban management and comprehensive law enforcement department to make corrections, and be fined not less than 500 yuan but not more than 5,000 yuan if it refuses to make corrections;

(10) Whoever, in violation of the provisions of Item (10) of Paragraph 2 of Article 78 of the Regulations, occupies, blocks or closes fire fighting accesses and evacuation exits, or damages firefighting facilities shall be ordered by the fire fighting institution to make corrections, and be fined not less than 5,000 yuan but not more than 50,000 yuan in the case of an institution, or 500 yuan in the case of an individual; whoever occupies, blocks or closes other common parts, or damages other common facilities and equipment shall be ordered by the municipal urban management and comprehensive law enforcement department to make corrections, be given a warning, and be fined not less than 2,000 yuan but not more than 20,000 yuan in the case of an institution, or not less than 200 yuan but not more than 500 yuan in the case of an individual;

(11) Whoever violates the provisions of Item (11) of Paragraph 2 of Article 78 of the Regulations shall be ordered by the government department for planning and natural resources to make corrections within a prescribed time limit, and be fined twice the price for the right to land use to be paid according to the actual usage; if the circumstances are serious, the right to land use shall be recovered without compensation in accordance with the law; and

(12) Whoever violates the provisions of Items (12) and (13) of Paragraph 2 of Article 78 of the Regulations shall be punished by the public security organ in accordance with the laws and regulations on penalties for public security administration.

**Article 99** Whoever, in violation of the provisions of Article 80 of the Regulations, provides parking spaces or garages to people other than property owners shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit and refund the illegal gains, if any, and be fined not less than 5,000 yuan but not more than 10,000 yuan for each parking space illegally leased; in the event of refusal to make corrections, a fine of 2,000 yuan shall be imposed per month for each parking space illegally leased.

**Article 100** A property service practitioner violating the provisions of Paragraph 1 of Article 88 of the Regulations shall be ordered by the district government department for housing and urban-rural development or for housing to make corrections within a prescribed time limit, and be fined not less than 20,000 yuan but not more than 50,000 yuan.

**Article 101** The illegal gains to be refunded as stipulated in the Regulations shall be used for the repair and maintenance of the common parts, facilities and equipment in the property management area, and the remainder shall be used according to the decision of the property owners' general meeting.

**Article 102** Where losses to others are caused in violation of the Regulations, civil liability shall be assumed in accordance with the law; in the case of an act against public security administration, punishment for public security administration shall be given in accordance with the law; where a crime is constituted, criminal liability shall be investigated for in accordance with the law.

**Article 103** Administrative law enforcement organs shall share the information on administrative penalties or administrative compulsion against relevant parties to property

## 第八章 附 则

**第一百零四条** 本条例自 2020 年 5 月 1 日起施行。

management on this Municipality's public credit information platform. Administrative organs may take disciplinary actions against such parties in accordance with the regulations of this Municipality on management of public credit information.

## **Chapter VIII Supplementary Provisions**

**Article 104** The Regulations shall come into force as of May 1, 2020.

# 北京市人民政府关于城市 公有房屋管理的若干规定

(1987年8月28日北京市人民政府京政发109号文件发布)

根据1997年12月31日北京市人民政府第12号令修改)

为加强城市公有房屋的保护管理，维护管理秩序，促进房屋的合理使用，根据国家有关法律，结合本市实际情况，作如下规定。

一、凡本市城区、近郊区、远郊县城、建制镇和工矿区的公有房屋（以下简称公房），均按本规定管理。

二、市房屋土地管理局是全市房屋的行政管理机关，区、县房屋土地管理局是本区、县房屋的行政管理机关（市和区、县房屋土地管理局及其下属管理机构统称房管机关）。

一切单位和个人，管理和使用公房，都必须遵守本规定，接受各级房管机关的监督管理。

三、全民所有和集体所有的房屋，都是公房。全民所有的公房，所有权属于国家。集体所有的公房，所有权属于集体单位。公房分别不同情况，按下列原则管理：

（一）机关、团体、学校等行政、事业单位使用的全民所有的公房，由房管机关所属的管房单位直接管理，或按现实情况由各该单位自行管理。

（二）国有企业使用的全民所有的公房，除由房管机关所属单位或其他行政事业单位管理的以外，属国家授予企业经营管理的固定资产，由企业负责管理。

（三）集体所有制单位自建、自购的房屋，属本单位所有，由本单位管理。

集体所有制企业使用的全民所有的公房，分别不同情况，按以上第（一）、（二）项规定管理。

# Several Provisions of the People's Government of Beijing Municipality on the Administration of Urban Public Housing

(Promulgated by Document JZF No. 109 of the People's Government of Beijing Municipality on August 28, 1987, and revised in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997)

The following provisions are formulated for the purposes of strengthening the protection and management of urban public housing, maintaining the management order and promoting the rational use of housing in accordance with relevant laws of the State and in light of actual circumstances of this Municipality.

1. The Provisions shall apply to all public housing in urban areas, suburban areas, outer suburban counties, designated towns and industrial and mining areas of this Municipality (hereinafter referred to as public housing).

2. The Municipal Housing and Land Administration is the administrative authority in charge of housing in this Municipality, and the district or county housing and land administration authorities are the administrative authorities in charge of housing within their respective administrative areas (the municipal, district and county housing and land administration authorities and their subordinate management offices are hereinafter referred to as housing management authorities).

All units and individuals must abide by the Provisions and accept the supervision and administration of the housing management authorities at all levels in the management and use of public housing.

3. All housing under the ownership of the whole people and under collective ownership belongs to public housing. The public housing under the ownership of the whole people belongs to the State, while the public housing under collective ownership belongs to collective units. Public housing shall be managed according to the following principles in different situations:

(1) Public housing under the ownership of the whole people that is used by administrative and public institutions such as organs, organizations and schools shall be directly managed by the housing management units subordinate to housing management authorities, or shall be managed by respective institutions according to the actual situation;

(2) Public housing under the ownership of the whole people that is used by state-owned enterprises, other than those under the management of units subordinate to housing administration authorities or other administrative institutions, belongs to fixed assets granted by the State to enterprises for operation and management, and shall be managed by enterprises;

(3) Housing built or purchased by units under collective ownership belongs to respective units and shall be subject to their management;

Public housing under the ownership of the whole people that is used by enterprises

（四）居民租用的公房，由出租公房的单位管理。

（五）外地的机关、团体、企事业单位在本市建、购的房屋，由建、购单位管理。

（六）楼房住宅小区范围内的公房，分属若干单位管理的，由区、县房管机关指定房屋数量较多的单位牵头，与其他单位组成协调机构，负责协调本小区住宅管理的有关事宜。

集体所有制单位自建自购的房屋，其本单位为所有权单位；全民所有的公房，由本条第（一）至（五）项规定的各管理单位代表国家行使对公房的所有权。管理单位可视为所有权单位（以下即统称所有权单位）。

**四、公房实行登记制度。**公房的所有权单位须持有关证件，向房屋所在区、县的房管机关申请房产登记，经审查确认，发给《房屋所有权证》。

新建公房的所有权单位，应在竣工后6个月内申请登记。公房所有权转移或改建、扩建等房屋现状变更，应自转移、变更之日起1年内办理登记手续。因故不能按期登记的，经房管机关同意，可以缓期登记。凡无正当理由不按期登记的，每逾期1个月，由区、县房管机关按建筑面积每平方米处1角的罚款，但罚款总额不超过3万元。

**五、《房屋所有权证》**由所有权单位妥善保管。禁止涂改。因涂改造成不良后果的，必须追究其行政责任或法律责任。

**六、各级房管机关**要加强对房产登记资料的管理，建立完整的房产档案。档案资料要准确地反映房屋的座落地点、所有权归属和房屋的结构、层数、面积、设备、用途、建筑年代、变更情况等全貌。

**七、使用公房，**应贯彻合理和节约的原则，按房屋的设计用途使用，节约用房。地处主要大街的铺面房，应作商业、服务业使用。

**八、公房所有权单位，**应根据方便生活、有利生产、自愿互利的原则，开展职工住房的互换工作，帮助职工解决上班路远、居住不便等实际困难。

**九、使用公房，**必须经所有权单位同意，不得擅自进住。违者，所有权单位有权责令其迁出和赔偿由此而造成的经济损失，或诉请房管机关或司法机关解决。

under collective ownership shall be managed according to the provisions of Item (1) or (2) above as the case may be;

(4) Public housing rented by residents shall be managed by the units that rent out the housing;

(5) Housing built or purchased in this Municipality by organs, organizations, enterprises and institutions from other places shall be under the management of the building or purchasing units;

(6) Where public housing within residential quarters composed of buildings are under the management of several units, the district or county housing administration authorities shall designate the unit owning more housing to take the lead in forming a coordination organization with other units, which shall be responsible for coordinating matters related to management of respective residential quarters.

For housing built or purchased by the units under collective ownership, these units shall be the ownership units; for public housing under the ownership of the whole people, the management units specified in Items (1) to (5) of this article shall exercise the ownership of public housing on behalf of the State. The management units may be regarded as the ownership units (hereinafter referred to as ownership units).

4. The system of registration shall be implemented for public housing. The ownership units of public housing shall apply to the housing administration authority of the district or county where the housing is located for housing property registration with relevant documents, while the latter shall issue the Housing Ownership Certificate after examination and confirmation.

The ownership units of new public housing shall apply for registration within 6 months after completion of construction. In the event of transfer of the ownership of public housing, reconstruction or expansion, or other changes to the current situation of housing, the registration formalities shall be handled within one year from the date of transfer or change. If registration on schedule fails for some reason, the registration may be postponed with the consent of the housing administration authorities. In case of failure to register on time without proper reasons, the district or county housing administration authorities shall impose a fine of not more than 30,000 yuan according to the standard of 1 jiao per square meter for each month overdue.

5. The Housing Ownership Certificate shall be properly kept by the ownership units. No alteration is allowed. In case of any bad consequence caused by alteration, the violator shall be held accountable for administrative liability or legal liability.

6. The housing administration authorities at all levels shall strengthen the management of housing property registration data and establish complete housing property archives. The archives shall accurately reflect the location, ownership, structure, storeys, area, equipment, purpose, building year, change, etc. of housing.

7. To use public housing, the principle of reasonable and economical use shall be implemented, and the housing shall be used according to the intended purpose. Housing with street frontage located in main streets shall be used for commercial or service purpose.

8. The ownership units of public housing shall, in accordance with the principles of convenience to life, benefits to production, voluntariness and mutual benefit, carry out exchange of staff housing, so as to help the staff solve practical difficulties such as long commutes and inconvenient living.

9. The use of public housing must be approved by the ownership units and occupation without authorization is prohibited. In case of violation, the ownership units shall have



## 十、公房买卖必须按房管机关的规定进行。

（一）卖方凭《房屋所有权证》出售。单位买房，须持有本单位归口的市级主管部门或区县领导部门同意买房的批准文件；个人买房须有本市正式户口。

（二）全民所有公房的卖房价款，只准用于房屋建设，或上交同级财政，不准挪作它用。

（三）必须经区、县房管机关审查批准，办理立契过户手续，按规定交纳税费。非经批准，不得擅自买卖。违者，由区、县房管机关处买卖双方以成交价 1 倍以下的罚款，但最高不超过 3 万元。处罚后按规定进行审查，不符合条件的，不予立契过户。

（四）必须按照市人民政府规定的房价标准确定房屋价格。公房所有权单位以房屋折抵投资与其他单位合营企业，须经房屋所在地的房管机关评定房价。禁止高价买卖公房，禁止以合营为名变相高价买卖公房，禁止倒卖公房或居间牟利等非法活动。违者，由区、县房管机关处买卖双方（含中间人）以非法所得 2 倍以下的罚款，但最高不超过 3 万元。

## 十一、公房被建设单位征用拆除，或调拨给其他单位使用，除经市人民政府批准无偿征用或无偿调拨者外，应按规定的房价标准，对所有权单位给以合理补偿。

征用拆除或调拨全民所有公房的补偿价款，只准用于房屋建设，或上交同级财政，不准挪作它用。

## 十二、公房租赁，必须遵守房管机关的各项规定。

（一）除中、小学校舍和市人民政府规定不能出租的房屋以外，其他公房均可出租。

（二）出租方须持有《房屋所有权证》。单位租房须持有批准文件，个人租房须有本市正式户口。

（三）租赁双方必须签订租赁合同，明确双方的权利与义务。单位或个体工商户租用公房，租赁合同须经房管机关审核同意。

the right to order the violator to move out and compensate for the economic losses caused thereby, or appeal to the housing administration authorities or judicial authorities for settlement.

10. The purchase and sale of public housing must be carried out in accordance with the provisions of the housing administration authorities.

(1) The seller shall sell housing on the strength of the Housing Ownership Certificate. For a unit to buy housing, it is necessary to hold the approval document issued by the municipal competent department or the district or county leading department to which the unit is subordinate; for an individual to buy housing, it is necessary to have an official registered permanent residence in this Municipality;

(2) The proceeds of selling public housing owned by the whole people shall be earmarked for housing construction or handed over to the finance at the corresponding level, and shall not be diverted for other purposes;

(3) The examination and approval of the district or county housing administration authorities shall be obtained, the formalities for transfer by deed shall be handled, and taxes shall be paid as stipulated. It is not allowed to buy or sell public housing without approval. In case of violation, the district or county housing administration authorities shall impose a fine of not more than one time the transaction price on both parties up to 30,000 yuan. Examination shall be conducted after the punishment and the transfer by deed shall not be approved if the conditions are not met;

(4) The housing price must be determined in accordance with the housing price standard prescribed by the Municipal People's Government. If an ownership unit of public housing operates a joint venture with other units with investment by housing, the housing administration authority in the place where the housing is located shall assess the housing price. It is prohibited to buy or sell public housing at a high price, to trade in public housing at a high price in disguised form in the name of joint venture, to resell public housing, or to make profits through intermediate activities. In case of violation, the district or county housing administration authorities shall impose a fine of not more than twice the illegal income on both parties (including intermediaries) up to 30,000 yuan.

11. Where public housing is requisitioned and demolished by development units or allocated to other units for use, except for that requisitioned or allocated without compensation as approved by the Municipal People's Government, reasonable compensation shall be given to the ownership units according to the prescribed price standard.

The compensation for the requisition and demolition or allocation of public housing owned by the whole people shall be earmarked for housing construction or handed over to the finance at the corresponding level, and shall not be diverted for other purposes.

12. In public housing lease, provisions of the housing administration authorities must be observed.

(1) Except for primary and secondary school buildings and the housing prohibited for lease by the Municipal People's Government, other public housing may be leased out;

(2) The lessor shall hold the Housing Ownership Certificate. Units to lease housing shall hold approval documents and individuals to lease housing shall have the official registered permanent residence in this Municipality;

(3) Both parties to lease must enter into a lease contract to clarify the rights and obligations thereof. If a unit or individual is to lease public housing, the lease contract shall be examined and approved by the housing administration authorities;

（四）在租赁合同规定的期限内，出租单位需收回房屋自用的，应妥善安置原承租者。租赁合同期满，承租者仍需租用的，应征得出租单位同意，续订合同。

（五）承租者外迁或死亡，原同住者要求继续承租的，须经出租单位同意，并新订租赁合同。

（六）承租者与他人换房，须征得出租单位同意。出租单位应支持承租者合理的换房要求。换房后，要新订租赁合同。

（七）承租者对其租用的公房及设备负有保护责任，除经出租单位同意者外，不得擅自拆改。因擅自拆改或其他过失造成房屋及设备损坏的，承租者应负责修复或赔偿。

（八）承租者不得擅自将承租的房屋转租、转让、转借他人或擅自调换使用，不得利用承租的房屋进行非法活动。违者，出租单位有权中止租赁合同，收回房屋。

（九）承租者多户共同使用的院落、楼（门）道、厕所、上下水等设施，由承租者共同合理使用，不得恃强独占。由此发生争执又不能协商解决的，可由出租单位确定各承租者的使用范围。

（十）必须执行市房屋土地管理局制定并经市人民政府批准的租金标准。禁止高价出租、转租，禁止以合营为名或其他巧立名目变相高价出租，严禁出卖公房使用权。违者，由区、县房管机关处出租方（含转租人或出卖公房使用权人）以非法所得1倍以下的罚款，但最高不超过3万元。

（十一）承租者必须按合同规定交租，不得拖欠。凡无正当理由拖欠租金1个月以上的，出租单位有权要求终止租赁合同，追索拖欠的租金、滞纳金。

**十三、公房所有权单位**，每年应定期进行房屋安全检查，加强维修养护，确保房屋的住用安全和装修设备的正常使用，尽量改善房屋住用条件，延长房屋使用年限。使用公房的单位或个人，应配合所有权单位检查和修缮房屋，发现险情，应迅速通知所有权单位及时妥善处理。

(4) During the term of the lease contract, if the lessor intends to recover housing for its own use, it shall properly resettle the original lessee. At the expiration of the lease contract, if the lessee still needs to lease housing, the consent of the lessor shall be obtained and the contract shall be renewed;

(5) Where the lessee moves out or dies, and the original housemate requests to continue the lease, the consent of the lessor shall be obtained and a new lease contract shall be concluded;

(6) The lessee shall obtain the consent of the lessor when exchanging housing with others. The lessor shall support the lessee's reasonable request for housing exchange. After housing exchange, a new lease contract shall be concluded;

(7) The lessee shall be responsible for protection of the public housing and equipment leased thereby, and unauthorized demolition or alteration is prohibited without the consent of the lessor. In case of damage to housing and equipment due to unauthorized demolition or alteration or other negligence, the lessee shall be responsible for repair or compensation;

(8) The lessee shall not sublease, transfer, lend or exchange with others the leased housing without authorization, and shall not use the leased housing for illegal activities. In case of violation, the lessor shall have the right to terminate the lease contract and recover the housing;

(9) Courtyards, passages, toilets, and water supply and drainage facilities shared by multiple lessees shall be jointly used in a reasonable manner and shall not be monopolized. In case of any dispute arising therefrom which cannot be settled through consultation, the lessor may determine the range of use of each lessee;

(10) The rent standard formulated by the Municipal Housing and Land Administration and approved by the Municipal People's Government must be implemented. It is prohibited to lease or sublease at a high price, to lease in the name of joint venture or at a high price in disguised forms, or to sell the right to use public housing. In case of violation, the district or county housing administration authorities shall impose a fine of not more than one time the illegal income on the lessor (including the sublessor or the seller of the right to use public housing) up to 30,000 yuan;

(11) The lessee must pay the rent as agreed in the contract and shall not fall behind in payment. Where the rent is overdue for more than one month without proper reasons, the lessor shall have the right to demand termination of the lease contract and claim the rent in arrears and overdue fine.

13. The ownership units of public housing shall carry out regular housing safety inspection and strengthen repair and maintenance every year, so as to ensure the living and use safety of housing and normal use of renovation equipment, improve the living and use conditions of housing to the greatest extent, and extend the service life of housing. Units or individuals using public housing shall cooperate with the inspection and repair by the ownership units. In case of any dangerous situation, the ownership units shall be informed promptly for proper handling.

**十四、**各级房管机关对公房修缮情况要进行监督检查，发现有倒塌危险的房屋，立即责成所有权单位抢修或通知住房人及时从危房中迁出。

因对房屋检查修缮不及时造成事故的，由公房所有权单位负责赔偿损失，并追究所有权单位领导人和直接责任人的责任。

**十五、**公房管理中发生的纠纷，当事人双方均可向房屋所在地的房管机关申请调解、处理。

**十六、**本规定执行中的具体问题，由市房屋土地管理局负责解释。

**十七、**本规定自 1987 年 10 月 1 日起施行。

1953 年市人民政府公布的《北京市公有房屋管理暂行办法》同时废止。

14. The housing administration authorities at all levels shall supervise and inspect the repair of public housing. If the housing is found to be in danger of collapse, the ownership units shall be promptly ordered to repair or the persons living therein shall be informed to move out in a timely manner.

If an accident is caused due to late inspection and repair of housing, the ownership units of public housing shall be responsible for making compensation for the loss, and the leader and persons directly responsible of the ownership units shall be held accountable.

15. In case of disputes in public housing management, both parties may apply to the housing administration authority where the housing is located for mediation and handling.

16. The Municipal Housing and Land Administration shall be responsible for the interpretation of specific issues in the implementation of the Provisions.

17. The Provisions shall come into force as of October 1, 1987.

The Interim Measures of Beijing Municipality for Administration of Public Housing promulgated by the Municipal People's Government in 1953 shall be repealed simultaneously.

# 北京市私有住宅楼房管理与维修办法

(1992 年 5 月 30 日北京市人民政府京政发 35 号文件发布)

**第一条** 为实施《北京市住房制度改革实施方案》，制定本办法。

**第二条** 本办法所称私有住宅楼房，是指个人按本市住房制度改革的有关规定购买的单元式住宅楼房（以下简称私有住房）。

**第三条** 同一楼房的产权人享有平等的权利和义务。产权人须遵守国家和本市私有房屋管理的有关规定。

**第四条** 住宅楼房售出后，一律由售房单位组织楼房管理机构，全面负责售出楼房的日常管理。具体职责是：

（一）组织和协调楼房共用部位、共用设施的使用、维修，负责私有住房自来水设施跑水、下水管道和垃圾道堵塞，燃气设施故障、供暖设备漏水、电源线路和照明设备故障等项目的急修。

（二）管理公共维修基金，定期向产权人公布使用情况。

（三）及时向售房单位反映产权人的意见。

（四）调解产权人之间因房屋使用与维修发生的纠纷。

**第五条** 私有住房的各项维修费用（供暖、燃气设施除外），由产权人负担。其中，共用部位、共用设施维修所需费用，从公共维修基金的利息中支付，不足部分，可由产权人按各自占有房屋建筑面积的比例分摊。

**第六条** 公共维修基金由产权人在购房时按每平方米建筑面积 30 元交纳。以准成本价购房的，可由产权人和售房单位各交纳 50%（单位交纳部分可从售房款中支付）。产权人出售私有住房或其私有住房拆除更新时，应退还其交纳的公共维修基金本金，

# Measures of Beijing Municipality for Management and Maintenance of Private Residential Buildings

(Promulgated by Document JZF No. 35 of the People's Government of Beijing Municipality on May 30, 1992)

**Article 1** The Measures are formulated for the purpose of implementing the Implementation Plan of Beijing Municipality for Housing System Reform.

**Article 2** The term “private residential buildings” as mentioned in the Measures refers to the apartment buildings purchased by individuals in accordance with relevant provisions of the housing system reform of this Municipality (hereinafter referred to as private housing).

**Article 3** Property owners of the same building shall enjoy equal rights and assume equal obligations. Property owners shall abide by relevant provisions of the State and this Municipality on the administration of private housing.

**Article 4** After residential buildings are sold, the selling units shall organize building management agencies to be fully responsible for the daily management of the sold buildings. Specific responsibilities shall be as follows:

(1) to organize and coordinate the use and maintenance of the common parts and facilities of the buildings, and to be responsible for emergency repair for water leakage in water supply facilities, blockage in sewer lines and garbage channels, failure of gas facilities, water leakage in heating equipment, failure of power lines and lighting equipment, etc. in private housing;

(2) to manage the public maintenance fund and regularly announce its use to property owners;

(3) to report the opinions of property owners to the selling units in a timely manner; and

(4) to mediate disputes among property owners over the use and maintenance of housing.

**Article 5** Various maintenance costs of private housing (excluding heating and gas facilities) shall be borne by property owners. Among them, the expenses required for the maintenance of the common parts and facilities shall be disbursed from the interest of the public maintenance fund, and the insufficient part may be apportioned among property owners in proportion to their respective housing building area.

**Article 6** Property owners shall contribute to the public maintenance fund at the rate of 30 yuan per square meter when purchasing housing. In the case of purchase at a quasi-cost price, property owners and the selling units may respectively make a payment of 50% (the part to be paid by the units may be disbursed from the proceeds of selling housing).



其中售房单位交纳部分应退还原单位。

**第七条** 私有住房电梯、高压水泵的管理及其运行、维护和更新费用，由售房单位负责和负担。

供暖、燃气设施的维修、更新和费用负担，按本市公有住宅楼房管理的有关规定执行。

**第八条** 私有住房的正常修缮，由产权人负责，也可委托管房单位或其他房屋修缮单位承担。

承担修缮施工任务的单位，应保证维修及时和施工质量。修缮费用按《北京市房屋修缮工程预算定额》执行，或由双方协商议定。

**第九条** 产权人应合理使用共用部位和毗连部位，保证走廊、楼梯、通道畅通。对楼房的承重结构和暖气、燃气、上下水、供电等设施设备的使用，应遵守有关规定。需要拆改的，须经管房单位或有关设施设备的管理部門批准。擅自拆改或使用不当造成损坏或发生故障的，按有关规定由责任者负责修复或赔偿。

产权人有权按照自己的意愿使用住房，但不得影响建筑安全和他人的正常使用，不得妨害市容观瞻。产权人改变住房使用性质的，应征询管房单位的意见，报所在地房地产管理机关批准。

**第十条** 市和区、县房屋土地管理局应加强对私有住房的管理，定期组织有关部门进行房屋安全检查，监督售房单位对售出楼房的管理与维修工作。对管理不善的单位，房屋土地管理局应给予警告并限期改正；对因未履行职责造成产权人损失的，责任单位应予赔偿。

**第十一条** 本市住房制度改革前已有的私有住宅楼房的管理与维修，参照本办法执行。

**第十二条** 本办法执行中的具体问题，由市房屋土地管理局负责解释。

**第十三条** 本办法自 1992 年 7 月 1 日起施行。

When property owners sell private housing or the private housing thereof is demolished, the principal of the public maintenance fund paid thereby shall be returned, and the part paid by the selling units shall also be returned.

**Article 7** The selling units shall be responsible for the management of elevators and high-pressure water pumps in private housing and bear the costs of operation, maintenance and renewal thereof.

The maintenance and renewal of heating and gas facilities and cost sharing shall follow relevant provisions of this Municipality on the administration of public residential buildings.

**Article 8** Property owners shall be responsible for normal repair of private housing, and may also entrust housing management units or other housing repair units to undertake the repair.

Units undertaking repair tasks shall ensure timely maintenance and the construction quality. The repair cost shall follow the Budget Quota of Beijing Municipality for Housing Repair Projects, or shall be negotiated by the parties.

**Article 9** Property owners shall reasonably use the common parts and adjacent parts to ensure corridors, stairs and passages are clear of obstructions. The use of bearing structures of buildings as well as heating, gas, water supply and drainage, power supply and other facilities and equipment shall conform to relevant provisions. If they are to be demolished or altered, the approval of the housing management units or the management departments of relevant facilities and equipment shall be obtained. In case of damage or failure due to unauthorized demolition or alteration or improper use, the responsible entity shall be responsible for repair or compensation according to relevant provisions.

Property owners shall have the right to use the housing thereof according to their own will, but shall not affect construction safety and the normal use of others, or damage the appearance of the city. Where property owners are to change the nature of use of the housing thereof, they shall consult the housing management units and report to the local real estate administration authority for approval.

**Article 10** The municipal, district and county housing and land administration authorities shall strengthen management of private housing, regularly organize relevant departments to carry out housing safety inspection, and supervise the management and maintenance of the sold buildings by the selling units. For units with poor management, the housing and land administration authorities shall give a warning and order to make corrections within a specified time limit; in case of loss to property owners due to failure to perform duties, the responsible entity shall make compensation.

**Article 11** The management and maintenance of existing private residential buildings before the housing system reform in this Municipality shall be carried out by reference to the Measures.

**Article 12** The Municipal Housing and Land Administration shall be responsible for the interpretation of specific issues in the implementation of the Measures.

**Article 13** The Measures shall come into force as of July 1, 1992.

# 北京市职工购买公有住宅楼房管理办法

(1992年5月30日北京市人民政府京政发35号文件发布 根据2007年11月23日北京市人民政府第200号令第一次修改 根据2018年2月12日北京市人民政府第277号令第二次修改)

**第一条** 为实施《北京市住房制度改革实施方案》，制定本办法。

**第二条** 本办法所称公有住宅楼房，是指由政府住房城乡建设行政主管部门直接管理和由产权单位自行管理的公有单元式住宅楼房，包括新建楼房和已住用的楼房（以下简称新、旧楼房）。

本市行政区域内有自管公有住宅楼房的企业、行政事业单位和住房城乡建设行政主管部门，均可依照本办法向职工出售公有住宅楼房。

简易房、危险房、违章建筑和近期需要拆除、产权有争议以及具有历史价值的楼房，不准出售。

**第三条** 凡有本市城镇常住户口的职工，均可向所在单位或现住房产权单位申请购买公有住宅楼房。

新楼房和腾空的旧楼房，应优先出售给住房困难户。

**第四条** 职工购买公有住宅楼房，实行准成本价。新楼房的准成本价，每年由市人民政府住房制度改革办公室会同市发展改革委员会、市国有资产监督管理委员会等部门评估测定，经市人民政府批准后公布。旧楼房的准成本价，按重置价成新折扣计算。重置价是指出售当年新楼房的准成本价。

公有住宅楼房的实际售价，按建筑面积计算，依市住房城乡建设行政主管部门制定的地段、环境、层次、朝向等项因素的调节标准调节，以每套住房标价。

# Measures of Beijing Municipality for Administration of Employees' Purchase of Public Residential Buildings

(Promulgated by Document JZF No. 35 of the People's Government of Beijing Municipality on May 30, 1992, revised for the first time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the second time in accordance with Decree No. 277 of the People's Government of Beijing Municipality on February 12, 2018)

**Article 1** The Measures are formulated for the purpose of implementing the Implementation Plan of Beijing Municipality for Housing System Reform.

**Article 2** The term "public residential buildings" as mentioned in the Measures refers to the public apartment buildings directly managed by the competent departments for housing and urban-rural development or managed by property right units, including newly built buildings and buildings that have been occupied (hereinafter referred to as new and old buildings).

Enterprises, administrative institutions and competent departments for housing and urban-rural development that have public residential buildings under their management within the administrative area of this Municipality may sell public residential buildings to their employees in accordance with the Measures.

Makeshift housing, dilapidated housing, illegal buildings and buildings to be demolished in the near future, with disputes over property rights and with historical values shall not be sold.

**Article 3** Any employee who has an urban registered permanent residence in this Municipality may apply to the unit where he works or the current housing property right unit for purchasing a public residential building.

Households with housing difficulties shall be given priority in the sale of new and vacant old buildings.

**Article 4** When employees purchase public residential buildings, the quasi-cost price shall apply. The quasi-cost price of new buildings shall be assessed and determined by the Housing System Reform Office of the Municipal People's Government, together with the Municipal Commission of Development and Reform, the Municipal State-owned Assets Supervision and Administration Commission, etc. every year, and shall be made known to the public after being approved by the Municipal People's Government. The quasi-cost price of old buildings shall be calculated at the discount rate of replacement price. Replacement price refers to the quasi-cost price of new buildings in the year of sale.

The actual selling price of public residential buildings shall be calculated on the basis of the building area, adjusted according to the adjustment standard formulated by the municipal competent department for housing and urban-rural development on the basis of the location, environment, level, orientation and other factors, and indicated separately.

**第五条** 职工第一次购买公有住宅楼房，依法免征契税。

**第六条** 职工购买的住宅楼房，供暖费用、燃气设施维修更新费用的收取，按职工承租公有住宅楼房的办法执行。电梯、高压水泵的运行、维修及更新费用，由售房单位负担。

**第七条** 职工购买公有住宅楼房，应当依法到房屋所在地的区国土资源行政主管部门办理过户和产权登记，领取不动产权属证书。

**第八条** 职工依照本办法购买的住宅楼房，享有合法所有权，可以依法使用、继承和抵押。对住宅楼房出售、出租的，按本市有关规定执行。

**第九条** 出售的新楼房，售房单位须按国家和本市规定的期限和项目保修。旧楼房出售前，售房单位须对房屋结构和装修设备进行检修，保证住用安全和正常使用。

职工购买住宅楼房后的管理和维修，按《北京市私有住宅楼房管理与维修办法》执行。

**第十条** 出售公有住宅楼房的收入，由售房单位存入市住房资金管理中心委托的金融机构，纳入本单位住房基金，所有权不变。

**第十一条** 单位违反本办法规定，以贱价出售公有住宅楼房的，由住房城乡建设行政主管部门责令限期改正，补足房价款，可并处所得房价款 2 倍以下，不超过 3 万元的罚款，提请其上级主管部门追究单位负责人或直接责任人的行政责任。

**第十二条** 本办法以准成本价出售公有住宅楼房的规定不适用于高收入家庭的职工。

**第十三条** 单位向职工出售公有住宅楼房的具体形式，依据本市房改统一政策和本单位实际情况确定。售房方案按隶属关系报上级主管部门批准后执行，并报所在地的区人民政府住房制度改革办公室和住房城乡建设行政主管部门备案。

**第十四条** 本办法自 1992 年 7 月 1 日起施行。

**Article 5** Employees shall be exempted from deed tax according to law when purchasing public residential buildings for the first time.

**Article 6** The collection of the expenses for heating as well as maintenance and renewal of gas facilities in the residential buildings purchased by employees shall be carried out in accordance with the measures for lease of public residential buildings by employees. The costs of operation, maintenance and replacement of elevators and high-pressure water pumps shall be borne by the selling units.

**Article 7** When purchasing public residential buildings, employees shall, in accordance with the law, go to the competent departments for land resources of the districts where the buildings are located to complete ownership transfer and property right registration, and obtain the real estate ownership certificate.

**Article 8** Employees purchasing residential buildings in accordance with the Measures shall enjoy legal ownership and such buildings may be used, inherited and mortgaged according to law. The sale and lease of residential buildings shall be carried out in accordance with relevant provisions of this Municipality.

**Article 9** For new buildings sold, the selling unit shall guarantee to keep them in good repair based on the period and items stipulated by the State and this Municipality. Before the sale of old buildings, the selling unit shall conduct overhaul of housing structure and renovation equipment to ensure the safety and normal use of the housing.

The management and maintenance of residential buildings after employees' purchase shall be carried out in accordance with the Measures of Beijing Municipality for Management and Maintenance of Private Residential Buildings.

**Article 10** Proceeds from selling public residential buildings shall be deposited by the selling unit into the financial institution entrusted by the Municipal Housing Fund Management Center and incorporated into the housing fund of the unit, with the ownership unchanged.

**Article 11** If a unit, in violation of the provisions of the Measures, sells public residential buildings at a low price, the competent department for housing and urban-rural development shall order it to make corrections within a prescribed time limit and make up for the housing price, and may impose a fine of not more than twice the proceeds from selling housing up to 30,000 yuan, and request the competent department at the next higher level to hold the person in charge or the person directly responsible of the unit accountable for administrative responsibility.

**Article 12** The provisions of the Measures on the sale of public residential buildings at quasi-cost price shall not apply to employees from high-income families.

**Article 13** The specific form of selling public residential buildings to employees shall be determined according to the unified housing reform policy of this Municipality and the actual situation of respective units. The housing selling plan shall be implemented after being submitted to the superior competent department for approval, and shall be reported to the housing system reform office of the local district people's government and the competent department for housing and urban-rural development for the record.

**Article 14** The Measures shall come into force as of July 1, 1992.

# 北京市城镇住宅合作社管理办法

(1992 年 5 月 30 日北京市人民政府京政发 35 号文件发布 根据 2010 年 11 月 27 日北京市人民政府第 226 号令修改)

**第一条** 为实施《北京市住房制度改革实施方案》，制定本办法。

**第二条** 住宅合作社是本市行政区域内中、低收入的城镇居民（包括职工），为解决自身住房困难，在人民政府或单位的组织下，自愿建立的、不以营利为目的、公益性合作经济组织。其任务是：筹集资金，建设住宅，并对建设的住宅（以下简称合作住宅）进行分配、维修和管理。

**第三条** 住宅合作社遵循“个人集资、单位资助、政府扶持、民主管理、自我服务”的原则，实行独立核算，资金自求平衡。

**第四条** 市人民政府住房制度改革办公室（以下简称市政府房改办公室）会同有关部门，负责制定政策，进行建社审批、工作协调与指导，对执行情况实施监督。

区、县人民政府住房制度改革办公室（以下简称区、县政府房改办公室）负责本行政区域内住宅合作社的审批、协调和管理工作。

**第五条** 组建住宅合作社的程序：

（一）住宅合作社的筹建组织单位（以下简称组织单位），向市或区、县政府房改办公室提交建社申请书和住宅合作社章程。住宅合作社章程应包括：组织机构、建设资金筹集方式、建设住宅分配和管理办法、社员的权利与义务等。

（二）建立住宅合作社的申请，由区、县政府房改办公室审核批准；其中，中央在京单位、市级主管部门建立本系统住宅合作社的申请，由该主管部门报市政府房改办公室审核批准。

# Measures of Beijing Municipality for Administration of Urban Housing Cooperatives

(Promulgated by Document JZF No. 35 of the People's Government of Beijing Municipality on May 30, 1992, and revised in accordance with Decree No. 226 of the People's Government of Beijing Municipality on November 27, 2010)

**Article 1** The Measures are formulated for the purpose of implementing the Implementation Plan of Beijing Municipality for Housing System Reform.

**Article 2** A housing cooperative is a non-profit, public welfare cooperative economic organization established voluntarily by medium and low-income urban residents (including employees) under the organization of the people's government or units to solve their housing difficulties within the administrative area of this Municipality. Its task is to raise funds, build housing, and distribute, maintain and manage the housing built (hereinafter referred to as cooperative housing).

**Article 3** Housing cooperatives shall follow the principles of "individual fund-raising, unit funding, government support, democratic management and self-service", carry out independent accounting and seek balance of funds.

**Article 4** The Housing System Reform Office of the Municipal People's Government (hereinafter referred to as the Municipal Government Housing Reform Office) shall, together with relevant departments, be responsible for formulating policies, examining and approving the establishment of housing cooperatives, coordinating and directing the work, and supervising the implementation.

The housing system reform offices of the district or county people's governments (hereinafter referred to as the district or county government housing reform offices) shall be responsible for the examination, approval, coordination and management of housing cooperatives within their respective administrative areas.

**Article 5** Procedures for the establishment of a housing cooperative are as follows:

(1) The preparatory and organization unit of a housing cooperative (hereinafter referred to as organization unit) shall submit to the municipal, district or county government housing reform office an application for the establishment of a housing cooperative and articles of association thereof. The articles of association shall include: organization unit, ways of raising construction funds, measures for distribution and management of the housing built, rights and obligations of members, etc.

(2) Applications for the establishment of a housing cooperative shall be examined and approved by the district or county government housing reform offices; among them, the application by a central government unit in Beijing or the competent department at the municipal level for the establishment of a housing cooperative in its own system shall be



(三) 组织单位持住宅合作社的批准文件, 按社团登记管理的有关规定向民政部门申请社团登记。

**第六条** 住宅合作社成立应召开社员大会或社员代表大会, 讨论和通过合作社章程。

社员大会或社员代表大会是住宅合作社最高权力机构。

**第七条** 住宅合作社实行自愿入社, 优先吸收住房困难的居民(职工)入社。

政府鼓励和支持建立住宅合作社。

**第八条** 合作住宅的建设、维修、管理资金, 采取社员集资、单位资助的办法筹集, 政府在政策上给予扶持。

住宅合作社向社员个人出售的合作住宅, 投资方向调节税适用零税率, 向社员个人出售和出租合作住宅免征营业税。住宅合作社可根据国家和本市有关规定, 申请合作住宅建设贷款。

各级计划、规划和建设主管部门应对住宅合作社的住宅建设给予支持, 优先安排。

**第九条** 社员第一次购买合作住宅, 免缴契税; 购房后自住期间, 免缴房产税、土地使用税。

社员购买合作住宅后, 应按本市房屋买卖管理的有关规定, 向住宅所在地的区、县房地产管理局申办立契过户和房产登记, 领取房屋所有权证。

**第十条** 合作住宅的维修, 由住宅合作社参照本市住宅维修有关规定执行。

**第十一条** 住宅合作社解散, 须报原批准成立的市或区、县政府房改办公室批准, 并将债权债务清理和财务结算报告, 报房改办公室核准后, 方可正式宣告解散。

**第十二条** 本办法执行中的具体问题, 由市政府房改办公室负责解释。

**第十三条** 本办法自 1992 年 7 月 1 日起施行。

reported by the competent department to the municipal government housing reform office for examination and approval.

(3) The organization unit shall, in accordance with relevant provisions on administration of social organization registration, apply to the civil affairs departments for social organization registration with the approval documents of the housing cooperative.

**Article 6** To establish a housing cooperative, the members' assembly or members' congress shall be held to discuss and adopt the articles of association of the cooperative.

The members' assembly or members' congress shall be the highest authority of the housing cooperative.

**Article 7** Housing cooperatives shall absorb members on a voluntary basis, and give priority to residents (employees) with housing difficulties.

The government shall encourage and support the establishment of housing cooperatives.

**Article 8** The funds for construction, maintenance and management of cooperative housing shall be raised from members or funded by units, with the support of the government in policy.

A zero rate shall be applied to cooperative housing sold by housing cooperatives to individual members in terms of the investment regulation tax, and the business tax shall be exempted for the sale and lease of cooperative housing to individual members. Housing cooperatives may apply for cooperative housing construction loans in accordance with relevant provisions of the State and this Municipality.

The competent departments for programming, planning and construction at all levels shall give support and priority to housing construction of housing cooperatives.

**Article 9** Members shall be exempted from deed tax when purchasing cooperative housing for the first time, and from real estate tax and land use tax during the period of self-occupation after purchase.

After purchasing cooperative housing, members shall, in accordance with relevant provisions of this Municipality on housing transaction management, apply to the district or county real estate administration authority of the place where the housing is located for transfer by deed and real estate registration, and obtain the housing ownership certificate.

**Article 10** The maintenance of cooperative housing shall be carried out by housing cooperatives by reference to relevant provisions of this Municipality on housing maintenance.

**Article 11** The dissolution of a housing cooperative shall be reported to the original municipal, district or county government housing reform office that approved its establishment for approval, and may be formally announced only after the reports on liquidation of claims and debts as well as on financial settlement are submitted to the housing reform office for approval.

**Article 12** The Municipal Government Housing Reform Office shall be responsible for the interpretation of specific issues in the implementation of the Measures.

**Article 13** The Measures shall come into force as of July 1, 1992.

# 北京市集体土地房屋拆迁管理办法

(2003年6月6日北京市人民政府第124号令发布)

## 第一章 总 则

**第一条** 为了加强集体土地房屋拆迁管理,维护拆迁当事人合法权益,保障城乡建设顺利进行,根据《中华人民共和国土地管理法》等有关法律、法规,结合本市实际情况,制定本办法。

**第二条** 在本市行政区域内因国家建设征用集体土地(以下简称征地)或者因农村建设占用集体土地(以下简称占地)拆迁房屋,并需要对被拆迁人补偿、安置的,适用本办法。

征地拆迁宅基地以外的房屋的,按照本市有关规定执行。

**第三条** 本办法所称拆迁人是指经依法批准征用或者占用集体土地并取得房屋拆迁许可证的用地单位。

本办法所称被拆迁人是指对被拆除房屋拥有所有权的单位或者个人。

**第四条** 市国土资源和房屋管理局(以下简称市国土房管局)主管本市集体土地房屋拆迁管理工作;区、县国土资源和房屋管理局(以下简称区、县国土房管局)负责本行政区域内集体土地房屋拆迁管理工作。

**第五条** 区、县人民政府和乡(民族乡)、镇人民政府应当依照本办法规定的职责,做好本行政区域内的房屋拆迁管理工作。

**第六条** 拆迁人应当依照本办法的规定对被拆迁人进行补偿安置。被拆迁人应当在规定的搬迁期限内完成搬迁。

# Measures of Beijing Municipality on Administration of Housing Demolition and Relocation on Collectively-owned Land

(Promulgated by Decree No.124 of the People's Government of Beijing  
Municipality on June 6,2003)

## Chapter I General Provisions

**Article 1** With a view to strengthening the administration of housing demolition and relocation on collectively-owned land, protecting the lawful rights and interests of the parties to the demolition and relocation and ensuring the smooth progress of urban and rural construction, these Measures are formulated in accordance with the Land Administration Law of the People's Republic of China and other relevant laws and regulations and in light of the actual circumstances in this Municipality.

**Article 2** These Measures shall be applicable to the situation that the housing demolition and relocation are carried out resulting from expropriation of collectively-owned land (hereinafter referred to as land expropriation) for the state construction or occupation of collectively-owned land (hereinafter referred to as land occupation) for the rural construction, and compensation and resettlement are required for the relocatees.

The demolition and relocation of the houses on the land other than house sites resulting from the land expropriation shall be carried out pursuant to the relevant provisions of this Municipality.

**Article 3** The demolishers mentioned in these Measures shall refer to the land use units that are to expropriate or occupy collectively-owned land upon approval according to law and have obtained the permit for housing demolition and relocation.

The relocatees mentioned in these Measures shall refer to the units or individuals who have the ownership of the houses to be demolished.

**Article 4** The municipal state land resources and housing administration bureau shall be in charge of the administration work of housing demolition and relocation on collectively-owned land in this Municipality; the district or county state land resources and housing administration bureaus shall be responsible for the administration work of housing demolition and relocation on collectively-owned land in their respective administrative areas.

**Article 5** The district or county people's governments as well as the township (ethnic township) or town people's governments shall do a good job in the administration of housing demolition and relocation in their respective administrative areas in accordance with the duties and responsibilities as prescribed in these Measures.

**Article 6** The demolishers shall compensate and relocate relocatees in accordance with the provisions of these Measures. The relocatees shall remove within the prescribed time limit for removal.

## 第二章 拆迁管理

**第七条** 用地单位取得房屋拆迁许可证后，方可实施拆迁。

**第八条** 用地单位取得征地或者占地批准文件后，可以向区、县国土房管局申请在用地范围内暂停办理下列事项：

- （一）新批宅基地和其他建设用地；
- （二）审批新建、改建、扩建房屋；
- （三）办理入户和分户，但因婚姻、出生、回国、军人退伍转业、经批准由外省市投靠直系亲属、刑满释放和解除劳动教养等原因必须入户、分户的除外；
- （四）核发工商营业执照；
- （五）房屋、土地租赁；
- （六）改变房屋、土地用途。

区、县国土房管局核准用地单位的申请后，应当就前款所列事项书面通知有关部门暂停办理相关手续，并在用地范围内予以公告。通知和公告应当载明拆迁范围、暂停办理事项和暂停期限。暂停期限自公告之日起算，最长不超过 1 年。用地单位确需延长暂停期限的，应当报经区、县国土房管局批准，延长的期限不超过半年。

暂停期限内，擅自办理本条第一款所列事项的，房屋拆迁时不予认定。

**第九条** 用地单位申请核发房屋拆迁许可证的，应当向被拆迁房屋所在地的区、县国土房管局提交下列文件：

- （一）用地批准文件；
- （二）规划批准文件；
- （三）拆迁实施方案；
- （四）安置房屋或者拆迁补偿资金的证明文件。

区、县国土房管局应当自收到申请之日起 30 日内审查完毕；对符合条件的，核发房屋拆迁许可证，并将拆迁人、拆迁范围、搬迁期限等情况向被拆迁人公告。

## Chapter II Administration Of Demolition And Relocation

**Article 7** Only after obtaining the permit for housing demolition and relocation, may a land use unit carry out demolition and relocation.

**Article 8** After obtaining the land expropriation or land occupation approval document, a land use unit may apply to the district or county state land resources and housing administration bureau to temporarily suspend handling the following matters within the scope of the land to be used:

- (1) to approve new house sites and land for other constructions;
- (2) to examine and approve houses to be newly built, reconstructed or expanded;
- (3) to handle the cases concerning new-coming households or newly separated households, with the exception of cases involving marriage, birth, return from overseas, demobilized army men transferring to civilian work, those coming from other provinces or cities to live together with their directly-related family members upon approval, prisoners released after serving time, returnee from re-education through labor, etc. where the matters concerning new-coming households or newly separated households must be handled;
- (4) to verify and issue the licenses for industrial and commercial business;
- (5) house and land lease; or
- (6) to change the usage of houses and land.

After verifying and approving an application of a land use unit, the district or county state land resources and housing administration bureau shall notify in writing the relevant departments to temporarily suspend handling the relevant procedures stipulated in the preceding paragraph and make a public announcement within the scope of the land to be used. The notice and public announcement shall clearly state the scope of demolition and relocation, the matters the handling of which is subject to temporary suspension as well as the time limit for temporary suspension. The time limit for temporary suspension shall not exceed one year starting from the date when the public announcement is made. Where the land use unit does need to extend the time limit of temporary suspension, it shall report the matter to the district or county state land resources and housing administration bureau for approval and the extended time limit shall not exceed half a year.

Handling the matters set forth in paragraph 1 of this Article without authorization within the time limit for temporary suspension shall not be recognized at the time of housing demolition and relocation.

**Article 9** To apply for the grant of permit for demolition and relocation, a land use unit shall submit the following documents to the district or county state land resources and housing administration bureaus where the houses to be demolished and relocated are located:

- (1) the land use approval document;
- (2) the planning approval document;
- (3) the scheme for carrying out demolition and relocation;
- (4) the certification document of houses for relocation and funds for compensation and relocation for demolition and relocation.

The district or county state land resources and housing administration bureaus shall accomplish examination within 30 days from the date of receipt of the application; the permit for housing demolition and relocation shall be granted to those that meet the requirements, and the demolishers, the scope of demolition and relocation, the time limit for removal and other information shall be made public to the relocatees.

**第十条** 征地拆迁宅基地上房屋的，拆迁实施方案由拆迁人根据本办法第三章的规定和经批准的征地方方案拟订，报区、县国土房管局批准后执行。

占地拆迁房屋的，拆迁实施方案由拆迁人拟订，经乡（民族乡）、镇人民政府审核并报区、县国土房管局备案后执行；其中旧村改造的拆迁实施方案在报乡（民族乡）、镇人民政府审核前，应当经村民会议或者村民代表会议讨论通过。

拆迁人应当在拆迁范围内公布拆迁实施方案，公布的期限不少于 10 日。

**第十一条** 拆迁人与被拆迁人应当就房屋拆迁补偿安置事宜签订书面协议。协议应当规定补偿安置方式和标准、搬迁期限、违约责任等内容。

**第十二条** 在区、县国土房管局公告的搬迁期限内，拆迁人与被拆迁人没有达成拆迁补偿安置协议的，经一方或者双方当事人申请，由区、县国土房管局裁决。

裁决规定的搬迁期限届满被拆迁人拒绝搬迁的，属于征地拆迁宅基地上房屋的，由区、县国土房管局申请人民法院强制执行；属于占地拆迁房屋的，由当事人依法向人民法院提起民事诉讼。

### 第三章 拆迁补偿和安置

**第十三条** 宅基地上的房屋拆迁，可以实行货币补偿或者房屋安置，有条件的地区也可以另行审批宅基地。

**第十四条** 拆迁宅基地上房屋实行货币补偿的，拆迁人应当向被拆迁人支付补偿款。补偿款按照被拆除房屋的重置成新价和宅基地的区位补偿价确定。房屋重置成新价的评估规则和宅基地区位补偿价的计算办法由市国土房管局制定并公布。

按照前款规定对被拆迁人给予货币补偿的，不再进行房屋安置或者另行审批宅基地。

**第十五条** 拆除宅基地上房屋以国有土地上房屋安置的，拆迁人与被拆迁人应当

**Article 10** Where the houses on house sites are to be demolished and relocated resulting from the land expropriation, the scheme for carrying out demolition and relocation shall be worked out by the demolishers in accordance with the provisions of Chapter III of these Measures and the approved land expropriation plan and implemented after being reported to the district or county state land resources and housing administration bureaus for approval.

Where the houses are to be demolished and relocated resulting from the land occupation, the scheme for carrying out demolition and relocation shall be worked out by the demolishers and implemented after being reported to the district or county state land resources and housing administration bureaus for the record upon examination and verification by the township (ethnic township) or town people's governments; the scheme for carrying out demolition and relocation involving the reform of old villages shall be discussed and adopted at the villagers' meeting or the meeting of villagers' representatives prior to being reported to the township (ethnic township) or town people's governments for examination and verification.

The demolishers shall make public the scheme for carrying out demolition and relocation within the scope of demolition and relocation and the duration for publication shall be no less than ten days.

**Article 11** The demolishers and the relocatees shall reach written agreements for compensation and resettlement on housing demolition and relocation. The agreements shall provide for the means for and the standards of compensation and resettlement, the time limit for removal, the liability for breach of contracts and other contents.

**Article 12** Where the demolishers and the relocatees fail to reach agreements for compensation and resettlement on housing demolition and relocation within the time limit for removal publicized by the district or county state land resources and housing administration bureaus, upon the application by one party or both parties concerned, the matter shall be ruled on by the district or county state land resources and housing administration bureaus.

Where the relocatees refuse to remove at the expiry of the time limit for removal set in the rulings and the cases involve the houses to be demolished on house sites resulting from the land expropriation, the district or county state land resources and housing administration bureaus may apply to the people's courts for compulsory execution. Where the cases involve the houses to be demolished resulting from the land occupation, the parties concerned may bring lawsuits to the people's courts according to law.

### **Chapter III Compensation And Resttlement For Demolition And Relocation**

**Article 13** With respect to the demolition and relocation of houses on house sites, compensation may be given by means of money or house settlement may be adopted. Where the conditions permit, new house sites may be examined and approved.

**Article 14** Where compensation by means of money for the demolition and relocation of houses on house sites is to be given, the demolishers shall pay the amount of compensation to the relocatees. The amount of compensation shall be determined by the price of the new houses replacing the demolished ones and the compensation price for the zone location of the house sites. The rules for valuation of the price of the new houses replacing the demolished ones and the methods for calculation of the compensation price for the zone location of the house sites shall be formulated and made public by the municipal state land resources and housing administration bureau.

Where compensation by means of money is given to the relocatees in accordance with the provisions in the preceding paragraph, there shall be no house settlement or new house site to be examined and approved.

**Article 15** In the cases involving the demolition of houses on house sites and



按照本办法第十四条第一款的规定确定拆迁补偿款，并与安置房屋的市场评估价款结算差价；但按照市人民政府规定以经济适用住房安置被拆迁人的除外。

农村集体经济组织或者村民委员会作为拆迁人实施拆迁，以本集体建设用地范围内的房屋安置被拆迁人的，经村民会议或者村民代表会议讨论通过并报乡（民族乡）、镇人民政府批准后，可以按照被拆除房屋建筑面积安置，也可以结合被拆迁人家庭人口情况安置。

其他拆迁人委托农村集体经济组织或者村民委员会安置被拆迁人的，可以参照本条第二款的规定执行。

**第十六条** 农村集体经济组织或者村民委员会在集体土地上建设安置房屋的，应当符合城市规划、土地利用规划和年度计划，依法取得用地和规划许可。

**第十七条** 农村集体经济组织或者村民委员会作为拆迁人拆迁宅基地上房屋，有条件的地区，可以按照土地管理法律、法规和规章的规定，另行审批宅基地由被拆迁人自建房屋，并对被拆除的房屋按照重置成新价给予补偿。

其他拆迁人委托农村集体经济组织或者村民委员会安置被拆迁人的，可以参照前款规定执行。

**第十八条** 拆迁补偿中认定的宅基地面积应当经过合法批准，且不超过控制标准。未经合法批准的宅基地，不予认定。

经合法批准的宅基地超出控制标准的部分，不予补偿；但 1982 年以前经合法批准的宅基地超出控制标准的部分，可以按照区、县人民政府的规定给予适当补偿。

每户宅基地面积的控制标准，按照区、县人民政府根据《北京市人民政府关于加强农村村民建房用地管理若干规定》第六条确定的标准执行。

**第十九条** 拆迁补偿中认定宅基地上房屋建筑面积，以房屋所有权证标明的面积为准；未取得房屋所有权证但具有规划行政主管部门批准建房文件的，按照批准的建筑面积认定。

resettlement by using houses on the state-owned land, the demolishers and the relocatees shall determine the amount of compensation in accordance with the provisions in paragraph 1 of Article 14 of these Measures and work out the difference between the sum of the compensation and the valuation market price of the settlement houses, with the exception that the relocatees are to be settled in economically-functional houses in accordance with the provisions of the Municipal People's Government.

Where the rural collective economic organizations or the villagers' committees, as the demolishers, are to carry out demolition and relocation and settle the relocatees with the houses located within the collectively-owned land for construction, the relocatees may be settled in accordance with the building size of the demolished houses or in accordance with the number of the family members of the relocatees after the matter is reported to the township (ethnic township) or town people's governments for approval upon discussion and adoption at the villagers' meetings or the meetings of villagers' representatives.

Where other demolishers entrust the rural collective economic organizations or the villagers' committees to settle the relocatees, the provisions in paragraph 2 of this Article may be referred to in implementation.

**Article 16** The houses built on the collectively-owned land by the rural collective economic organizations or the villagers' committees as settlement houses shall conform to the urban planning, the land use plan and the annual plan, and the permit for land use and planning shall be obtained according to law.

**Article 17** Where the rural collective economic organizations or the villagers' committees, as the demolishers, are to carry out demolition and relocation of the houses on house sites and the conditions permit, they may, in accordance with the land administration laws, regulations and rules, examine and approve new house sites for the relocatees to build houses by themselves and give compensation in accordance with the price of the new houses replacing the demolished ones.

Where other demolishers entrust the rural collective economic organizations or the villagers' committees to settle the relocatees, the provisions in the preceding paragraph may be referred to in implementation.

**Article 18** The size of the house sites confirmed in the compensation for demolition and relocation shall be legally approved and not exceed the criteria for control. The house sites that have not been legally approved shall not be confirmed.

The part of the legally approved house sites that exceed the criteria for control shall not be eligible for compensation, however, the part of the house sites legally approved before 1982 that exceeds the criteria for control may be eligible for appropriate compensation in accordance with the provisions of the district or county people's governments.

The criteria for control of the size of each household's house sites shall be fixed in accordance with the criteria determined by the district or county people's governments pursuant to Article 6 of the Several Rules of Beijing People's Government on Strengthening Administration of Land Use for Villagers' Building Houses in Villages.

**Article 19** The building size of the houses on house sites confirmed in the compensation for demolition and relocation shall take the size indicated in the house ownership certificates as criteria; in the case where the house ownership certificates are not obtained but there are documents issued by the administrative departments for planning approving the house building, the building size shall be confirmed as approved.

本办法施行前宅基地上已建成的房屋，未取得房屋所有权证和规划行政主管部门批准建房文件，但确由被拆迁人长期自住的，应当给予适当补偿。属于征地拆迁房屋的，补偿标准由乡（民族乡）、镇人民政府根据当地实际情况确定，报区、县人民政府批准后执行；属于占地拆迁房屋的，补偿标准由农村集体经济组织或者村民委员会确定，报乡（民族乡）、镇人民政府批准后执行。

本办法施行后宅基地上新建、改建、扩建的房屋，未取得房屋所有权证或者规划行政主管部门批准建房文件的，拆迁房屋时不予认定。

**第二十条** 农村村民符合审批宅基地条件但未实际取得宅基地，且按照拆迁实施方案安置确有困难的，拆迁人应当按照区、县人民政府的规定给予适当补助。但拆迁实施方案确定以另行审批宅基地的方式予以补偿安置的除外。

**第二十一条** 占地拆迁宅基地以外房屋的补偿，参照征地拆迁的有关规定执行。

**第二十二条** 对利用宅基地内自有房屋从事生产经营活动并持有工商营业执照的，拆迁人除按照本办法的规定予以补偿、安置外，还应当适当补偿停产、停业的经济损失。其中，征地拆迁房屋的经济损失补偿标准，由区、县人民政府规定；占地拆迁房屋的经济损失补偿标准，由乡（民族乡）、镇人民政府规定并报区、县人民政府备案。

**第二十三条** 拆迁人应当向被拆迁人支付搬迁补助费。征地拆迁房屋的搬迁补助费，由区、县人民政府规定；占地拆迁房屋的搬迁补助费，由乡（民族乡）、镇人民政府规定并报区、县人民政府备案。

**第二十四条** 拆除违法建筑和超过批准期限的临时建筑不予补偿；拆除未超过批准期限的临时建筑，按照重置成新价结合剩余期限给予适当补偿。

## 第四章 法律责任

**第二十五条** 违反本办法第七条规定，未取得房屋拆迁许可证擅自实施拆迁的，

For those houses that had been built prior to the implementation of these Measures without house ownership certificates or documents issued by the administrative departments for planning approving the house building, but had indeed been home to the relocatees for a long time, appropriate compensation shall be made. In the cases involving housing demolition and relocation resulting from the land expropriation, the criteria for compensation shall be determined by the township (ethnic township) or town people's governments based on the local actual circumstances and implemented after being reported to the district or county people's governments for approval; in the cases involving housing demolition and relocation resulting from the land occupation, the criteria for compensation shall be determined by the rural collective economic organizations or the villagers' committees and implemented after being reported to the township (ethnic township) or town people's governments for approval.

The houses newly built, reconstructed or expanded on house sites after the implementation of these Measures without house ownership certificates or documents issued by the administrative departments for planning approving the house building shall not be confirmed at the time of housing demolition and relocation.

**Article 20** In the cases involving villagers who fail to get house sites despite the fact they meet the requirements for examining and approving the house sites and involving difficulties to settle them in accordance with the schemes for demolition and relocation. The demolishers shall give appropriate assistance to them in accordance with the provisions of the district or county people's governments with the exception that the schemes for demolition and relocation provide for the way of examining and approving new house sites for compensation and settlement.

**Article 21** With respect to the compensation for houses on the land other than house sites resulting from the land occupation, the relevant provisions on demolition and relocation and land expropriation shall be referred to in implementation.

**Article 22** In the cases involving those who make use of their own houses to engage in production and business activities and have licenses for industrial and commercial business, the demolishers shall, in addition to making compensation and settlement in accordance with these Measures, compensate for the economic losses resulting from suspension of production and operation. The criteria for compensation for the economic losses caused by the housing demolition and relocation resulting from the land expropriation shall be determined by the district or county people's governments; the criteria for compensation for the economic losses resulting from the housing demolition and relocation and the land occupation shall be determined by the township (ethnic township) or town people's governments and reported to the district or county people's governments for the record.

**Article 23** The demolishers shall give subsidies for removal to the relocatees. The subsidies for removal in the housing demolition and relocation resulting from the land expropriation shall be determined by the district or county people's governments whereas the subsidies for removal in the housing demolition and relocation resulting from the land occupation shall be determined by the township (ethnic township) or town people's governments and reported to the district or county people's governments for the record.

**Article 24** No compensation shall be given for any unlicensed construction or temporary construction beyond the approved time limit to be demolished; where the temporary construction within the approved time limit is to be demolished, appropriate compensation worked out on the basis of the price of new structures and the time limit still left shall be made.

## **Chapter IV Legal Liability**

**Article 25** Those who, in violation of the provisions of Article 7 of these Measures, carry out demolition and relocation without obtaining the permit for housing demolition

由市或者区、县国土房管局责令停止拆迁行为，处 1 万元以上 3 万元以下罚款。

**第二十六条** 市和区、县国土房管局违反本办法规定核发房屋拆迁许可证以及其他批准文件的，核发房屋拆迁许可证以及其他批准文件后不履行监督管理职责的，或者对违法行为不予查处的，对直接负责的主管人员和其他直接责任人员依法给予行政处分；情节严重，致使公共财产、国家和人民利益遭受重大损失，构成犯罪的，依法追究刑事责任。

## 第五章 附 则

**第二十七条** 因进行水利水电工程建设、绿化隔离地区建设、贫困山区农民搬迁以及因地质灾害移民涉及集体土地房屋拆迁的，不适用本办法。

**第二十八条** 本办法自 2003 年 8 月 1 日起施行。

本办法施行前已发布拆迁公告的，不适用本办法。

and relocation and without authorization shall be ordered by the municipal or the district or county state land resources and housing administration bureaus to stop the act of demolition and relocation and fined not less than 10,000 yuan but not more than 30,000 yuan.

**Article 26** Where the municipal and the district or county state land resources and housing administration bureaus, in violation of the provisions of these Measures, grant the permits for housing demolition and relocation and other approval documents, fail to perform supervisory obligations after granting the permits for housing demolition and relocation and other approval documents or fail to investigate and deal with illegal acts, the directly responsible persons in charge and other directly responsible persons shall be given administrative sanctions according to law; where the circumstances are serious resulting in serious losses of the public property as well as the interests of the state and people constituting a crime, criminal liability shall be pursued according to law.

## **Chapter V Supplementary Provisions**

**Article 27** These Measures shall not be applicable to the cases involving demolition and relocation of houses on collectively-owned land as a result of construction of water conservancy and hydropower projects, construction of green partition zones, removal of farmers in poverty-stricken mountainous areas and migration due to geological disasters.

**Article 28** These Measures shall take effect as of August 1, 2003.

These Measures shall not be applicable to the cases where the public announcements for demolition and relocation have been made prior to the implementation of these Measures.

# 北京市住宅区及住宅安全防范 设施建设和使用管理办法

(2003 年 8 月 7 日北京市人民政府第 132 号令发布 根据 2014  
年 7 月 9 日北京市人民政府第 259 号令修改 )

**第一条** 为了规范住宅区及住宅安全防范设施的建设和使用, 增强住宅区及住宅的安全防范功能, 保护公民人身、财产安全, 根据本市实际情况, 制定本办法。

**第二条** 本办法所称安全防范设施, 是指为了预防、制止违法犯罪行为和重大治安事件, 在住宅区内和住宅建筑主体上设置的报警、监控、出入口控制等安全技术防范产品, 以及综合运用安全技术防范产品和其他相关产品所构成的系统。

**第三条** 本办法适用于本市行政区域内安全防范设施的建设和使用管理。

**第四条** 本市公安机关负责本办法的组织实施。

公安、规划、建设等行政主管部门应当按照本办法规定的职责, 负责安全防范设施建设和使用的监督、管理工作。

**第五条** 新建、改建、扩建住宅区及住宅的设计文件, 应当包括安全防范设施工程的设计内容。

安全防范设施工程的设计, 应当符合本市住宅区及住宅安全防范设计标准及其他有关规范。规划行政主管部门对安全防范设施工程的设计, 应当依法进行审查。

**第六条** 施工单位应当按照安全防范设施工程的设计文件施工, 不得擅自改动。安全防范设施工程设计的修改, 应当由原设计单位负责。

**第七条** 新建、改建、扩建住宅区及住宅工程竣工后, 建设单位应当按照国家安全防范系统验收规则组织验收。安全防范设施工程经竣工验收合格后, 住宅区及住宅

# Measures of Beijing Municipality for Administration of Construction and Use of Precautionary Facilities for Security in Residential Areas and Residences

(Promulgated by Decree No. 132 of the People's Government of Beijing Municipality on August 7, 2003, and revised in accordance with Decree No. 259 of the People's Government of Beijing Municipality on July 9, 2014)

**Article 1** These Measures are formulated for the purposes of regulating the construction and use of precautionary facilities in residential areas and residences, strengthening the precautionary function of security in residential areas and residences and protecting the personal and property safety of citizens in light of the actual circumstances of this Municipality.

**Article 2** As used in these Measures, the term “precautionary facilities in residential areas and residences” refers to the technological security products for alarming, monitoring, entry control, etc. installed inside residential areas or on the main parts of dwelling structures for the purpose of preventing and stopping illegal and criminal acts and major public security incidents, as well as the system which is made up by comprehensively utilizing technological security products and other related products.

**Article 3** These Measures shall apply to the administration of construction and use of precautionary facilities within the administrative area of this Municipality.

**Article 4** The public security organs of this Municipality shall be responsible for organizing the implementation of these Measures.

The competent administrative department for public security, planning, construction, etc. shall be responsible for supervision and administration of construction and use of precautionary facilities in accordance with the functions and duties stipulated in these Measures.

**Article 5** The design documents of residential areas and residences which are to be newly built, reconstructed or expanded shall contain the design contents on the engineering of precautionary facilities for security.

The design on engineering of precautionary facilities for security shall conform to relevant standards and other relevant norms of this Municipality on design of precautionary facilities for security in residential areas and residences. The competent administrative departments for planning shall examine the design on engineering of precautionary facilities for security in accordance with the law.

**Article 6** The construction units shall carry out the construction according to the design documents of engineering of precautionary facilities for security and shall not make any change without authorization. The original design unit shall be responsible for any change to the design of engineering of precautionary facilities for security.

**Article 7** Upon the completion of residential areas and residences which are newly built, reconstructed or expanded, the construction units shall organize the inspection for



工程方可交付使用。

**第八条** 本办法施行前已建成的住宅区及住宅没有安装安全防范设施的，公安机关应当与产权人协商制定方案，逐步安装。

**第九条** 住宅区及住宅安全防范设施公共部分的使用和维护，由物业管理单位负责；没有物业管理单位的，由产权人负责。

住宅区及住宅的物业管理单位或者产权人（以下简称管理人）应当遵守下列规定：

- （一）保证安全防范设施不间断运行，并有效记录监控信息；
- （二）妥善保存监控系统所记录的信息资料，且保存期限不得少于 7 日；
- （三）不得擅自改变安全防范设施的用途和位置；
- （四）建立安全防范设施的日常检查、维护制度，对被损坏或者出现故障的安全防范设施，及时维修、排除故障。

管理人对通过安全防范设施发现的涉嫌犯罪或者违反治安管理的行为应当及时报警。

**第十条** 管理人应当依法管理监控系统所记录的信息资料，保守秘密，不得利用监控系统所记录的信息资料干扰他人的正常生活，侵犯他人的合法权益。

**第十一条** 一切单位和个人都应当爱护安全防范设施，不得损坏或者擅自改动安全防范设施；对破坏安全防范设施或者管理人不依法履行管理职责的行为，有权向公安机关举报。公安机关接到举报后，应当及时处理，不得推诿、拖延。

**第十二条** 对违反本办法第九条规定，管理人不依法履行管理职责的，由公安机关责令改正，并可处 500 元以上 1000 元以下的罚款。

对违反本办法的行为，其他法律、法规、规章已经规定了行政处罚的，由有关部门依法处理。

**第十三条** 本办法自 2003 年 10 月 1 日起施行。

acceptance according to the rules of the State on inspection for acceptance of precautionary systems for security. The residential areas and residences may only be delivered for use after the engineering of precautionary facilities for security passes the inspection for acceptance.

**Article 8** For those residential areas and residences with no precautionary facilities for security installed that are built before the implementation of these Measures, the public security organs shall work out plans upon negotiation with the property right owners and gradually have such facilities installed.

**Article 9** The property management units shall be responsible for the use and maintenance of the public areas of the precautionary facilities for security in residential areas and residences; the property right owners shall be responsible where there is no property management unit.

The property management units or property right owners of residential areas and residences (hereinafter referred to as the managers) shall abide by the following provisions:

(1) to ensure continuous operation of precautionary facilities for security and keep effective records on monitoring information;

(2) to keep in good care the information materials recorded by monitoring systems, and the period for custody shall not be less than seven days;

(3) not to change the use and location of precautionary facilities for security without authorization; and

(4) to set up the system of daily check and maintenance of precautionary facilities for security, and timely repair or eliminate the trouble where the precautionary facilities for security are damaged or any trouble occurs to them.

The managers shall give timely report to the police on any suspected criminal act or violation of administration of public security spotted through precautionary facilities for security.

**Article 10** The managers shall, in accordance with the law, manage the information materials recorded by monitoring systems and keep them secret, and shall not disturb others' normal life or infringe upon others' lawful rights and interests by making use of the information materials recorded by monitoring systems.

**Article 11** All units and individuals shall take care of precautionary facilities for security and shall not damage or change precautionary facilities for security without authorization; they shall have the right to report to the public security organs on the acts of damaging precautionary facilities for security or the managers' failure to perform their duties and responsibilities of management in accordance with the law. The public security organs shall, upon receipt of such reports, timely deal with them without any prevarication or delay.

**Article 12** The managers, in violation of Article 10 of these Measures, failing to perform their duties and responsibilities of management in accordance with the law shall be ordered to make corrections by the public security organs, and may be imposed upon a fine of not less than 500 Yuan but not more than 1,000 Yuan.

Where there are provisions on administrative penalties in other laws, regulations or rules for violations of these Measures, relevant departments shall deal with such violations in accordance with the law.

**Article 13** These Measures shall be effective as of October 1, 2003.

# 北京市城市房地产转让管理办法

(2003年9月2日北京市人民政府令第135号公布 根据  
2008年12月6日北京市人民政府第209号令修改)

## 第一章 总 则

**第一条** 为了规范城市房地产转让行为,保障当事人的合法权益,促进房地产市场健康发展,根据《中华人民共和国城市房地产管理法》和《城市房地产开发经营管理条例》等法律、法规,结合本市实际情况,制定本办法。

**第二条** 本市国有土地范围内的房地产转让,适用本办法。

本市城镇职工根据城镇住房制度改革政策购买公有住房、安居工程住房和集资合作建设的住房的,不适用本办法。

**第三条** 房地产转让,是指拥有房屋所有权、土地使用权的自然人、法人和其他组织,依法将房地产转移给他人的行为。

房地产转让人是指拥有房屋所有权、土地使用权的自然人、法人和其他组织。房地产受让人可以是中华人民共和国境内外的自然人、法人和其他组织,国家和市人民政府另有规定的从其规定。

**第四条** 房地产转让包括下列方式:

- (一) 买卖;
- (二) 赠与;
- (三) 交换;
- (四) 以房地产作价入股或者作为合作条件与他人成立法人或者其他组织,使房地产权属发生变更的;
- (五) 因法人或者其他组织合并、分立,使房地产权属发生变更的;

# Measures of Beijing Municipality for Administration of Transfer of Urban Real Estate

(Promulgated by Decree No. 135 of the People's Government of Beijing Municipality on September 2, 2003, and revised in accordance with Decree No. 209 of the People's Government of Beijing Municipality on December 6, 2008)

## Chapter I General Provisions

**Article 1** These Measures are formulated for the purposes of standardizing the acts of transferring urban real estate, safeguarding the legitimate rights and interests of the parties concerned and promoting the healthy development of the real estate market in accordance with the Law of the People's Republic of China on the Administration of the Urban Real Estate, the Regulations on Administration of Development and Operations of Urban Real Estate as well as other laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to the transfer of real estate on the State-owned land in this Municipality.

These Measures shall not apply to the purchase by employees in towns and townships of publicly owned houses, houses under the comfort housing projects and houses cooperatively built by using funds raised according to the reform policy of urban housing system.

**Article 3** The transfer of real estate shall refer to an act that a natural person, legal person or other organization possessing the ownership of a house or land-use right transfers the real estate to any other person according to law.

The transferor of real estate shall refer to a natural person, legal person or other organization possessing the ownership of a house or land-use right. The transferee of real estate may be a natural person, legal person or other organization within or outside the territory of the People's Republic of China; where there are other provisions by the State and the Municipal People's Government, those provisions shall prevail.

**Article 4** The transfer of real estate may be conducted by the following means:

- (1) purchase and sale;
- (2) donation;
- (3) exchange;
- (4) the ownership of real estate is altered when the real estate is appraised at a certain value for investment by holding shares or as a condition of cooperation with others to form a legal person or other organization;
- (5) the ownership of real estate is altered because of the merger or division of legal

(六) 以房地产清偿债务的;

(七) 法律、法规和规章规定的其他方式。

**第五条** 市房地产行政主管部门主管本市房地产转让管理工作。区、县房地产行政主管部门负责本行政区域内房地产转让管理工作。

有关行政管理部门应当按照各自职责,依法对房地产转让实施监督和管理。

**第六条** 房地产转让应当遵循自愿、公平、诚实信用的原则。

**第七条** 本市逐步建立房地产交易信息披露制度。市房地产行政主管部门应当会同有关部门定期公布本市房地产交易指导信息。

## 第二章 一般规定

**第八条** 转让房屋的,该房屋占用范围的国有土地使用权同时转让。

**第九条** 在依法取得使用权的国有土地上建成的房屋,必须在办理房屋所有权和相应的土地使用权登记并取得房地产权属证书后,方可转让。

**第十条** 出让土地上的房屋在建工程转让的,应当符合下列条件:

(一) 按照出让合同约定已经支付全部土地使用权出让金,并取得土地使用权证书;

(二) 按照出让合同约定进行投资开发,完成开发投资总额的 25% 以上。

以划拨方式取得土地使用权的房地产转让,按照国家和本市有关规定执行。

**第十一条** 下列房地产,不得转让:

(一) 司法机关和行政机关依法裁定、决定查封或者以其他方式限制房地产权利的;

(二) 依法收回土地使用权的;

(三) 登记为共有的房地产,未经其他共有人书面同意的;

(四) 权属有争议的;

(五) 未经依法登记取得房地产权属证书的;

persons or other organizations;

(6) payment of debts with real estate; or

(7) other means stipulated by law regulations and rules.

**Article 5** The competent administrative department for real estate at the municipal level shall be in charge of the administrative work of transfer of real estate in this Municipality. The competent administrative department for real estate at district or county level shall be responsible for the administrative work of transfer of real estate in their respective administrative areas.

Relevant administrative departments shall carry out supervision and administration of the transfer of real estate according to their respective functions and duties according to law.

**Article 6** The principles of free will, equity and good faith shall be followed in the transfer of real estate.

**Article 7** The disclosure system of real estate transactions shall be gradually set up in this Municipality. The competent administrative department for real estate at the municipal level shall, together with relevant departments, publicize the guiding information of real estate transactions in this Municipality on a regular basis.

## Chapter II General Rules

**Article 8** Where a house is transferred, the State-owned land-use right of the land occupied by the house shall be transferred simultaneously.

**Article 9** Only after the ownership and the corresponding land-use right of a house is registered and the certificate of the ownership of real estate is obtained, may the house built on the State-owned land the land-use right of which is acquired according to law be transferred.

**Article 10** Where an ongoing project of houses built on the granted land is transferred, the following conditions shall be met:

(1) all the fees for granting the land-use right have been paid according to the granting contract, and the certificate of the land-use right has been obtained; and

(2) the investment and development have been initiated according to the granting contract, and more than 25% of the total investment has been fulfilled.

The transfer of real estate whose land-use right is acquired by means of allocation shall be carried out in accordance with relevant provisions of the State and this Municipality.

**Article 11** The following real estate shall not be transferred:

(1) the real estate has been sealed up by order of the judicial organ or decision of the administrative agency according to law or the rights of the real estate have been restricted by other means;

(2) the land-use right has been reclaimed according to law;

(3) for jointly owned real estate registered, written consent of other co-owners has not obtained;

(4) the ownership is under dispute;

(5) the real estate has not been registered according to law and the certificate of the

（六）法律、行政法规规定不得转让的其他情形。

**第十二条** 按照房屋建筑设计为独立成套（单元）的房屋，不得分割转让。

**第十三条** 房地产转让时，相应的共用部位、共用设备设施的转让按照国家和本市的有关规定执行。

**第十四条** 共有房地产买卖，在同等条件下，共有人享有优先购买权。

出卖已出租的房地产的，出卖人应当提前 3 个月通知承租人。在同等条件下，承租人享有优先购买权。出卖人未履行通知义务的，应当承担相应的民事责任。

**第十五条** 转让已出租的房地产的，受让人应当继续履行原租赁合同。但房地产出租前已依法抵押，为实现该抵押权转让房地产的，受让人不承担继续履行原租赁合同的义务。

**第十六条** 已购公有住房转让时，可以不征得原售房单位同意。

已购公有住房转让后，原售房单位不再承担该房屋的供暖、物业管理等费用。

**第十七条** 房地产转让时，除本办法第四条第（四）项、第（五）项规定的情形外，当事人应当签订书面转让合同。房地产转让合同应当包括下列内容：

- （一）转让人和受让人的名称或者姓名、住所；
- （二）房地产的坐落位置、四至范围和面积；
- （三）房地产用途；
- （四）房地产权属证书编号；
- （五）买卖的价格或者交换的差价金额、清偿债务的金额；
- （六）房地产交付的条件和日期；
- （七）违约责任；
- （八）争议解决方式；
- （九）转让人和受让人约定的其他内容。

**第十八条** 房地产行政主管部门应当应用网络信息技术，建立和完善房地产管理信息系统；推行房地产转让合同网上签约和网上登记备案。

**第十九条** 房地产转让时，转让人应当如实告知受让人转让房地产的抵押、租赁

ownership has not been obtained; or

(6) other circumstances where the transfer is prohibited by the provisions of laws and administrative regulations.

**Article 12** A house that is architecturally designed as an apartment ( or a unit) shall not be transferred in segments.

**Article 13** When the real estate is transferred, the provisions of the State and this Municipality shall apply to the transfer of the corresponding common parts, equipment and facilities.

**Article 14** Where jointly owned real estate is to be sold, the co-owners shall have the preemptive right under the same conditions.

Where the rented real estate is to be sold, the seller shall inform the tenant three months in advance. The tenant shall have the preemptive right to purchase under the same conditions. The seller who does not perform his obligation of notification shall bear the corresponding civil liability.

**Article 15** Where the rented real estate is transferred, the transferee shall continue to perform the original lease contract. Where the real estate has been mortgaged according to law before the lease and it is transferred for the purpose of realizing this mortgage right, the transferee shall not bear the obligation to continue to perform, the original lease contract.

**Article 16** When a purchased publicly owned house is transferred, the consent from the original selling unit may not be obtained.

After the transfer of the purchased publicly owned house, the original selling unit shall not bear the fees for heating and property management of the house any more.

**Article 17** When the real estate is transferred, the parties concerned shall sign a written contract for the transfer with the exceptions stipulated in Items 4 and 5 of Article 4 of these Measures. The contract shall include the following contents:

- (1) the names and domiciles of the transferor and the transferee;
- (2) the location, boundaries and area of the real estate;
- (3) the usage of the real estate;
- (4) the number of the certificate of the ownership of real estate;
- (5) the transaction price or the margin of price if it is exchanged, the amount of debt paid;
- (6) the conditions and date of delivering the real estate;
- (7) the liability for breach of contract;
- (8) the methods for dispute settlement; and
- (9) other matters agreed upon by the transferor and the transferee.

**Article 18** The competent administrative departments for real estate shall adopt the network information technologies to establish and perfect the information system for administration of real estate; and shall introduce signing contracts and registering for the record on the internet for transfer of real estate.

**Article 19** When the real estate is transferred, the transferor shall truthfully inform the transferee of the mortgage, lease and other relevant matters concerning the real estate to be transferred. The transferor who fails to perform the notification obligation shall bear the



等有关情况。转让人不履行告知义务的，应当承担相应的民事责任。

**第二十条** 房地产转让价格由转让人和受让人协商议定，但实行政府指导价的除外。

**第二十一条** 新建商品房转让应当按照套内建筑面积计价，但是独栋别墅、整栋楼房和车库（位）转让可以按照套内建筑面积计价，也可以按照建筑面积计价或者按照套（单元）计价。

**第二十二条** 为保障将来实现物权，房地产转让当事人签订买卖房屋的协议，可以按照约定向市或者区、县房地产行政主管部门申请预告登记。

**第二十三条** 房地产转让时，房地产转让人和受让人应当依法纳税。

**第二十四条** 房地产转让人和受让人应当在签订转让合同或者取得与转让有关的法律文件生效后 90 日内，向市或者区、县房地产行政主管部门申请办理房地产权属转移登记，并提交下列文件：

（一）房地产权属证书；

（二）转让当事人的身份证明，转让当事人是法人或者其他组织的，还应当出具对具体承办人员的授权委托书；

（三）转让合同或者与转让有关的法律文件；

（四）法律、法规和规章规定的其他文件。

境外法人、组织办理房地产转让登记时提交的文件，应当按规定经公证、认证，并提交经公证的中文译本。

**第二十五条** 市或者区、县房地产行政主管部门应当审核转让当事人的房地产权属转移登记申请，对当事人提交的文件不齐备的，应当一次性告知当事人需补充提交的全部文件；对当事人提交的文件齐备的，应当即时受理。

对符合登记条件的，自受理之日起 20 个工作日内办理房地产权属转移登记；对不符合登记条件的，应当书面告知当事人不予登记的理由。

**第二十六条** 房地产开发企业应当对其出售的新建商品房承担质量保修责任。房

corresponding civil liability.

**Article 20** The price for the transfer of real estate shall be settled by the transferor and the transferee through negotiation except that the government's guiding price shall be adopted.

**Article 21** The newly built commercial houses to be transferred shall be priced according to the carpet area, however, the single-family villas, whole buildings and garages (parking lots) to be transferred may be priced according to the carpet area and may also be priced according to the construction area or the set (unit) .

**Article 22** In order to ensure the realization of the property rights in the future, the parties to the transfer of real estate who have signed the agreement for the purchase and sale of a house may apply to the competent administrative department for real estate at the municipal or the district or county level for the registration of advance announcement according to the agreement.

**Article 23** When the real estate is transferred, the transferor and the transferee of the real estate shall pay taxes according to law.

**Article 24** The transferor and the transferee of the real estate shall be within 90 days after the date when the transfer contract is signed or the legal documents relating to the transfer obtained take effect, apply to the competent administrative department for real estate at the municipal or the district or county level for registration of the ownership transfer of the real estate, and submit the following documents:

- (1) the certificate of the ownership of real estate;
- (2) the identification certificates of the parties to the transfer, if the parties to the transfer are legal persons or other organizations, the power of attorney for the persons specifically handle the matter shall be presented as well;
- (3) the transfer contract or legal documents relating to the transfer; and
- (4) other documents stipulated by laws, regulations and rules.

The documents submitted by the legal persons or organizations overseas when handling the registration of transfer of real estate shall be notarized or authenticated according to relevant provisions, and the Chinese versions notarized shall be presented as well.

**Article 25** The competent administrative department for real estate at the municipal or the district or county level shall examine and verify the application of the parties to the transfer for registration of transfer of the ownership of real estate. Where the documents submitted by the parties are not complete, the competent administrative department for real estate shall inform the parties concerned, all at once, of other documents required to be supplemented; where the documents submitted by the parties are complete, the competent administrative department for real estate shall immediately accept the application.

Where the conditions for registration are qualified, the registration of transfer of the ownership of real estate shall be handled within 20 days after the date of acceptance; where the conditions for registration are not qualified, the reasons why the registration is not granted shall be given to the parties concerned in writing.

**Article 26** A real estate development enterprise shall bear the responsibility for guaranteed repair of the newly built houses they sell. The real estate development enterprise

地产开发企业应当与受让人在转让合同中约定保修范围、保修期限和保修责任。约定的保修期限不得低于国家规定的最低期限。保修期限自商品房交付之日起计算。

新建商品房在保修期限内再转让的，房地产开发企业应当继续承担对该商品房的保修责任。

**第二十七条** 房地产转让当事人可以委托律师和房地产经纪机构代理房地产转让或者提供中介服务。

受托人应当忠实、勤勉地履行职责。因受托人过错给房地产转让当事人造成损失的，房地产转让当事人可以要求受托人承担赔偿责任。

**第二十八条** 房地产行政主管部门应当归集房地产开发企业和房地产经纪机构在从事房地产经营活动中的有关信用信息，并按照规定公布。

### 第三章 商品房预售

**第二十九条** 房地产开发企业取得预售许可后，方可预售商品房。

预售商品房，应当符合下列条件：

- （一）已交付全部土地使用权出让金并取得国有土地使用权证，属于预售经济适用住房的，应当取得建设用地批准书；
- （二）取得建设工程规划许可证件和施工许可证件；
- （三）按提供预售的商品房计算，投入开发的建设资金达到工程建设总投资的25%以上；
- （四）已确定竣工日期，且满足市房地产行政主管部门公布的预售最长期限。

**第三十条** 房地产开发企业申请商品房预售许可的，应当向市房地产行政主管部门提交下列文件：

- （一）本办法第二十九条第二款规定的事项证明文件；
- （二）工商营业执照和企业资质等级证书；
- （三）工程施工合同和施工进度说明；
- （四）包括经备案的测绘成果、房地产开发项目手册、销售机构和销售人员情况、住宅小区建设方案、房屋装饰装修及相关设备设施的交付使用情况、前期物业服务等内容的商品房预售方案；

shall agree upon the scope and period of and the responsibility for guaranteed repair in the transfer contract with the transferee. The period of guaranteed repair agreed upon shall be no less than the minimum period stipulated by the State. The period of guaranteed repair shall calculate from the date of the delivery of the commercial houses.

Where the newly built commercial houses are re-transferred during the period of guaranteed repair, the real estate development enterprise shall continue to bear the responsibility for guaranteed repair of the commercial houses.

**Article 27** The parties to the transfer of real estate may entrust lawyers and real estate brokers to handle the transfer of real estate as agents or provide intermediary services.

The trustees shall perform their duties in good faith and due diligence. Where losses incurred to the parties to the transfer of real estate are resulted from the trustees' fault, the parties to the transfer of real estate may claim compensation against the trustees.

**Article 28** The competent administrative departments for real estate shall collect relevant credit information of the real estate development enterprises and real estate brokers in the real estate business activities, and disclose such information according to provisions.

### **Chapter III Presale of Commercial House**

**Article 29** Only after a real estate development enterprise obtain the permit for presale, may it pre-sell commercial houses.

The following conditions shall be met for the presale of commercial houses:

(1) all the fees for granting the land-use right are paid and the certificate of the State-owned land-use right obtained; for the presale of economically affordable houses, the approval document of land use for urban construction shall be obtained;

(2) the permit for construction project planning and the permit for construction are obtained;

(3) the funds put into the development construction have reached more than 25% of the total investment for the construction project, calculated on the basis of the commercial houses provided for presale; and

(4) the date of completion has been set and the longest period of presale promulgated by the competent administrative department for real estate at the municipal level is satisfied.

**Article 30** Where applying for the permit for presale of commercial houses, the real estate development enterprise shall submit the following documents to the competent administrative department for real estate at the municipal level:

(1) the documents certifying the items stipulated in Paragraph 2 of Article 29 of these Measures;

(2) the business license and the grade certificate of enterprise's qualification;

(3) the contract of project construction and explanation of construction progress;

(4) the plan for presale of the commercial houses including such contents as the survey results filed for the record, manual of real estate development project information of the selling organ and selling staff, construction plan for the residential quarter, fitting and decoration of houses, delivery and use of relevant equipment and facilities, and prophase

（五）已将土地使用权或者土地使用权连同在建工程设定抵押的，提交抵押权人同意抵押房屋转让的证明。

房地产开发企业申请办理经济适用住房预售许可的，还应当提交经济适用住房销售价格批准文件。

**第三十一条** 市房地产行政主管部门应当审核商品房预售申请，对申请人提交的文件不齐备的，应当一次性告知需补充提交的全部文件；对提交文件齐备的，应当即时受理。

对符合本办法第二十九条规定的，市房地产行政主管部门应当自受理商品房预售申请之日起 10 个工作日内核发商品房预售许可证；对不符合预售条件的，应当作出不同意预售的决定并说明理由。

市房地产行政主管部门应当将核发预售许可证的情况予以公布。

**第三十二条** 商品房预售许可证应当载明下列内容：

- （一）房地产开发企业名称；
- （二）预售许可证编号；
- （三）预售商品房的建设工程规划许可证编号；
- （四）预售商品房的坐落位置、幢号或者楼层、面积；
- （五）土地的用途和使用期限；
- （六）发证机关和发证日期。

**第三十三条** 房地产开发企业应当按照商品房预售许可证核准的内容预售商品房。预售时，房地产开发企业应当向预购人出示商品房预售许可证。

任何单位和个人不得伪造、涂改、租借、转让、冒用商品房预售许可证。

**第三十四条** 房地产开发企业取得商品房预售许可证后，方可发布商品房预售广告、参加房地产交易展示活动。

房地产开发企业发布商品房预售广告，应当在广告中明示房地产开发企业的名称、商品房坐落位置、商品房预售许可证编号。

property management services; and

(5) where the land-use right has been mortgaged separately or together with the ongoing project, the certificate proving that the mortgagee consents the transfer of the mortgaged house shall be submitted as well.

Where the real estate development enterprise applies for the permit for presale of economically affordable houses, the approval document on the sales price of the economically affordable houses shall be submitted as well.

**Article 31** The competent administrative department for real estate at the municipal level shall examine and verify the application for presale of commercial houses. Where the documents submitted by the applicant are not complete, the competent administrative department for real estate shall inform, all at once, of other documents required to be supplemented; where the documents submitted are complete, the competent administrative department for real estate shall immediately accept the application.

Where the provisions of Article 29 of these Measures are measured up to, the competent administrative department for real estate at the municipal level shall issue the permit for presale of commercial houses within 10 days after the date of acceptance of the application for presale of commercial houses; where the conditions for presale are not qualified, a decision disapproving the presale shall be made and the reasons thereof shall be given.

The competent administrative department for real estate at the municipal level shall make public the information concerning the verification and issuance of the permit for presale.

**Article 32** The permit for presale of commercial houses shall state the following contents:

- (1) the name of the real estate development enterprise;
- (2) the number of the permit for presale;
- (3) the number of the permit for construction project planning of the commercial houses to be pre-sold;
- (4) the location, block number or storey number and area of the commercial houses to be pre-sold;
- (5) the usage of land and the term for the land use; and
- (6) the certificate-issuing agency and the date of issuance.

**Article 33** The real estate development enterprise shall pre-sell the commercial houses in accordance with the contents approved in the permit for presale. When preselling the commercial houses, the real estate development enterprise shall show the permit for presale of the commercial houses to the advance purchasers.

No unit or individual may forge, alter, lease, transfer or arrogate the permit for presale of commercial houses.

**Article 34** Only after a real estate development enterprise obtains the permit for presale of commercial houses, may it advertise the presale of commercial houses or attend the exhibition of real estate exchange.

When publishing an advertisement for pre-selling commercial houses, a real estate development enterprise shall clearly indicate the name of the real estate development

**第三十五条** 房地产开发企业在预售商品住宅之前，应当公示有资质的测绘单位出具的商品房预售面积测绘技术报告书和下列分摊情况：

- （一）被分摊的共用部位的名称、用途、所在位置、面积；
- （二）参与分摊共用建筑面积的商品房的名称、用途、所在位置、面积、分摊系数；
- （三）不分摊的共用部位。

共用建筑面积的分摊情况经公示并与第一个预购人签订预售合同后，房地产开发企业不得更改。房地产开发企业与预购人签订的预售合同中应当附有上述经公示的共用建筑面积分摊的内容。

其他商品房预售时，房地产开发企业应当明示共用建筑面积分摊情况。

**第三十六条** 预售商品房的，当事人应当签订书面合同。商品房预售合同应当包括下列内容：

- （一）房地产开发企业和预购人名称或者姓名、住所；
- （二）商品房预售许可证编号；
- （三）商品房的坐落位置、结构、层高、建筑层数、阳台封闭情况；
- （四）商品房的用途；
- （五）土地使用权取得方式和期限；
- （六）预售的建筑面积、套内建筑面积和分摊的共用建筑面积；
- （七）预售的面积和实测面积误差的处理方式；
- （八）商品房附属设备和装修标准；
- （九）交付条件和日期；
- （十）供水、供电、供热、燃气、通讯、道路、绿化等配套设施的交付承诺；
- （十一）共用部位、共用设备设施所在位置、用途、交付使用时间；
- （十二）申请办理商品房权属转移登记手续的约定；
- （十三）违约责任；
- （十四）争议解决方式；
- （十五）当事人约定的其他内容。

enterprise, location of the commercial houses and the number of the permit for presale of commercial houses in the advertisement.

**Article 35** Before pre-selling commercial dwelling houses, a real estate development enterprise shall publish a technical survey and mapping report on the presale area of commercial houses presented by a qualified survey and mapping unit and the following apportionment details;

- (1) the name, usage, location and area of the common parts apportioned;
- (2) the name, usage, location, area and apportionment coefficient of the commercial houses with common construction area; and
- (3) the common parts not to be apportioned.

After the apportionment details about the common construction area are published and the presale contract is signed with the first advance purchaser, the real estate development enterprise shall not make any alteration. The presale contract signed between the real estate development enterprise and the advance purchaser shall be attached with the published information about the apportionment details of the common construction area mentioned above.

When pre-selling other types of commercial houses, the real estate development enterprise shall clearly indicate the apportionment details of the common construction area.

**Article 36** Where a commercial house is pre-sold, the parties concerned shall sign a written contract. The presale contract shall include the following content:

- (1) the names and domiciles of the real estate development enterprise and the advance purchaser;
- (2) the number of the permit for presale of commercial houses;
- (3) the location, structure, storey height, number of floors and closure of balconies;
- (4) the usage of the commercial house;
- (5) the acquisition mode and the term of the land-use right;
- (6) the construction area, carpet area and apportioned common construction area of the commercial house to be pre-sold;
- (7) the measures for dealing with an error between the presale area and the actual area surveyed;
- (8) the affiliated facilities and decoration standards of the commercial house;
- (9) the terms and date of delivery;
- (10) the delivery promises of water supply, power supply, heating, gas supply, communication, road, afforestation and other accessory facilities;
- (11) the locations, usages and delivery times of common parts, equipment and facilities;
- (12) the agreement on the application for registration of transferring the ownership of the commercial house;
- (13) the liability for breach of contract;
- (14) the methods for dispute settlement; and
- (15) other matters agreed upon by the parties concerned.



**第三十七条** 房地产开发企业在签订合同前收取预付款性质的费用的，在签订预售合同时，所收费用应当抵作房价款；未能签订预售合同的，房地产开发企业应当向预购人返还所收费用。

**第三十八条** 房地产开发企业在与预购人依法解除预售合同之前，不得与他人签订同一商品房的预售合同。

**第三十九条** 房地产开发企业预售已抵押的商品房，应当征得抵押权人同意，并将抵押情况以及解除抵押的条件、时间书面告知预购人。

房地产开发企业不得将已预售的商品房进行抵押。

**第四十条** 房地产开发企业应当自商品房预售合同签订之日起 30 日内，向市或者区、县房地产行政主管部门申请办理预售合同登记备案手续。

**第四十一条** 商品房预售合同登记备案后，房地产开发企业与预购人变更预售标的物或者解除预售合同的，应当签订合同变更或者解除预售合同的协议，并依照本办法第四十条规定，由双方共同到原登记机关办理变更或者解除预售合同登记备案手续。

**第四十二条** 房地产行政主管部门应当加强预售项目建设和销售期间的监管，对房地产开发企业的下列违法行为，应当依法处理并督促其履行义务：

- （一）违规交易；
- （二）拖欠工程款；
- （三）延期交房；
- （四）未同步建设配套公共服务设施；
- （五）建设工程出现质量问题；
- （六）其他不依法履行合同的行为。

**第四十三条** 房地产开发企业应当按照规划行政主管部门核发的建设工程规划许可证的规定建设商品房，不得擅自变更。

房地产开发企业确需变更规划许可证规定内容的，应当书面征得受影响的预购人同意，并取得规划行政主管部门的批准。因规划变更给预购人的权益造成损失的，房

**Article 37** Where the real estate development enterprise charges fees from the advance purchaser as advance payment before signing a contract, the fees charged shall be counted as the purchase price of the house when the presale contract is signed; where they fail to sign the presale contract, the real estate development enterprise shall return the fees charged back to the advance purchaser.

**Article 38** Before dissolving a presale contract with the advance purchaser according to law, the real estate development enterprise shall not enter into another presale contract with a third party for the same commercial house.

**Article 39** Where the real estate development enterprise pre-sells a mortgaged commercial house, it shall obtain the consent of the mortgagee, and shall inform the advance purchaser of the mortgage, and the terms and time for releasing the mortgage in writing.

The real estate development enterprise shall not mortgage a commercial house that has been pre-sold.

**Article 40** The real estate development enterprise shall, within 30 days after the conclusion of the presale contracts of commercial houses, apply to the competent administrative department for real estate at the municipal or the district or county level for handling the procedures for registration for the record of the presale contracts.

**Article 41** After the presale contract is registered, where the real estate development enterprise and the advance purchaser alter the presale object or dissolve the presale contract, they shall enter into an agreement to alter or dissolve the original presale contract, and go to the original registration agency together to handle the procedures for registration of alteration or dissolution of the presale contract according to the provisions of Article 40 of these Measures.

**Article 42** The competent administrative department for real estate shall strengthen the supervision on presale projects during the construction and selling periods, deal with the following illegal acts of real estate development enterprises and urge them to perform their obligations:

- (1) committing transactions in violation of provisions;
- (2) defaulting on the payment for projects;
- (3) postponing the delivery of houses;
- (4) failing to build the supporting public utilities synchronically;
- (5) there are quality problems in the construction projects; and
- (6) other acts leading to the failure of performing the contracts according to law.

**Article 43** The real estate development enterprise shall build the commercial houses according to the stipulations listed in the permit for construction project planning issued by the competent administrative departments for planning, and shall not make any alteration without authorization.

Where it is really necessary for the real estate development enterprise to make any alteration to the contents stipulated in the permit for planning, the enterprise shall obtain consent from the affected advance purchasers in writing and approval from the competent administrative department for planning. Where the advance purchaser suffers losses from the alteration of the planning, the real estate development enterprise shall make the

地产开发企业应当给予相应的补偿。

**第四十四条** 购房人在预售合同登记备案后、商品房竣工前转让其预购的商品房的，按照下列规定办理：

（一）未付清预售商品房预售合同约定的总价款的，购房人应当取得房地产开发企业同意；

（二）已付清预售商品房预售合同约定的总价款的，购房人应当将其转让预购商品房的情况书面通知房地产开发企业。

转让预购的商品房的，购房人与受让人应当签订书面合同，并在合同签订后 15 日内依照本办法第四十条的规定到原登记机关申请变更预售合同登记备案。

**第四十五条** 房地产开发企业预售商品房时设置样板间的，在签订预售合同前没有告知购房人实际交付的商品房质量、设备、装修标准、布局结构及其附属设施等与样板间是否一致的，实际交付的商品房应当与样板间一致。

**第四十六条** 商品房竣工后，房地产开发企业应当委托有资质的测绘单位对每套房屋的建筑面积、套内建筑面积和分摊的共用建筑面积进行测绘，并提供下列文件：

（一）商品房预售面积测绘技术报告书。

（二）商品房共用建筑面积分摊情况的说明文件。属于商品住宅的，说明文件的内容应当与依照本办法第三十五条规定公示的内容一致；根据本办法第四十三条第二款规定变更建设工程规划许可证内容，致使分摊的共用建筑面积情况发生变更的，还应当提供相应的批准规划变更的文件。

受委托的测绘单位应当按照国家和本市有关技术规范进行实测，并出具商品房面积实测技术报告书和每套房屋的面积实测数据表。测绘单位对测绘成果质量承担责任。

房地产开发企业应当允许购房人查询商品房面积实测技术报告书。

**第四十七条** 预售商品房按照套内建筑面积计价的，预售合同中载明的预售的套内建筑面积与实测的套内建筑面积发生误差时，按照合同约定的方式处理。合同中未作约定或者约定不明的，按照下列规定处理：

corresponding compensation.

**Article 44** Where the advance purchaser needs to transfer the house purchased in advance after the registration for the record of the presale contract and before the commercial house is completed, he shall comply with the following provisions:

(1) where the total price of the pre-sold commercial house stipulated in the presale contract is not fully paid up, the advance purchaser shall obtain the consent from the real estate development enterprise; or

(2) where the total price of the pre-sold commercial house stipulated in the presale contract is fully paid up, the advance purchaser shall notify the real estate development enterprise in writing of the transfer of the pre-sold commercial house.

Where a pre-sold commercial house is transferred, the advance purchaser and the transferee shall sign a written contract, and shall, within 15 days after the contract is signed, go to the original registration agency to handle the procedures for the registration of altering the presale contract according to the provisions of Article 40 of these Measures

**Article 45** Where the real estate development enterprise sets up model rooms when pre-selling commercial houses, and does not tell the advance purchaser before entering into the presale contract whether the quality, equipment, decoration standards, overall layout and accessory facilities of the commercial house to be actually delivered are the same with those of the model rooms, the commercial house to be actually delivered shall be the same with the model rooms.

**Article 46** After the commercial houses are completed, the real estate development enterprise shall entrust a qualified survey and mapping unit to survey and map the construction area, carpet area and apportioned common construction area for each set of house and submit the following documents:

(1) a technical survey and mapping report on the presale area of commercial houses; and

(2) a document describing the apportionment details about the common construction area of commercial houses. For commercial dwelling houses, the contents of the description document shall be consistent with those published in accordance with the provisions of Article 35 of these Measures. Where the apportioned common construction area is altered because of the alteration of the contents stipulated in the permit for construction project planning according to the provisions of Paragraph 2 of Article 43 of these Measures, the corresponding document approving the alteration of the planning shall be presented as well.

The survey and mapping unit entrusted shall make actual survey in accordance with relevant technical regulations of the State and this Municipality, and present the technical survey and mapping report on the area of commercial houses actually surveyed and the datasheet on the area of each set of house actually surveyed. The survey and mapping unit shall be liable for the quality of the survey results.

The real estate development enterprise shall permit purchasers to query the technical survey and mapping report on the area of commercial houses.

**Article 47** Where the commercial houses to be pre-sold are priced according to the carpet area and there is an error between the carpet area to be pre-sold clearly stated in the

(一) 面积误差比绝对值在 3% 以内 (含 3%) 的, 根据实测面积结算房价款。

(二) 面积误差比绝对值超出 3% 的, 预购人有权退房。预购人退房的, 房地产开发企业应当在预购人提出书面退房要求之日起 30 日内退还预购人已付房价款及其利息。预购人不退房的, 实测面积大于合同约定的, 面积误差比在 3% 以内 (含 3%) 部分的房价款由预购人补足; 超出 3% 部分的房价款由房地产开发企业承担, 产权归预购人。实测面积小于合同约定的, 面积误差比绝对值在 3% 以内 (含 3%) 部分的房价款由房地产开发企业返还预购人; 超出 3% 部分的房价款由房地产开发企业双倍返还预购人。

本办法所称的面积误差比等于实测面积与合同约定面积之差除以合同约定面积乘以 100%。

**第四十八条** 预售商品房按照建筑面积计价的, 预售合同中载明的预售建筑面积、套内建筑面积与实测面积发生误差时, 按照合同约定的方式处理。合同未作约定或者约定不明的, 按照下列规定处理:

(一) 建筑面积、套内建筑面积误差比绝对值均在 3% 以内 (含 3%) 的, 根据实测面积结算房价款;

(二) 建筑面积误差比绝对值超出 3% 的, 依照本办法第四十七条第一款第 (二) 项的规定执行;

(三) 建筑面积误差比绝对值在 3% 以内 (含 3%)、套内建筑面积误差比绝对值超出 3% 的, 购房人有权退房。预购人退房的, 房地产开发企业应当在预购人提出书面退房要求之日起 30 日内退还预购人已付房价款及其利息; 购房人不退房的, 根据实测面积结算房价款。

**第四十九条** 预售商品房按照套 (单元) 计价的, 商品房预售合同中应当约定商品房的套型、详细尺寸和误差范围及处理方式并附平面图。

按照套 (单元) 计价的预售商品房实际交付时, 房屋的套型与设计图纸一致, 相

presale contract and that actually surveyed, the matter shall be handled according to the methods agreed upon in the contract. Where there is no stipulation or no definite stipulation, it shall be handled according to the following provisions;

(1) Where the absolute value of the area error ratio is within 3% (including 3%) ,the house price shall be settled according to the area actually surveyed; and

(2) Where the absolute value of the area error ratio is beyond 3%, the advance purchaser shall have the right to return the house. Where the advance purchaser returns the house, the real estate development enterprise shall return the money already paid for the house and the interest thereof within 30 days after the advance purchaser submits a written request for the return of house. Where the purchaser does not return the house and the area actually surveyed is larger than that agreed upon in the contract, the portion of the house price within 3% (including 3%) of the absolute value of the area error ratio shall be paid by the advance purchaser; and the portion beyond 3% shall be borne by the real estate development enterprise and the ownership of the house shall belong to the advance purchaser. Where the area actually surveyed is smaller than that agreed upon in the contract, the portion of the house price within 3% (including 3%) of the absolute value of the area error ratio shall be returned back to the advance purchaser by the real estate development enterprise; and the portion beyond 3% shall be returned back to the advance purchaser with double amount by the real estate development enterprise.

The area error ratio mentioned in these Measures shall refer to the difference between the area actually surveyed and the area agreed upon in the contract divided by the area agreed upon in the contract and then multiplying 100% .

**Article 48** Where the commercial houses to be pre-sold are priced according to the construction area and there is an error between the construction area or the carpet area to be pre-sold clearly stated in the presale contract and that actually surveyed, the matter shall be handled according to the methods agreed upon in the contract. Where there is no stipulation or no definite stipulation,it shall be handled according to the following provisions:

(1) Where the absolute value of the area error ratio in both the construction area and the carpet construction area is within 3% ( including 3%), the house price shall be settled according to the construction area surveyed;

(2) Where the absolute value of the area error ratio in the construction area is beyond 3%, the provisions of Item 2, Paragraph 1 of Article 47 of these Measures shall be followed; or

(3) Where the absolute value of the area error ratio in the construction area is within 3% (including 3%) and the absolute value of the area error ratio in the carpet area is beyond 3%, the purchaser shall have the right to return the house. Where the advance purchaser returns the house, the real estate development enterprise shall return the money already paid for the house and the interest thereof within 30 days after the advance purchaser submits a written request for the return of house; where the purchaser does not return the house, the house price shall be settled according to the area actually surveyed.

**Article 49** Where the commercial houses to be pre-sold are priced according to the set (unit), the type of flat and detailed dimensions of the commercial houses, the scope of error as well as the handling methods shall be agreed upon in the presale contract of the commercial houses and the floor plan shall be attached thereof.

When the pre-sold commercial houses priced according to the set (unit) are actually delivered, where the type of flat is consistent with the blueprint and relevant dimensions are within the scope of error agreed upon in the presale contract, the total price shall not

关尺寸在预售合同约定的误差范围内的，总价款不变。套型与设计图纸不一致或者相关尺寸超出约定的误差范围的，按照合同约定的方式处理；合同未作约定的，由当事人协商解决；协商不成的，可以依法申请仲裁或者提起民事诉讼。

**第五十条** 房地产开发企业交付预售商品房，应当符合下列条件：

- （一）取得建筑工程竣工验收备案表；
- （二）取得商品房面积实测技术报告书；
- （三）预售合同约定的其他交付条件。

房地产开发企业应当在交付日的7日前书面通知预购人办理交付手续的时间、地点及预购人应当携带的证件、文件。交付时，房地产开发企业应当向预购人出具前款规定的文件；交付住宅的，还应当同时向预购人提供住宅质量保证书和住宅使用说明书。

**第五十一条** 已经取得商品房预售许可的项目依法转让的，项目受让人应当按照本办法第三十条的规定申请预售许可。原房地产开发企业应当自项目转让合同签订之日起10日内书面通知预购人，预购人在收到书面通知之日起30日内有权解除预售合同。

预购人未解除预售合同的，预售合同中约定原房地产开发企业的权利和义务，由项目受让人承担。

## 第四章 法律责任

**第五十二条** 违反本办法第十条第一款和第二十九条、第三十条规定擅自转让房地产开发项目或者擅自预售商品房的，由市或者区、县房地产行政主管部门按照《城市房地产开发经营管理条例》的规定处罚。

房地产受让人知道或者应当知道转让人没有取得房地产权属证书或者相关批准文件仍然购买商品房的，应当承担相应不利的民事法律后果。



change. Where the type of flat is not consistent with the blueprint or relevant dimensions are beyond the scope of error agreed upon in the presale contract, the matter shall be handled according to the methods agreed upon in the contract, where there is no agreement, the parties concerned shall solve it through negotiation; where the negotiation fails, they may apply for arbitration or file a lawsuit according to law.

**Article 50** The following conditions shall be met when the real estate development enterprise delivers the pre-sold commercial houses;

(1) the filing form of check for acceptance of construction project upon completion has been obtained;

(2) the technical survey and mapping report on the area of commercial houses actually surveyed has been obtained; and

(3) other delivery conditions agreed upon in the presale contract.

The real estate development enterprise shall notify the advance purchasers in writing of the date, place, certificates and documents that the advance purchasers shall bring seven days prior to the date of delivery. In the case of deliver, the real estate development enterprise shall provide the advance purchasers with the documents specified in the preceding paragraph; in the case of delivering dwelling houses, it shall also provide the advance purchasers with the certificates of guarantee for residence quality and use instructions.

**Article 51** Where a project for which the permit for presale of commercial houses is obtained is transferred according to law, the transferee of the project shall apply for the permit for presale in accordance with the provisions of Article 30 of these Measures. The original real estate development enterprise shall notify the advance purchasers in writing within 10 days after the conclusion of the project transfer contract, and the advance purchasers shall have the right to dissolve the presale contracts within 30 days after receiving such written notification.

Where the advance purchaser does not dissolve the presale contract, the rights and obligations of the original real estate development enterprise agreed upon in the presale contract shall be assumed by the transferee of the project.

## Chapter IV Legal Liability

**Article 52** Whoever, in violation of the provisions of Paragraph 1 of Article 10, Article 29 and Article 30 of these Measures, transfers a real estate development project or pre-sells commercial houses without authorization shall be punished by the competent administrative department for real estate at the municipal or the district or county level in accordance with the provisions of the Regulations on Administration of Development and Operations of Urban Real Estate.

Where any transferee of the real estate knows or ought to know that the transferor does not obtain the certificate of ownership of the real estate or other relevant approval documents but still purchases the commercial house, he shall assume the adverse civil legal consequences accordingly.



**第五十三条** 违反本办法第三十三条第二款规定，伪造、涂改、租借、转让、冒用商品房预售许可证的，由市房地产行政主管部门依法收缴伪造、涂改的预售许可证，并处3万元以下罚款，造成损失的，依法承担相应的民事责任；情节严重构成犯罪的，移送司法机关依法处理。

**第五十四条** 违反本办法，按照规划、广告、价格管理等法律、法规和规章的规定应当予以行政处罚的，由规划、工商行政和价格主管部门依法处理。

**第五十五条** 市和区、县房地产行政主管部门在房地产转让行政管理工作中不履行或者不适当履行法定职责的，由其所在单位或者上级主管部门对直接负责的主管人员和其他责任人员给予行政处分；构成犯罪的，依法追究刑事责任。

## 第五章 附 则

**第五十六条** 市房地产行政主管部门可以根据本办法第十七条、第三十六条的规定拟订房地产买卖和商品房预售的合同示范文本。

**第五十七条** 本办法自2003年12月1日起施行。1984年8月11日市人民政府发布的《北京市贯彻实施〈城市私有房屋管理条例〉若干具体问题的规定》、1988年9月15日市人民政府发布的《北京市房屋买卖管理暂行规定》同时废止。

**Article 53** Whoever, in violation of the provisions of Paragraph 2 of Article 33 of these Measures, forges, alters, leases, transfers or arrogates the permit for presale of commercial houses shall be confiscated the altered or forged permit for presale by the competent administrative department for real estate at the municipal level and imposed upon a fine of not more than 30, 000 yuan simultaneously; and shall bear corresponding civil liability according to law where losses are caused; where the circumstances are serious and a crime is constituted, the case shall be turned over to the judicial organ for handling according to law.

**Article 54** Whoever, in violation of these Measures, shall be imposed upon administrative penalties according to laws, regulations and rules concerning planning, advertisement and price administration, shall be dealt with by the competent departments for planning, industrial and commercial administration and price according to law.

**Article 55** Where the competent administrative department for real estate at the municipal or the district or county level fails to perform or duly perform its legal duties and responsibilities in the administration of transfer of real estate, the person in charge with the direct responsibility and any other responsible person shall be given administrative sanctions by the unit he works for or the superior competent department according to law; where a crime is constituted, criminal liability shall be investigated for according to law.

## **Chapter V Supplementary Provisions**

**Article 56** The competent administrative department for real estate at the municipal level may formulate the sample texts of real estate transaction contract and presale contract of commercial houses according to the provisions of Article 17 and Article 36 of these Measures.

**Article 57** These Measures shall be effective as of December 1, 2003. The Provisions of Beijing Municipality on Several Specific Issues in Implementation of the Regulations on Administration of Privately Owned Houses in Cities promulgated by the Municipal People's Government on August 11, 1984 and the Interim Provisions of Beijing Municipality on Administration of House Transactions promulgated by the Municipal People's Government on September 15, 1988 shall be repealed simultaneously.

# 北京市实施《住房公积金管理条例》若干规定

(2006年1月6日北京市人民政府第164号令公布)

**第一条** 为实施国务院《住房公积金管理条例》，结合本市实际情况，制定本规定。

**第二条** 本市行政区域内住房公积金的缴存、提取、使用、管理和监督，应当遵守国务院《住房公积金管理条例》和本规定。

**第三条** 北京住房公积金管理委员会（以下简称管委会）是本市住房公积金管理的决策机构。

管委会委员中，市人民政府负责人，房改、财政和审计等部门负责人，人民银行、国务院机关事务管理局和中共中央直属机关事务管理局等有关部门代表，法律、金融和住房等方面有关专家占三分之一；工会代表和职工代表占三分之一；单位代表占三分之一。在管委会中，中央国家机关、中共中央直属机关和北京铁路系统的委员占三分之一。

**第四条** 北京住房公积金管理中心（以下简称管理中心）为直属市人民政府、不以营利为目的的独立的事业单位，负责承办管委会决定的有关事项，依法履行本市住房公积金管理运作及执法监督等职责。

管理中心设立中央国家机关分中心、中共中央直属机关分中心和北京铁路分中心。分中心的业务范围按照国家和本市有关规定确定。

**第五条** 下列单位及其在职职工应当缴存住房公积金：

- （一）国家机关；
- （二）国有企业、城镇集体企业、外商投资企业、城镇私营企业、其他城镇企业；
- （三）事业单位；

# Several Provisions of Beijing Municipality on Implementation of the Regulations on Management of Housing Provident Fund

(Promulgated by Decree No.164 of the People's Government of Beijing  
Municipality on January 6, 2006)

**Article 1** These Provisions are formulated for the purpose of implementing the Regulations of the State Council on Management of Housing Provident Fund and in light of the actual circumstances of this Municipality.

**Article 2** The payment and deposit, withdrawal, use, management and supervision of housing provident fund within the administrative area of this Municipality shall comply with the Regulations of the State Council on Management of Housing Provident Fund and these provisions.

**Article 3** Beijing Housing Provident Fund Management Committee (hereinafter referred to as the Management Committee) is the policy-making organ for the management of housing provident fund in this Municipality.

Of the members of the Management Committee, one third shall be responsible persons from the Municipal People's Government, the departments of housing reform, finance and auditing as well as other departments, representatives from the People's banks, the Government Offices Administration of the State Council, the Administration of Government Offices Directly Subordinate to the Central Committee of the Communist Party and other departments, and experts in the field of legal, financial and housing affairs; on third representative of trade unions and staff and workers; and one third representatives of units. In the Management Committee, the members from the Central State organs, the organs directly subordinate to the Central Committee of the Communist Party and Beijing railway system shall account for one third.

**Article 4** Beijing Housing Provident Fund Management Center (hereinafter referred to as the Management Center) is an independent nonprofit institution directly subordinate to the Municipal People's Government which shall be responsible for undertaking the relevant matters decided by the Management Committee and performing such duties as management and operation of the housing provident fund of this Municipality as well as supervision of law-enforcement in accordance with law.

The Management Center sets up the sub-center of Central State Organs, the sub-center of organs directly subordinate to the Central Committee of the Communist Party and the sub-center of Beijing Railway. The business scope of each sub center shall be defined in accordance with the provisions of the State and this Municipality.

**Article 5** The following unit as well as their staff and workers on the job shall pay and deposit the housing provident fund:

- (1) the State organs;
- (2) State-owned enterprises, collectively owned enterprises in urban areas, foreign-invested enterprises, privately-owned enterprises in urban areas and other township enterprises;
- (3) public institutions;

（四）民办非企业单位；

（五）社会团体。

其他单位及其在职职工可以按照双方自愿的原则缴存住房公积金。

**第六条** 管委会根据本市经济、社会发展等具体情况，可以适时拟定住房公积金缴存比例的调整方案，报市人民政府批准后，向社会公布执行。

**第七条** 管理中心应当于每年 7 月 31 日前，向社会发布住房公积金对账公告。

管理中心或者受委托银行应当于每年 8 月 31 日前，向单位及其在职职工发放住房公积金对账凭证。

管理中心或者受委托银行应当向缴存单位和缴存职工提供准确、便捷的住房公积金账户信息查询服务。

管理中心、受委托银行及其相关工作人员应当对职工的住房公积金账户信息保密。

**第八条** 管理中心应当为住房公积金缴存职工发放住房公积金卡或者住房公积金存折，作为缴存住房公积金的有效凭证。

**第九条** 单位应当依法为职工办理住房公积金账户的设立、转移、封存、注销等相关手续。

单位不为职工办理住房公积金账户转移、封存和提取等手续的，职工可以凭有效证明材料申请管理中心督促单位办理，经督促仍不办理的，管理中心可以依职工申请办理。

**第十条** 单位应当按时、足额缴存住房公积金，不得少缴、多缴或者逾期缴存。

单位多缴住房公积金的，管理中心应当依法退回。

缴存住房公积金确有困难的单位，可以按照规定申请降低缴存比例或者缓缴，每次申请期限不超过 1 年。

**第十一条** 单位合并、分立时，应当为职工补缴未缴和少缴的住房公积金。无力补缴的，应当在办理有关手续前，明确住房公积金缴存责任主体。

- (4) private non-enterprise units; and
- (5) associations.

Other units as well as their staff and workers on the job may pay and deposit the housing provident fund based on the principle of voluntariness.

**Article 6** The Management Committee shall, at the appropriate time, draw up a plan adjusting the payment and deposit rates for housing provident fund in light of the specific circumstances of economic and social development in this Municipality, and after reporting it to and obtaining the approval from the Municipal People's Government, make it known to the public for implementation.

**Article 7** The Management Center shall release an announcement of checking up the accounts of housing provident fund to the public before July 31 each year.

The Management Center or commissioned banks shall send the certificates of checking up the accounts of housing provident fund to the units as well as their staff and workers on the job before August 31 each year.

The Management Center or commissioned banks shall provide the units as well as their staff and workers who have paid and deposited the housing provident fund with concise and convenient information service of inquiring the housing provident fund accounts.

The Management Center, commissioned banks and their working staff shall maintain confidentiality of the information of housing provident fund accounts of the staff and workers.

**Article 8** The Management Center shall issue a card of housing provident fund or deposit book of housing provident fund to each staff or worker who has paid and deposited housing provident fund as a valid receipt of payment and deposit of housing provident fund.

**Article 9** The units shall go through the relevant formalities of opening, transferring, sealing up or canceling the housing provident fund accounts for their staff and workers in accordance with law.

Where a unit fails to go through the relevant formalities of housing provident fund account opening, transfer or withdrawal for their staff or workers, the staff or workers may, on the strength of the valid evidencing materials, apply to the Management Center for urging the unit to complete these formalities; where the unit still refuses to complete these formalities after being urged, the Management Center may undertake these formalities upon the application of the staff or workers.

**Article 10** A unit shall pay and deposit housing provident fund on schedule and in full, and may not underpay or overpay the housing provident fund or be overdue in the payment and deposit.

Where a unit overpaid the housing provident fund, the Management Center shall return the extra amount back according to law.

A unit which really has difficulty in paying and depositing the housing provident fund may apply for lowering the payment and deposit rate or deferring the payment in accordance with provisions and the time limit of each application shall not exceed one year.

**Article 11** A unit, when merged or divided, shall make up payment of the unpaid or underpaid housing provident fund for its staff and workers. The unit which is unable to make up the payment shall clarify the responsibility for paying and depositing the housing

单位撤销、解散或者破产时，应当按照国家和本市有关规定，清偿欠缴的职工住房公积金。

**第十二条** 在管理中心缴存住房公积金的在职职工和在职期间缴存住房公积金的离退休职工，购买、建造、翻修、大修自住住房时可以申请住房公积金贷款，也可以在办理商业银行个人住房贷款时，申请管理中心给予贴息。贴息的具体办法由管委会制定。

**第十三条** 住房公积金贷款的最高贷款额度由管理中心根据本市的住房价格、政策、职工购买能力及公积金的资金状况等拟订，报管委会批准后公布实施。

**第十四条** 住房公积金的增值收益用于住房公积金贷款风险准备金、管理中心管理费用以及按照规定解决低收入家庭住房困难问题所需资金。

**第十五条** 审计部门应当对管理中心进行年度审计监督，并依法向社会公告审计结果。

**第十六条** 管理中心可以对未按照规定缴存住房公积金的单位进行检查。

单位应当如实提供用人情况以及工资、财务报表等与缴存住房公积金有关的资料。

管理中心应当对单位提供的资料保密。

**第十七条** 单位拒绝管理中心检查、不如实提供用人情况以及工资、财务报表等与缴存住房公积金有关的资料的，由管理中心责令改正，拒不改正的，可以处 500 元以上 1000 元以下罚款。

**第十八条** 本规定自 2006 年 3 月 1 日起施行。

provident fund before going through the relevant formalities.

A unit, when dismantled, dissolved or bankrupt, shall pay off the unpaid housing provident fund for its staff and workers in accordance with the relevant provisions of the State and this Municipality.

**Article 12** When purchasing, constructing, renovating or rebuilding their self-occupied housing, the staff and workers on the job who have paid and deposited the housing provident fund in the Management Center as well as the staff and workers leaving their posts for rest and retirement who have paid and deposited the housing provident fund when in position may apply for housing provident fund loans and also, when applying for individual housing loans to the commercial banks, apply to the Management Center for interest discounts. The specific measures concerning the interest discount shall be formulated by the Management Committee.

**Article 13** The highest quota of housing provident fund loan shall be drawn up by the Management Center in light of the housing price and policy, the purchasing power of staff and workers, the financial situation of the housing provident fund and other circumstances in this Municipality, and after being reported to and approved by the Management Committee, made known to the public for implementation.

**Article 14** The appreciated proceeds of housing provident fund shall be used as the risk reserve fund for the housing provident fund loans, the managerial expenses of the Management Center and the fund needed for solving the housing problems of low-income families in accordance with provisions.

**Article 15** The auditing departments shall carry out annual auditing supervision over the Management Center and publicize the auditing results in accordance with law.

**Article 16** The Management Center may carry out inspection over the units failing to pay and deposit the housing provident fund in accordance with provisions.

The units shall truthfully provide the information concerning the employment of staff and workers, the salary and financial reports and other materials relating to payment and deposit of housing provident fund.

The Management Center shall maintain confidentiality of the materials provided by the units.

**Article 17** A unit which refuses the inspection of the Management Center, fails to truthfully provide the information concerning the employment of staff and workers, the salary and financial reports and other materials relating to payment and deposit of housing provident and shall be ordered to make corrections by the Management Center and in the case of refusing to make such corrections, may be imposed a fine not less than 500 Yuan but not more than 1,000 Yuan.

**Article 18** These Provisions shall be effective as of March 1, 2006.



# 北京市房屋租赁管理若干规定

(2007 年 11 月 3 日北京市人民政府第 194 号令发布 根据  
2011 年 5 月 5 日北京市人民政府第 231 号令修改 )

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## 第一章 总 则

**第一条** 为了加强房屋租赁管理,维护社会秩序,保护房屋租赁当事人的合法权益,根据有关法律、法规,结合本市实际情况,制定本规定。

**第二条** 本市行政区域内的房屋租赁依照本规定管理。

**第三条** 房屋租赁管理坚持管理与服务相结合的原则,实行属地管理。

**第四条** 本市各级人民政府应当加强对房屋租赁管理工作的领导,建立出租房屋管理机构。出租房屋管理机构具体负责房屋租赁管理的组织、指导、协调、监督等综合管理工作。

公安机关负责出租房屋治安管理、消防管理和租赁当事人的户籍管理。

建设(房屋)行政部门负责房屋租赁市场、出租房屋建筑结构安全的监督管理和房地产经纪的行业管理。

工商行政管理部门负责对经纪活动进行综合监督管理,查处利用出租房屋进行无

# Several Provisions of Beijing Municipality on House Lease Administration

(Promulgated by Decree No. 194 of the People's Government of Beijing Municipality on November 3, 2007, and revised by Decree No. 231 of the People's Government of Beijing Municipality on May 5, 2011)

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## Chapter I General Provisions

**Article 1** These Provisions are formulated in accordance with relevant laws and regulations, by taking into account the particular situation of this Municipality for the purposes of strengthening house lease administration, maintaining the social order and protecting the lawful rights and interests of the parties of lease.

**Article 2** House lease within the administrative area of this Municipality shall be governed in accordance with these Provisions.

**Article 3** The principle of combining exercise of administration with provision of services shall be adhered to in house lease administration, in which the system of territorial jurisdiction shall be implemented.

**Article 4** The people's government at all levels in this Municipality shall strengthen their leadership over house lease administration and set up house lease administration agencies. The house lease administration agencies shall be specifically responsible for such comprehensive work as organization, guidance, coordination and supervision of house lease administration.

The public security organs shall be responsible for the administration of public security and fire prevention of leased houses as well as the administration of household registration of the parties of lease.

The administrative departments for construction (houses) shall be responsible for the supervision and administration of the house lease market and the safety of constructional structures of leased houses as well as the industrial administration of real estate brokerage industry.

The administrative departments for industry and commerce shall be responsible

照经营等违法经营行为。

民防行政部门负责人防工程的租赁管理。

卫生、人口计生、规划、税务、国家安全和城市管理综合执法等行政部门应当按照各自职责做好房屋租赁的管理工作。

**第五条** 区、县人民政府应当在社区、村建立负责房屋租赁管理、服务的基层管理服务站（以下简称基层管理服务站），并保障其工作所需的经费、办公场所。

**第六条** 居民委员会、村民委员会等基层组织应当协助有关行政部门做好房屋租赁管理工作，督促出租人、承租人自觉遵守国家和本市房屋租赁管理规定。

居民委员会、村民委员会可以根据本地区实际，组织居民制定房屋租赁管理公约，对房屋租赁实行自治管理。

**第七条** 租赁房屋的，出租人和承租人应当依法签订房屋租赁合同。合同内容应当包括房屋基本情况、租金、租赁期限、租赁用途、违约责任等。

房屋租赁期限内未经承租人同意，出租人不得擅自缩短租赁期限、增加租金。

市建设（房屋）行政部门应当会同市工商行政管理部门制定房屋租赁合同示范文本，向社会公布。

**第八条** 出租人出卖租赁房屋的，应当在出卖之前的合理期限内通知承租人，承租人享有以同等条件优先购买的权利。

房屋在租赁期限内因买卖、继承、赠与等发生所有权变动的，不影响租赁合同的效力。

**第九条** 本市鼓励、支持出租人和承租人签订长期居住租赁合同，建立稳定的租赁关系。

租赁市场在短期内出现租金较大波动等异常变化，市人民政府可以授权市发展改革、市建设（房屋）等行政部门采取必要的临时干预措施，稳定租赁市场。

**第十条** 市和区、县人民政府应当制定计划，通过建设、收购等多种方式提供廉租房、公共租赁房。

本市鼓励企业、个人投资建设公共租赁房。

for the comprehensive supervision and administration of brokerage activities, and for the investigation into and punishment of such illegal business activities as engaging in unlicensed business activities by making use of leased houses.

The administrative departments for civil air defense shall be responsible for the lease administration of civil air defense projects.

The administrative departments for public health, population and family planning, planning, taxation, national security, comprehensive law enforcement in urban administration, etc. shall bring success to the work of house lease administration in accordance with their respective duties.

**Article 5** The people's governments at the district or county level shall set up grass-root administration and service stations in communities and villages responsible for house lease administration and services (hereinafter referred to as grass-root administration and service stations) and ensure the funds and offices needed in their work.

**Article 6** Residents, committees, villagers, committees and other grass-root organizations shall assist the administrative departments concerned to bring success to the work of house lease administration and urge lessors and lessees to consciously abide by the regulations of the State and this Municipality on house lease administration.

Residents' committees and villagers' committees may, in light of actual local conditions, organize residents and villagers to make conventions on house lease management so as to carry out self-management of house lease.

**Article 7** For house lease, the lessor and the lessee shall, in accordance with law, conclude a house lease contract, the contents of which shall include the basic status of the house, the rent, lease term, purpose of lease and breach of contract.

Without consent of the lessee, the lessor shall not shorten the lease term or increase the rent within the lease term without authorization.

The administrative department for construction (houses) at the municipal level shall, together with the administrative department for industry and commerce at the municipal level, formulate a model text of house lease contracts and publicize it to the society.

**Article 8** Where the lessor intends to sell the house leased, he shall inform the lessee within a reasonable period prior to the sale, and the lessee shall, under the same condition, enjoy the priority in purchasing the said house.

Within the lease term, the change of ownership of the house due to such reasons as sale, inheritance or donation shall not affect the effectiveness of the house lease contract.

**Article 9** This Municipality encourages and supports the lessor and the lessee to conclude a long-term house lease contract to establish a stable relationship of house lease.

Where there is any abnormal change in the house lease market, such as a significant change of rent in a short time, the Municipal People's Government may authorize the administrative department for development and reform and the administrative department for construction (houses) at the municipal level to take necessary provisional measures to stabilize the house lease market.

**Article 10** The people's governments at the municipal and the district or county level shall make plans to provide low rent houses and public rental houses by a variety of means such as construction and purchase.

This Municipality encourages individuals and enterprises to invest in construction of public rental houses.

## 第二章 出租登记

**第十一条** 租赁房屋用于居住的，应当进行出租登记。

出租人应当自与承租人订立房屋租赁合同之日起7日内，到房屋所在地的基层管理服务站办理房屋出租登记手续，并填报下列内容：

（一）出租人、承租人姓名或者名称、证件种类和号码、住所地，实际居住人员的姓名、身份证件种类和号码、户籍地；

（二）出租房屋的基本情况、租金和租赁期限；

（三）房屋权属证书或者房屋来源证明；

（四）本市规定的其他内容。

**第十二条** 房屋租赁合同变更或者终止的，出租人应当自合同变更或者终止之日起5日内，到房屋所在地的基层管理服务站办理登记变更、注销手续。

在房屋租赁合同有效期内，居住人员发生变更的，承租人应当自变更之日起2日内告知基层管理服务站，办理变更登记手续。

**第十三条** 房地产经纪机构从事房屋租赁居间活动，应当书面告知租赁当事人到房屋所在地基层管理服务站办理房屋出租登记手续；提供房屋租赁经纪委托代理业务的，房地产经纪机构应当按照本规定第十一条、第十二条第一款的规定，办理房屋出租登记、变更、注销手续或者按照市建设（房屋）行政部门的规定通过房屋租赁合同网上备案系统填报相关信息。

**第十四条** 基层管理服务站应当为办理房屋出租登记的当事人提供下列服务：

（一）宣传有关房屋租赁管理的规定和安全使用房屋的知识；

（二）告知有关人员办理流动儿童入学、国家免疫规划项目的预防接种、计划生育免费技术服务等事项的规定和流程；

（三）根据当事人的要求出具与房屋租赁有关的证明；

（四）受当事人委托，提供办理暂住登记、暂住证件，办理普通地下室登记备案，交验、登记流动人口婚育证明，纳税代办服务等；

## Chapter II Lease Registration

**Article 11** Lease registration shall be undertaken for house lease for living.

The lessor shall, within seven days from the date of conclusion of the house lease contract with the lessee, go through the house lease registration formalities with the grass-root administration and service station of the place where the house is located and report the following particulars:

- (1) the names or titles of the lessor and the lessee, the types and numbers of their certificates and the places of their domiciles; the names of the actual dwellers, the types and numbers of their certificates, and their registered permanent residences;
- (2) the basic status of the leased house, the rent and lease term;
- (3) the house ownership certificate or the paper certifying the source of the house; and
- (4) other contents required by this Municipality.

**Article 12** Where the house lease contract is modified or terminated, the lessor shall, within five days from the date of modification or termination, go through the formalities of modification or cancellation of registration with the grass-root administration and service station of the place where the house is located.

Where the dweller changes within the valid period of the house lease contract, the lessor shall, within two days from the date of change, notify the grass-root administration and service station and go through the formalities of change of registration.

**Article 13** When offering breakage services of house lease, the real estate brokerage institution shall notify the parties of lease in writing to go through the house lease registration formalities with the grass-root administration and service station of the place where the house is located; where offering agency services of house lease, the real estate brokerage institution shall go through the registration, modification and cancellation formalities in accordance with the provisions of Article 11 and Paragraph 1 of Article 12, or fill out relevant information in the online registration system of house lease contracts in accordance with the provisions of the administrative department for construction (houses) at the municipal level.

**Article 14** The grass-root administration and service station shall offer the following services to the parties who go through house lease registration formalities:

- (1) making publicity of relevant provisions on house lease administration and the knowledge about safe use of houses;
- (2) informing the people concerned of the rules and procedures with respect to such issues as school admittance of migrant children, prophylactic immunization covered by the national immunization program and free technological services offered for family planning;
- (3) as required by the parties, issuing certifying papers related to house lease;
- (4) as entrusted by the parties, offering such services as handling temporary residence registration and certificates, handling registration of common basements, examining and registering marriage and childbirth certificates of migrants, and paying tax as agents;

（五）提供维权服务信息；

（六）市和区、县人民政府规定的其他服务项目。

**第十五条** 基层管理服务站办理出租登记、为当事人提供服务，不得收取任何费用。基层管理服务站不得从事或者变相从事经营性活动。

### 第三章 管理规范

**第十六条** 出租房屋的安全由房屋所有人负责。房屋承租人应当对其使用行为负责。

房屋所有人将出租登记的房屋委托他人管理的，应当书面报告房屋所在地的基层管理服务站。

**第十七条** 出租房屋的建筑结构和设备设施，应当符合建筑、消防、治安、卫生等方面的安全条件，不得危及人身安全。

禁止将违法建筑和其他依法不得出租的房屋出租。

**第十八条** 出租人有权对承租人使用房屋的情况进行监督。出租人不得向无身份证明的人出租房屋；不得以出租房屋的方式为非法生产经营活动提供便利条件；发现承租人利用出租房屋有犯罪活动嫌疑的，及时向公安机关报告。

出租人出租房屋的收入，应当依法纳税。

**第十九条** 承租人应当配合出租人进行房屋出租登记；不得擅自改变承租房屋的规划设计用途，不得利用租赁房屋从事非法生产、加工、储存、经营爆炸性、毒害性、放射性、腐蚀性物质或者传染病病原体等危险物质和其他违法活动，不得损害公共利益或者妨碍他人正常工作、生活。

**第二十条** 出租房屋人均居住面积不得低于本市规定的标准。具体标准由市建设（房屋）行政部门会同市公安、市规划、市卫生等有关行政部门制定。

不得将厨房、卫生间、阳台、地下储藏室等作为卧室出租供人员居住。

**第二十一条** 集中出租房屋供他人居住，出租房间达到 10 间以上或者出租房屋

- (5)providing information about right-safeguarding services; and
- (6)offering other services as required by the People’s governments at the municipal and the district or county level.

**Article 15** The grass-root administration and service stations shall not charge any fees for handling lease registration and providing services. The grass-root administration and service stations shall not engage in business activities or engage in business activities in a disguised form.

### **Chapter III Administration Norms**

**Article 16** The house owner shall be responsible for the safety of the leased house. The lessee shall be responsible for his use of the house.

Where the house owner entrusts another person with the management of the leased house registered, he shall report in writing to the grass-root administration and service station of the place where the house is located.

**Article 17** The constructional structure, equipment and facilities of the leased house shall conform to the requirement for safety of construction, fire prevention, public security and public health, and shall not endanger personal safety.

It is forbidden to lease out any illegally constructed buildings and other houses that cannot be leased out in accordance with law.

**Article 18** The lessor shall be entitled to supervise the use of the house by the lessee. The lessor shall not lease the house out to persons with no identity certification and shall not provide convenience to any illegal production and business activities by means of house lease, if finding that the lessee is suspected of committing a criminal act by making use of the leased house, the lessor shall report to the public security organ without any delay.

The lessor shall pay tax in accordance with law on the income from house lease.

**Article 19** The lessee shall cooperate with the lessor to go through the house lease registration formalities; and shall not, without authorization, change the designed purpose of the leased house, or use the leased house to engage in illegal production, processing, storage or operation of explosive, poisonous, radioactive or corrosive substances, pathogens of infective diseases or other hazardous substances or engage in other illegal activities, and shall not harm public interests or hinder the normal work and life of others.

**Article 20** The per capita living space in a leased house shall not be less than the standard prescribed by this Municipality. The specific standard shall be formulated by the administrative department for construction (houses) at the municipal level together with other relevant administrative departments for public security, planning, public health, etc. at the municipal level.

Kitchens, bathrooms, balconies and underground storage rooms shall not be leased out as bedrooms for people’s living.

**Article 21** The lessor who leases houses out to others for living in a concentrated way where the leased houses are more than ten or there are more than 15 people living in the leased houses, shall establish a corresponding management system, designate specific management personnel, set equipment and facilities for security precaution and fire



居住人员达到 15 人以上的，出租人应当建立相应的管理制度，明确专门的管理人员，设置监控、灭火等治安防范、消防设备设施和安全通道，并建立信息登记簿或者登记系统。

单位承租房屋作为集体宿舍供本单位职工居住的，单位应当按照前款规定履行安全管理职责。

公安机关应当统一印制出租房屋多人居住登记簿册供出租人免费领取。

**第二十二条** 向境外单位、人员出租、转租、转借房屋，或者承租人留住境外人员的，出租人、承租人应当遵守国家和本市有关国家安全管理的规定。

**第二十三条** 房屋管理单位应当按照下列规定对房屋进行安全管理：

- （一）建立房屋安全管理制度，落实各项管理措施。
- （二）按规定对所管房屋进行安全检查，并将安全检查情况予以记录，妥善保存。
- （三）按照有关行政部门或者基层管理服务站的要求提供房屋安全检查结果。
- （四）发现危及房屋使用安全或者其他违法行为的，立即制止，并督促责任人改正；拒不改正的，及时报告房屋所在地有关行政部门依法处理。

**第二十四条** 公安、工商行政管理、民防、卫生、文化、新闻出版、教育等行政部门在办理相关行政许可时依法应当审查活动场所的，应当审查租赁房屋的使用用途是否符合规划设计用途，是否符合法律、法规、规章有关活动场所的规定；不符合的，不予办理相关行政许可。

**第二十五条** 从事房屋租赁经纪业务的机构应当依法成立，取得营业执照，符合国家和本市规定的条件，并应当自成立之日起 30 日内，将机构和从业人员的基本情况等信息报送所在区、县建设（房屋）行政部门。

从事房屋租赁经纪活动的人员，应当取得相应的房地产经纪资格证书。未取得房地产经纪资格证书的人员，不得从事房屋租赁经纪活动。

**第二十六条** 本市对房屋租赁经纪委托代理业务实行银行代收代付、风险准备金、客户资金与自有资金分帐户管理等资金监管制度。具体办法由市建设（房屋）行政部门会同有关部门制定。

prevention and safety passages for monitoring and fire-fighting, and prepare an information register or a registration system.

Where a unit leases a house as the dormitory for its employees to live in, the unit shall perform the duties of safety management in accordance with the provisions of the preceding paragraph.

The public security organs shall, in a uniform way, print the registers for rented houses with multiple people living in for lessors receipt free of charge.

**Article 22** Where a house is leased out, sub-leased out or sub-lent to overseas organizations or persons, or the lessee accommodates overseas persons, the lessor and the lessee shall abide by the relevant regulations of the State and this Municipality on the administration of national security.

**Article 23** The house management unit shall carry out house safety management in accordance with the following provisions:

(1) developing house safety management systems and putting into effect all kinds of management measures;

(2) carrying out safety examination on houses managed by it in accordance with provisions, taking records of the examination and well keeping these records;

(3) providing the results of safety examination on houses according to the requirements of relevant administrative departments or the grass root administration and service station; and

(4) If finding acts endangering safe use of houses or other illegal acts, immediately stopping such acts and urging the accountable persons to make corrections, where the accountable persons refuse to make corrections, timely reporting to relevant administrative departments of the places where the houses are located for disposal in accordance with law.

**Article 24** Where the administrative departments for public security, industry and commerce, civil air defense, public health, culture, press and publication, education, etc. shall, in the issuance of administrative licenses, examine the activity places in accordance with law, they shall check whether the purpose of use of the leased house conform to the designed purposes of the house or the provisions on activity places in relevant laws, regulations or rules, where there is any inconformity, the administrative licenses shall not be issued.

**Article 25** The institutions that engage in brokerage business of house lease shall be ones established in accordance with law, have acquired business licenses, comply with the requirements set forth by the State and this Municipality, and within 30 days from the date of its establishment, submit the basic information of the institutions and staff members to the administrative departments for construction (houses) at the district or county level.

Persons who engage in brokerage activities of house lease shall have acquired corresponding qualification certificates for real estate brokers. Those who have not acquired the qualification certificates for real estate brokers shall not engage in brokerage activities of house lease.

**Article 26** This Municipality adopts such capital regulation systems for agency services by brokers of house lease as the collection and payment by banks, risk reserves, management of customers, capitals and self-owned capitals in separate accounts. The

**第二十七条** 房地产经纪机构及其经纪人员从事房屋租赁经纪业务，应当遵守下列规定：

- （一）在经营场所公示服务内容、服务标准、房地产经纪资格证书复印件。
- （二）房屋租赁经纪业务，由房地产经纪机构统一受理并与委托人签订书面经纪合同，统一收取佣金、开具发票。房地产经纪人员不得以个人名义承揽业务。
- （三）房地产经纪人员不得同时在两个或者两个以上房地产经纪机构执行业务。
- （四）不得伪造、变造、买卖、租借房地产经纪资格证书。
- （五）不得占用、挪用或者拖延支付客户资金。
- （六）不得居间、代理出租不符合出租条件的房屋。
- （七）不得违反有关规定从事居间、代理业务范围以外的其他经营活动。

## 第四章 监督检查

**第二十八条** 建设（房屋）行政部门应当建立房屋租赁市场信息系统，为单位和个人提供房屋租赁市场信息、房地产经纪机构经纪活动信用记录等租赁信息服务。

**第二十九条** 本市按照统一规划、资源共享的原则，建立房屋租赁综合管理信息系统平台，对房屋租赁信息实行动态管理。

管理、使用房屋租赁信息的部门及其工作人员，应当对房屋租赁信息保密，维护当事人的合法权益。

**第三十条** 公安、建设（房屋）、工商行政管理、民防、卫生、人口计生、规划、文化、教育、税务和城市管理综合执法等行政部门应当建立执法责任制，落实对房屋租赁管理的监督检查责任；在执法中发现不属于本部门查处的违法行为的，应当及时告知同级出租房屋管理机构，出租房屋管理机构应当及时告知有关行政部门依法查处。

房屋管理单位、房地产经纪机构、房屋租赁当事人应当配合有关行政部门对房屋租赁进行管理。

**第三十一条** 市和区、县有关行政部门，街道办事处，乡、镇人民政府应当按照

specific measures shall be worked out by the administrative departments for construction (houses) at the municipal level jointly with other departments concerned.

**Article 27** The real estate brokerage institution and its brokers shall abide by the following provisions when engaging in brokerage business of house leases:

(1) post the contents and standards of its services and the copies of its brokers' qualification certificates for real estate brokers at its business place;

(2) the real estate brokerage institution shall uniformly accept brokerage business of house lease and enter into a written brokerage contract with the trustor, uniformly collect brokerage fees and issue invoices. No real estate broker may undertake business in his own name; shall not appropriate or delay the payment to client;

(3) the real estate brokers shall not engage in brokerage business in two or more real estate brokerage institutions concurrently;

(4) shall not forge, alter, trade in, lease out qualification certificates for real estate brokers;

(5) shall not occupy, embezzle or delay the payment of customers' funds;

(6) shall not engage in brokerage business or offer agency services to lease out a house not conforming to the requirements for leasing; and

(7) shall not, in violation of relevant provisions, engage in other activities than brokerage and agency.

## **Chapter IV Supervision and Examination**

**Article 28** The administrative departments for construction (houses) shall establish an information system of house lease market to provide units and individuals with house lease information services such as information of house lease market and credit records of real estate brokerage institutions.

**Article 29** This Municipality shall, in accordance with the principles of uniform planning and resource sharing, set up a platform of comprehensive administration information system on house lease and carry out dynamic administration of house lease information.

The departments administering or using house lease information and their staff shall keep house lease information secret and safeguard the lawful rights and interests of the parties.

**Article 30** The administrative departments for public security, construction (houses), industry and commerce, civil air defense, public health, population and family planning, planning, culture, education, taxation, comprehensive law enforcement in urban administration, etc. shall establish law enforcement responsibility systems to fulfill the duty of supervision and inspection of house lease administration; when an illegal act found is beyond its own jurisdiction in law enforcement, the department shall timely inform the house lease administration agency at the same level, and the house lease administration agency shall timely inform relevant administrative department to investigate and handle the case in accordance with law.

The house management units, real estate brokerage institutions and parties of lease

各自职责，做好对基层管理服务站及其工作人员的培训、指导工作。

**第三十二条** 基层管理服务站应当建立巡视制度，采集房屋租赁信息，对房屋租赁情况进行日常检查，并做好下列工作：

- （一）发现登记信息不实的，予以更正；
- （二）发现未登记的，进行补登；
- （三）发现房屋存在安全隐患的，督促出租人或者承租人进行整改；
- （四）发现违反治安、消防、卫生、计划生育、建筑结构安全等管理规定的违法行为，报告上级出租房屋管理机构或者其他有关行政部门。

**第三十三条** 建设（房屋）、工商行政管理等行政部门对房地产经纪机构履行监督检查职责时，可以检查有关资料，了解房地产经纪业务情况和客户资金、风险准备金等方面的管理情况；可以要求被检查单位提供房地产经纪机构营业执照、房地产经纪人员资格证书。

建设（房屋）、工商行政管理等行政部门可以根据国家和本市有关规定向社会公布监督检查的有关信息。

## 第五章 法律责任

**第三十四条** 具有房屋租赁管理职责的行政部门及其工作人员玩忽职守、滥用职权、徇私舞弊的，由其上级部门或者监察机关责令改正；情节严重的，对直接负责的主管人员和其他直接责任人员依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第三十五条** 对违反本规定的下列行为，由公安机关按照下列规定处罚：

- （一）出租人、承租人、房地产经纪机构未按照本规定第十一条、第十二条规定办理房屋出租登记、变更、注销手续的，责令改正，处 200 元以上 500 元以下罚款。
- （二）违反本规定第十七条规定，出租的房屋存在治安、消防安全隐患的，责令改正，并可处 1000 元以上 3 万元以下罚款。
- （三）违反本规定第十八条第一款规定，出租人向无身份证明的人出租房屋，或

shall cooperate with the administrative departments concerned to carry out house lease administration.

**Article 31** The relevant administrative departments at the municipal and the district or county level, the sub-district offices, and the People's government at the town or township level shall, in accordance with their respective duties, bring success to the work of training and guiding grass-root administration and service stations and their staff.

**Article 32** The grassroots administration and service station shall set up a patrol system to collect house lease information, carry out daily examination of house lease and bring success to the following work:

- (1) making corrections if finding untrue information;
- (2) making supplementary registration if finding unregistered items;
- (3) urging the lessor or lessee to make rectification if finding hidden dangers to the safety of a house, and
- (4) reporting to the superior house lease administration agency or other administrative departments concerned if finding an illegal act in violation of the provisions on public security, fire prevention, public health, family planning or safety of constructional structure.

**Article 33** When fulfilling the duty of supervision and examination of real estate brokerage institutions, the administrative departments for construction (houses), industry and commerce may examine relevant materials, get to know the situation of real estate brokerage business and the management of customers, funds and risk reserves, and may request the units being examined to provide their business licenses of real estate brokerage institutions and qualification certificates for real estate brokers.

The administrative departments for construction (houses), and industry and commerce may, in accordance with relevant regulations of the State and this Municipality, make relevant supervision and examination information public to the society.

## Chapter V Legal Liability

**Article 34** Where an administrative department with the duty of house lease administration or any of its staff neglects the duty, abuses the power, or commits illegalities for personal gains or by fraudulent means, its superior department or the supervisory organ shall order to make corrections; where the circumstances are serious, the directly responsible person in charge and other directly responsible persons shall be given an administrative sanction; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 35** Whoever, in violation of these Provisions, commits the following acts, shall be penalized by the public security organ in accordance with the following provisions:

- (1) where the lessor, lessee or real estate brokerage institution fails to go through the house lease registration formalities or the formalities of modification or cancellation of registration as provided for in Article 11 or Article 12 of these Provisions, an order to make corrections shall be issued thereto and a fine of not less than 200 Yuan but not more than 500 Yuan shall be imposed thereupon;
- (2) where Article 17 of these Provisions is violated and the leased house has hidden dangers to public security or fire prevention, an order to make corrections shall be issued and a fine of not less than 1,000 Yuan but not more than 30,000 Yuan may be imposed thereupon simultaneously;
- (3) where a lessor, in violation of Paragraph 1 of Article 18 of these Provisions, leases

者发现承租人利用出租房屋有犯罪活动嫌疑，不向公安机关报告的，处 200 元以上 500 元以下罚款。

（四）违反本规定第十九条规定，承租人使用租赁房屋时损害公共利益或者妨碍他人正常工作、生活的，处警告，并责令改正；逾期拒不改正的，处 200 元以上 500 元以下罚款。

（五）违反本规定第二十一条第一款、第二款规定，出租人、单位未落实安全管理责任的，责令改正，并可处 1 万元以上 3 万元以下罚款；造成严重后果的，处 3 万元以上 10 万元以下罚款。

**第三十六条** 对违反本规定的下列行为，由建设（房屋）行政部门按照下列规定处罚：

（一）违反本规定第十七条规定，出租的房屋存在建筑安全隐患的，责令改正，并可处 1000 元以上 3 万元以下罚款。

（二）违反本规定第二十条规定，出租人违反出租房屋限制条件的，责令改正，情节严重的，可处 5000 元以上 3 万元以下罚款；房地产经纪机构及其经纪人员从事房屋租赁经纪业务违反出租房屋限制条件的，责令改正，处 3 万元以上 10 万元以下罚款。

（三）违反本规定第二十五条第一款规定，房地产经纪机构未按照规定报送相关信息的，责令改正，并可处 1 万元以上 3 万元以下罚款。

（四）违反本规定第二十六条规定，房地产经纪机构未落实资金监管制度的，责令改正，并处 1 万元以上 3 万元以下罚款。

（五）房地产经纪机构及其经纪人员从事房屋租赁经纪业务，违反本规定第二十七条第（二）项、第（三）项、第（六）项规定，或者违反第（四）项规定，租借房地产经纪资格证书的，责令改正，处 1 万元以上 3 万元以下罚款。

**第三十七条** 对违反本规定的下列行为，由工商行政管理部门按照下列规定处罚：

（一）违反本规定第二十五条第二款规定，房地产经纪机构使用未取得房地产经纪资格证书的人员从事房屋租赁经纪活动的，处 1 万元以上 3 万元以下罚款；



a house out to a person with no identity certification, or fails to report to the public security organ if finding that the lessee is suspected of committing a criminal act by making use of the leased house, a fine of not less than 200 Yuan but not more than 500 Yuan shall be imposed thereupon;

(4) where a lessee, in violation of Article 1, of these Provisions, harms public interests or hinders the normal work and life of others when using the leased house, the lessee shall be given a warning and be ordered to make corrections, where he refuses to make corrections upon expiry of the time limits he shall be imposed a fine of not less than 200 Yuan but not more than 500 Yuan, And

(5) the lessor or the unit which, in violation of the provisions of Paragraph 1 and Paragraph 2 of Article 21, fails to fulfill its duty of safety management, shall be ordered to make corrections and may be imposed a fine of not less than 10,000 Yuan but not more than 30,000 Yuan simultaneously; where serious consequences are caused, a fine of not less than 30,000 Yuan but not more than 100,000 Yuan shall be imposed thereupon.

**Article 36** Whoever, in violation of these Provisions, commits the following acts shall be penalized by the administrative department for construction (houses) in accordance with the following provisions:

(1) whoever, in violation of the provisions of Article 17 of these Provisions, leases out a house with hidden dangers to building safety, shall be ordered to make corrections and may be imposed a fine of not less than 1,000 Yuan but not more than 30,000 Yuan simultaneously;

(2) the lessor, in violation of the provisions of Article 20 who violates the restricted conditions on house lease, shall be ordered to make corrections and may be imposed a fine of not less than 5,000 Yuan but not more than 30,000 Yuan simultaneously for serious circumstances, the real estate brokerage institution and its brokers who engage in brokerage business of house lease in violation of the restricted conditions on house lease shall be ordered to make corrections and imposed a fine of not less than 30,000 Yuan but not more than 100,000 Yuan;

(3) the real estate brokerage institution which, in violation of the provisions of Paragraph 1 of Article 25 of these Provisions, fails to submit relevant information in accordance with provisions, shall be ordered to make corrections and may be imposed a fine of not less than 10,000 Yuan but not more than 30,000 Yuan simultaneously;

(4) the real estate brokerage institution which, in violation of the provisions of Article 26 of these Provisions, fails to implement the fund supervision system, shall be ordered to make corrections and imposed a fine of not less than 10,000 Yuan but not more than 30,000 Yuan simultaneously;

(5) the real estate brokerage institution and its brokers which, in violation of the provisions of Item 2, Item 3 or Item 6 of Article 27, engage in real estate brokerage business of house lease, or in violation of the provisions of Item 4 of the same article, leases out qualification certificates for real estate brokers of house lease, shall be ordered to make corrections and imposed a fine of not less than 10,000 Yuan but not more than 30,000 Yuan.

**Article 37** Whoever, in violation of these Provisions, commits the following acts shall be penalized by the administrative department for industry and commerce in accordance with the following provisions:

(1) the real estate brokerage institution which, in violation of the provisions of Paragraph 2 of Article 25 of these Provisions, employs personnel who have not acquired qualification certificates for real estate brokers of house lease to engage in real estate



（二）违反本规定第二十七条第（一）项、第（五）项规定，房地产经纪机构违规经营的，责令改正，处1万元以上3万元以下罚款；

（三）违反本规定第二十七条第（七）项规定，房地产经纪机构违反有关规定从事居间、代理业务范围以外的其他经营活动，按照登记管理的有关规定进行处罚。

**第三十八条** 违反本规定第十七条规定，出租的房屋存在卫生安全隐患的，由卫生行政部门责令改正，并可处1000元以上3万元以下罚款。

**第三十九条** 出租人、承租人在房屋租赁活动中发生纠纷的，应当协商解决；协商不成，出租人、承租人可以向人民调解委员会、房地产中介行业协会、建设（房屋）行政部门或者其他相关单位申请调解，也可以依法申请仲裁或者提起诉讼。

**第四十条** 对违反本规定的行为，其他法律、法规、规章已经规定行政处罚的，由有关行政部门依法处理；构成犯罪的，依法追究刑事责任。

## 第六章 附 则

**第四十一条** 本规定自2008年1月1日起施行。1995年6月13日北京市人民政府第13号令发布，根据1997年12月31日北京市人民政府第12号令第一次修改，根据2004年6月1日北京市人民政府第150号令第二次修改的《北京市外地来京人员租赁房屋治安管理规定》同时废止。

brokerage activities of house lease, shall be imposed a fine of not less than 10,000 Yuan but not more than 30,000 Yuan;

(2) the real estate brokerage institution which, in violation of the provisions of Item 1 or Item 5 of Article 27 of these Provisions, engages in business against law shall be ordered to make corrections and be imposed a fine of not less than 10,000 Yuan but not more than 30,000 Yuan;

(3) the real estate brokerage institution which, in violation of the provisions of Item 7 of Article 27 of these Provisions, engages in other activities than brokerage and agency against relevant provisions shall be penalized in accordance with relevant provisions on registration administration.

**Article 38** Where Article 17 of these Provisions is violated and the leased house has hidden dangers to the safety of public health, the administrative department for public health shall order to make corrections and may impose a fine of not less than 1,000 Yuan but not more than 30,000 Yuan simultaneously.

**Article 39** The lessor and the lessee shall negotiate to settle the disputes in the house lease activity; where the negotiation fails, the lessor and the lessee may apply for mediation to the people's mediation committee, association of house lease agencies, administrative departments for construction (houses) or other relevant units, or apply for arbitration or bring a lawsuit in accordance with law.

**Article 40** Where other laws, regulations or rules provide for the administrative penalties against the acts in violation of these Provisions, the administrative departments concerned shall deal with such acts in accordance with law, where a crime is constituted, criminal liability shall be investigated for in accordance with law.

## **Chapter VI Supplementary Provisions**

**Article 41** These Provisions shall be effective as of January 1, 2008. The Provisions of Beijing Municipality on Security Administration of House Leasing by Migrants Living in Beijing promulgated by Decree No. 13 of the People's Government of Beijing Municipality on June 13, 1995, revised by Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997 for the first time, and revised by Decree No. 150 of the People's Government of Beijing Municipality on June 1, 2004 for the second time, shall be repealed simultaneously.

## （七）农 业

### 北京市实施《中华人民共和国渔业法》办法

（1990年9月8日北京市第九届人民代表大会常务委员会第二十二次会议通过 根据1997年4月15日北京市第十届人民代表大会常务委员会第三十六次会议《关于修改〈北京市实施中华人民共和国渔业法办法〉的决定》修正 2007年7月27日北京市第十二届人民代表大会常务委员会第三十七次会议修订）

**第一条** 根据《中华人民共和国渔业法》，结合本市实际情况，制定本办法。

**第二条** 本办法适用于在本市行政区域内水域从事的养殖、捕捞等渔业生产活动。

**第三条** 市和区、县人民政府应当加强水域的统一规划和综合开发利用，保护渔业资源和渔业水域生态环境。

渔业生产实行养殖为主、合理捕捞的方针，鼓励科学研究，推广先进技术，促进生产发展。

**第四条** 市和区、县渔业行政主管部门主管本行政区域内的渔业工作；市和区、县渔政监督管理机构具体实施渔政监督管理工作。

水务、环境保护、园林绿化、工商行政管理和公安等部门，应当按照各自职责做好与渔业相关的工作。

**第五条** 辖区内渔业水域较大的乡镇人民政府，协助区、县渔业行政主管部门和渔政监督管理机构，开展渔业法制宣传教育，维护渔业生产秩序，保护渔业资源。

**第六条** 渔业生产者所有的渔业生产设施和产品以及依法取得的养殖水面使用权受法律保护，任何单位和个人不得侵占和破坏。

## vii. Agriculture

### Measures of Beijing Municipality for Implementation of the Fisheries Law of the People's Republic of China

(Adopted at the 22<sup>nd</sup> Meeting of the Standing Committee of the 9<sup>th</sup> People's Congress of Beijing Municipality on September 8, 1990, amended in accordance with, the Decision on Revising the Measures of Beijing Municipality for Implementation of the Fisheries Law of the People's Republic of China adopted at the 36<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> People's Congress of Beijing Municipality on April 15, 1997 and revised at the 37<sup>th</sup> Meeting of the Standing Committee of the 12<sup>th</sup> People's Congress of Beijing Municipality on July 27, 2007)

**Article 1** These Measures are formulated in accordance with the Fisheries Law of the People's Republic of China and in light of the actual circumstances of this Municipality.

**Article 2** These Measures apply to the productive activities of fisheries such as aquaculture and fishing engaged in the water areas within the administrative areas of this Municipality.

**Article 3** The people's governments at the municipal and the district or county level shall improve the overall planning and comprehensive development and utilization of water areas, and protect the fishery resources and ecological environment of fishery waters.

A policy of reasonable fishing with emphasis on aquaculture shall be adopted, scientific research be encouraged and advanced technology be spread to promote the development of production in fishery production.

**Article 4** The administrative departments for fisheries at the municipal and the district or county level shall be in charge of fisheries affairs within their respective administrative areas. The fisheries authorities at the municipal and the district or county level shall specifically carry out administration and supervision over fisheries affairs.

The departments for water affairs, environmental protection, gardens and greening, industrial and commercial administration, public security, etc. shall bring to success the work related to fisheries according to their respective functions and duties.

**Article 5** The people's governments of townships with relatively large water areas under their respective jurisdiction shall assist the administrative departments for fisheries and the fisheries authorities at the district or county level in conducting publicity and education on fisheries laws and regulations, maintaining the order in fishery production and protecting fishery resources.

**Article 6** The fishery production facilities and products owned and the right to use water surfaces for aquaculture obtained by fishery workers according to law shall be protected by law and not be misappropriated or destroyed by any unit or individual.

**第七条** 本市鼓励利用适于养殖的水域发展生态渔业、休闲渔业、节水型渔业、籽种渔业和特色养殖，优化养殖品种结构，实行渔业标准化生产，并在资金、物资和技术等方面给予扶持。

**第八条** 使用全民所有的水域从事养殖生产的单位和个人，应当向所在区、县渔业行政主管部门提出申请，由区、县人民政府核发养殖证。

集体所有的或者全民所有由农村集体经济组织使用的水域，由个人或者集体承包从事养殖生产的，承包人持承包合同，到所在区、县渔业行政主管部门备案，领取养殖证件。

**第九条** 从事渔业生产应当按照国家和本市有关养殖技术规范，合理投饵、施肥、使用药物，做好水生动物防疫工作，保护水域生态环境。

禁止使用国家公布的停用、禁用或者淘汰的药品、饲料、饲料添加剂及其他化合物；禁止使用未经审定公布的饲料、饲料添加剂；禁止使用假、劣兽药。

使用国家公布限制使用的药品、饲料、饲料添加剂及其他化合物，应当按照国家有关规定执行。

**第十条** 渔业生产者应当依法建立水产养殖生产记录和水产养殖用药记录。水产养殖生产和用药记录至少应当保存 2 年。禁止伪造水产养殖生产记录和水产养殖用药记录。

**第十一条** 在水库从事渔业生产活动，必须遵守保护水利工程设施和水源保护的规定，不得影响防洪、供水，不得污染水体，不得影响水库的主要功能。

在水库管理范围内设置渔业设施，必须征得该水利工程管理部门的同意。

**第十二条** 本市根据动物防疫法律法规的规定和水生动物防疫规划，加强水生动物的防疫、检疫和疫病的控制、扑灭工作。

单位和个人发现患有疫病或者疑似疫病的水生动物，应当及时向所在地负责水生动物防疫监督的机构报告。接到报告的防疫监督机构应当迅速采取措施，并按照国家

**Article 7** This Municipality shall encourage the development of ecological fishery, leisure fishery, water-saving fishery, breed fishery and characteristic aquaculture by making use of suitable water areas for aquaculture, the optimization of the structure of aquaculture species and the implementation of standardized fishery production, and provide support in funds, materials, technology, etc.

**Article 8** Any unit or individual that wishes to use the water areas owned by the whole people for aquaculture production shall apply to the administrative department for fisheries of the district or county in its locality, and an aquaculture permit shall be issued after examination by the district or county people's government.

Where the water areas owned by the collective or by the whole people but used by agricultural collective economic organizations are contracted out to an individual or a collective for aquaculture, the contractor shall submit the contract to the administrative department for fisheries of the district or county in its locality for the record and obtain an aquaculture permit.

**Article 9** Fishery workers shall, in accordance with the technical regulations on aquaculture of the State and this Municipality, feed, apply fertilizer and use medicines rationally, do well in the epidemic prevention of aquatic animals and protect the ecological environment of the waters.

It is forbidden to use the drugs, feeds, feed additives and other chemical compounds the use of which has been stopped or forbidden or that have been eliminated as publicized by the State. It is forbidden to use the feeds or feed additives that have not been evaluated and made public. It is forbidden to use fake veterinary drugs or veterinary drugs of inferior quality.

The drugs, feeds, feed additives and other chemical compounds the use of which is restricted as publicized by the State shall be used in accordance with relevant provisions of the State.

**Article 10** Fishery workers shall keep records for aquaculture production and drug using for aquaculture. The records of aquaculture production and drug using shall be kept for at least two years. It is forbidden to forge the records of aquaculture production and drug using for aquaculture.

**Article 11** Fishery productive activities engaged in reservoirs must be in compliance with the provisions on protection of hydraulic engineering facilities and water sources, shall not affect flood control and water supply, pollute water bodies and affect the main functions of reservoirs.

The establishment of fishery facilities within the administrative scope of a reservoir must be subject to the consent of the department for hydraulic engineering management.

**Article 12** This Municipality shall, in accordance with the provisions of laws and regulations on animal epidemic prevention and the plans of aquatic animal epidemic prevention, strengthen the epidemic prevention and quarantine of aquatic animals and the control and eradication of epidemic diseases.

Any unit or individual discovering aquatic animals suffering an epidemic disease or suspected of suffering an epidemic disease shall report the case to the local agency in charge of the supervision over aquatic animal epidemic prevention without delay. The supervision

和本市有关规定上报。

**第十三条** 本市实行水产品标识和水产品质量追溯制度。

市和区、县渔业行政主管部门应当加强水产品质量的检验和监督工作，水产品质量的检验结果由市渔业行政主管部门按照国家规定的权限予以公布。

渔业生产者不得销售不符合质量安全标准的水产品。

**第十四条** 在密云水库、怀柔水库、官厅水库以及其他重要渔业水域从事捕捞作业的单位和个人应当依法申请领取捕捞许可证。区、县渔政监督管理机构具体负责捕捞许可证的办理。

前款规定的其他重要渔业水域由市渔业行政主管部门向社会公布。

**第十五条** 市渔业行政主管部门应当会同市水务部门、环境保护部门确定水库捕捞的船网工具控制指标。捕捞许可证的发放不得突破船网工具控制指标。

**第十六条** 持捕捞许可证从事捕捞生产的，应当缴纳渔业资源增殖保护费，收费标准和办法按国家和本市的规定执行。

**第十七条** 捕捞许可证不得买卖、出租或者以其他形式非法转让，不得涂改。

**第十八条** 渔业行政主管部门应当根据生产的需要，组织苗种生产，引进、推广优良品种，进行技术指导和其他服务工作。

引进或者销售外地苗种，应当经由渔业行政主管部门检疫。

**第十九条** 市和区、县人民政府及渔业行政主管部门应当加强渔业资源增殖工作，采取措施，促进渔业资源增殖。

单位和个人增殖放流水生动物和水生植物应当符合国家和本市有关规定，并在渔政监督管理机构的指导和监督下实施。

增殖放流水生动物和水生植物的水域、品种和质量由市渔业行政主管部门向社会公布。

**第二十条** 密云水库、怀柔水库禁止垂钓。其他禁止垂钓的增殖放流水域，由市

agency of epidemic prevention receiving the report shall take prompt measures and report it to a higher level in accordance with relevant provisions of the State and this Municipality.

**Article 13** This Municipality shall adopt a mark bearing and a quality-tracing system for aquatic products.

The administrative departments for fisheries at the municipal and the district or county level shall strengthen the inspection and supervision over the quality of aquatic products. The results of inspection on the quality of aquatic products shall be publicized by the administrative department for fisheries at the municipal level in accordance with the authorities prescribed by the State.

Fishery workers shall not sell aquatic products not conforming to the quality standards of safety.

**Article 14** Any unit or individual engaged in fishing in Miyun Reservoir, Huairou Reservoir, Guanting Reservoir and other important fishery waters shall apply for a fishing license according to law. The fisheries authority at the district or county level shall be specifically responsible for handling the issuing of fishing licenses.

“Other important fishery waters” as mentioned in the preceding paragraph shall be made public to the society by the administrative department for fisheries at the municipal level.

**Article 15** The administrative department for fisheries at the municipal level shall, together with the departments for water affairs and environmental protection at the municipal level, fix the control sizes for vessels and fishing gear for fishing in reservoirs. The sizes for vessels and fishing gear specified in the fishing licenses issued shall not exceed the control sizes for vessels and fishing gear.

**Article 16** Fishery workers engaged in fishing production with fishing licenses shall pay fees for the protection of increase of fishery resources, and the charging standard and measures shall be in compliance with the provisions of the State and this Municipality.

**Article 17** No fishing licenses may be traded in, leased or illegally transferred by other means, or altered.

**Article 18** The administrative departments for fisheries shall, according to the need of production, organize the production of fry and fingerling, introduce and spread FME varieties, and provide technical guidance and other services.

Fry and fingerling produced outside this Municipality introduced or sold shall undergo quarantine by the administrative departments for fisheries.

**Article 19** The administrative departments for fisheries at the municipal and the district or county level shall strengthen the increase of fishery resources and take measures to promote the increase of fishery resources.

The releasing for increase of aquatic animals and aquatic plants by units and individuals shall be in compliance with relevant provisions of the State and this Municipality and undertaken under the guidance and supervision by the fisheries authorities.

The water areas, species and qualities of aquatic animals and aquatic plants released shall be made public to the society by the administrative department for fisheries at the municipal level.

**Article 20** Angling is prohibited in Miyun Reservoir and Huairou Reservoir. The other



渔业行政主管部门会同水务、环境保护等部门确定并向社会公布。

**第二十一条** 任何单位和个人不得从事下列活动：

- （一）使用炸鱼、毒鱼、电鱼等破坏渔业资源的方法进行捕捞；
- （二）在禁渔区和禁渔期进行捕捞；
- （三）捕捞的渔获物中幼鱼超过规定的比例；
- （四）使用小于规定的最小网目尺寸的网具进行捕捞；
- （五）未经批准捕捞有重要经济价值的水生动物苗种和怀卵亲体；
- （六）未经批准捕捞国家重点保护的水生野生动物；
- （七）在禁止垂钓的水域进行垂钓。

重点保护的渔业资源品种及其可捕捞标准、禁渔区和禁渔期、禁止使用或者限制使用的渔具和捕捞方法、最小网目尺寸以及其他保护渔业资源的措施，由市渔业行政主管部门制定并向社会公布。

**第二十二条** 渔业水域生态环境的监督管理和渔业污染事故的调查处理，按照水污染防治法律、法规的规定执行。

**第二十三条** 市和区、县渔业行政主管部门及渔政监督管理机构应当按规定配备渔政执法人员。渔政执法人员经培训合格后，方可持证上岗。渔政执法人员对渔业生产及其相关活动进行检查时，应当统一着装、佩戴标志、出示执法证件。

**第二十四条** 市和区、县渔政监督管理机构履行监督管理职责时，有权采取下列措施：

- （一）进入渔业生产活动场所进行检查；
- （二）要求被检查单位和个人就有关问题作出说明；
- （三）查阅、复制被检查单位和个人的有关文件、凭证和资料；
- （四）依法查封、扣押渔业生产活动中涉嫌违法的物品；
- （五）对不符合质量安全标准的水产品进行无害化处理或者监督销毁；
- （六）责令被检查单位和个人改正违反渔业法律法规的行为。

**第二十五条** 市和区、县渔政监督管理机构对违反有关渔业法律、法规的行为予

water areas for releasing where angling is prohibited shall be determined and made public to the society by the administrative department for fisheries at the municipal level together with the departments for water affairs and environmental protection at the municipal level.

**Article 21** No unit or individual may engage in any of the following activities:

- (1) using explosives, poisons, electricity and other means in fishing that impairs the fishery resources;
- (2) fishing in restricted fishing areas and during closed seasons;
- (3) the proportion of juvenile fish in a catch exceeding the specified level;
- (4) fishing with fishing nets with mesh smaller than the specified minimum size;
- (5) catching fry and fingerling of important economic value or spawning aquatic animals without approval;
- (6) catching wild aquatic animals specially protected by the State without approval; and
- (7) angling in waters where angling is prohibited.

The administrative department for fisheries at the municipal level shall designate species for special protection, and specify the allowable standards for fishing of such species, the restricted fishing areas and closed seasons, the fishing gear and methods to be banned or restricted, the minimum mesh sizes, as well as other measures for the protection of the fishery resources and then make public to the society.

**Article 22** The ecological environment of fishery waters shall be supervised and regulated, and fishery pollution shall be investigated and handled in accordance with the provisions of laws and regulations on water pollution prevention.

**Article 23** The administrative departments for fisheries and fisheries authorities at the municipal and the district or county level shall be manned with fisheries law enforcement personnel in accordance with provisions. The fisheries law enforcement personnel may not commence work with licenses until they have been qualified upon training. When inspecting fishery production and relevant activities, the fisheries law enforcement personnel shall be dressed in uniforms, wear badges and show their credentials of law enforcement.

**Article 24** When performing the functions and duties of supervision and administration, the fisheries authorities at the municipal and the district or county level shall have the authority to take the following measures:

- (1) to enter fishery production places for inspection;
- (2) to require the units or individuals inspected to make explanations on relevant issues;
- (3) to look through or copy relevant documents, certificates and other materials of the units or individuals inspected;
- (4) to seal up or detain the suspect articles in fishery production activities according to law;
- (5) to carry out innocent treatment of aquatic products not conforming to the quality standards of safety or supervise the destroying of such products; or
- (6) to order the units or individuals inspected to correct their violations of fisheries laws and regulations.

**Article 25** Any fisheries authority at the municipal and the district or county level which imposes an administrative penalty with respect to a violation of fisheries laws and

以行政处罚的，应当及时将有关单位的违法行为信息记入本市企业信用信息系统。

**第二十六条** 违反本办法规定的，由渔政监督管理机构予以处罚：

（一）违反本办法第九条第二款规定，在渔业生产过程中使用禁止使用的药品、饲料、饲料添加剂及其他化合物的，责令改正，并处1万元以上5万元以下罚款。

（二）违反本办法第十条规定，未按规定建立和保存水产养殖生产记录、水产养殖用药记录的，责令限期改正；逾期不改或者伪造记录的，处200元以上2000元以下罚款。

（三）违反本办法第十三条第三款规定，销售不符合质量安全标准水产品的，责令停止销售，追回已经销售的水产品，对违法销售的水产品进行无害化处理或者予以监督销毁，并没收违法所得，处2000元以上2万元以下罚款。

（四）违反本办法第十九条第二款、第三款规定，增殖放流水生动物和水生植物的水域、品种和质量不符合规定的，处50元以上500元以下罚款；情节严重的，处500元以上5000元以下罚款。

（五）违反本办法第二十一条第一款第七项规定，在禁止垂钓的水域垂钓的，责令停止违法行为，没收渔具，并可以处50元以上500元以下罚款。

有上述行为，属于违反环境保护、城市管理等法律法规的，由有关部门予以处罚。

**第二十七条** 阻碍渔政执法人员依法执行职务的，由公安机关依照《中华人民共和国治安管理处罚法》的规定处罚；构成犯罪的，依法追究刑事责任。

**第二十八条** 渔业行政主管部门和渔政监督管理机构的工作人员有玩忽职守、滥用职权、徇私舞弊行为的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第二十九条** 本办法自2007年9月1日起施行。

regulations shall timely record the information of such violation of the relevant unit in the enterprise credit information system of this Municipality.

**Article 26** Anyone who violates the provisions of these Measures shall be punished by the fisheries authority:

(1) anyone who, in violation of the provisions of the second paragraph of Article 9 of these Measures, in fishery production, uses the drugs, feeds, feed additives and other chemical compounds the use of which has been stopped shall be ordered to make corrections and imposed upon a fine of not less than 10, 000 Yuan but not more than 50, 000 Yuan simultaneously;

(2) anyone who, in violation of the provisions of Article 10 of these Measures, fails to set up and keep records for aquaculture production and drug using for aquaculture shall be ordered to make corrections; if he fails to make corrections within the specified time limit or forges the records, he shall be imposed upon a fine of not less than 200 Yuan but not more than 2, 000 Yuan;

(3) anyone who, in violation of the provisions of the third paragraph of Article 13 of these Measures, sells aquatic products not conforming to the quality standards of safety shall be ordered to stop the selling, recover the aquatic products already sold, carry out innocent treatment of the aquatic products illegally sold or destroy such products under supervision, and his illegal gains therefrom shall be confiscated and he shall be imposed upon a fine of not less than 2, 000 Yuan but not more than 20, 000 Yuan;

(4) where the water areas, species and qualities of aquatic animals and aquatic plants released by anyone violating the provisions of the second and the third paragraphs of Article 19 of these Measures are not in compliance with provisions, he shall be imposed upon a fine of not less than 50 Yuan but not more than 500 Yuan; where the circumstances are serious, he shall be imposed upon a fine not less than 500 Yuan but not more than 5, 000 Yuan;

(5) anyone who, in violation of the provisions of Item (7) of the first paragraph of Article 21 of these Measures, angles in waters where angling is prohibited, shall be ordered to stop the illegal act, have his fishing gear confiscated, and may be imposed upon a fine of not less than 50 Yuan but not more than 500 Yuan simultaneously.

Anyone who commits the above acts violating the laws and regulations on environmental protection and urban administration shall be punished by relevant departments.

**Article 27** Anyone who hinders fisheries law enforcement personnel from performing their duties according to law shall be punished by the public security organ in accordance the Law of the People's Republic of China on Administrative Penalties for Public Security; where a crime is constituted, criminal liability shall be investigated for according to law.

**Article 28** Any functionary of the administrative departments for fisheries or fisheries authorities who neglects his duty, abuses his power or engages in illegalities for personal gains or by fraudulent means shall be given an administrative sanction according to law; where a crime is constituted, criminal liability shall be investigated for according to law.

**Article 29** These Measures shall be effective as of September 1, 2007.

# 北京市农村集体资产管理条例

(1993年5月7日北京市第十届人民代表大会常务委员会第二次会议通过 根据1998年11月5日北京市第十一届人民代表大会常务委员会第六次会议《关于修改〈北京市农村集体资产管理条例〉的决定》第一次修正 根据2010年12月23日北京市第十三届人民代表大会常务委员会第二十二次会议《关于修改部分地方性法规的决定》第二次修正)

## 第一章 总 则

**第一条** 为了加强农村集体资产管理,保护集体资产所有者、经营者的合法权益,促进农村社会主义市场经济健康发展,根据国家有关法律规定,结合本市实际情况,制定本条例。

**第二条** 本条例适用于本市乡(镇)合作经济联合社和村经济合作社(以下简称乡联社、村合作社)集体所有的资产的管理。

**第三条** 农村集体资产受法律保护,禁止任何组织或者个人侵占、哄抢、私分、破坏、平调或者非法查封、扣押、冻结、没收。

**第四条** 乡联社、村合作社应当加强集体资产管理。

**第五条** 任何组织和个人都应当爱护集体资产。乡联社、村合作社及其成员有保护集体资产的权利和义务。

**第六条** 农村集体资产可以按照所有权和经营权分离的原则,采取多种经营方式,实行有偿使用。

**第七条** 各级人民政府农村合作经济管理部门负责农村集体资产管理工作的指

# Regulations of Beijing Municipality on the Administration of Rural Collective Assets

(Adopted at the 2<sup>nd</sup> Meeting of the Standing Committee of the 10<sup>th</sup> People's Congress of Beijing Municipality on May 7, 1993, revised for the first time in accordance with the Decision on Revising the "Regulations of Beijing Municipality on the Administration of Rural Collective Assets" adopted at the 6<sup>th</sup> Meeting of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on November 5, 1998, and revised for the second time in accordance with the Decisions on Revising Some Local Regulations adopted at the 22<sup>nd</sup> Meeting of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on December 23, 2010)

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of strengthening the management of rural collective assets, protecting the legitimate rights and interests of the owners and operators of collective assets, and promoting the healthy development of the socialist market economy in rural areas in accordance with relevant legal provisions of the State and in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to the management of the assets collectively owned by the township (or town) cooperative economic associations and village economic cooperatives (hereinafter referred to as township associations and village cooperatives) in this Municipality.

**Article 3** Rural collective assets shall be protected by law, and no organization or individual may appropriate, encroach upon, privately distribute, destroy, transfer or illegally seize, withhold, freeze or confiscate them.

**Article 4** Township associations and village cooperatives shall strengthen the management of collective assets.

**Article 5** All organizations and individuals shall protect collective assets. Township associations, village cooperatives and their members shall have the right and obligation to protect collective assets.

**Article 6** Rural collective assets may, in accordance with the principle of separation between ownership and right of management, be used in a variety of ways and with compensation.

**Article 7** The administrative departments of rural cooperative economy of the people's governments at all levels shall be responsible for the guidance on administration of

导，对本条例的实施进行监督。

## 第二章 农村集体资产所有权

**第八条** 乡联社、村合作社的集体资产属于该合作社劳动群众集体所有。

社员大会或者社员代表大会选举产生的乡联社、村合作社管理委员会依法行使集体资产所有权。

**第九条** 乡联社、村合作社的集体资产包括：

- （一）乡联社、村合作社集体所有的土地、山场、森林、草原、水面等自然资源；
- （二）乡联社、村合作社投资形成的建筑物、构筑物、机械、设备、产畜、役畜、林木和农田水利设施等；
- （三）乡联社、村合作社投资兴办的企业资产；
- （四）在股份制企业、联营企业和中外合资、合作企业中，乡联社、村合作社按照协议占有的资产份额；
- （五）乡联社、村合作社出资兼并的企业资产；
- （六）国家无偿资助形成的资产；
- （七）国家对乡联社、村合作社及其所属企业减免税形成的资产；
- （八）乡联社、村合作社拥有的著作权、专利权、商标专用权等无形资产；
- （九）乡联社、村合作社出资购买的股票、债券等有偿证券；
- （十）依法属于乡联社、村合作社所有的货币资产和其他资产。

**第十条** 乡联社、村合作社的土地、企业和其他资产实行承包经营或者租赁经营的，资产的所有权不变。

**第十一条** 集体资产所有权争议，除法律、法规另有规定的以外，当事人可以协商解决，也可以直接向人民法院起诉。

rural collective assets and shall supervise the implementation of the Regulations.

## **Chapter II Ownership of Rural Collective Assets**

**Article 8** The collective assets of township associations and village cooperatives shall be under collective ownership of the working masses thereof.

The management committees of township associations and village cooperatives elected by the members' assembly or members' congress shall exercise the ownership of collective assets according to law.

**Article 9** The collective assets of township associations and village cooperatives shall include:

(1) land, mountain land, forests, grassland, water surfaces and other natural resources collectively owned by township associations and village cooperatives;

(2) buildings, structures, machinery, equipment, livestock, draught animals, woods, water conservancy facilities for farmland, etc. invested by township associations and village cooperatives;

(3) assets of enterprises established with the investment of township associations and village cooperatives;

(4) asset share held by township associations and village cooperatives in joint-stock enterprises, joint ventures and Sino-foreign joint ventures and cooperative enterprises in accordance with agreements;

(5) assets of enterprises that are acquired with the investment of township associations and village cooperatives;

(6) assets funded by free government financial assistance;

(7) assets formed by the State's tax reduction or exemption to township associations, village cooperatives and their subordinate enterprises;

(8) intangible assets such as copyrights, patent rights and exclusive rights to use trademarks owned by township associations and village cooperatives;

(9) stocks, bonds and other securities purchased with the investment of township associations and village cooperatives; and

(10) monetary assets and other assets owned by township associations and village cooperatives according to law.

**Article 10** Where the land, enterprises and other assets of township associations and village cooperatives are operated by contract or lease, the ownership of the assets shall remain unchanged.

**Article 11** Except as otherwise provided by laws and regulations, the parties to a dispute over the ownership of collective assets may settle it through consultation or directly bring a lawsuit in the people's court.



### 第三章 农村集体资产经营权

**第十二条** 乡联社、村合作社依法决定集体资产的经营方式。可以实行承包经营、租赁经营；可以以集体资产参股、联营；也可以实行股份合作经营。

**第十三条** 集体资产实行承包经营或者租赁经营的，应当依法签订承包合同或者租赁合同。经营者的债务责任，按照合同规定承担；合同没有规定的，个人经营的，以个人财产承担，家庭经营的，以家庭财产承担。

**第十四条** 集体资产经营者的合法权益受法律保护。

经营集体资产的集体或者个人，享有合同规定的经营权和收益权，有管理、保护和按照合同规定的用途合理利用集体资产的权利和义务。

**第十五条** 集体资产实行承包经营的，应当合理确定承包款；实行租赁经营的，应当合理确定租金。承包经营或者租赁经营集体资产的集体或者个人必须按照合同规定及时交纳承包款或者租金。

**第十六条** 实行承包经营或者租赁经营，应当进行资产评估，把资产保值增值纳入承包合同，建立固定资产折旧制度。经营者必须按照规定提取折旧费。折旧费归集体所有。

**第十七条** 用集体资产参股、联营、合资经营，应当清查资产，清查债权债务，由会计事务所或者审计事务所进行资产评估。

**第十八条** 集体资产评估结果，报县（区）农村合作经济管理部门备案。

### 第四章 农村集体资产管理

**第十九条** 乡联社、村合作社管理委员会负责集体资产的管理工作，主要职责是：

（一）组织实施社员大会或者社员代表大会关于集体资产管理的决定，保障集体资产保值增值；

### Chapter III Right of Operation of Rural Collective Assets

**Article 12** Township associations and village cooperatives shall decide the mode of operation of collective assets according to law, including operation by contract or lease, equity participation or joint operation by collective assets, as well as joint-stock cooperative operation.

**Article 13** Where collective assets are to be operated by contract or lease, a contract or lease shall be concluded according to law. The liability for debts of operators shall be borne in accordance with the provisions of the contract; if there is no provision in the contract, the liability shall be borne with personal property in the case of individual operation or with household property in the case of household operation.

**Article 14** The legitimate rights and interests of operators of collective assets shall be protected by law.

Collectives or individuals operating collective assets shall enjoy the right of operation and right to earnings as stipulated in contracts, and shall have the right and obligation to manage, protect and make rational use of collective assets in accordance with the purpose of use as stipulated in contracts.

**Article 15** Where collective assets are to be operated by contract, the contract price shall be determined reasonably; where collective assets are to be operated by lease, the rent shall be determined reasonably. Collectives or individuals that operate collective assets by contract or lease must pay the contract price or rent in a timely manner in accordance with the provisions of contracts.

**Article 16** In operations by contract or lease, asset valuation shall be carried out to include the value preservation and appreciation of assets in contracts, and a depreciation system for fixed assets shall be established. Operators must withdraw depreciation expenses as stipulated. Depreciation expenses are owned by the collective.

**Article 17** In the case of equity participation, joint operation or joint venture by collective assets, assets, claims and debts shall be checked, and asset appraisal shall be carried out by accounting firms or audit firms.

**Article 18** The appraisal results of collective assets shall be submitted to the county (or district) administrative departments of rural cooperative economy for the record.

### Chapter IV Management of Rural Collective Assets

**Article 19** The management committees of township associations and village cooperatives shall be responsible for the management of collective assets, with the main responsibilities as follows:

(1) to organize implementation of the decisions of the members' assembly or members' congress on the management of collective assets, so as to ensure the value preservation and appreciation of collective assets;

- (二) 依法制定、执行集体资产管理制度；
- (三) 检查所属经营单位的经营管理工作；
- (四) 派员参加联营企业、股份制企业、合资企业董事会；
- (五) 集体资产管理的日常工作。

**第二十条** 农村集体资产实行民主管理，定期公布账目，接受社员监督。

**第二十一条** 下列事项必须经同级社员大会或者社员代表大会讨论通过：

- (一) 乡联社、村合作社年度财务预算、决算；
- (二) 集体资产经营方式的确定和重大变更；
- (三) 重大项目投资；
- (四) 年度收益分配方案；
- (五) 主要资产处置和其他重大事项。

**第二十二条** 乡联社、村合作社监察委员会对本社集体资产管理进行监督，重点对财务计划、收益分配方案、专项基金的提取和使用、承包合同和其他经济合同的执行情况进行检查。

**第二十三条** 乡联社、村合作社要建立健全固定资产登记和保管使用制度。对资产存量、增减变动情况要及时准确如实登记；建立固定资产明细账，定期盘点，做到账实相符。

**第二十四条** 乡联社、村合作社及其经营单位生产经营的农工副产品、半成品、种子、化肥、农药、燃料、原材料、机械零配件和未列入固定资产的低值易耗品等，应当明确专人保管，建立健全产品物资入库、出库、保管、领用制度。

**第二十五条** 乡联社、村合作社及其经营单位必须严格执行国家财务制度和现金管理制度，建立健全开支审批制度，严格审批手续，保障货币资产的安全完整。

会计人员必须及时准确地核算收入、支出和结存，对违反国家财政制度、财务制度规定的收支，不予办理。

**第二十六条** 乡联社、村合作社年终收益分配，应当结清全年的收入和支出，清

(2) to formulate and implement management systems for collective assets according to law;

(3) to inspect the operation and management of subordinate business units;

(4) to assign personnel to participate in the board of directors of an associated enterprise, joint-stock enterprise or joint venture; and

(5) to be responsible for the daily work of collective asset management.

**Article 20** Rural collective assets shall be subject to democratic management, and accounts shall be regularly published to accept supervision of members.

**Article 21** The following matters must be discussed and approved by the members' assembly or members' congress at the corresponding level:

(1) annual financial budget and final accounting of township associations and village cooperatives;

(2) determination and major changes of the mode of operation of collective assets;

(3) major project investment;

(4) annual income distribution plan; and

(5) major asset disposal and other major matters.

**Article 22** The supervisory committees of township associations and village cooperatives shall supervise their respective collective asset management, focusing on the inspection of the financial plan, income distribution plan, withdrawal and use of special funds, implementation of contracts and other economic contracts, etc.

**Article 23** Township associations and village cooperatives shall establish and improve the system of registration, safekeeping and use of fixed assets. Asset stock, increase and decrease shall be timely and accurately registered; the subsidiary ledger of fixed assets shall be established and periodic inventory shall be made to ensure the consistency between accounts and the reality.

**Article 24** The agricultural and industrial by-products, semi-finished products, seeds, chemical fertilizers, pesticides, fuels, raw materials, mechanical parts, low-value consumables not included in fixed assets, etc. produced and operated by township associations, village cooperatives and their business units shall be kept by specially assigned persons, and the system of storage, out-bound delivery, safekeeping and use of products and materials shall be established and improved.

**Article 25** Township associations, village cooperatives and their business units must strictly implement national financial systems and cash management systems, establish and improve the expenditure examination and approval system, and strictly follow examination and approval procedures, so as to ensure the safety and integrity of monetary assets.

Accounting personnel must timely and accurately check the revenue, expenditure and balance, and shall not handle the revenue and expenditure that violate the provisions of national fiscal systems and financial systems.

**Article 26** In the distribution of the year-end income, township associations and village cooperatives shall settle the revenue and expenditure of the whole year, settle

理财务和债权、债务，兑现承包合同。

**第二十七条** 乡联社、村合作社的土地被国家全部征收、征用、行政建制被撤销的，其集体资产处置办法由市人民政府规定。

**第二十八条** 建立农村集体资产报告制度。乡联社、村合作社应当按照规定填报统计报表，定期向乡（镇）农村合作经济管理部门报告。

**第二十九条** 乡联社、村合作社及其经营单位主要干部离任、年终收益分配、社员代表大会提出要求或者乡（镇）人民政府认为需要时，应当对集体资产进行审计。

## 第五章 法律责任

**第三十条** 违反本条例规定侵占集体资产的，应当返还财产，不能返还财产的，应当折价赔偿。

损坏集体资产的，应当恢复原状或者折价赔偿。

受害人因此遭受其他重大损失的，侵害人并应当赔偿损失。

**第三十一条** 违反本条例规定，侵犯乡联社、村合作社合法权益，造成集体资产损害的，应当依法赔偿或者承担其他民事责任。

**第三十二条** 承包经营或者租赁经营农村集体资产，不按规定提取折旧费，或者不按时交纳承包款、租金的，应当依照合同约定或者法律规定承担违约责任。

**第三十三条** 集体资产管理人員失职，造成集体资产损失、损坏的，由乡联社、村合作社追究责任。

**第三十四条** 违反本条例规定，依法应当由行政主管部门给予行政处罚的，由行政主管部门依法处理。情节严重构成犯罪的，依法追究刑事责任。

**第三十五条** 当事人对承担本章规定的民事责任有争议的，可以向乡（镇）人民政府申请调解。有关承包、租赁经营集体资产引起的民事责任纠纷，可以向县（区）承包合同仲裁委员会申请仲裁，仲裁委员会应当在接到仲裁申请书二个月内作出裁决。

financial affairs, claims and debts, and perform contracts.

**Article 27** In case of complete expropriation or requisition of the land of township associations and village cooperatives or cancellation of the administrative system by the State, the measures for disposal of the collective assets thereof shall be formulated by the Municipal People's Government.

**Article 28** A reporting system for rural collective assets shall be established. Township associations and village cooperatives shall fill in statistical statements as stipulated and report to the township (or town) administrative departments of rural cooperative economy on a regular basis.

**Article 29** Audit on collective assets shall be conducted in the case of termination of term of office of main cadres of township associations, village cooperatives and their business units, distribution of the year-end income, request by the members' congress or other circumstances in which the township (or town) people's governments deem it necessary.

## Chapter V Legal Liability

**Article 30** Where collective assets are encroached upon in violation of the provisions of the Regulations, they shall be returned, and if they cannot be returned, compensation shall be made at an estimated price.

If collective assets are damaged, they shall be restored to the original state or compensation shall be made at an estimated price.

If the victim suffers other heavy losses as a result, the infringer shall compensate for the losses.

**Article 31** Anyone who, in violation of the provisions of the Regulations, infringes upon the legitimate rights and interests of township associations and village cooperatives, thus causing damage to collective assets, shall make compensation or bear other civil liabilities according to law.

**Article 32** Anyone who fails to withdraw depreciation expenses as stipulated or fails to pay the contract price or rent on time in the operation of rural collective assets by contract or lease shall bear the liability for breach of contract as agreed in the contract or as provided by law.

**Article 33** In case of any loss or damage to collective assets caused by the dereliction of duty on the part of the management personnel of collective assets, they shall be held accountable by township associations and village cooperatives.

**Article 34** Whoever violates the provisions of the Regulations and shall be given administrative punishment by the competent administrative departments according to law shall be dealt with by the competent administrative departments according to law. If the circumstances are serious enough to constitute a crime, criminal responsibility shall be investigated for according to law.

**Article 35** Where the parties involved have a dispute over the civil liability prescribed in this chapter, they may apply to the township (or town) people's governments for mediation. For civil liability disputes arising from operations of collective assets by contract or lease, an application for arbitration may be submitted to the county (or district) arbitration committees for contracts, which shall make an award within 2 months after receiving the application for arbitration. If the parties involved are not satisfied with the award, they may bring a lawsuit in the people's court within 30 days after receiving the

当事人对裁决不服的，可以在收到仲裁决定书三十日内向人民法院起诉。当事人也可以直接向人民法院起诉。

**第三十六条** 仲裁机构的仲裁决定发生法律效力后，一方当事人不履行，他方当事人可以向人民法院申请执行。

**第三十七条** 市、县（区）农村合作经济管理部门对损害农村集体资产的行为，可以支持受损害的乡联社、村合作社向人民法院起诉。

## 第六章 附 则

**第三十八条** 本条例具体应用中的问题，由市人民政府农村工作主管部门负责解释。

**第三十九条** 本条例自 1993 年 7 月 1 日起施行。

arbitration award. The parties involved may also directly bring a lawsuit in the people's court.

**Article 36** After an arbitration award of an arbitration institution becomes legally effective, in case of failure to perform by one party, the other party may apply to the people's court for enforcement.

**Article 37** The municipal or county (or district) administrative departments of rural cooperative economy may support aggrieved township associations and village cooperatives to file a lawsuit in the people's court against any act that damages rural collective assets.

## **Chapter VI Supplementary Provisions**

**Article 38** The competent department for rural work of the Municipal People's Government shall be responsible for the interpretation of issues in specific application of the Regulations.

**Article 39** The Regulations shall come into force as of July 1, 1993.



# 北京市基本农田保护条例

(1994年5月21日北京市第十届人民代表大会常务委员会第十次会议通过 根据2016年11月25日北京市第十四届人民代表大会常务委员会第三十一次会议通过的《关于修改部分地方性法规的决定》修正)

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- 第五章 法律责任
- 第六章 附 则

## 第一章 总 则

**第一条** 为切实保护耕地资源，对基本农田实行特殊保护，保障农业持续、稳定发展，根据《中华人民共和国土地管理法》和《中华人民共和国农业法》，结合本市实际情况，制定本条例。

**第二条** 本条例所称基本农田是指依据国民经济和社会发展以及规划人口增长的需求，依法划定、特殊保护、长期稳定的耕地。

本条例所称耕地是指种植粮食、油料、蔬菜、饲料以及其他农作物的土地。

**第三条** 本条例适用于本市行政区域内基本农田的划定、保护、建设和监督管理。

**第四条** 一切单位和个人都有保护基本农田的义务；对侵占、破坏基本农田的行为有检举、控告的权利。

**第五条** 市和区人民政府应当加强对基本农田保护工作的领导。

# Regulations of Beijing Municipality on the Protection of Basic Farmland

(Adopted at the 10<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> People's Congress of Beijing Municipality on May 21, 1994, and revised in accordance with the Decisions on Revising Some Local Regulations adopted at the 31<sup>st</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on November 25, 2016)

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Chapter II	Delimitation of Basic Farmland
Chapter III	Protection and Management of Basic Farmland
Chapter IV	Construction of Basic Farmland
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Chapter VI	Supplementary Provisions

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of effectively protecting cultivated land resources, implementing special protection for basic farmland and ensuring sustainable and stable agricultural development in accordance with the Land Administration Law of the People's Republic of China and the Agricultural Law of the People's Republic of China and in light of actual circumstances of this Municipality.

**Article 2** The term “basic farmland” as mentioned in the Regulations refers to the cultivated land with long-term stability that is designated according to law and specially protected according to the needs of national economic and social development and planned population growth.

The term “cultivated land” as mentioned in the Regulations refers to the land where grain, oil plants, vegetables, forage crops and other crops are cultivated.

**Article 3** The Regulations shall apply to the delimitation, protection, construction, supervision and management of basic farmland within the administrative area of this Municipality.

**Article 4** All units and individuals shall have the obligation to protect basic farmland and the right to report and charge against the acts of encroaching on or destroying basic farmland.

**Article 5** The municipal and district people's governments shall strengthen their

市和区土地行政主管部门和农业行政主管部门，按照本条例规定的职责，负责本行政区域内基本农田保护的监督管理。

乡、镇人民政府负责本行政区域内基本农田的保护管理。

## 第二章 基本农田的划定

**第六条** 确定基本农田面积，必须从实际出发，对本市国民经济和社会发展以及人口增长对耕地的需求进行科学预测。

**第七条** 基本农田划定方案应当根据国务院批准的北京城市总体规划制定，并与区域规划、村镇规划相协调。

**第八条** 市人民政府对基本农田面积实行指标控制。全市基本农田划定方案由土地、农业行政主管部门制定，报市人民政府批准。

区人民政府根据全市基本农田划定方案，结合当地实际情况，制定具体方案，报市人民政府批准后组织实施。

任何单位和个人不得擅自改变基本农田划定方案。确需改变的，必须报经原批准机关批准。

**第九条** 下列耕地应当划入基本农田：

- （一）国务院主管部门和市人民政府批准确定的粮、油生产基地；
- （二）市人民政府批准确定的蔬菜生产基地；
- （三）市人民政府批准建立的种子生产基地；
- （四）本行政区域内高产、稳产、优质农田；
- （五）名、特、优、新农产品生产基地；
- （六）农业教学、科研试验基地；
- （七）市和区人民政府认为需要划定的其他耕地。

**第十条** 基本农田的划定，由乡、镇人民政府负责。划定的基本农田面积不得低

leadership over the protection of basic farmland.

The municipal and district competent departments for land and agriculture shall, within the scope of their respective functions and duties as prescribed in the Regulations, be responsible for the supervision and administration of the protection of basic farmland within their respective administrative areas.

The township or town people's governments shall be responsible for the protection and management of basic farmland within their respective administrative areas.

## **Chapter II Delimitation of Basic Farmland**

**Article 6** To determine the area of basic farmland, a scientific forecast of the demand of the national economic and social development and population growth for cultivated land in this Municipality shall be made in light of actual circumstances.

**Article 7** The plan for delimitation of basic farmland shall be formulated in accordance with the overall urban planning of Beijing approved by the State Council and shall be coordinated with the regional planning and the village and town planning.

**Article 8** The Municipal People's Government shall exercise index control over the area of basic farmland. The plan for delimitation of basic farmland of the whole city shall be formulated by the municipal competent departments for land and agriculture and submitted to the Municipal People's Government for approval.

The district people's governments shall, according to the plan for delimitation of basic farmland of the whole city and in combination with local conditions, formulate specific plans, which shall be implemented after being approved by the Municipal People's Government.

No unit or individual may, without authorization, change the plan for delimitation of basic farmland. In case of necessary change, it must be reported to the original approval authority for approval.

**Article 9** The following cultivated land shall be classified as basic farmland:

(1) grain and oil production bases determined upon approval of the competent departments of the State Council and the Municipal People's Government;

(2) vegetable production bases determined upon approval of the Municipal People's Government;

(3) seed production bases established upon approval of the Municipal People's Government;

(4) high-quality farmland with high and stable yields within the administrative area of this Municipality;

(5) production bases for famous, special, excellent and new agricultural products;

(6) experimental bases for agricultural teaching and scientific research; and

(7) other cultivated land that the municipal and district people's governments deem necessary to be defined.

**Article 10** The township or town people's governments shall be responsible for the delimitation of basic farmland. The delimited area of basic farmland shall not be less than

于上级人民政府下达的指标，并应当绘图、登记、造册，建立档案。

划定的基本农田，由区人民政府批准，并予以公布。

### 第三章 基本农田的保护和管理

**第十一条** 区和乡、镇人民政府要把基本农田的保护工作列入政府目标管理责任制，由上级人民政府监督检查。

土地、农业行政主管部门应当按照各自的职责，对基本农田每年进行一次普查。被检查单位和个人应当如实提供有关情况和资料。

**第十二条** 农村集体经济组织可以根据市场的需求，调整种植结构。但禁止在基本农田内挖鱼塘、种果树；禁止挖沙、取土、烧砖、建坟、采石、采矿、建房等非种植业建设和生产经营活动；禁止倾倒垃圾、渣土等废弃物和排放未经处理的废水。

**第十三条** 严格控制征收、占用基本农田。除国务院批准的国家重点工程外，其他建设项目禁止征收、占用基本农田。

**第十四条** 严禁无权批准征收、占用土地的单位和个人批准征收、占用基本农田；严禁超越批准权限批准征收、占用基本农田。非法批准的文件无效，所占用的土地按非法占地处理。

**第十五条** 征收、占用基本农田的单位，必须依法支付征地费。土地补偿费、安置补助费、地上附着物和青苗补偿标准，按照国家和本市的有关规定执行。

**第十六条** 征收、占用基本农田的单位，除依法缴纳耕地占用税外，还应当缴纳基本农田开发建设基金，用于基本农田的建设和开发。

基本农田开发建设基金的征收标准和办法，由市人民政府制定。

**第十七条** 征收、占用基本农田，实行“占一亩、补一亩”的原则。补建的基本农田，由农村集体经济组织负责建设，费用从基本农田开发建设基金中给予补助。

补建的基本农田，由土地、农业行政主管部门验收合格后，纳入基本农田管理。

the target set by the people's government at the next higher level, which shall be mapped, registered and put on record and for which archives shall be established.

The delimited basic farmland shall be approved and announced by the district people's governments.

### **Chapter III Protection and Management of Basic Farmland**

**Article 11** The district, township and town people's governments shall include the protection of basic farmland in the responsibility system for government target management, which shall be supervised and inspected by the people's government at the next higher level.

The competent departments for land and agriculture shall, within the scope of their respective functions and duties, conduct a general survey of basic farmland once a year. The inspected units and individuals shall truthfully provide relevant information and materials.

**Article 12** Rural collective economic organizations may adjust the planting structure according to the needs of the market. However, it is prohibited to dig fish ponds and plant fruit trees, to engage in non-planting construction as well as production and operation activities such as digging sand, borrowing earth, baking bricks, building graves, quarrying, mining and building houses, or to dump garbage, muck and other wastes and discharge untreated waste water within basic farmland.

**Article 13** The expropriation and occupation of basic farmland shall be strictly controlled. Except for national key projects approved by the State Council, no expropriation or occupation of basic farmland is allowed for other construction projects.

**Article 14** It is strictly prohibited for units and individuals that have no right to approve the expropriation and occupation of land to approve the expropriation and occupation of basic farmland; and it is strictly prohibited to approve the expropriation and occupation of basic farmland beyond the approval authority. The illegally approved documents shall be invalid, and the occupied land shall be treated as illegally occupied land.

**Article 15** Units that expropriate or occupy basic farmland must pay land acquisition fees according to law. The standards for land compensations, resettlement subsidies, and compensations for ground attachments and young crops shall be implemented in accordance with relevant provisions of the State and this Municipality.

**Article 16** Units that expropriate or occupy basic farmland shall, in addition to payment of farmland occupation tax according to law, pay the fund for development and construction of basic farmland for that purpose.

The standards and measures for the collection of the fund for development and construction of basic farmland shall be formulated by the Municipal People's Government.

**Article 17** The principle of "supplementary construction for all basic farmland occupied" shall be followed in the expropriation and occupation of basic farmland. Rural collective economic organizations shall be responsible for the construction of supplementary basic farmland, and the expenses shall be subsidized from the fund for development and construction of basic farmland.

The supplementary basic farmland shall be included in the management of basic farmland after being accepted by the competent departments for land and agriculture.

**第十八条** 严禁荒芜基本农田。对荒芜基本农田的，由农村集体经济组织责令限期改正。凡弃耕一年以上的，征收土地荒芜费。征收标准和办法由市人民政府制定。

**第十九条** 乡、镇人民政府和区土地行政主管部门应当加强对基本农田的监督管理，及时查处违法占用和破坏基本农田的案件，并向上一级人民政府和上一级土地行政主管部门报告。

## 第四章 基本农田的建设

**第二十条** 本市各级人民政府应当制定基本农田建设规划，组织农村集体经济组织进行农田水利、田间道路和农田防护林建设，减少风沙危害，防止水土流失，改良土壤，提高地力，把基本农田建设成为旱涝保收的高产、稳产农田。

**第二十一条** 基本农田应当按照土地分级标准分等定级，并实行地力补偿制度。

鼓励基本农田经营者增施有机肥，培肥地力。在承包期间，地力升级的，由集体经济组织给予奖励；地力降级的，由经营者予以赔偿。

基本农田分等定级标准，由市农业行政主管部门制定。

**第二十二条** 市和区农业行政主管部门，应当建立基本农田肥力监测网点，定期向同级人民政府提交基本农田地力状况和地力保护措施的报告，并为基本农田经营者提供指导服务。

**第二十三条** 市和区农业行政主管部门，应当会同同级环境保护部门对基本农田环境质量进行监测与评价，并定期向同级人民政府提交基本农田环境质量与发展趋势的报告。

## 第五章 法律责任

**第二十四条** 违反本条例规定非法占用、破坏基本农田的，按《中华人民共和国

**Article 18** It is strictly forbidden to abandon basic farmland. Whoever abandons basic farmland shall be ordered by rural collective economic organizations to make corrections within a prescribed time limit. For those who have abandoned basic farmland for more than one year, land waste fees shall be levied. The collection standards and measures shall be formulated by the Municipal People's Government.

**Article 19** The township or town people's governments and the district competent departments for land shall strengthen the supervision and administration of basic farmland, promptly investigate and deal with cases of illegal occupation and destruction of basic farmland, and report to the people's government and the competent department for land at the next higher level.

#### **Chapter IV Construction of Basic Farmland**

**Article 20** The people's governments at all levels of this Municipality shall formulate plans for construction of basic farmland, as well as organize rural collective economic organizations to carry out the construction of water conservancy works, paths and shelter forests for farmland, so as to reduce hazards of sand storms, prevent water and soil erosion, improve soil, enhance soil fertility, and make basic farmland capable of producing high and stable yields despite drought or excessive rain.

**Article 21** Basic farmland shall be graded according to land classification standards, and the system of compensation for soil fertility shall be implemented.

Operators of basic farmland shall be encouraged to increase the application of organic fertilizers and improve the soil fertility. During the contracting period, if the soil fertility is upgraded, collective economic organizations shall give rewards; if the soil fertility is degraded, operators shall make compensation therefor.

The classification standards for basic farmland shall be formulated by the municipal competent department for agriculture.

**Article 22** The municipal and district competent departments for agriculture shall establish a monitoring network for fertility of basic farmland, regularly submit to the people's government at the corresponding level reports on the status of fertility of basic farmland and measures for its protection, and provide guidance and services to operators of basic farmland.

**Article 23** The municipal and district competent departments for agriculture shall, together with the environmental protection departments at the corresponding level, monitor and evaluate the environmental quality of basic farmland, and regularly submit to the people's government at the corresponding level reports on the environmental quality and development trend of basic farmland.

#### **Chapter V Legal Liability**

**Article 24** Anyone who illegally occupies or destroys basic farmland in violation of the provisions of the Regulations shall be ordered to return the illegally occupied land, demolish newly built buildings and other facilities on the illegally occupied land within a



土地管理法》的规定，由土地行政主管部门责令退还非法占用的土地，限期拆除在非法占用的土地上新建的建筑物和其他设施，恢复地貌并处以罚款。

**第二十五条** 对违反本条例规定非法批准占用基本农田的直接责任人，由其所在机关或者上级机关给予行政处分；构成犯罪的，依法追究刑事责任。

**第二十六条** 土地、农业行政主管部门工作人员不认真履行职责，玩忽职守、徇私舞弊的，由所在机关或者上级机关给予行政处分；构成犯罪的，依法追究刑事责任。

**第二十七条** 违反本条例规定，排放污染物质，致使基本农田遭受污染并造成实际经济损失的，依照《中华人民共和国环境保护法》的规定处理。

## 第六章 附 则

**第二十八条** 本条例未作规定的事项及基本农田以外耕地的保护管理，按照《中华人民共和国土地管理法》执行。

**第二十九条** 本条例自公布之日起施行。

prescribed time limit, and restore the landform and be fined by the competent departments for land in accordance with the Land Administration Law of the People's Republic of China.

**Article 25** Any person who is directly responsible for illegally approving occupation of basic farmland in violation of the provisions of the Regulations shall be given administrative sanctions by the organ to which he belongs or by the organ at the next higher level; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 26** Any staff member of the competent departments for land and agriculture who fails to perform his duties conscientiously, neglects his duties or engages in malpractices for personal gains shall be given administrative sanctions by the organ to which he belongs or by the organ at the next higher level; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 27** Whoever, in violation of the provisions of the Regulations, discharges pollutants, thus causing pollution to basic farmland and causing actual economic losses shall be dealt with in accordance with the provisions of the Environmental Protection Law of the People's Republic of China.

## **Chapter VI Supplementary Provisions**

**Article 28** Matters not provided for in the Regulations and the protection and management of cultivated land other than basic farmland shall be governed by the Land Administration Law of the People's Republic of China.

**Article 29** The Regulations shall come into force as of the date of promulgation.

# 北京市农村集体所有荒山荒滩租赁条例

(1994年9月9日北京市第十届人民代表大会常务委员会第十二次会议通过 根据2010年12月23日北京市第十三届人民代表大会常务委员会第二十二次会议《关于修改部分地方性法规的决定》修正 )

## 第一章 总 则

**第一条** 为加快荒山、荒滩开发利用,促进农村经济发展,保护荒山、荒滩租赁双方当事人的合法权益,根据国家有关法律、法规的规定,制定本条例。

**第二条** 本条例适用于本市行政区域内集体所有的荒山、荒滩(以下简称荒山)的租赁开发。

本条例所称的租赁是指在不改变土地所有权的前提下,农村集体经济组织将其集体所有的荒山使用权出租给承租人,用于林果业、种植业、养殖业生产的开发和经营,并由承租人支付租金的行为。

出租荒山使用权,不包括地下资源、埋藏物和公用农田水利设施。

**第三条** 租赁双方当事人必须遵守有关法律、法规。

**第四条** 荒山租赁必须坚持公开、公正、公平和自愿的原则。

## 第二章 出租与承租

**第五条** 荒山租赁的出租方是农村集体经济组织;承租方是有承租能力的农村集体经济组织成员、企业事业单位、社会团体或者其他个人。

**第六条** 农村集体经济组织必须根据社员大会或者社员代表会议决定的出租方案组织荒山租赁。

农村集体经济组织应当成立有社员代表参加的评议小组,拟定租金数额或者租金标底,并经社员大会或者社员代表会议讨论通过。

# Regulations of Beijing Municipality on the Lease of Waste Hills and Beaches under Rural Collective Ownership

(Adopted at the 12<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> People's Congress of Beijing Municipality on September 9, 1994, and revised in accordance with the Decisions on Revising Some Local Regulations adopted at the 22<sup>nd</sup> Meeting of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on December 23, 2010)

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of speeding up the development and utilization of waste hills and beaches, promoting the development of rural economy, and protecting the legitimate rights and interests of both parties to lease of waste hills and beaches in accordance with relevant laws and regulations of the State.

**Article 2** The Regulations shall apply to the lease and development of waste hills and beaches (hereinafter referred to as waste hills) under collective ownership within the administrative area of this Municipality.

The term "lease" as mentioned in the Regulations refers to the act of a rural collective economic organization leasing out the right to use waste hills under collective ownership thereof to a lessee for development and operation of the fruit, planting and breeding industry without changing the ownership of land, and the lessee paying the rent.

The right to use waste hills shall not cover underground resources, buried objects and public water conservancy facilities for farmland.

**Article 3** The parties to lease must abide by relevant laws and regulations.

**Article 4** The principles of openness, impartiality, fairness and voluntariness shall be adhered to in the lease of waste hills.

## Chapter II Lease and Acceptance of Lease

**Article 5** The lessor of waste hills shall be a rural collective economic organization; and the lessee shall be a member of the rural collective economic organization, an enterprise, an institution, a social organization or any other individual capable of accepting the lease.

**Article 6** A rural collective economic organization must organize the lease of waste hills in accordance with the lease scheme decided by the members' assembly or members' congress.

A rural collective economic organization shall set up a review team with the participation of member representatives to work out the amount of rent or pre-tender estimate of rent, which shall be discussed and approved by the members' assembly or members' congress.

**第七条** 制定荒山租赁方案，应当兼顾国家、集体、个人三者利益，按照经济效益、生态效益、社会效益相结合的原则，因地制宜，综合治理，山水林田路统一规划，科学开发。

**第八条** 已经植树造林的责任山、义务植树责任区不得纳入租赁范围。

没有植树造林的责任山，可以由集体经济组织收回，另行出租。

在国家批准的矿井井田范围内，出租方应当向地下资源开发单位了解地下资源开采对地上安全的影响，不安全区域的荒山不得出租。

**第九条** 荒山租赁前已有的零星树木，可以合理作价出售给承租方，也可以出租给承租方。

承租方在所承租荒山上栽植的林木，在承租期内归承租方所有。租赁期满，林木的处置由租赁合同约定。

承租方所有的林木，按照《北京市森林资源保护管理条例》规定的程序审查批准，可以采伐、更新。

**第十条** 荒山租赁期限最长不超过 70 年；开发限期一般不超过 5 年。

**第十一条** 承租方必须按照租赁合同约定的用途和期限开发利用荒山，逾期不开发利用的，由集体经济组织无偿收回。

**第十二条** 荒山租赁的租金可以一次计租，也可以分段计租；租金可以一次交付，也可以分期交付。

**第十三条** 荒山租赁可以采取协议、定价招租和招标等方式。

**第十四条** 在租赁合同约定的期限内，荒山使用权及承租方所有的林木、地上财产可以依法继承和转租。

转租须经出租方同意，并由转租方与承租方签订转租合同。

### 第三章 当事人的权利和义务

**第十五条** 出租方的权利：

- （一）对荒山开发利用活动进行检查，保护资源不受破坏；
- （二）检查荒山开发项目和限期等履行情况；
- （三）按照合同约定收取租金。

**第十六条** 出租方的义务：

**Article 7** In formulation of lease schemes for waste hills, the interests of the State, the collective and individuals shall be taken into consideration, and the principle of combining economic, ecological and social benefits shall be followed. Measures shall be taken according to local conditions, comprehensive treatment shall be carried out, unified planning shall be made for mountains, waters, forests, farmland and roads, and scientific development shall be carried out.

**Article 8** Hills covered by contract and areas for voluntary tree planting where trees have already been planted shall not be included in the scope of lease.

Hills covered by contract where no trees have been planted may be recovered by collective economic organizations and leased out separately.

Within the mine field approved by the State, the lessor shall consult the underground resource development units about the impact of the exploitation of underground resources on above-ground safety, and waste hills in unsafe areas shall not be leased out.

**Article 9** Existing scattered trees before the lease of waste hills may be sold or leased to the lessee at a reasonable price.

The trees planted by the lessee on the leased waste hills shall be owned by the lessee during the term of lease. Upon expiration of the term of lease, the trees shall be disposed of as agreed in the lease contract.

The trees owned by the lessee may be felled and regenerated after examination and approval in accordance with the procedures prescribed in the Regulations of Beijing Municipality on the Protection and Administration of Forest Resources.

**Article 10** The lease term of waste hills shall not exceed 70 years; and the development term shall generally not exceed 5 years.

**Article 11** The lessee must develop and utilize waste hills according to the purpose of use and term stipulated in the lease contract. Waste hills not developed and utilized upon expiration of the term shall be recovered by collective economic organizations without compensation.

**Article 12** The rent of waste hills may be calculated on a one-off or periodic basis; the rent may be paid in a lump sum or in installments.

**Article 13** The lease of waste hills may be conducted by means of agreement, fixed price, bid invitation, etc.

**Article 14** Within the period stipulated in the lease contract, the right to use waste hills and the trees and above-ground property owned by the lessee may be inherited and subleased according to law.

The sublease shall be agreed by the lessor, and a sublease contract shall be concluded between the sublessee and the lessee.

### **Chapter III Rights and Obligations of the Parties**

**Article 15** The lessor shall enjoy the following rights:

- (1) to inspect the development and utilization of waste hills and protect resources from damage;
- (2) to check the implementation of waste hill development projects and deadlines; and
- (3) to collect the rent in accordance with the contract.

**Article 16** The lessor shall fulfill the following obligations:

- (一) 保证承租方的自主经营；
- (二) 不侵犯承租方的合法收益；
- (三) 按照合同约定提供生产、技术等项服务。

**第十七条** 承租方的权利：

- (一) 按照合同约定的用途自主开发经营承租的荒山；
- (二) 享有承租荒山的收益权和按照合同约定的财产所有权；
- (三) 享受国家有关政策规定的优惠。

**第十八条** 承租方的义务：

- (一) 按照合同约定的用途、期限开发利用所承租的荒山；
- (二) 保护自然资源和公用农田水利设施，搞好水土保持；
- (三) 按期交付租金。

## 第四章 租赁合同

**第十九条** 荒山租赁，出租方和承租方必须签订书面合同。订立租赁合同，应当遵循平等互利、协商一致的原则。

**第二十条** 租赁合同应当具备以下主要条款：

- (一) 荒山的位置、面积；
- (二) 用途；
- (三) 租赁期限和开发限期；
- (四) 出租前和合同期满后地上物的处置；
- (五) 租金及其交付方式；
- (六) 双方当事人的权利和义务；
- (七) 违约责任；
- (八) 合同纠纷的解决办法；
- (九) 双方当事人协议的其他事项。

**第二十一条** 出租方和承租方就租赁合同条款协商一致，签字盖章，合同即为成立。租赁合同具有法律效力，任何单位和个人不得随意变更或者解除。

**第二十二条** 租赁合同签订后，当事人可以向农村合作经济管理部门或者公证机关申请鉴证或者公证，确认租赁合同的真实性、合法性。

- (1) to ensure the lessee's independent operation;
- (2) not to infringe upon the legitimate interests of the lessee; and
- (3) to provide production, technology and other services in accordance with the contract.

**Article 17** The lessee shall enjoy the following rights:

- (1) to independently develop and operate the leased waste hills according to the purpose of use as stipulated in the contract;
- (2) to enjoy the right to earnings from the leased waste hills and the ownership of property as stipulated in the contract; and
- (3) to enjoy the preferential policies and regulations of the State.

**Article 18** The lessee shall fulfill the following obligations:

- (1) to develop and utilize the leased waste hills according to the purpose of use and period as agreed in the contract;
- (2) to protect natural resources and public water conservancy facilities for farmland and do a good job in soil and water conservation; and
- (3) to pay the rent on time.

## **Chapter IV Lease Contract**

**Article 19** For the lease of waste hills, the lessor and the lessee must enter into a written contract. In entering into a lease contract, the principle of equality, mutual benefit and consensus shall be followed.

**Article 20** A lease contract shall include the following main terms:

- (1) location and area of waste hills;
- (2) purpose of use;
- (3) lease term and development term;
- (4) disposal of above-ground objects before the lease and after the expiration of the contract;
- (5) the rent and mode of payment;
- (6) rights and obligations of the parties;
- (7) liability for breach of contract;
- (8) settlement of contract disputes; and
- (9) other matters agreed upon by both parties.

**Article 21** The lease contract shall be established after the lessor and the lessee reach an agreement on the terms thereof and affix their signatures and seals thereon. The lease contract shall have legal effect, and no unit or individual may change or terminate it at will.

**Article 22** After the lease contract is concluded, the parties may apply to the administrative departments of rural cooperative economy or notary organs for authentication or notarization to confirm the authenticity and legality of the lease contract.



**第二十三条** 租赁合同、转租合同应当报乡、镇人民政府和区、县人民政府备案。合同管理的具体工作由农村合作经济管理部门负责。

**第二十四条** 凡有下列情况之一的，允许变更或者解除租赁合同：

- （一）由于不可抗力的原因，致使租赁合同无法履行的；
- （二）因国家建设，租赁的荒山被征收、征用的；
- （三）当事人双方协商一致，并且不因变更或者解除租赁合同而损害国家、集体利益的；

- （四）由于一方当事人在合同约定的期限内没有履行合同的。

因变更或者解除合同，使他方遭受损失的，除依法可以免除责任的以外，应当由责任方负责赔偿。

**第二十五条** 出租方出租不属于其集体所有的荒山，给承租方造成损失的，应当承担相应的责任。

**第二十六条** 租赁合同一方当事人要求变更或者解除合同，应当及时书面通知对方；对方应当在接到通知书 30 日内予以书面答复。

双方当事人就变更或者解除租赁合同达成书面协议后，应当在协议书上签字盖章，并报乡、镇人民政府和区、县人民政府备案。

**第二十七条** 租赁合同期满后，可以续租。续租需经双方当事人协商一致，并重新签订合同。

**第二十八条** 租赁合同发生纠纷时，当事人可以通过协商或者由人民政府调解解决。当事人不愿通过协商、调解解决或者协商、调解不成的，可以向农村土地承包仲裁机构申请仲裁，也可以直接向人民法院起诉。

仲裁作出裁决，由仲裁委员会制作仲裁裁决书。对仲裁委员会的仲裁裁决，当事人应当履行。当事人一方在规定的期限内不履行仲裁委员会的仲裁裁决的，对方可以申请人民法院强制执行。

## 第五章 附 则

**第二十九条** 本条例具体应用中的问题，由市人民政府农林办公室负责解释。

**第三十条** 本条例自 1994 年 10 月 1 日起施行。

**Article 23** The lease contract or sublease contract shall be submitted to the township (or town) and district (or county) people's governments for the record.

The administrative departments of rural cooperative economy shall be in the charge of the specific work of contract management.

**Article 24** Under any of the following circumstances, it is allowed to change or terminate the lease contract:

- (1) The lease contract cannot be performed due to force majeure;
- (2) The leased waste hills are expropriated or requisitioned due to state construction;
- (3) The parties reach an agreement through consultation without damaging the interests of the State or the collective due to the change or termination of the lease contract; or
- (4) Either party fails to perform the contract within the time limit as agreed in the contract.

If the other party suffers losses as a result of the change or termination of the contract, the responsible party shall be responsible for making compensation, unless exempted from liability according to law.

**Article 25** If the lessor leases out the waste hills that are not owned by it and causes losses to the lessee, it shall bear corresponding responsibilities.

**Article 26** A party to the lease contract who requests to modify or terminate the contract shall promptly notify the other party in writing; the other party shall give a written reply within 30 days after receiving the notice.

After both parties have reached a written agreement on the modification or termination of the lease contract, they shall affix their signatures and seals on the agreement and report to the township (or town) and district (or county) people's governments for the record.

**Article 27** After the expiration of the lease contract, the lease may be renewed. The renewal shall be agreed upon by both parties and a new contract shall be concluded.

**Article 28** In the event of a dispute over the lease contract, the parties may settle the dispute through consultation or mediation by the people's government. If the parties are unwilling to settle the dispute through consultation or mediation, or if consultation or mediation fails, they may apply to the rural land contract arbitration institution for arbitration, or directly file a lawsuit in the people's court.

The arbitration committee shall make an arbitration award, which shall be performed by the parties. If one party fails to perform the arbitration award within the prescribed time limit, the other party may apply to the people's court for compulsory execution.

## **Chapter V Supplementary Provisions**

**Article 29** The Agriculture and Forestry Office of the Municipal People's Government shall be responsible for the interpretation of issues in specific application of the Regulations.

**Article 30** The Regulations shall come into force as of October 1, 1994.

# 北京市实施《中华人民共和国农业技术推广法》办法

(1995年6月8日北京市第十届人民代表大会常务委员会第  
十七次会议通过)

## 第一章 总 则

**第一条** 为了实施《中华人民共和国农业技术推广法》，结合本市实际情况，制定本办法。

**第二条** 本市各级人民政府应当将农业技术推广工作纳入国民经济和社会发展规划，加强领导，稳定机构，增加经费，更新装备，促进农业技术推广事业的发展。

**第三条** 市和郊区区县农业、林业、畜牧业、渔业、水利、农机等行政部门（以下简称农业技术推广行政部门），按照各自的职责，主管本行政区域内有关的农业技术推广工作。

计划、财政、税收、教育等行政部门，应当在各自的职责范围内，支持农业技术推广工作；科学技术行政部门应当加强对农业技术推广工作的指导。

**第四条** 市人民政府和郊区区县人民政府设立农业技术推广奖，对在农业技术推广工作中做出突出贡献的单位和个人给予奖励。

## 第二章 农业技术推广体系

**第五条** 农业技术推广实行农业技术推广机构和农业科研单位、有关学校以及群众性科技组织、农民技术人员相结合的推广体系。

**第六条** 市和郊区区县应当设立农业、林业、畜牧业、渔业、水利、农机、经营

# Measures of Beijing Municipality for Implementing the Law of the People's Republic of China on the Popularization of Agricultural Technologies

(Adopted at the 17<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup>  
People's Congress of Beijing Municipality on June 8, 1995)

## Chapter I General Provisions

**Article 1** The Measures are formulated for the purpose of implementing the Law of the People's Republic of China on the Popularization of Agricultural Technologies in light of actual circumstances of this Municipality.

**Article 2** The people's governments at all levels in this Municipality shall include the popularization of agricultural technologies in the national economic and social development plans, strengthen leadership, stabilize institutions, increase expenditures, upgrade equipment and promote the development of agricultural technology popularization.

**Article 3** The municipal and suburban district or county administrative departments of agriculture, forestry, animal husbandry, fishery, water conservancy and farm machinery (hereinafter referred to as administrative departments of agricultural technology popularization) shall, within the scope of their respective functions and duties, take charge of agricultural technology popularization within their respective administrative areas.

The administrative departments of planning, finance, tax, education, etc. shall support agricultural technology popularization within the scope of their respective functions and duties. The administrative departments of science and technology shall strengthen their guidance on agricultural technology popularization.

**Article 4** The Municipal People's Government and suburban district or county people's governments shall set up agricultural technology popularization awards to reward units and individuals that have made outstanding contributions to agricultural technology popularization.

## Chapter II Agricultural Technology Popularization System

**Article 5** A popularization system that combines agricultural technology popularization institutions with institutions of agricultural scientific research, relevant schools or colleges, mass organizations of science and technology, and peasant technicians shall be established for agricultural technology popularization.

**Article 6** Agricultural technology popularization institutions of agriculture, forestry, animal husbandry, fishery, water conservancy, farm machinery and business management

管理等农业技术推广机构。

乡、镇应当设立农业、林业、畜牧业、水利、农机、经营管理等农业技术推广机构，渔业技术推广机构的设立，由区、县人民政府决定。

各级人民政府应当保证农业技术推广机构的稳定，不得擅自撤销、合并或者改变机构性质，违反的，由上级人民政府予以纠正。

**第七条** 乡、镇以上（含乡、镇）农业技术推广机构为国家事业单位。

下级农业技术推广机构受上级农业技术推广机构的业务指导。

**第八条** 各级农业技术推广机构应当充实队伍，定编、定员。

各级农业技术推广机构的人员编制，由同级农业技术推广行政部门按照国家和本市有关规定，报机构编制主管部门审批后确定。

**第九条** 农业技术推广机构的人员应当以专业技术人员为主，专业技术人员的比例应当占编制人员总数的百分之八十以上。

乡、镇以上农业技术推广机构中的专业技术人员，应当具有中等以上有关专业学历。

**第十条** 农村集体经济组织及其所属农业生产经营单位，应当根据需要配备专职或者兼职技术人员，负责农业先进技术的应用。

国有农业企业应当设置农业科技机构或者配备专业技术人员。

**第十一条** 对乡、镇以上（含乡、镇）农业技术推广机构中的专业技术人员应当评定专业技术职称。在评定职称时应当将其从事农业技术推广工作的实绩作为考核的重要内容。

农民技术人员经考核符合条件的，可以按照有关规定授予相应的技术职称，并发给证书。

**第十二条** 农业科研单位、有关学校、科学技术协会，应当配合农业技术推广机构开展实用技术培训、科普宣传、成果展示等形式的活动，为农村集体经济组织和农业劳动者从事生产经营活动提供技术服务和信息咨询。

shall be set up in this Municipality and suburban districts or counties.

Agricultural technology popularization institutions of agriculture, forestry, animal husbandry, water conservancy, farm machinery and business management shall be set up in townships or towns. The district or county people's governments shall decide the establishment of fishery technology popularization institutions.

The people's governments at all levels shall ensure the stability of agricultural technology popularization institutions and shall not arbitrarily dissolve or merge such institutions or change their nature. In case of violations, the people's government at the next higher level shall rectify the situation.

**Article 7** Agricultural technology popularization institutions at or above the township or town level are state institutions.

Agricultural technology popularization institutions at a lower level shall be under the direction of those at a higher level for their business.

**Article 8** Agricultural technology popularization institutions at all levels shall be strengthened by fixing its size and number of staff members.

The number of staff members of agricultural technology popularization institutions at all levels shall be determined after the administrative department of agricultural technology popularization at the corresponding level reports to the competent department for institution establishment for examination and approval according to relevant provisions of the State and this Municipality.

**Article 9** Agricultural technology popularization institutions shall be composed mainly of specialized technicians, who shall account for over 80% of the total staff members.

Specialized technicians in agricultural technology popularization institutions at or above the township or town level shall possess the relevant professional qualifications at or above the secondary professional schooling.

**Article 10** Rural collective economic organizations and their subordinate agricultural production and business units shall, according to needs, employ full-time or part-time technicians to be responsible for the application of advanced agricultural technologies.

State-owned agricultural enterprises shall establish agricultural technology institutions or employ specialized technicians.

**Article 11** Technicians in agricultural technology popularization institutions at or above the township or town level shall be given professional titles through assessment. In the assessment, the achievements in agricultural technology popularization shall be taken as an important factor for examination.

Peasant technicians who are qualified by examination may be given corresponding professional titles and certificates according to relevant provisions.

**Article 12** Institutions of agricultural scientific research, relevant schools or colleges, and science and technology associations shall cooperate with agricultural technology popularization institutions to carry out activities such as practical technology training, science popularization and achievement demonstration, so as to provide technical services and information consultation for rural collective economic organizations and agricultural laborers to engage in production and business activities.

鼓励和支持农业集体经济组织、企业、事业单位和其他社会力量，在农业技术推广中发挥作用。

### 第三章 农业技术的推广与应用

**第十三条** 各级农业技术推广机构应当制订农业技术推广项目计划，经同级农业技术推广行政部门批准后实施。重点农业技术推广项目应当列入同级人民政府科技发展计划，并下达实施。

列入计划的农业技术推广项目所需经费，在农业技术推广资金或者科技经费中列支。

**第十四条** 推广的农业技术必须具有先进性、适用性和经济合理性。

推广的农业技术必须是按规定经过审定、鉴定、登记的技术成果。

推广农业技术必须经过试验、示范。

**第十五条** 农业技术推广机构应当引导和协助农业劳动者应用新品种、新技术、新成果。农业技术推广机构推广新品种、新技术、新成果应当尊重农业劳动者的意愿。

各级人民政府对采用新品种、新技术、新成果的集体经济组织和农业劳动者，在技术培训、资金、物资供应和产品销售等方面给予扶持。

**第十六条** 农业科研单位和有关学校研究的新品种、新技术、新成果，可以通过农业技术推广机构推，也可以由该农业科研单位、学校直接推广，推广方应当接受当地农业技术推广行政部门的管理。

**第十七条** 农业技术推广实行推广责任制。农业技术推广方应当对所推广的农业技术产生的后果负责。

农业技术推广方向农业劳动者推广未在推广地区经过试验证明具有先进性和适用性的农业技术，或者强制农业劳动者应用农业技术，给农业劳动者造成损失的，应当承担民事赔偿责任，直接负责的主管人员和其他直接责任人员，由其所在单位或者上级机关给予行政处分。

Rural collective economic organizations, enterprises, institutions and other social forces shall be encouraged and supported to play their roles in agricultural technology popularization.

### **Chapter III Popularization and Application of Agricultural Technologies**

**Article 13** Agricultural technology popularization institutions at all levels shall work out plans for agricultural technology popularization projects and put them into effect after obtaining the approval of the administrative department of agricultural technology popularization at the corresponding level. Key agricultural technology popularization projects shall be included in the science and technology development plan of the people's government at the corresponding level and be assigned for implementation.

The expenditure of agricultural technology popularization projects included in the plan shall be disbursed from the agricultural technology popularization funds or the science and technology funds.

**Article 14** Agricultural technologies to be popularized must be advanced, applicable and economically rational.

Agricultural technologies to be popularized must be technological achievements that have been examined, approved, authenticated and registered as required.

Agricultural technology popularization must be subject to experiment and demonstration.

**Article 15** Institutions of agricultural technology popularization shall guide and assist agricultural laborers to apply new varieties, technologies and achievements. When popularizing new varieties, technologies and achievements, institutions of agricultural technology popularization shall respect the will of agricultural laborers.

The people's governments at all levels shall give support in terms of technical training, funds, material supply and sale of products to the collective economic organizations and agricultural laborers that adopt new varieties, technologies and achievements.

**Article 16** New varieties, technologies and achievements acquired from research by institutions of agricultural scientific research and relevant schools or colleges may be popularized through agricultural technology popularization institutions or directly by themselves. Those that make popularization shall be supervised by local administrative departments of agricultural technology popularization.

**Article 17** The popularization responsibility system shall be implemented in agricultural technology popularization. Those popularizing agricultural technologies must be responsible for the results produced by the agricultural technologies popularized.

Where agricultural technologies that have not been proved to be advanced and applicable through experiment in the popularization area are popularized to agricultural laborers, or agricultural laborers are forced to apply an agricultural technology, which causes losses to agricultural laborers, those conducting such activities shall be liable for civil compensation. The person directly in charge and other persons directly responsible shall be given administrative sanctions by the units to which they belong or higher authorities.



**第十八条** 本市逐步实行农业新品种、新技术、新成果的有偿转让。

**第十九条** 农业技术推广机构向农业劳动者推广农业技术，除本条第二款另有规定外，实行无偿服务。

农业技术推广机构、农业科研单位、有关学校以及其他组织和科技人员，以技术转让、技术服务和技术承包等形式提供农业技术的，可以实行有偿服务，并应当依法订立合同。

农业技术推广机构、农业科研单位、有关学校以及其他组织，应当提取不超过农业技术性收入的百分之五十，奖励直接参加科技研究、开发、咨询和服务的人员。

**第二十条** 鼓励农业技术推广机构以技术在股份制、股份合作制的农业企业参股。

#### 第四章 农业技术推广的保障措施

**第二十一条** 各级人民政府在财政预算内应当保障用于农业技术推广的资金，并使其逐年增长。

在财政预算内安排的支农资金和农业发展基金中，每年应当按照高于百分之十的比例提取资金，用于实施农业技术推广项目。

任何单位或者个人不得截留或者挪用用于农业技术推广的资金。

**第二十二条** 农业技术推广机构的经费实行财政全额预算。

对于条件具备、有稳定收入来源的农业技术推广机构，经区、县以上财政部门会同同级农业技术推广行政部门审定，也可以实行差额补贴或者自收自支。

任何单位和个人不得任意扣减或者停止拨付农业技术推广机构的经费。

**第二十三条** 农业技术推广机构可以结合技术推广开展经营服务，经营服务的主要范围包括：良种、农用生产资料以及农产品保鲜加、运销业务和产品开发。

农业技术推广机构兴办的为农业服务、技贸结合的经济实体，依法享受国家税收和信贷优惠。

**Article 18** The transfer of new agricultural varieties, technologies and achievements with compensation shall be gradually implemented in this Municipality.

**Article 19** Popularization of agricultural technologies to agricultural laborers by institutions of agricultural technology popularization shall, except as otherwise provided in the second paragraph of this article, be carried out without compensation.

Institutions of agricultural technology popularization, institutions of agricultural scientific research, relevant schools or colleges, other organizations as well as scientific and technical personnel that provide agricultural technologies in the forms of technology transfer, technical services and technology contract may be paid for their services and shall conclude contracts according to law.

Institutions of agricultural technology popularization, institutions of agricultural scientific research, relevant schools or colleges, and other organizations shall reward their personnel directly participating in scientific and technological research, development, consultation and services by drawing not more than 50% of the agricultural technology income.

**Article 20** Institutions of agricultural technology popularization shall be encouraged to contribute technology as their stakes in joint-stock or joint-stock cooperative agricultural enterprises.

## **Chapter IV Safeguard Measures for Agricultural Technology Popularization**

**Article 21** The people's governments at all levels must ensure the funds for agricultural technology popularization in fiscal budgets and increase the funds year by year.

A proportion of over 10% of the funds for agriculture and agricultural development arranged in fiscal budgets shall be drawn for the implementation of agricultural technology popularization projects each year.

No unit or individual may withhold or misappropriate the funds for agricultural technology popularization.

**Article 22** All expenditures of institutions of agricultural technology popularization shall be disbursed from fiscal budgets.

Institutions of agricultural technology popularization with good conditions and stable income sources may adopt the system of deficiency payment or self-controlled revenue and expenditure upon examination and approval by financial departments at or above the district or county level together with the administrative department of agricultural technology popularization at the corresponding level.

No unit or individual may arbitrarily decrease or stop allocation of funds to institutions of agricultural technology popularization.

**Article 23** Institutions of agricultural technology popularization may, in combination with technology popularization, provide business services, which mainly include improved seed varieties, capital goods for agricultural production, the processing, freshness preservation, transportation and marketing of agricultural products as well as product development.

The economic entity run by an institution of agricultural technology popularization that

**第二十四条** 农业技术推广机构开展经营服务的收入，主要用于发展农业技术推广事业和改善从事农业技术推广人员的工作、生活条件。

任何部门不得要求农业技术推广机构上缴利润。

**第二十五条** 各级人民政府应当保障农业技术推广机构的办公场所、试验基地、生产资料和其他财产不受侵占。对违反者应当责令改正，退回财产，赔偿损失，构成犯罪的依法追究刑事责任。

**第二十六条** 各级农业技术推广行政部门应当为农业技术推广人员接受继续教育，提高技术业务水平创造必要的条件。

**第二十七条** 各级人民政府应当采取措施，保障和改善从事农业技术推广工作的专业科技人员的工作条件和生活条件，改善他们的待遇，依照国家规定给予补贴，保持专业科技人员的稳定。

鼓励国家农业科技人员到乡、镇农业技术推广机构工作。在乡、镇农业技术推广机构工作、具有中专以上学历或者技术员以上职称的国家农业技术人员，在原工资基础上向上浮动一档工资，每五年予以固定，并继续向上浮动。

**第二十八条** 农村集体经济组织及其所属农业生产经营单位，应当对农民技术员给予适当经济补贴。

## 第五章 附 则

**第二十九条** 本办法具体应用中的问题，由市人民政府农林办公室负责解释。

**第三十条** 本办法自 1995 年 8 月 1 日起施行。

serves agriculture and combines technology with trade may enjoy preferential tax and credit of the State.

**Article 24** Institutions of agricultural technology popularization shall spend their revenue from business services mainly on the development of agricultural technology popularization and improvement of the working and living conditions of the personnel engaged in agricultural technology popularization.

No department may ask institutions of agricultural technology popularization to turn over profits.

**Article 25** The people's governments at all levels shall ensure that the work places, experimental bases, means of production and other property of institutions of agricultural technology popularization are free from encroachment. Violators shall be ordered to make corrections, return property and make compensation for losses. Where a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 26** Administrative departments of agricultural technology popularization at all levels shall create necessary conditions for agricultural technology popularization personnel to receive further education and improve the level of technical services.

**Article 27** The people's governments at all levels shall take measures to guarantee and improve the working and living conditions of professional scientific and technological personnel engaged in agricultural technology popularization, improve their treatment, and give subsidies as stipulated by the State, so as to maintain the stability of professional scientific and technological team with good workforce retention.

National agricultural science and technology personnel shall be encouraged to work in township or town institutions of agricultural technology popularization. National agricultural technicians in township or town institutions of agricultural technology popularization with qualifications at or above technical secondary schooling or with titles of technician or above shall be entitled to have their salaries raised one grade upward from the original grade and fixed for five years and then raised upward again.

**Article 28** Rural collective economic organizations and their subordinate agricultural production and business units shall give appropriate economic subsidies to peasant technicians.

## **Chapter V Supplementary Provisions**

**Article 29** The Agriculture and Forestry Office of the Municipal People's Government shall be responsible for the interpretation of issues in specific application of the Measures.

**Article 30** The Measures shall come into force as of August 1, 1995.

# 北京市农业承包合同条例

(1998年7月31日北京市第十一届人民代表大会常务委员会  
第四次会议通过)

## 第一章 总 则

**第一条** 为了稳定和完善农业承包经营责任制,保护农业承包合同当事人的合法权益,根据本市实际情况,制定本条例。

**第二条** 本条例适用于本市农村集体经济组织与其成员之间为从事种植业、林业、畜牧业和渔业生产经营活动,以承包的方式明确相互权利义务关系而订立的农业承包合同(以下简称承包合同)。

**第三条** 本市农村实行以家庭联产承包为主的责任制和统分结合的双层经营体制。

农业承包经营方式应当根据当地生产力水平和集体经济组织成员的意愿确定。

**第四条** 农村集体经济组织成员对本集体经济组织所有的土地享有承包权。任何组织和个人不得非法剥夺农民的承包权。

**第五条** 依照法律属于农民集体所有的土地和其他生产资料,承包后所有权不变。

**第六条** 市和区、县以及乡、镇农村合作经济经营管理部门负责本行政区域内承包合同的管理工作。

**第七条** 区、县农业承包合同仲裁委员会负责本区、县承包合同纠纷的仲裁,日常办事机构设在区、县农村合作经济经营管理部门。

## 第二章 发包和承包

**第八条** 承包合同的发包方是拥有土地和其他生产资料所有权的农村集体经济组

# Regulations of Beijing Municipality on Agricultural Contracts

(Adopted at the 4<sup>th</sup> Meeting of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on July 31, 1998)

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of stabilizing and improving the responsibility system for agricultural contractual management and protecting the legitimate rights and interests of the parties to agricultural contracts in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to the agricultural contracts (hereinafter referred to as contracts) concluded between rural collective economic organizations and their members for production and operation activities of planting, forestry, animal husbandry and fishery that clarify mutual rights and obligations in the form of contract in this Municipality.

**Article 3** This Municipality shall implement the two-tier management system that combines centralized and decentralized management on the basis of household contractual management in rural areas.

The mode of agricultural contractual management shall be determined according to the local productivity level and wishes of the members of collective economic organizations.

**Article 4** Members of rural collective economic organizations shall have the right to undertake land contracts with their collective economic organizations. No organization or individual may illegally deprive peasants of their right to undertake contracts.

**Article 5** After the land and other means of production owned collectively by peasants according to law are contracted, the ownership thereof shall remain unchanged.

**Article 6** The municipal, district (or county) and township (or town) administrative departments of rural cooperative economic management shall be responsible for the management of the contracts within their respective administrative areas.

**Article 7** The district or county arbitration committees of agricultural contracts shall be responsible for the arbitration of contract disputes within their respective administrative areas, and daily offices shall be set up in the district or county administrative departments of rural cooperative economic management.

## Chapter II Contract Awarding and Contracting

**Article 8** The party awarding the contract shall be a rural collective economic

织。承包方是该集体经济组织内部的农户、个人或者生产经营组织。

**第九条** 发包项目和发包方案应当由集体经济组织成员大会或者成员代表大会决定并公布。

**第十条** 承包期限应当按照有利于发展生产，提高经济效益，调动承包者积极性，保护自然资源的原则确定。

实行家庭联产承包的，土地承包期限为 30 年。

**第十一条** 发包方的权利和义务：

- （一）制定土地利用规划和区域种植规划；
- （二）依照承包合同约定，收取承包金；
- （三）制止承包方损害农业资源和其他资产的行为；
- （四）依照承包合同约定，为承包方提供生产、经营、技术服务；
- （五）维护承包方的正常生产经营秩序；
- （六）法律、法规规定和承包合同约定的其他权利和义务。

**第十二条** 承包方的权利和义务：

- （一）依照承包合同约定，享有经营自主权、产品处分权和收益权；
- （二）依照承包合同约定和区域种植规划，合理使用和保护农业资源及其他资产；
- （三）依法缴纳税款，依照承包合同约定交纳承包金，完成国家的农产品定购任务；
- （四）法律、法规规定和承包合同约定的其他权利和义务。

### 第三章 承包合同的订立和履行

**第十三条** 实行农业承包经营的，当事人双方应当签订承包合同。

订立承包合同必须遵守法律、法规和国家政策，符合集体经济组织章程，执行集体经济组织成员大会或者成员代表大会决议，坚持公开公正、自愿互利、协商一致、诚实信用的原则，兼顾国家、集体、个人三者利益。

**第十四条** 承包合同应当采用书面形式。发包方和承包方就承包合同条款协商一致，签字盖章，合同即为成立。

承包合同依法成立，即具有法律约束力，当事人必须全面履行承包合同规定的义

organization that possesses the ownership of land and other means of production, while the contractor shall be a peasant, individual or production and operation organization within the collective economic organization.

**Article 9** Contract awarding projects and schemes shall be decided and announced by the members' assembly or members' congress of the collective economic organization.

**Article 10** The term of contract shall be determined in accordance with the principles of benefits to the development of production, improvement of economic benefits, mobilization of the enthusiasm of the contractor and protection of natural resources.

In the case of household contract, the term of land contract shall be 30 years.

**Article 11** The party awarding the contract shall have the following rights and obligations:

- (1) to formulate land use plans and regional planting plans;
- (2) to collect the contract price as agreed in the contract;
- (3) to stop the contractor from damaging agricultural resources and other assets;
- (4) to provide services in respect of production, operation and technology to the contractor as agreed in the contract;
- (5) to maintain the normal production and operation order of the contractor; and
- (6) other rights and obligations as stipulated by laws and regulations and as agreed in the contract.

**Article 12** The contractor shall have the following rights and obligations:

- (1) to enjoy the autonomy in management, right of product disposal and right to earnings as agreed in the contract;
- (2) to reasonably use and protect agricultural resources and other assets as agreed in the contract and in accordance with regional planting plans;
- (3) to pay taxes according to law, pay contract price as agreed in the contract, and complete the State's task of ordering agricultural products; and
- (4) other rights and obligations as stipulated by laws and regulations and as agreed in the contract.

### **Chapter III Conclusion and Performance of Contracts**

**Article 13** In the case of agricultural contractual management, the parties shall conclude a contract.

In the conclusion of the contract, laws, regulations and national policies must be complied with, the articles of association of collective economic organizations must be conformed to, the resolutions of the members' assembly or members' congress of collective economic organizations must be implemented, the principles of openness, impartiality, voluntaries, mutual benefit, consensus through consultation, honesty and credibility must be adhered to, and the interests of the State, the collective and individuals must be taken into account.

**Article 14** The contract shall be in writing, and shall be established when the party awarding the contract and the contractor agree on the terms thereof and affix their signatures and seals thereon.

The contract shall be legally binding if it is established according to law. The parties must fully perform their obligations under the contract, and neither party may change or



务，任何一方不得擅自变更或者解除。

承包合同签订后，当事人可以向农村合作经济经营管理部门申请鉴证，也可以向公证机关申请公证。

**第十五条** 承包合同应当具备以下主要条款：

- （一）承包项目名称；
- （二）发包方、承包方名称及双方代表人姓名；
- （三）发包方提供的资源和其他资产的方位、数量、质量、等级；
- （四）承包期限和起止时间；
- （五）承包方应当缴纳的税款、承包金及缴纳时间，应当完成的国家农产品定购任务；
- （六）发包方提供的生产条件和服务；
- （七）因不可抗力的原因造成减产、减收或者绝产、绝收的处理办法；
- （八）承包合同存续期间资产增值、减值处理办法；
- （九）违约责任；
- （十）双方议定的其他事项。

**第十六条** 发包方分立或者合并，承包合同仍然有效。发包方的权利、义务由分立或者合并后的集体经济组织行使和履行。

**第十七条** 实行家庭联产承包的，在承包期内，在不改变土地所有权和用途的前提下，承包方对其承包土地的使用权，可以有偿转包、转让或者互换、入股。

**第十八条** 承包方将承包土地的使用权转包、互换、入股，原承包合同有效。承包土地的使用权转包他人时，原承包方应当与第三方签订转包合同。

承包土地的使用权转让他人时，原承包合同解除，由发包方与第三方签订承包合同。

**第十九条** 承包方将承包土地的使用权转包、转让、互换、入股的，应当经发包方同意。

**第二十条** 承包人在承包期内死亡，其继承人可以继续承包，并履行原承包合同约定的权利和义务；没有继承人或者继承人不愿继续承包的，发包方可以收回承包项目重新发包。

terminate it without authorization.

After the contract is concluded, the parties may apply to the administrative departments of rural cooperative economic management for authentication or to notary organs for notarization.

**Article 15** The contract shall include the following main terms:

- (1) name of contracting project;
- (2) names of the party awarding the contract and the contractor and names of the representatives of both parties;
- (3) location, quantity, quality and grade of resources and other assets provided by the party awarding the contract;
- (4) term of contract and dates of beginning and end;
- (5) taxes and contract price that the contractor shall pay and time of payment, and the State's tasks of ordering agricultural products that shall be completed;
- (6) production conditions and services to be provided by the party awarding the contract;
- (7) measures for dealing with reduction in production or termination of production due to force majeure;
- (8) measures for handling the increase and decrease in value of assets during the term of contract;
- (9) liability for breach of contract; and
- (10) other matters agreed upon by both parties.

**Article 16** The contract shall remain valid in case of division or merger of the party awarding the contract. The rights and obligations of the party awarding the contract shall be exercised and performed by the surviving collective economic organization.

**Article 17** In the case of household contract, the contractor may, during the term of contract and on the premise of not changing the ownership and purpose of use of the land, subcontract, transfer or exchange the right of use of the contracted land with compensation, or become a shareholder with such right.

**Article 18** The original contract shall be valid if the contractor subcontracts or exchanges the right of use of the contracted land or become a shareholder with such right. When the right of use of the contracted land is subcontracted to others, the original contractor shall conclude a subcontract with a third party.

When the right of use of the contracted land is transferred to others, the original contract shall be terminated and the party awarding the contract shall conclude a contract with a third party.

**Article 19** If the contractor subcontracts, transfers or exchanges the right of use of the contracted land, or becomes a shareholder with such right, it shall obtain the consent of the party awarding the contract.

**Article 20** If the contractor dies during the term of contract, the inheritor thereof may continue the contract and perform the rights and obligations as agreed in the original contract; if there is no inheritor or the inheritor is unwilling to continue the contract, the

**第二十一条** 有下列情形之一的，为无效承包合同：

- （一）违反法律、法规和国家政策的；
- （二）损害国家、集体利益和社会公共利益的；
- （三）发包方违背集体经济组织章程，违背集体经济组织成员大会或者成员代表大会决议越权发包的；
- （四）采取欺诈、胁迫及其他不正当手段签订的。

**第二十二条** 无效承包合同从订立时起，就没有法律约束力。确认承包合同部分无效的，如果不影响其余部分的效力，其余部分仍然有效。

无效承包合同由农业承包合同仲裁委员会或者人民法院确认。

**第二十三条** 承包合同被确认无效后，当事人依据该承包合同所取得的财产，应当返还给对方。有过错的一方应当赔偿对方因此遭受的经济损失；如果双方都有过错，各自承担相应的责任。

发包方与承包方恶意串通，实施损害国家、集体或者第三人利益的行为，造成经济损失的，应当由双方负责赔偿，并追缴非法所得，收归国家、集体所有或者返还第三人。

## 第四章 承包合同的变更和解除

**第二十四条** 发生下列情况之一的，允许变更或者解除承包合同：

- （一）当事人双方经过协商一致，并且不因变更或者解除承包合同而损害国家、集体利益和社会公共利益的；
- （二）承包的土地依法由农用地转为建设用地的；
- （三）因不可抗力的原因，致使承包合同部分或者全部不能履行的；
- （四）一方违约，致使承包合同无法履行或者没有必要继续履行的；
- （五）承包方改变土地用途，或者进行破坏性生产经营，或者弃耕撂荒，或者拒交承包金，经发包方制止无效的；
- （六）承包方丧失承包经营能力或者转营他业无力经营的；
- （七）签订承包合同所依据的国家政策发生重大变化的。

party awarding the contract may take back the contracting project for re-contract.

**Article 21** The contract shall be void under any of the following circumstances:

- (1) Laws, regulations and national policies are violated;
- (2) The interests of the State, the collective and the public are damaged;
- (3) The party awarding the contract acts beyond its authority in violation of the articles of association of the collective economic organization, or resolutions of the members' assembly or members' congress of the collective economic organization; or
- (4) The contract is concluded by fraud, coercion or other improper means.

**Article 22** The invalid contract shall have no legal binding force since it is concluded. If part of the contract is confirmed to be invalid, and the validity of the remaining part is not affected, the remaining part shall remain valid.

The invalid contract shall be confirmed by the arbitration committee of agricultural contracts or the people's court.

**Article 23** After the contract is confirmed to be invalid, the property acquired by a party in accordance with the contract shall be returned to the other party. The party in fault shall compensate the other party for the economic losses incurred therefrom; if both parties are in fault, they shall bear their respective responsibilities.

If the party awarding the contract and the contractor collude maliciously to damage the interests of the State, the collective or a third party, thus causing economic losses, the parties shall be responsible for compensation, and the illegal income shall be recovered to make it property of the State or the collective or to be returned to the third party.

## **Chapter IV Modification and Termination of Contract**

**Article 24** Under any of the following circumstances, it is allowed to modify or terminate the contract:

- (1) The parties have reached a consensus through consultation and the interests of the State, the collective and the public will not be damaged due to the modification or termination of the contract;
- (2) The contracted land is converted from agricultural land to construction land according to law;
- (3) The contract cannot be performed in part or in whole due to force majeure;
- (4) One party's breach of contract makes the contract impossible to perform or unnecessary to continue;
- (5) The contractor changes the land use, conducts destructive production and operation, abandons the land or refuses to pay the contract price, and defies the dissuasion by the party awarding the contract;
- (6) The contractor has lost the ability to engage in contractual management or is unable to continue as a going concern after having changed into other business; or
- (7) Major changes have taken place in the national policies on which the contract was concluded.

变更或者解除承包合同，应当不违农时，避免造成损失。

**第二十五条** 承包合同当事人一方要求变更或者解除承包合同，应当及时书面通知对方；对方应当自接到通知书之日起 15 日内予以书面答复。

当事人双方就变更或者解除承包合同达成书面协议，报乡、镇农村合作经济经营管理部备案。

**第二十六条** 因变更或者解除承包合同使一方遭受损失的，除依法可以免除责任的以外，应当由造成损失的责任方负责赔偿。

**第二十七条** 在承包期内，发包方不得随意调整承包方承包的土地。因承包土地依法由农用地转为建设用地或者自然灾害，需要对土地承包方案作调整的，应当经集体经济组织成员大会或者成员代表大会通过。

## 第五章 违约责任

**第二十八条** 由于当事人一方的过错，造成承包合同不能履行或者不能完全履行的，由有过错的一方承担违约责任；双方都有过错的，由双方分别承担各自应负的违约责任。

**第二十九条** 当事人一方由于不可抗力的原因不能履行承包合同的，应当及时向对方通报不能履行或者需要延期履行、部分履行承包合同的理由，在取得有关证明以后，允许延期履行、部分履行或者不履行，并可根据情况部分或者全部免于承担违约责任。

**第三十条** 当事人一方违反承包合同，应当向对方支付违约金；违约金不足以弥补损失的，应当对超出的损失部分进行赔偿。对方要求继续履行承包合同的，应当继续履行。

**第三十一条** 发包方有下列行为之一的，应当采取补救措施，给承包方造成损失的，应当负责赔偿：

- （一）擅自变更或者解除承包合同的；
- （二）未按承包合同约定提供生产经营条件和服务的；
- （三）非法干预承包方正常生产经营活动的；

The modification or termination of the contract shall not interfere with farming and shall avoid losses.

**Article 25** If one party to the contract requests to modify or terminate the contract, it shall promptly notify the other party in writing; the other party shall give a written reply within 15 days from the date of receiving the notice.

A written agreement shall be reached by both parties on the modification or termination of the contract, which shall be reported to the township or town administrative departments of rural cooperative economic management for the record.

**Article 26** If a party suffers losses as a result of the modification or termination of the contract, the party responsible for the losses shall be liable for compensation, except where the party may be exempted from liability according to law.

**Article 27** During the term of contract, the party awarding the contract shall not adjust the land contracted by the contractor at will. If it is necessary to adjust the land contract plan due to the conversion of the contracted land from agricultural land to construction land or natural disasters according to law, it shall be approved by the members' assembly or members' congress of the collective economic organization.

## **Chapter V Liability for Breach of Contract**

**Article 28** If the contract cannot be performed or cannot be fully performed due to the fault of one party, the party in fault shall bear the liability for breach of contract; if both parties are in fault, both parties shall bear their respective liabilities for breach of contract.

**Article 29** If a party is unable to perform the contract due to force majeure, it shall promptly notify the other party of the reasons for its inability to perform or for its need to delay the performance or partially perform the contract. After obtaining the relevant proof of supporting, the party shall be allowed to delay the performance, partially perform or not to perform the contract, and may be exempted from the liability for breach of contract in part or in whole according to the circumstances.

**Article 30** If one party violates the contract, it shall pay liquidated damages to the other party; if the liquidated damages are insufficient to make up for the losses, it shall make compensation for the excess losses. If the other party requests to continue to perform the contract, it shall continue the performance.

**Article 31** In case of any of the following acts, the party awarding the contract shall take remedial measures and shall be liable for compensation in case of losses to the contractor:

- (1) changing or terminating the contract without authorization;
- (2) failing to provide production and operation conditions and services as agreed in the contract;
- (3) illegally interfering in the normal production and operation activities of the contractor; or

（四）未履行承包合同约定的其他义务的。

**第三十二条** 承包方有下列行为之一的，应当采取补救措施，给发包方造成损失的，应当负责赔偿：

（一）改变承包土地用途，或者进行破坏性生产经营，或者弃耕撂荒的；

（二）承包的生产设施毁坏或者丢失的；

（三）未按承包合同约定缴纳税款、承包金或者未完成国家农产品定购任务的；

（四）未履行承包合同约定的其他义务的。

## 第六章 承包合同纠纷的处理

**第三十三条** 承包合同发生纠纷时，由当事人协商解决，也可以向所在乡、镇农村合作经济经营管理部门申请调解，调解达成协议的，应当制作调解书。

当事人双方协商一致，可以不经前款程序，向所在区、县农业承包合同仲裁委员会申请仲裁。仲裁作出裁决，由仲裁委员会制作裁决书。对仲裁不服的，可以在接到裁决书之日起 30 日内向人民法院起诉。当事人一方期满不起诉又不履行裁决的，另一方可以向人民法院申请执行。

当事人可以直接向人民法院起诉。

## 第七章 附 则

**第三十四条** 本条例具体应用中的问题，由市人民政府负责解释。

**第三十五条** 本条例自 1998 年 9 月 15 日起施行。1989 年 10 月 19 日北京市第九届人民代表大会常务委员会第十四次会议通过的《北京市农业联产承包合同条例》同时废止。

(4) failing to perform other obligations as agreed in the contract.

**Article 32** If the contractor commits any of the following acts, it shall take remedial measures, and shall be responsible for making compensation for the losses caused to the party awarding the contract:

(1) changing the purpose of use of the contracted land, engaging in destructive production and operation, or abandoning the land;

(2) damage to or loss of the contracted production facilities;

(3) failing to pay taxes or contract price as agreed in the contract or failing to complete the State's task of ordering agricultural products; or

(4) failing to perform other obligations as agreed in the contract.

## **Chapter VI Settlement of Contract Disputes**

**Article 33** In the event of disputes over the contract, the parties shall settle the dispute through consultation, and may also apply to the local township or town administrative departments of rural cooperative economic management for mediation. If an agreement is reached through mediation, a mediation agreement shall be concluded.

If both parties reach an agreement through consultation, they may apply for arbitration to the local district or county arbitration committee of agricultural contracts without going through the procedures mentioned in the preceding paragraph. The arbitration committee shall make an arbitration award. If a party refuses to accept the arbitration award, it may bring a lawsuit in the people's court within 30 days from the date of receiving the award. If one party neither brings a lawsuit nor executes the award within the time limit, the other party may apply to the people's court for enforcement.

The parties may directly bring a lawsuit in the people's court.

## **Chapter VII Supplementary Provisions**

**Article 34** The Municipal People's Government shall be responsible for the interpretation of issues in specific application of the Regulations.

**Article 35** The Regulations shall come into force as of September 15, 1998. The Regulations of Beijing Municipality on Agricultural Contracts adopted at the 14th Meeting of the Standing Committee of the 9th People's Congress of Beijing Municipality on October 19, 1989 shall be repealed simultaneously.



# 北京市实施《中华人民共和国种子法》办法

(2006年9月15日北京市第十二届人民代表大会常务委员会第三十次会议通过 根据2018年3月30日北京市第十五届人民代表大会常务委员会第三次会议通过的《关于修改〈北京市大气污染防治条例〉等七部地方性法规的决定》修正)

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第二章	种质资源保护
第三章	品种选育与审定
第四章	种子生产
第五章	种子经营
第六章	种子使用
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第八章	监督管理
第九章	法律责任
第十章	附 则

## 第一章 总 则

**第一条** 为了实施《中华人民共和国种子法》(以下简称《种子法》),结合本市实际情况,制定本办法。

**第二条** 本办法适用于本市行政区域内从事品种选育和种子生产、经营、使用以及相关监督管理的活动。

本办法所称种子,是指农作物和林木的种植材料或者繁殖材料,包括籽粒、果实和根、茎、苗、芽、叶等。

**第三条** 市和区人民政府应当制定种子发展规划,扶持种子生产基地和种子市场体系建设,按照国家有关规定在财政、信贷和税收等方面采取措施,促进种子产业发展。

# Measures of Beijing Municipality for Implementation of the Seed Law of the People's Republic of China

(Adopted at the 30<sup>th</sup> Meeting of the Standing Committee of the Twelfth Beijing Municipal People's Congress on September 15, 2006; amended by the Decision on Revising the Regulations of Beijing Municipality on the Prevention and Control of Atmospheric Pollution and Other Six Local Regulations adopted at the 3<sup>rd</sup> Meeting of the Standing Committee of the Fifteenth Beijing Municipal People's Congress on March 30, 2018)

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Chapter III	Selection and Verification of Varieties
Chapter IV	Production of Seeds
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Chapter VIII	Supervision and Administration
Chapter IX	Legal Responsibility
Chapter X	Supplementary Provisions

## Chapter I General Provisions

**Article 1** These Measures are formulated for the purposes of implementing the Seed Law of the People's Republic of China (hereinafter referred to as the Seed Law) in light of the actual circumstances of this Municipality.

**Article 2** These Measures apply to the activities such as variety selection and production of, trading in, use and relevant supervision and management of seeds within the administrative area of this Municipality.

The "seeds" mentioned in these Measures refer to the materials for planting or propagating crops and forest trees, including grains, fruits, roots, stems, seedlings, sprouts and leaves.

**Article 3** The municipal and the district people's governments shall make plans for seed development, render support to the building of seed production bases and seed market systems, and promote the development of seed industry by taking measures in finance, loans

市和区人民政府应当采取措施,扶持农作物、林木新品种的培育、开发和良种推广,保护植物新品种权,鼓励种子选育、生产、经营一体化。

**第四条** 市人民政府设立种子专项资金,用于种质资源保护与利用、种子技术研究与应用、种子基地建设、品种试验及良种选育、示范和推广。

**第五条** 市和区农业、林业行政主管部门分别主管本行政区域内农作物种子和林木种子工作。

市和区种子管理机构具体负责种子管理和监督工作。市种子管理机构对区种子管理机构进行指导和监督。

**第六条** 本市建立种子贮备制度,主要用于发生灾害时的生产需要,保障农业、林业安全。

**第七条** 种子进出口和对外合作应当严格执行国家规定,有关行政主管部门应当依法加强监督检查。

**第八条** 市和区人民政府和政府有关部门对在种质资源保护、良种选育、推广和种子管理工作中成绩显著的单位和个人,给予奖励。

## 第二章 种质资源保护

**第九条** 市农业、林业行政主管部门应当加强种质资源的保护,建立种质资源库、种质资源保护区或者种质资源保护地,确定并公布本市重点保护的种质资源目录。

市农业、林业行政主管部门应当有计划地组织调查本市种质资源情况,并公布可供利用的种质资源目录。

**第十条** 鼓励单位和个人依法保护、交流与利用种质资源。

市和区农业、林业行政主管部门对符合本市种质资源保护需求,承担种质资源保护工作的单位和个人,应当给予适当的扶持和补偿。

**第十一条** 市农业、林业行政主管部门应当根据本市种质资源的实际情况,对下列种质资源确定保护范围,设立保护标志,加强保护管理:

and taxation in accordance with relevant provisions of the State.

The municipal and the district people's governments shall take measures to support the breeding and development of new varieties of crops and forest trees and the popularization of improved varieties, protect the new plant variety rights and encourage the integration of selection, production of and trading in seeds.

**Article 4** The Municipal People's Government shall establish special seed funds used for the protection and utilization of germ plasm resources, research and application of seed technologies, construction of seed bases, variety experiments and selection, demonstration and popularization of improved varieties.

**Article 5** The administrative departments for agriculture and forestry at the municipal and the district level shall be in charge of the work related to crop seeds and forest tree seeds within their respective administrative areas.

The seed management organs at the municipal and the district level shall be responsible for the specific work on seed management and supervision. The municipal seed management organ shall guide and supervise the district seed management organs.

**Article 6** This Municipality shall establish a system for storing seeds, mainly to meet the need of production in times of disasters, so as to ensure the security of agriculture and forestry.

**Article 7** The provisions of the State shall be strictly implemented in import and export of seeds and cooperation with foreign countries and relevant competent administrative departments shall strengthen supervision and inspection according to law.

**Article 8** The municipal and the district or county people's governments and relevant government departments shall reward the units and individuals that have made outstanding achievements in the work related to the protection of germ plasm resources, selection and popularization of improved varieties and seed management.

## **Chapter II Protection of Germplasm resources**

**Article 9** The municipal administrative departments for agriculture and forestry shall strengthen the protection of germ plasm resources, establish germ plasm resource banks and protection zones or germ plasm resource reserves, and determine and issue the catalogue of germ plasm resources for special protection in this Municipality.

The municipal administrative departments for agriculture and forestry shall, in a planned way, organize investigations into the germ plasm resources of this Municipality and issue the catalogue of available germ plasm resources.

**Article 10** Units and individuals are encouraged to protect, exchange and utilize germ plasm resources according to law.

The administrative departments for agriculture and forestry at the municipal and the district level shall provide appropriate support and compensation to the units and individuals undertaking the protection work related to germ plasm resources that accord with the demand of this Municipality in the protection of germ plasm resources.

**Article 11** The municipal administrative departments for agriculture and forestry shall, in light of the actual situation of germ plasm resources of this Municipality, specify

- (一) 农作物、林木的栽培种、野生种和濒危稀有的繁殖材料；
- (二) 人工培育的遗传材料；
- (三) 其他具有保护价值的种质资源。

**第十二条** 禁止采集或者采伐国家和本市重点保护的天然种质资源。因科研、教学、人工繁育等特殊需要，经国务院农业、林业行政主管部门或者市农业、林业行政主管部门批准采集或者采伐的除外。

### 第三章 品种选育与审定

**第十三条** 本市依法保护植物新品种权人（以下简称品种权人）的合法权益。任何单位或者个人未经品种权人许可，不得为商业目的生产、销售该品种的繁殖材料。

**第十四条** 单位或者个人所有的育种材料、育种技术，他人不得侵占，未经该单位或者个人同意，他人不得使用、转让、赠与、披露。

**第十五条** 鼓励种子企业独立育种或者与科研单位、学校合作育种，或者委托科研单位、学校育种。合作育种或者委托育种的，当事人双方应当签订书面合同。合同内容包括育种目标、完成期限、投资、新品种权益、违约责任等。

**第十六条** 主要农作物品种、主要林木品种经国家或者本市审定通过并公告后，可以在本市适宜生态区域推广。

从与本市属于同一适宜生态区的地区引种主要农作物品种、主要林木品种的，应当经该地区省级审定通过，并报经市农业、林业行政主管部门备案。

**第十七条** 应当审定的农作物品种未经审定通过的，不得发布广告，不得经营、推广，也不得以试验、示范等方式经营、推广。

应当审定的主要林木品种未经审定通过的，不得作为良种经营、推广，也不得以试验、示范等方式作为良种经营、推广；但生产确需使用的，应当经市林木品种审定委员会认定，并在规定的期限和生态区域内使用。

the protection scopes of the following germ plasm resources and set up protection signs to strengthen protection and management:

- (1)cultigens and wild species of crops and forest trees and endangered and rare propagating materials;
- (2)artificially cultivated hereditary materials; and
- (3)other germ plasm resources worth protecting.

**Article 12** Collecting and cutting natural germ plasm resources that are under special protection of the State or this Municipality are prohibited, except as approved by the administrative departments for agriculture or forestry under the State Council or the municipal administrative department for agriculture or forestry for scientific research, teaching, artificial propagation or other special purposes.

### Chapter III Selection and Verification of Varieties

**Article 13** This Municipality shall protect the lawful rights and interests of the owners of new plant varieties (hereinafter referred to as the owners of variety rights).

No unit or individual may, without permission from the owner of variety rights, produce or sell propagating materials of that variety for commercial purposes.

**Article 14** The breeding materials or breeding technologies owned by units or individuals shall not be misappropriated by others. Without the units or individuals' consent, no one may use, transfer, grant or disclose such materials or technologies.

**Article 15** Seed enterprises are encouraged to breed seeds independently, or to breed seeds through cooperation with scientific research units or schools, or to entrust scientific research units or schools to breed seeds. Where there is cooperation in or entrustment of seed breeding, both parties concerned shall sign a written contract the contents of which shall include the objective of seed breeding, time limit of completion, investment, rights and interests of new varieties and liability for breach of contract, etc.

**Article 16** Main crop varieties and main forest tree varieties may be popularized in regions with suitable ecology within this Municipality after being verified and announced by the State or this Municipality.

The varieties falling into the main crop varieties or forest tree varieties to be introduced from the regions that has the same suitable ecology as this Municipality shall be subject to the verification at the provincial level of the regions and be reported to and approved by the municipal administrative department for agriculture or forestry.

**Article 17** Crop varieties that should go through but have not passed the verification shall not be advertised, traded in, or popularized, or traded in or popularized through experiment, demonstration, or others.

Tree varieties that should go through but have not passed the verification shall not be traded in or popularized as improved varieties, or traded in or popularized as improved varieties through experiment, demonstration, or others. If such varieties are really needed for production, the varieties shall be submitted to the forest tree variety verification committee

**第十八条** 在本市推广非主要农作物品种和非主要林木品种的，应当经过试验、示范，并控制在适宜区域内。

**第十九条** 经营、推广的农作物品种和林木品种，同一个品种应当使用同一个名称。

经营、推广审定通过的主要农作物品种、主要林木品种应当使用审定公告确定的品种名称。

**第二十条** 审定通过的主要农作物品种、主要林木品种，在使用过程中出现不可克服的缺点的，经市农作物品种审定委员会或者市林木品种审定委员会确认，由市农业行政主管部门或者市林业行政主管部门发布公告后，停止经营、推广。

## 第四章 种子生产

**第二十一条** 主要农作物和主要林木的商品种子生产应当执行种子生产经营许可制度。

**第二十二条** 鼓励和支持种子生产基地建设，推进种子标准化生产，提高种子质量。

种子生产基地应当具备与种子生产相适应的生产条件、设施以及技术人员，有符合技术规范要求的隔离条件。

**第二十三条** 种子企业委托农村集体经济组织或者农户生产种子的，应当签订书面合同。

委托方有义务提供合格的亲本或者原种，负责种子生产技术指导，并按照合同约定收购种子；受托方有义务按照生产技术规程或者合同约定的技术要求进行种子生产，接受委托方的技术指导，并不得违反合同约定将种子或者繁殖材料出售给他人。

委托方有权拒绝收购因受托方未按种子技术规程或者合同约定的技术要求生产的不合格种子，但因委托方原因造成种子不合格的除外；受托方有权按照合同约定获得种子生产的收益，有权获得因委托方责任造成的损失补偿。

**第二十四条** 有下列情形之一的农作物种子，不得投入商品种子生产：

for confirmation and used within a specified time period and ecological regions.

**Article 18** Non-main crop varieties and forest tree varieties to be popularized in this Municipality shall undergo experiments and demonstrations and be controlled within suitable regions.

**Article 19** The same crop variety or forest tree variety traded in or popularized shall use the same name.

The variety name specified in the verification announcement shall be used in trading in or popularization of a main crop variety or forest tree variety that has passed the verification.

**Article 20** Where an invincible defect occurs in a main crop variety or forest tree variety that has passed the verification during the use, the main crop variety or forest tree variety shall cease to be traded in or popularized after the municipal administrative department for agriculture or the municipal administrative department for forestry has made an announcement upon confirmation by the municipal crop variety verification committee or the municipal forest tree variety verification committee.

## Chapter IV Production of Seeds

**Article 21** A license system for the production of commodity seeds shall be implemented in the production of commodity seeds of main crops and forest trees.

**Article 22** Efforts shall be made to encourage and support the construction of seed production bases, promote standardized seed production, and enhance seed quality.

A seed production base shall possess the production conditions, facilities, and technicians commensurate with seed production and have the isolating conditions tallying with the requirements of technical regulations.

**Article 23** Where a seed enterprise entrusts a rural collective economic organization or a peasant household to produce seeds, a written contract shall be concluded.

The entrusting party shall have the obligation to provide qualified parent strains or original seeds, be responsible for providing technical guidance over seed production and purchase the seeds as agreed upon in the contract; the entrusted party shall have the obligation to produce seeds according to the production technical regulations or the technical requirements as agreed upon in the contract, accept the technical guidance of the entrusting party and shall not sell the seeds or propagating materials to others in violation of the agreements of the contract.

The entrusting party shall have the right to refuse to purchase the unqualified seeds produced by the entrusted party without following the seed technical regulations or the technical requirements as agreed upon in the contract except that the seeds are unqualified due to the cause of the entrusting party; the entrusted party shall have the right to receive the proceeds from seed production as agreed upon in the contract and obtain compensation for losses caused due to the liability of the entrusting party.

**Article 24** In any of the following circumstances, the crop seeds shall not be put into production of commodity seeds:



- (一) 应当审定而未经审定通过的；
- (二) 亲本或者原种不合格的；
- (三) 品种性状尚不稳定的；
- (四) 法律、法规规定的其他情形。

## 第五章 种子经营

**第二十五条** 种子经营应当执行种子生产经营许可制度。

**第二十六条** 种子经营者在生产经营许可证规定的有效区域内设立分支机构的，应当在办理或者变更营业执照后 15 日内，向当地种子管理机构 and 原发证机关备案。

**第二十七条** 禁止销售下列种子：

- (一) 应当审定而未经审定通过的农作物种子；
- (二) 应当包装而未包装的；
- (三) 没有标签或者标签内容、样式不符合规定的；
- (四) 假种子；
- (五) 劣种子；
- (六) 未作明显文字标注的转基因种子；
- (七) 法律、法规规定的其他情形。

**第二十八条** 收购珍贵树木种子和市人民政府规定的限制收购的林木种子，应当经市林业行政主管部门批准。

珍贵树木和限制收购的林木种子名录，由市林业行政主管部门提出，经市人民政府批准后，向社会公布。

**第二十九条** 农民在集贸市场上出售、串换自繁自用剩余常规种子的，不需要办理种子生产经营许可证；种子买受人要求开具销售凭据的，种子出售人应当如实开具并出示有效身份证明。销售凭据应当注明售出种子的品种名称、产地、生产日期、数量、价格以及出售人的姓名、住址和联系方式。

**第三十条** 在种子交易市场中经营或者参加种子交易会的种子经营者应当具有合

- (1) those that are subject to verification but fail to pass the verification;
- (2) parent strains or original seeds are unqualified;
- (3) variety properties are still not stable; or
- (4) other circumstances as provided for by laws or regulations.

## **Chapter V Business Operation of Seeds**

**Article 25** A license system for seed production and business operation shall be applied in business operation of seeds.

**Article 26** Where a seed trader established a branch office within the effective area specified in the seed production and business operation license, it shall, within 15 days as of the date on which it obtained or altered the business license, report for the record to the local seed management organ and the original license issuing authority.

**Article 27** The selling of any of the following seeds shall be prohibited:

- (1) those that are subject to verification but fail to pass the verification;
- (2) those that shall be packaged but fail to be packaged;
- (3) those without labels or the contents or formats of those labels are not in conformity with provisions;
- (4) counterfeit seeds;
- (5) inferior seeds;
- (6) transgenic seeds without readily readable characters marked; or
- (7) other circumstances as provided for by laws or regulations.

**Article 28** The purchase of seeds of rare trees or forest tree seeds the purchase of which is restricted by the Municipal People's Government shall be subject to approval of the municipal administrative department for forestry.

The catalogue of seeds of rare trees and forest tree seeds the purchase of which is restricted shall be submitted by the municipal administrative department for forestry to and approved by the Municipal People's Government, and then made known to the public.

**Article 29** A peasant selling or exchanging the remainder of conventional seeds propagated by himself for his own use at rural fairs does not need to handle a seed trading license. Where a buyer of seeds requires the sales evidence, the seller of seeds shall truly provide the sales evidence and produce his effective certificate of identification. The sales evidence shall clearly state the seeds' variety name, place of production, date of production, amount, price and the seller's name, address and means of contact.

**Article 30** Traders in seeds who do business in seed trading markets or participate in seed trade fairs shall have legitimate qualification certificates for trading in seeds and carry out business activities according to law.

**Article 31** The contents of seed advertisements shall conform to the provisions of the Seed Law, the Advertisement Law of the People's Republic of China and these Measures. The contents of seed advertisements shall be consistent with what is announced in the seed

法的种子经营资质证明，并依法开展经营活动。

**第三十一条** 种子广告的内容应当符合《种子法》《广告法》和本办法的规定。

种子广告内容应当与种子审定公告一致。

林木种子广告中涉及专业技术的，广告主应当按照有关规定提交市或者区林木种子管理机构出具的专业技术证明。

## 第六章 种子使用

**第三十二条** 种子使用者有权依照自己的意愿购买、使用种子，任何单位和个人不得非法干预。

**第三十三条** 重点造林项目、政府投资或者以政府投资为主的造林项目，应当根据林业行政主管部门制定的计划使用林木良种。

**第三十四条** 种子使用者因种子质量问题遭受损失的，出售种子的经营者应当予以赔偿，赔偿额包括购种价款、有关费用和可得利益损失；经营者赔偿后，属于种子生产者或者其他经营者责任的，经营者有权向生产者或者其他经营者追偿。

种子使用者在种子交易市场或者种子交易会购买种子，因种子质量问题遭受损失的，可以要求种子经营者赔偿；种子交易市场柜台租赁期满或者种子交易会结束的，可以向种子交易市场、种子交易会的举办者要求赔偿；种子交易市场、种子交易会的举办者给予赔偿后，有权向种子经营者追偿。

**第三十五条** 种子使用者因种子质量问题遭受损失的，赔偿额中的有关费用包括购买和使用种子过程中实际支出的交通费、食宿费、误工费、保管费、鉴定费、种植费等费用。

**第三十六条** 农作物种子使用者因种子质量问题遭受损失的，赔偿额中的可得利益损失按其所在乡（镇）前三年同种作物的平均产值扣除其当年实际收入计算；无统计资料的，可以参照当地当年同种作物的平均产值扣除其实际收入计算；无参照农作物的，按照资金投入和劳动力投入的 1.2 至 1.5 倍计算。

林木种子使用者因种子质量问题遭受损失的，赔偿额中的可得利益损失，按照购

verification.

Where an advertisement of forest tree seeds involves professional technologies, the advertiser shall, in accordance with relevant provisions, submit the certificate for professional technologies issued by the forest tree seed management organ at the municipal or the district level.

## Chapter VI Use of Seeds

**Article 32** Seed users shall have the right to purchase or use seeds of their own free will. No units or individuals may illegally interfere in such purchase or use.

**Article 33** For the key afforestation projects, afforestation projects invested by the government or invested mainly by the government, improved forest tree varieties shall be used in accordance with the plans worked out by the administrative departments for forestry.

**Article 34** Where seed users suffer losses due to seed quality problems, the sellers of the seeds shall make compensation, and the amount of such compensation shall include the amount of money spent on the purchase of the seeds, relevant expenses and losses of potential profits. Where the liability rests on the seed producers or other traders, the sellers who have paid the compensation shall have the right to claim compensation from the producers or other sellers.

Seed users who purchase seeds in seed trading markets or seed trade fairs and suffer losses due to seed quality problems may require the traders in seeds to make compensation; where the leases of counters in seed trading markets expire or seed trade fairs are closed, they may claim compensation from the sponsors of seed trading markets or seed trade fairs; after the sponsors of seed trading markets or seed trade fairs have paid compensation, they shall have the right to claim compensation from the traders in seeds.

**Article 35** Where seed users suffer losses due to seed quality problems, relevant expenses in the amount of compensation shall include the costs of travel, board and lodging, delayed work, storage, appraisal, planting, etc. that are actually spent during purchase and use of seeds.

**Article 36** Where crop seed users suffer losses due to seed quality problems, the losses of potential profits in the amount of compensation shall be calculated according to the mean production value of the same crop in the village (town) where the users live in the previous three years with the actual incomes in the current year deducted from it; where there are no statistical materials, it may be calculated by referring to the mean production value of the same crop in the locality in the current year with the actual incomes deducted from it; where there are no reference crops, it shall be calculated according to 1.2 to 1.5 times the capital and labor force inputs.

Where forest tree seed users suffer losses due to seed quality problems, the losses of potential profits in the amount of compensation shall be calculated according to three to five

种价款和有关费用的 3 至 5 倍计算。

## 第七章 种子质量

**第三十七条** 种子的生产、加工、包装、检验、贮藏应当执行国家规定的标准。

**第三十八条** 种子生产、经营单位应当建立健全企业种子质量内部控制制度。

**第三十九条** 市和区种子管理机构应当加强种子质量监督，组织开展种子质量监督检验，检验结果由农业、林业行政主管部门向社会公布。

**第四十条** 单位或者个人可以申请设立种子质量检验机构。

种子质量检验机构应当具备相应的检测条件和能力，经市质量技术监督部门计量认证，并经市农业、林业行政主管部门考核合格核发证书后，方可接受委托开展种子质量检验。

**第四十一条** 种子使用者认为种子质量有问题的，可以向种子质量检验机构提出质量检验申请，种子质量检验机构应当依据国家有关规定实施检验，并如实出具质量检验报告。

## 第八章 监督管理

**第四十二条** 农业、林业行政主管部门及其所属的种子管理机构和工商行政管理、质量技术监督、公安等其他有关部门，应当加强对种子市场的监督管理，维护种子市场秩序，依法查处违法的种子生产、经营活动。

**第四十三条** 农业、林业行政主管部门及其所属的种子管理机构在实施监督检查过程中，有权采取下列措施：

- （一）对种子的生产、经营等活动进行现场检查；
- （二）在市场上或者企业成品库的待销种子中，按照种子质量检验规程抽取样品；
- （三）对有根据认为种子不符合保障人体健康、人身安全的标准或者有其他严重质量问题的，责令当事人予以封存或者依法采取其他措施；

times the purchase price of the seeds and relevant expenses.

## Chapter VII Qualities of Seeds

**Article 37** The State-stipulated standards shall be implemented in the production, processing, packaging, inspection and storage of seeds.

**Article 38** Seed producers and traders in seeds shall establish and perfect internal control systems of seed quality.

**Article 39** The seed management organs at the municipal and the district level shall strengthen supervision over seed quality and organize and conduct seed quality supervision and inspection. The inspection results shall be made known to the public by the administrative departments for agriculture or forestry.

**Article 40** Units or individuals may apply for setting up seed quality inspection institutions.

Seed quality inspection institutions shall have corresponding testing facilities and capacities, and only after they pass the metrological authentication by the municipal department for quality and technical supervision and are examined as qualified and issued certificates by the municipal administrative department for agriculture or forestry, may they accept entrustment to carry out seed quality inspection.

**Article 41** Where seed users deem that the seeds have quality problems, they may submit applications for quality inspection to seed quality inspection institutions. The seed quality inspection institutions shall conduct inspection in accordance with relevant provisions of the State and produce the quality inspection reports according to the facts.

## Chapter VIII Supervision and Administration

**Article 42** The administrative departments for agriculture or forestry and their subordinate seed management organs as well as other relevant departments for industrial and commercial administration, quality and technical supervision and public security, etc. shall strengthen supervision and administration over seed markets, maintain the order of seed markets and find out and dispose of illegal seed production and trading activities.

**Article 43** The administrative departments for agriculture or forestry and their subordinate seed management organs shall have the power to take the following measures during exercising supervision and inspection:

- (1) conduct on-the-spot inspection of seed production and trading activities;
- (2) take samples, in accordance with the seed quality inspection regulations, from the seeds for sale in the markets or in the enterprises' finished products warehouses;
- (3) order the parties concerned to seal the seeds up or take other measures according to law, where the seeds are considered inconformity with the human health and safety standards or having other serious quality problems based on well-grounded information;

（四）查处涉嫌种子违法行为的，可以查阅、复制当事人有关合同、发票、账簿；

（五）查封、扣押有证据证明违法生产经营的种子，以及用于违法生产经营的工具、设备及运输工具等，查封违法从事种子生产经营活动的场所。

**第四十四条** 种子生产者和经营者不得拒绝、阻挠、妨碍种子执法人员依法进行监督检查。

**第四十五条** 任何单位和个人有权举报种子违法行为。接到举报的农业、林业行政主管部门及其所属的种子管理机构和其他有关部门，应当及时调查处理。

**第四十六条** 农业、林业行政主管部门及其所属的种子管理机构必须遵循政企分开原则，与种子生产经营机构在人员和财务上分开。

农业、林业行政主管部门及其所属的种子管理机构和工作人员不得参与和从事种子生产、经营活动；种子生产经营机构不得参与和从事种子行政管理工作。

种子管理和监督工作所需经费由市和区人民政府予以保障。

**第四十七条** 市农业、林业行政主管部门应当加强对种子管理机构人员的培训。

种子执法人员应当经过资格考核，持证上岗。

## 第九章 法律责任

**第四十八条** 违反本办法第十二条规定，未经批准采集或者采伐国家和本市重点保护的天然种质资源的，责令停止违法行为，没收种质资源和违法所得，并处 5000 元以上 5 万元以下罚款；造成损失的，依法承担赔偿责任。

**第四十九条** 违反本办法第十七条规定，经营、推广或者以试验、示范等方式经营、推广应当审定而未经审定通过的主要农作物品种的，责令停止经营、推广，没收违法所得和种子，并处 2 万元以上 20 万元以下罚款；作为良种经营、推广或者以试验、示范等方式作为良种经营、推广应当审定而未经审定通过的主要林木品种的，责令停止经营、推广，没收违法所得和种子，并处 2 万元以上 20 万元以下罚款。

(4) consult or copy relevant contracts, invoices and account books of the parties concerned when violation of law involving seeds is suspected in the investigation and disposal; or

(5) Seal up and detain the seeds involved in illegal production or business operation as proved by evidence, and the tools, equipment, and transport vehicles, among others, used for illegal production and business operation, and seal up the premises used for illegal seed production or business operation.

**Article 44** Seed producers or traders in seeds shall not refuse, obstruct, or hinder seed law enforcement personnel to carry out supervision and inspection according to law.

**Article 45** Any unit or individual may have the right to report on violations of law involving seeds. The administrative departments for agriculture or forestry and their subordinate seed management organs as well as other relevant departments receiving such reports shall investigate into and deal with such reports in time.

**Article 46** The administrative departments for agriculture or forestry and their subordinate seed management organs must follow the principle of separation of government functions from enterprise operations, and be separated in respect of personnel and finance with seed production and trading businesses.

The administrative departments for agriculture or forestry and their subordinate seed management organs as well working staff thereof shall not take part in or engage in seed production or trading activities; the seed production or trading businesses shall not take part in or engage in administrative management of seeds.

The expenditures needed for seed management and supervision shall be guaranteed by the people's governments at the municipal and the district level.

**Article 47** The administrative departments for agriculture or forestry in this Municipality shall strengthen training on the staff members of seed management organs.

The seed law enforcement personnel shall pass the qualification examination and take their posts with certificates.

## Chapter IX Legal Responsibility

**Article 48** Where anyone, in violation of the provisions of Article 12 of these Measures, collects or cuts, the natural germ plasm resources under special protection of the State or this Municipality without approval, he shall be ordered to stop the illegal act, the germ plasm and the illegal gains therefrom shall be confiscated, and a fine not less than 5,000 yuan but not more than 50,000 yuan; where damage is caused, he shall bear the liability for compensation according to the law.

**Article 49** Where anyone, in violation of the provisions of Article 17 of these Measures, trades in or popularizes, or trades in or popularizes through experiment, demonstration or other means a main crop variety that is subject to verification but fails to pass the verification, he shall be ordered to stop trading in or popularizing the crop variety, the illegal gains therefrom and seeds shall be confiscated, and a fine not less than 20,000 yuan but not more than 200,000 yuan shall be imposed; where anyone trades in or popularizes, or trades in or popularizes through experiment, demonstration or other means a main forest tree variety that is subject to verification but fails to pass the verification as an



**第五十条** 违反本办法第十九条规定，同一个农作物品种或者林木品种在经营、推广过程中，未使用同一个名称的，或者审定通过的主要农作物品种和主要林木良种未使用审定公告确定的品种名称的，责令改正，处 1000 元以上 1 万元以下罚款。

**第五十一条** 违反本办法第三十一条的规定，由广告监督管理机关依照《广告法》的有关规定追究法律责任。

**第五十二条** 违反本办法第三十三条规定，在重点造林项目、政府投资或者以政府投资为主的造林项目中，未根据林业行政主管部门制定的计划使用林木良种的，责令限期改正；逾期未改正的，对责任者处 3 万元以下罚款。

**第五十三条** 弄虚作假、采取欺骗手段取得种子生产经营许可证的，由原发证机关撤销其许可证并予以公告。被许可人 3 年内不得申领种子生产经营许可证。

**第五十四条** 违反本办法规定，有下列情形之一的，给种子使用者造成损失的，责任人应当依法承担赔偿责任：

- （一）未经审定、认定将主要林木品种作为良种经营、推广的；
- （二）未经市林业行政主管部门备案，将相邻省市审定的本市主要林木品种作为良种推广的；
- （三）未经试验、示范，经营、推广非主要农作物品种和非主要林木品种的；
- （四）侵占或者私自使用、转让、赠与、披露他人所有的育种材料、育种技术的；
- （五）农民出售、串换的种子存在质量问题的；
- （六）销售禁止销售的种子的；
- （七）强迫种子使用者购买、使用种子的。

赔偿额参照本办法第三十四条第一款的规定。

**第五十五条** 《种子法》和本办法规定的对种子违法行为的行政处罚，由市和区农业、林业种子管理机构实施。

**第五十六条** 在品种选育、种子生产和经营活动中发生民事纠纷的，当事人可以

improved variety, he shall be ordered to stop trading in or popularizing the forest tree variety, the illegal gains therefrom and seeds shall be confiscated, and a fine not less than 20,000 yuan but not more than 200,000 yuan shall be imposed.

**Article 50** Where anyone, in violation of the provisions of Article 19 of these Measures, fails to use the same name for the same crop or forest tree variety traded in or popularized, or fails to use the variety name specified in the verification announcement for a main crop variety or a main improved forest tree variety traded in or popularized that has passed the verification, he shall be ordered to make corrections and a fine not less than 1,000 yuan but not more than 10,000 yuan shall be imposed.

**Article 51** Where anyone acts in violation of the provisions of Article 31 of these Measures, his legal liability shall be investigated for in accordance with relevant provisions of the Advertisement Law of the People's Republic of China by the supervision and administration organ for advertisement.

**Article 52** Where anyone, in violation of the provisions of Article 33 of these Measures, fails to use an improved forest tree variety in accordance with the plan worked out by the administrative department for forestry for a key afforestation project or a afforestation project invested by the government or invested mainly by the government, he shall be ordered to make corrections within a prescribed time limit; if there is a failure to make corrections within the prescribed time limit, a fine not more than 30,000 yuan shall be imposed on the responsible person.

**Article 53** Where anyone obtains a seed production and business operation license by resorting to deception or through cheating, the original license issuing authority shall revoke his license and make an announcement. The licensee shall not apply for a seed production and business operation license within three years.

**Article 54** Where anyone in any of the following circumstances, acts in violation of the provisions of these Measures and causes losses to a seed user, the responsible person shall bear the liability to make compensation according to law:

(1) trading in or popularizing a main forest tree variety neither verified nor confirmed as an improved variety;

(2) popularizing a forest tree variety falling into the main forest tree varieties of this Municipality as an improved variety which is verified by the local authority of a neighboring province or municipality without the approval of the municipal administrative department for forestry;

(3) trading in or popularizing a non-main crop or forest tree variety without conducting experiments or demonstrations;

(4) misappropriating or privately using, transferring, granting or disclosing the breeding materials or technologies owned by others;

(5) where the seeds sold or exchanged by a peasant have quality problems;

(6) selling the seeds that are prohibited to be sold; or

(7) forcing a seed user to purchase or use seeds.

The amount of compensation shall be determined with reference to the provisions of the first paragraph of Article 34 of these Measures.

**Article 55** The administrative penalties against violations of law involving seeds that are provided for in the Seed Law and these Measures shall be imposed by the agricultural or forestry seed management organs at the municipal and the district level.

**Article 56** Where a civil dispute arises during variety selection or seed production or trading activities, the parties concerned may have it settled through consultation or apply

协商解决，也可以向当地农业、林业行政主管部门或者其所属的种子管理机构申请调解，当事人不愿协商、调解或者协商、调解不成的，可以根据当事人之间的协议向仲裁机构申请仲裁，没有仲裁协议的，可以直接向人民法院提起诉讼。

**第五十七条** 种子管理机构违反规定，对不具备条件的种子生产者、经营者核发种子生产经营许可证的，对直接负责的主管人员和其他直接责任人员，依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第五十八条** 农业、林业行政主管部门的工作人员或者种子管理机构的种子管理人员徇私舞弊、滥用职权、玩忽职守的，或者违反规定从事种子生产、经营活动的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

## 第十章 附 则

**第五十九条** 本办法自 2006 年 11 月 1 日起施行。2002 年 9 月 6 日北京市第十一届人民代表大会常务委员会第三十六次会议通过的《北京市农作物种子条例》同时废止。

to the local administrative department for agriculture or forestry or its subordinate seed management organ for mediation. Where the parties concerned are unwilling to resolve the dispute through consultation or mediation, or the consultation or mediation fails, they may apply to an arbitration organization for arbitration in accordance with the agreement signed between them. Where there is no arbitration agreement, the parties concerned may also directly bring a lawsuit to a people's court.

**Article 57** Where a seed management organ, in violation of the provisions, issues a seed production and business operation license to a disqualified seed producer or trader, administrative sanctions shall be imposed on the directly responsible person in charge and other directly responsible persons according to law; where a crime is constituted, criminal liability shall be investigated for according to the law.

**Article 58** Where staff members of the administrative departments for agriculture or forestry or seed management personnel of the seed management organs engage in illegalities for personal gains or by fraudulent means, abuse their powers or neglect their duties, or, in violation of the provisions, engage in seed production or trading, they shall be given administrative sanctions according to law; if a crime is constituted, criminal liability shall be investigated for according to the law.

## **Chapter X Supplementary Provisions**

**Article 59** These Measures shall be effective as of November 1, 2006. The Regulations of Beijing Municipality on Crop Seeds adopted at the 36<sup>th</sup> Meeting of the Standing Committee of the 11th People's Congress of Beijing Municipality on September 6, 2002 shall be repealed simultaneously.

# 北京市实施《中华人民共和国农民专业合作社法》办法

(2009年11月20日北京市第十三届人民代表大会常务委员会  
第十四次会议通过)

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第二章	设立与运行
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## 第一章 总 则

**第一条** 为了实施《中华人民共和国农民专业合作社法》，结合本市实际情况，制定本办法。

**第二条** 本办法适用于本市行政区域内农民专业合作社的设立、生产经营，以及相关的规范管理、指导、扶持和服务活动。

**第三条** 农民专业合作社是在农村家庭承包经营基础上，同类农产品的生产经营者或者同类农业生产经营服务的提供者、利用者，自愿联合、民主管理的互助性经济组织。

农民专业合作社以其成员为主要服务对象，提供农业生产资料的购买，农产品的销售、加工、运输、贮藏及与农业生产经营有关的技术、信息等服务。

**第四条** 农民专业合作社应当遵循下列原则：

(一) 成员以农民为主体；

# Measures of Beijing Municipality for Implementing the Law of the People's Republic of China on Specialized Farmers Cooperatives

(Adopted at the 14<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on November 20, 2009)

## Contents

Chapter I	General Provisions
Chapter II	Establishment and Operation
Chapter III	Guidance and Services
Chapter IV	Support and Promotion
Chapter V	Legal Liability
Chapter VI	Supplementary Provisions

## Chapter I General Provisions

**Article 1** These measures are formulated for the purpose of implementing the Law of the People's Republic of China on Specialized Farmers Cooperatives and in light of the actual circumstances of this Municipality.

**Article 2** These Measures are applicable to the establishment, production and operation of specialized farmers cooperatives and the relevant regulation and administration, guidance, support and services within the administrative area of this Municipality.

**Article 3** Specialized farmers cooperatives are mutual-help economic organizations joined voluntarily and managed in a democratic manner by the producers and operators of the same kind of farm products or by the providers or users of services for the same kind of agricultural production and operation on the basis of rural household land contract system.

Specialized farmers cooperatives mainly served their members, offering such services as purchasing the means of agricultural production, marketing, processing, transporting and storing farm products, and providing technologies and information related to agricultural production and operation.

**Article 4** Specialized farmers cooperatives shall observe the following principles:

- (1) Their members are mainly farmers;

(二) 以服务成员为宗旨，谋求全体成员的共同利益；

(三) 入社自愿，退社自由；

(四) 成员地位平等，实行民主管理；

(五) 盈余主要按照成员与农民专业合作社的交易量（额）比例返还。

**第五条** 农民专业合作社应当依法从事生产经营活动，诚实守信，遵守社会公德和商业道德。

**第六条** 市和区、县人民政府应当将促进农民专业合作社发展与本地区农业及相关产业发展相结合，加强统筹协调，创新工作机制，及时组织农业行政主管部门和其他有关部门、有关组织制定政策，加大财政、科技和人才支持，落实金融、税收优惠政策，完善农业社会化服务体系。

乡、镇人民政府和街道办事处应当支持当地农民专业合作社发展，宣传有关政策，制订落实措施，为农民专业合作社的设立和生产经营等活动提供服务。

村民委员会、村集体经济组织对农民专业合作社的设立和生产经营活动依法给予支持和帮助。

**第七条** 市和区、县人民政府对在促进农民专业合作社事业发展中做出显著成绩的单位和个人，予以表彰、奖励。

## 第二章 设立与运行

**第八条** 本市农村家庭承包经营基础上同类农产品的生产经营者或者同类农业生产经营服务的提供者、利用者，自愿联合，依法从事下列生产经营活动的，可以申请设立农民专业合作社：

(一) 种植业、养殖业；

(二) 农产品销售、加工、贮藏、运输；

(三) 农业休闲观光和民俗旅游；

(四) 农民家庭手工业；

(五) 农业机械作业服务；

(六) 农业技术服务；

(七) 依法开展的其他互助性农业生产经营活动。

(2) They aim to serve their members, working for the common interests of all the members;

(3) The members join the cooperatives voluntarily and are free to withdraw from them;

(4) The members are equal in status and democratic management is practiced; and

(5) Profits are to be distributed mainly in proportion on the volume(amount) of the transactions effected between the cooperatives and their members.

**Article 5** Specialized farmers cooperatives shall engage in production and operation according to law, act in good faith, and observe social and business ethics.

**Article 6** The people's governments at the municipal and the district or county level shall integrate the promotion of the development of specialized farmers cooperatives into the development of agriculture and relevant industries in their respective areas, enhance overall coordination, innovate in the working mechanism, promptly organize the competent administrative departments for agriculture and other relevant departments and organizations to make policies, intensify the support of funding, technology and human resources, implement the preferential policies in finance and taxation and improve the system for socialized agricultural services.

The people's governments at the town or township level and sub-district offices shall support the development of local specialized farmers cooperatives, publicize the relevant policies, develop the implementation measures and provide services for the establishment and activities of production and operation of specialized farmers cooperatives.

Villagers' committees and collective economic organizations in villages shall offer support and assistance in the establishment and activities of production and operation of specialized farmers cooperatives according to law.

**Article 7** The people's governments at the municipal and the district or county level shall commend and reward the units and individuals with outstanding achievements in promoting the development of specialized farmers cooperatives.

## Chapter II Establishment and Operation

**Article 8** The producers and operators of the same kind of farm products or the providers or users of services for the same kind of agricultural production and operation on the basis of rural household land contract system in this Municipality who voluntarily join together to engage in the following activities of production and operation according to law may apply to establish a specialized farmers cooperative:

(1) industry of planting or breeding;

(2) marketing, processing, transportation and storage of farm products;

(3) agricultural leisure tourism and folklore tourism;

(4) farmers, cottage craft;

(5) agricultural machinery operation services;

(6) agricultural technology services; and

(7) other mutual-help activities of agricultural production and operation carried out according to law.



设立农民专业合作社的，应当向所在区、县工商行政管理部门提出设立登记申请，依法取得农民专业合作社法人营业执照。

农民专业合作社的业务范围有属于法律、行政法规或者国务院规定在登记前须经批准的项目的，应当提交有关批准文件。

**第九条** 设立农民专业合作社的，应当依法制定章程。章程的制定，可以参照本市农民专业合作社示范章程。

农民专业合作社应当健全内部管理制度，履行章程的约定。

**第十条** 农民专业合作社的成员中，农民至少应当占成员总数的80%。

农民专业合作社的成员为农民的，成员身份证明为本市农业人口户口簿；拥有本市农村土地承包经营权的非农业户籍人员，凭本人居民身份证和本市农村土地承包经营权证或者村民委员会、居民委员会出具的身份证明，可以以农民成员身份申请办理入社登记。

**第十一条** 农民专业合作社自愿联合组成新的互助性经济组织，可以向工商行政管理部门提出设立登记申请，依法取得农民专业合作社法人营业执照。

**第十二条** 农民专业合作社应当为每位成员设立成员账户。

**第十三条** 农民专业合作社成员可以用货币出资，也可以用实物、知识产权及其他能够用货币估价并可以依法转让的非货币财产作价出资。

**第十四条** 农民专业合作社章程应当对成员的出资方式、出资额进行规定；成员应当按照章程规定出资，出资额应当计入该成员账户。

农民专业合作社成员的出资方式、出资额及成员出资总额，应当在出资清单上载明，并经全体出资成员签名、盖章确认。

**第十五条** 农民专业合作社成员大会由全体成员组成，是本社的权力机构，依法行使职权。

农民专业合作社成员超过150人的，可以依照章程设立成员代表大会。成员代表大会按照章程规定可以行使成员大会的部分或者全部职权。

For establishment of a specialized farmers cooperative, an application for establishment registration shall be made to the administrative department for industry and commerce at the district or county level in the locality and the business license of the specialized farmers cooperative as a legal person be obtained according to law.

Where in accordance with the provisions of laws or administrative regulations or the provisions of the State Council, certain items within the business scope of a specialized farmers cooperative are subject to approval before registration, such approval document shall be submitted.

**Article 9** For establishment of a specialized farmers cooperative, the charter shall be developed according to law, and for the development of the charter, the model charter of a specialized farmers cooperative of this Municipality may be referred to.

A specialized farmers cooperative shall improve its internal management systems and perform the agreements in its charter.

**Article 10** Farmers shall account for at least 80 percent of the members of a specialized farmers cooperative.

Where a farmer is a member of a specialized farmers cooperative, his household register for agriculture population shall serve as the certification of his identity as its member; those without the household register for agriculture population who have the certificates of their right to contracted management of land of this Municipality may apply for going through the formalities for joining a cooperative as farmers with their own resident identity cards and the certificates of their right to contracted management of land of this Municipality or the identification certificates issued by villagers' committees or residents' committees.

**Article 11** Where specialized farmers cooperatives voluntarily join together to form a new mutual-help economic organization, an application for establishment registration may be submitted to the administrative department for industry and commerce and the business license of a specialized farmers cooperative as a legal person be obtained.

**Article 12** A specialized farmers cooperative shall start an account for each member.

**Article 13** A member of a specialized farmers cooperative may make his capital contributions in currency or do so by contributing such non-currency property as material objects, intellectual property rights that can be evaluated in currency and can be transferred according to law.

**Article 14** The charter of a specialized farmers cooperative shall make provisions on the amount and forms of capital contribution by its members; and its members shall make capital contributions as provided for in the charter and the amount of contributions shall be recorded in its members, accounts.

The forms of contribution, amount of capital contributed by each member and the total amount of capital contributions made by their members of a specialized farmers cooperative shall be clearly specified in a complete list of capital contributions, which shall be confirmed by signature or seal of all members that make the capital contributions.

**Article 15** The membership assembly of a specialized farmers cooperative shall be composed of all of the members. It is the organ of power of the cooperative and shall exercise the functions and powers according to law.

Where the number of members of a specialized farmers cooperative exceeds 150, a

设立的成员代表大会，成员代表人数不少于成员总数的 30%；成员超过 500 人的，成员代表人数不少于成员总数的 20%。成员代表大会代表的选举办法由章程规定。

**第十六条** 农民专业合作社设立理事会、执行监事或者监事会的，农民专业合作社成员在 150 人以下的，理事会成员一般不少于 3 人，至少设执行监事 1 人；成员 151 人至 500 人的，理事会成员一般不少于 5 人，监事会成员一般不少于 3 人；成员超过 500 人的，理事会成员一般不少于 7 人，监事会成员一般不少于 5 人。

**第十七条** 农民专业合作社应当依法建立财务管理制度。财务管理制度应当明确规定成员大会、理事长、理事、经理的财务权限和职责，并经成员大会审议通过。

农民专业合作社应当建立财会人员的岗位责任制，明确相关岗位的职责权限。

农民专业合作社可以设置专职会计人员，也可以委托会计服务机构代理记账。

**第十八条** 农民专业合作社应当按照农民专业合作社财务会计制度进行独立会计核算，并按时进行财务年度决算。

农民专业合作社在进行年终盈余分配或者返还前，应当准确核算全年的收入和支出；清理财产和债权、债务，将其真实完整地记入成员账户。

**第十九条** 在弥补亏损、提取公积金后的当年盈余，为农民专业合作社的可分配盈余。

农民专业合作社的可分配盈余按成员与本社交易量（额）比例返还，返还总额不得低于可分配盈余的 60%；剩余部分以成员的出资额、公积金份额及本社接受国家财政直接补助和他人捐赠形成的财产平均量化到成员的份额，按比例分配给成员。可分配盈余的具体分配办法，按照章程规定或者经成员大会决议确定。

年度盈余分配方案，应当经成员大会批准后实施。

**第二十条** 成员资格终止的，农民专业合作社应当按照章程规定的方式和期限，退还记载在该成员账户内的出资额和公积金份额，并依法将该成员资格终止前的可分配盈余向其返还。

conference of members' representatives may be organized according to the stipulations of the charter, which may, according to the stipulations of the charter, exercise part or all of the functions and powers of the membership assembly.

For a conference of members' representatives organized, the number of representatives shall not be less than 30 percent of the total membership; where the number of members exceeds 500, the number of representatives shall not be less than 20 percent of the total membership. The ways of selecting the representatives for a conference of members' representative shall be prescribed in the charter.

**Article 16** Where a specialized farmers cooperative with less than 150 members set up a board of directors, an executive supervisor or a board of supervisors, generally there shall be not less than three members in the board of directors and at least one executive supervisor; for a cooperative with 151 to 500 members, generally there shall be not less than five members in the board of directors and not less than three members in the board of supervisors; and for a cooperative with over 500 members, generally there shall be not less than seven members in the board of directors and not less than five members in the board of supervisors.

**Article 17** A specialized farmers cooperative shall establish a financial management system according to law. The financial management system shall clearly specify the financial authorities and responsibilities of the membership assembly, the director general, directors and managers and be subject to the review and approval of the Membership assembly.

A specialized farmers cooperative shall set up a position accountability system for financial staff to clarify the responsibilities and authorities of the relevant positions.

A specialized farmers cooperative may either set up a position of in-house accountant or entrust its accounting to an accounting service institution.

**Article 18** A specialized farmers cooperative shall carry out their independent accounting and final account for every fiscal year on time according to the financial and accounting systems of specialized farmers cooperatives.

Before profit distribution or return at the end of a year, a specialized farmers cooperative shall accurately calculate the incomes and expenditures of the whole year; clear up properties, credits and debts and truthfully and wholly record them into its members' accounts.

**Article 19** The profits of the year left after the losses are made up for and the common reserve funds are drawn shall be the distributable profits of a specialized farmers cooperative.

The distributable profits of a specialized farmers cooperative shall be returned to the members in proportion to the volume (amount) of the transactions effected between the members and the cooperative, and the total amount returned shall not be less than 60 percent of the distributable profits; the rest shall be distributed pro rata to the members on the basis of the capital contributions and shares of common reserve funds and the members' average quantified shares of the assets accumulated from subsidies directly given by the government and donations made by other persons to the cooperative. The specific measures for distributing the distributable profits shall be prescribed in the charter or determined by the membership assembly.

The plans for annual profit distribution shall be approved by the membership assembly before its implementation.

**Article 20** At the termination of a membership, a specialized farmers cooperative shall, in the manners and within the time limit as stipulated in the charter, return to the

成员资格终止后，农民专业合作社应当在会计年度终了时，将该成员账户内记载的由国家财政直接补助形成的财产份额，重新平均量化到本社现有成员。

**第二十一条** 农民专业合作社应当向成员实行社务公开。

农民专业合作社的重大经营决策、国家财政对农民专业合作社的直接补助和他人捐赠形成财产的到账和使用情况，以及其他涉及成员切身利益的事项应当向成员公开。

农民专业合作社应当在会计年度终了时向成员公布经营和财务状况，接受成员的监督。

**第二十二条** 执行监事或者监事会负责对农民专业合作社财务的监督和内部审计工作，审计结果应当向成员大会报告。

成员大会可以委托有关审计机构对本社的财务进行年度审计、专项审计和换届、离任审计。

农民专业合作社应当接受并配合政府有关部门对国家财政直接补助资金开展的审计监督工作。

**第二十三条** 农民专业合作社应当按照国家和本市有关规定报送统计、财务报表。

**第二十四条** 农民专业合作社应当加强对成员的培训，帮助成员增强法律意识、合作意识、自律意识，提高生产技能和经营水平。

**第二十五条** 农民专业合作社与成员之间发生纠纷时，应当依照章程和有关约定协商解决；协商不成的，可以向农村合作经济经营管理机构申请调解，也可以直接向人民法院起诉。

### 第三章 指导与服务

**第二十六条** 市和区、县人民政府应当建立由有关部门和机构参加的促进农民专业合作社发展的联席会议制度，研究和协调解决农民专业合作社发展中的重大问题。

**第二十七条** 市和区、县农业行政主管部门负责下列与农民专业合作社建设和发展有关的指导、扶持和服务工作：

member the amount of the capital contributions and his shares of the common reserve funds recorded in his account; and it shall return to him the distributable profits earned prior to the termination of his membership qualifications according to law.

After the termination of a membership, a specialized farmers cooperative shall, at the end of the accounting year, averagely quantify the shares of the assets accumulated from subsidies directly given by the governments recorded in the account of this member to the existing members of the cooperative.

**Article 21** The specialized farmers cooperatives shall disclose the operations to their members.

The major operational decisions of the specialized farmers cooperatives, the receipt and use of the assets accumulated from subsidies directly given by the governments and donations made by other persons as well as other matters involving the Members, immediate interests shall be disclosed to their members.

The specialized farmers cooperatives shall disclose the operational and financial status to their members at the end of the accounting year and accept the members' supervision.

**Article 22** The executive supervisors or the board of supervisors shall be responsible for the financial supervision and internal auditing of the specialized farmers cooperatives and the auditing results shall be reported to the membership assembly.

The membership assembly may entrust relevant auditing bodies with the annual auditing, special auditing and office-term shift auditing and outgoing auditing on the financial affairs of the cooperative.

The specialized farmers cooperatives shall accept and offer cooperation to relevant government agencies to carry out the audit supervision on the directly subsidized funds from the governments.

**Article 23** The specialized farmers cooperatives shall submit statistics and financial statements according to the relevant provisions of the State and this Municipality.

**Article 24** The specialized farmers cooperatives shall intensify training for the members to enhance their awareness on law, cooperation and self-discipline and improve their production skills and operation level.

**Article 25** Where a dispute occurs between a specialized farmers cooperative and its members, negotiations shall be carried out to settle the dispute according to the charter and the relevant agreements; where negotiations fail, an application may be made to the operation and management institution of rural cooperative economy for mediation or a lawsuit directly filed to the people's court.

### Chapter III Guidance and Services

**Article 26** The people's governments at the municipal and the district or county level shall set up a joint conference system for promoting the development of specialized farmers cooperatives that is attended by the relevant departments and institutions to study and coordinate the solution of the major issues in the development of specialized farmers, cooperatives.

**Article 27** The competent administrative departments for agriculture at the municipal and the district or county level shall be responsible for the following work of providing guidance, support and services to the formation and development of specialized farmers

- (一) 制定指导和扶持农民专业合作社发展的具体政策；
- (二) 提供有关政策咨询，收集发布相关信息；
- (三) 引导帮助农民专业合作社开展农业标准化、农产品质量安全、认证申报、品牌培育、产品营销、开拓市场等工作；
- (四) 开展农民专业合作社典型示范和推广交流活动；
- (五) 其他帮助农民专业合作社提高组织化程度，增强自我服务、抵御风险和市场竞争能力的工作。

**第二十八条** 市和区、县农村合作经济经营管理机构负责下列与农民专业合作社建设和发展有关的指导和服务工作：

- (一) 指导农民专业合作社制定章程、建立健全内部运行机制、财务会计等管理制度；
- (二) 指导农民专业合作社申报建设项目；
- (三) 开展对农民专业合作社的统计监测、人员培训等工作。

区、县农村合作经济经营管理机构可以为农民专业合作社的设立提供咨询、指导和登记代办服务。

**第二十九条** 市和区、县工商行政管理、财政、发展改革、商务、税务、科学技术、国土资源、规划、环境保护、交通、园林绿化、水务、旅游、知识产权和质量技术监督等行政管理部门应当依据各自职责，对农民专业合作社建设和发展给予指导、扶持和服务。

供销社、农产品行业协会、科学技术协会等有关单位或者组织应当对相关的农民专业合作社给予指导、扶持和服务。

**第三十条** 工商行政管理部门应当将农民专业合作社信息纳入本市法人基础数据库，为相关部门及组织统一提供基础数据的共享交换服务。

农业和工商行政管理等部门应当加强沟通协调，建立、健全部门之间的信息交流与共享机制。



cooperatives:

(1) Making specific policies on guiding and supporting the development of specialized farmers cooperatives;

(2) Providing relevant policy consultation, collecting and issuing the relevant information;

(3) Guiding and assisting specialized farmers cooperatives in the work of agricultural standardization, quality and safety of farm products, authentication application, brand cultivation, product marketing and market exploration;

(4) Carrying out activities of model demonstration, promotion and exchanges for specialized farmers cooperatives; and

(5) Other works that will help specialized farmers cooperatives to be better structured and improve the ability of self-service, risk resistance and market competition.

**Article 28** The operation and management institution of rural cooperative economy at the municipal and the district or county level shall be responsible for the following work of providing guidance and services to the formation and development of specialized farmers cooperatives:

(1) Guiding specialized farmers cooperatives in developing charters and establishing sound mechanisms of internal operation and management systems of finance and accounting;

(2) Guiding specialized farmers cooperatives in applying for construction projects; and

(3) Carrying out statistics monitoring and personnel training for specialized farmers cooperatives.

The operation and management institution of rural cooperative economy at the district or county level may provide services of consultation, guidance and registration agency for the establishment of specialized farmers cooperatives.

**Article 29** The administrative departments for industry and commerce, finance, development and reform, commerce, taxation, science and technology, State-owned land resources, planning, environmental protection, traffic, landscaping and afforestation, water affairs, tourism, intellectual property rights and quality and technical supervision at the municipal and the district or county level shall provide guidance, support and services to the formation and development of specialized farmers, cooperatives in accordance with their respective duties and responsibilities.

Supply and marketing cooperatives, agricultural product trade associations, science and technology associations and other relevant units or organizations shall provide guidance, support and services to relevant specialized farmers cooperatives.

**Article 30** The administrative departments for industry and commerce shall incorporate the information on specialized farmers cooperatives into the basic database of legal persons of this Municipality and universally provide relevant departments and organizations with the services of share and exchange of the basic data.

The administrative departments for agriculture, industry and commerce, etc. shall strengthen communication and coordination, and set up and improve a inter-department mechanism of information exchange and share.



**第三十一条** 本市将农民专业合作社纳入企业信用信息系统，对农民专业合作社实施信用监管。

**第三十二条** 办理农民专业合作社工商、税务登记的，登记机关不收取登记费用。

## 第四章 扶持与促进

**第三十三条** 市和区、县人民政府应当推进新型农业社会化服务体系建设，支持各类农业社会化服务组织为农民专业合作社发展提供市场营销、科技推广、人才引进、农资供应、农业信息、农村金融和保险等服务。

**第三十四条** 市和区、县人民政府应当安排资金，重点用于扶持农民专业合作社的下列项目：

- （一）农业标准化生产基地建设；
- （二）农产品加工、仓储、销售设施建设；
- （三）农产品质量标准与认证、产品包装、品牌建设和市场营销；
- （四）农业机械、农产品运输设备购置；
- （五）信息服务、科技推广、人才引进和培训；
- （六）其他重点扶持项目。

本市各级人民政府应当对扶持农民专业合作社的资金使用情况予以监督。

**第三十五条** 农民专业合作社有下列情形之一的，不列入国家和本市财政资金扶持范围：

- （一）与本社成员的交易量（额）不足全部交易量（额）50% 的；
- （二）可分配盈余未依法按成员与本社的交易量（额）返还给成员的；
- （三）未依法实行民主管理造成不良影响的。

**第三十六条** 农民专业合作社可以独立申报、承担农业建设项目、农业科技项目及其他政府支持发展农业和农村经济的建设项目。

有关部门应当对承担政府支持发展农业和农村经济建设项目的农民专业合作社加

**Article 31** This Municipality shall incorporate specialized farmers cooperatives into the business credit system and carry out supervision on specialized farmers cooperatives according to the status of credit.

**Article 32** For industrial and commercial registration and tax registration of a specialized farmers cooperative, the registration authority shall not charge fees.

## **Chapter IV Support and Promotion**

**Article 33** the people's governments at the municipal and the district or county level shall promote the development of a new-type socialized service system for agriculture, support various organizations of socialized agricultural services in providing Marketing, technology dissemination, talent introduction, supply of agricultural materials, agricultural information, rural finance and insurance and other services for the development of specialized farmers cooperatives.

**Article 34** The people's governments at the municipal and the district or county level shall allot funds to give priority support to the following projects for specialized farmers cooperatives:

- (1) construction of bases of standardized agricultural production;
  - (2) construction of facilities for processing, storage and marketing of farm products;
  - (3) quality standards for farm products and their authentication, and package brand cultivation and marketing relating to farm products;
  - (4) purchase of agricultural machinery and transporting equipment for farm products;
  - (5) information services, technology dissemination, talent introduction and training;
- and
- (6) Other prioritized support projects.

The people's governments at various levels of this Municipality shall carry out supervision over the use of the funds for supporting specialized farmers cooperatives.

**Article 35** A specialized farmers cooperative with any one of the following circumstances shall not be incorporated into the scope of financial support by the State and this Municipality:

- (1) The volume (amount) of transactions effected between the members and the cooperative is less than 50 percent of the total volume (amount) of transactions;
- (2) The distributable profit is not lawfully returned to the members according to the volume (amount) effected between the members and the cooperative; or
- (3) Democratic management is not implemented according to law resulting in adverse impacts.

**Article 36** The specialized farmers cooperatives may independently apply for and undertake agricultural construction projects, agricultural science and technology projects and other government supported construction projects for the development of agriculture and rural economy.

The relevant departments shall intensify guidance and service for the specialized farmers cooperatives undertaking the government supported construction projects for the

强指导和服务。

**第三十七条** 本市应当完善农产品市场流通体系，加强仓储、流通、信息等基础设施建设，改善农产品销售的市场环境。

市和区、县商务、农业行政主管部门应当采取措施，组织、引导、支持农民专业合作社与市场对接，为农民专业合作社生产的农产品进入市场销售提供便利和信息咨询服务。

鼓励农产品加工、销售和会展企业与农民专业合作社建立直接联系，对农民专业合作社生产的农产品进行加工、销售和展览展销。

**第三十八条** 农产品生产、加工、销售企业，以及其他有销售渠道、生产加工技术、开拓创新能力的企业，可以联合农民创办或者加入农民专业合作社，带动农民专业合作社发展。

引导农业产业化龙头企业和农民专业合作社通过资本、劳动等方面合作，建立稳定的利益联结机制，共享农产品生产、加工、仓储、销售等环节的利益。

鼓励农业产业化龙头企业为农民专业合作社及其成员提供技术、信息、农业生产资料等多种服务。

**第三十九条** 鼓励高等院校、中等职业学校和科研院所与本市农民专业合作社开展技术合作。依托农民专业合作社建立科研试验示范基地的，享受相关政策优惠。

**第四十条** 农民专业合作社享受国家规定的对农业生产、加工、流通、服务和其他涉农经济活动相应的税收优惠。

**第四十一条** 政策性金融机构应当采取多种形式为农民专业合作社提供信贷服务。鼓励商业性金融机构对农民专业合作社开展信贷服务，提供资金支持。

农民专业合作社申请的相关贷款，符合市财政、农业行政主管部门有关规定的，财政部门根据项目用途和实际需要给予贴息支持。

鼓励社会担保机构开展农民专业合作社贷款担保业务。政府扶持的政策性担保机构应当为农民专业合作社提供担保服务。

development of agriculture and rural economy.

**Article 37** This Municipality shall improve the market circulation system for farm products, strengthen the construction of infrastructure for storage, circulation and information so as to improve the market environment for the sale of farm products.

The competent administrative departments for commerce and agriculture at the municipal and the district or county level shall take measures to organize, direct and support specialized farmers cooperatives to build a linkage with the market so as to provide convenience and information consultation services for the farm products produced by specialized farmers cooperatives to enter into the market.

Enterprises for processing, marketing and exhibition of farm products are encouraged to build a direct linkage with specialized farmers cooperatives to conduct processing, marketing and exhibition for farm products produced by specialized farmers cooperatives.

**Article 38** An enterprise for production, processing and marketing of farm products as well as other enterprise with distribution channels, production and processing techniques and ability of exploration and innovation may jointly with farmers initiate a specialized farmers cooperative or join a specialized farmers cooperative to drive the development of the specialized farmers cooperative.

Leading enterprises in agricultural industrialization and specialized farmers cooperatives shall be directed to set up a stable interest linking mechanism through cooperation in capital and labor to share the interests in such aspects as production, processing, storage and marketing of farm products.

Leading enterprises in agricultural industrialization shall be encouraged to provide various services on technology, information and means of agricultural production for specialized farmers cooperatives and their members.

**Article 39** Institutions of higher education, secondary vocational schools and scientific research institutes shall be encouraged to carry out technological cooperation with the specialized farmers cooperatives in this Municipality, Demonstration bases for scientific research and experiment set up by relying on the specialized farmers cooperatives shall enjoy relevant policy preferential treatment.

**Article 40** The specialized farmers cooperatives shall enjoy preferential treatment in taxation prescribed by the State in respect of agricultural production, processing, circulation, services and other economic activities involving agriculture.

**Article 41** The policy-oriented financial institutions shall adopt diversified means to provide credit services to the specialized farmers cooperatives. The commercial financial institutions shall be encouraged to provide credit services and financial support to the specialized farmers cooperatives.

For the relevant loans applied by specialized farmers cooperatives that meet the requirements of the competent administrative departments for finance and agriculture at the municipal level, the competent department for finance shall grant interest subsidies according to the purpose of projects and actual needs.

The social guarantee agencies shall be encouraged to engage in the business of loan guarantee for the specialized farmers cooperatives. The policy-oriented guarantee

**第四十二条** 农民专业合作社可以组织成员依法开展内部资金互助服务，解决成员在农业生产经营活动中的资金困难。

**第四十三条** 政策性农业保险机构应当开发适合农民专业合作社特点的保险产品。

鼓励政策性、商业性保险机构通过农民专业合作社为农民提供农业保险服务。

**第四十四条** 本市各级人民政府应当采取措施鼓励各类人才到农民专业合作社工作。

高等院校毕业生到农民专业合作社工作的，享受有关优惠待遇。

支持农业技术专家及其他各类优秀人才以咨询、培训等方式加强与农民专业合作社的合作。

鼓励各类科技人员为农民专业合作社提供技术服务。

**第四十五条** 农民专业合作社的农产品生产基地、农业机械服务场所、规模养殖场、设施农业，以及其他有关项目的建设，应当符合土地利用总体规划和城乡规划；前述项目相关用地，未使用建筑材料硬化地面或者虽使用建筑材料但未破坏土地并易于复垦的，按照设施农用地进行管理。

农民专业合作社建设农产品加工、仓储、冷藏和人员培训及设施农业附属的管理和生活用房等永久性建筑物的用地，使用农村集体建设用地的，应当符合土地利用总体规划和城乡规划，按照乡镇集体企业用地办理用地手续；使用农用地的，应当依法办理农用地转用审批手续。

农民专业合作社从事种植、养殖及本社成员农产品初加工、仓储、冷藏的用水用电，按照有关规定执行农业生产水电价格标准。

**第四十六条** 农民专业合作社申请认证无公害农产品、绿色食品、有机食品、原产地标记、地理标志和注册商标的，政府有关部门和相关组织应当给予指导、扶持和帮助。

**第四十七条** 本市将农民专业合作社信息平台建设纳入全市信息化体系，通过信

institutions supported by the government shall provide guarantee services to the specialized farmers cooperatives.

**Article 42** The specialized farmers cooperatives may organize their members to conduct internal mutual financial assistance according to law to solve the financial difficulties in agricultural production and operation encountered by their members.

**Article 43** The policy-oriented agricultural insurance institutions shall develop the insurance products that fit the characteristics of specialized farmers cooperatives.

The policy-oriented and commercial insurance institutions shall be encouraged to provide agricultural insurance services to farmers through specialized farmers cooperatives.

**Article 44** The people's governments at various levels of this Municipality shall adopt measures to encourage various types of talents to work for specialized farmers cooperatives.

Graduates from institutions of higher education who work for farmers cooperatives shall enjoy the relevant preferential treatment.

The experts in agricultural technology and other types of excellent talents shall supported in strengthening cooperation with specialized farmers cooperatives in forms of consultation and training.

Various types of scientific and technical personnel shall be encouraged to provide technical services to specialized farmers cooperatives.

**Article 45** The construction of production bases of farm products, places for agricultural machinery services, large-scale breeding farms, protected agriculture and other relevant projects shall comply with the overall land use planning and urban and rural planning; The relevant land for such projects which is not hardened by the use of construction materials or not destroyed in spite of the use of construction materials and easy for reclamation shall be managed as the land for agricultural facilities.

For the land used by specialized farmers cooperatives to construct permanent structures such as buildings for processing, storage and refrigeration of farm products, personnel training and buildings for management and living attached to protected agriculture, where collectively owned rural land for construction is used, the overall land use planning and rural and urban planning shall be complied with and the procedures for use of land for collectively owned enterprises in town or townships shall be gone through; where agricultural land is used, procedures of examination and approval for agricultural land use conversion shall be gone through.

Water and power used by specialized farmers cooperatives for planting and breeding as well as the primary processing, storage and refrigeration of farm products conducted by the members shall be charged according to the pricing standards on water and power for agricultural production as prescribed in the relevant provisions.

**Article 46** Where the specialized farmers cooperatives apply for authentication on pollution-free farm products, green food, organic food, marks of origin, geographical indication and trademarks, the relevant government departments and organizations shall provide guidance, support and assistance.

**Article 47** This Municipality shall incorporate the construction of information platform for specialized farmers cooperatives into the system of informationalization across

息化手段为农民专业合作社及其成员提供相关生产经营信息服务。

## 第五章 法律责任

**第四十八条** 国家行政机关和负有管理职责的机构及其工作人员有下列行为之一的，根据情节轻重对直接负责的主管人员和其他直接责任人员，依法给予相应行政处分：

- （一）非法干预农民专业合作社及其成员生产经营活动的；
- （二）侵占、挪用、截留农民专业合作社及其成员财产或者应当属于农民专业合作社及其成员财产的；
- （三）非法向农民专业合作社及其成员收费或者摊派的；
- （四）强迫农民专业合作社及其成员接受有偿服务的；
- （五）其他玩忽职守、滥用职权、徇私舞弊侵害农民专业合作社及其成员合法权益的。

前款所列行为构成犯罪的，由司法机关依法追究刑事责任；给农民专业合作社造成损失的，依法承担民事责任。

**第四十九条** 农民专业合作社违法开展生产经营活动的，由农业、工商行政管理、质量技术监督等有关部门依法处理。

**第五十条** 农民专业合作社管理人员侵占、挪用、私分农民专业合作社及其成员财产的，依法追究其法律责任。

**第五十一条** 农民专业合作社成员违反农民专业合作社章程及财务管理制度，造成本社或者其他成员财产损失的，应当依法承担民事责任。

## 第六章 附 则

**第五十二条** 本办法自 2010 年 3 月 1 日起施行。

the Municipality and provide relevant services of information on production and operation by means of information technology to specialized farmers cooperatives and their members.

## **Chapter V Legal Liability**

**Article 48** Where the State administrative organs, institutions with administrative responsibilities or their working staff commit any one of the following acts, the corresponding administrative sanctions shall be imposed on the persons in charge with direct responsibility and other persons with direct responsibility according to the seriousness of circumstances:

(1) illegally intervening with the production and operation of specialized farmers cooperatives and their members;

(2) taking into his own possession, misappropriating and withholding the proper of specialized farmers cooperatives and their members or those that should belong to specialized farmers cooperatives and their members;

(3) illegally impose fees on or apportioned expenses to specialized farmers cooperatives and their members;

(4) compelling specialized farmers cooperatives and their members to accept paid services; or

(5) other acts of neglecting duties, abusing powers or engaging in illegalities for personal gains or by fraudulent means that infringe upon the legitimate rights and interests of specialized farmers cooperatives and their members.

Where any act listed in the preceding paragraph constitutes a crime, criminal liability shall be investigated for by the judicial organ, where any loss is caused to specialized farmers cooperatives, civil liability shall be borne according to law.

**Article 49** A specialized farmers cooperative which develops production and operation in violation of law shall be handled by the relevant departments for agriculture, industry and commerce or quality and technical supervision according to law.

**Article 50** A manager of a specialized farmers cooperative who takes into his own possession, misappropriates or shares the properties of the cooperative and its members shall be investigated for legal liability according to law.

**Article 51** A member of a specialized farmers cooperative who breaches the charter and financial management system of the cooperative resulting in property losses to the cooperative or other members shall bear civil liability according to law.

## **Chapter VI Supplementary Provisions**

**Article 52** These Measures shall be effective as of March 1, 2010.



# 北京市农业机械化促进条例

(2010年12月23日北京市第十三届人民代表大会常务委员会第二十二次会议通过 根据2016年11月25日北京市第十四届人民代表大会常务委员会第三十一次会议通过的《关于修改部分地方性法规的决定》修正 根据2019年7月26日北京市第十五届人民代表大会常务委员会第十四次会议通过的《关于修改〈北京市河湖保护管理条例〉〈北京市农业机械化促进条例〉等十一部地方性法规的决定》修正)

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## 第一章 总 则

**第一条** 为了鼓励、扶持农民和农业生产经营组织使用先进适用的农业机械，促进本市农业机械化，建设都市型现代农业，根据《中华人民共和国农业机械化促进法》，结合本市实际情况，制定本条例。

**第二条** 本条例所称农业机械化，是指运用先进适用的农业机械装备农业，改善农业生产经营条件，不断提高农业的生产技术水平和经济效益、生态效益的过程。

# Regulations of Beijing Municipality on Promotion of Agricultural Mechanization

(Adopted at the 22<sup>nd</sup> meeting of the Standing Committee of 13<sup>th</sup> People's Congress of Beijing Municipality on December 23, 2010. Amendment was made based on the Decisions of the Standing Committee of the People's Congress of Beijing Municipality on Revising Some Local Laws and Regulations, which was adopted the 31<sup>st</sup> meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on November 25, 2016. Amendment was made based on the Decisions of the Standing Committee of the People's Congress of Beijing Municipality on Revising Eleven Local Regulations including the Regulations of Beijing Municipality on the Protection and Administration of Rivers and Lakes and the Regulations of Beijing Municipality on the Promotion of Agricultural Mechanization, which was adopted at the 14<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup> People's Congress of Beijing Municipality on July 26, 2019)

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## Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of encouraging and supporting farmers and agricultural production and operation organizations to use advanced and applicable agricultural machines, promoting the agricultural mechanization in this Municipality and developing modern agriculture with metropolitan style in accordance with the Law of the People's Republic of China on Promotion of Agricultural Mechanization and in light of the actual circumstances of this Municipality.

**Article 2** For purposes of these Regulations, agricultural mechanization means the process of improving the conditions of agricultural production and operation and continually raising the technological level of agricultural production and increasing the economic and ecological benefits of agriculture by equipping agriculture with advanced and applicable

本条例所称农业机械，是指用于农业生产及其产品初加工等相关农事活动的机械、设备。

**第三条** 市和区人民政府应当加强对农业机械化工作的领导，将推进农业机械化纳入国民经济和社会发展规划，确定农业机械化发展目标，加大政策扶持和资金投入，充分发挥市场机制的作用，按照因地制宜、经济有效、保障安全、保护环境的原则，促进农业机械化的发展。

乡、镇人民政府负责本行政区域内农业机械化工作，做好对农民和农业生产经营组织的服务和指导，确定专门人员开展促进农业机械化的具体工作。

**第四条** 市和区人民政府农业机械化主管部门（以下简称市和区农业机械化主管部门）负责本行政区域的农业机械化促进和农业机械安全监督管理工作。

市和区人民政府有关部门应当按照各自的职责分工，共同做好农业机械化促进和农业机械安全监督管理工作。

**第五条** 鼓励和支持开发、推广先进适用、安全可靠、节能环保的农业机械。

从事农业机械科研开发、推广、生产、销售、维修、作业和示范基地建设的单位和个人，依法享受政府扶持、税收优惠和金融支持等政策。

## 第二章 科研开发与推广

**第六条** 市人民政府及其有关部门应当组织科研机构、院校和企业，开展基础性、关键性、公益性的农业机械化技术攻关，支持开发节能减排、低碳和适应都市型现代农业发展的农业机械化新技术、新产品、新工艺。

**第七条** 市农业机械化主管部门根据农业发展规划和农业生产需要，组织制定本市农业机械化科研开发项目计划。科技、财政部门应当在资金安排、项目组织、创新奖励等方面对农业机械化科研开发项目的技术攻关予以支持。

agricultural machines.

For purposes of these Regulations, agricultural machines mean the machines and equipment used for agricultural production, primary processing of agricultural products and other activities relating to farming.

**Article 3** The people's governments at the municipal and the district or county level shall strengthen the leadership over the work of agricultural mechanization, incorporate the promotion of agricultural mechanization into their plans of national economic and social development, set the objectives for development of agricultural mechanization, intensify policy support and capital input, give full play to the role of market mechanism and promote the development of agricultural mechanization in compliance with the principles of adapting to local conditions, ensuring economic results, guaranteeing safety and protecting the environment.

The people's governments at the township or town level shall be responsible for the agricultural mechanization in their own administrative areas, provide good services and guidance for farmers and agricultural production and operation organizations and designate specialized personnel for the concrete work of promoting agricultural mechanization.

**Article 4** The competent departments for agricultural mechanization of the people's governments at the municipal and the district or county level (hereinafter referred to as the competent departments for agricultural mechanization at the municipal and the district or county level) shall be responsible for promotion of agricultural Mechanization as well as safety supervision and administration of agricultural machines in their own administrative areas.

The relevant departments of the people's governments at the municipal and the district or county level shall, in accordance with the division of their respective duties, join the efforts in successfully promoting agricultural mechanization as well as safety supervision and administration of agricultural machines.

**Article 5** The development and promotion of the wide use of applicable, safe and reliable, energy efficient and environment-friendly agricultural machines shall be encouraged and supported.

The units and individuals engaging in scientific research and development, promotion of the wide use of, production, sale, maintenance and repair, operation and construction of demonstration points of agricultural machines shall enjoy government support, preferential taxation, financial.

## **Chapter II Scientific Research, Development and Promotion**

**Article 6** The municipal people's government and its relevant departments shall organize scientific research institutions, colleges and universities as well as enterprises to tackle key technical problems in agricultural mechanization with nature of fundamentality, key or public welfare, and support the development of new technologies, products and techniques for agricultural mechanization that are energy-efficient, emission-reducing, low carbon and adaptive to the development of modern agriculture with metropolitan style.

**Article 7** The competent department for agriculture mechanization at the municipal level shall, in accordance with the agricultural development planning and the needs for agricultural production, organize the formulation of the plan of research and development

**第八条** 鼓励农业机械技术人员和使用者根据农业生产实际需要，开展技术改进和技术革新活动，提高农业机械化水平和农业生产效率。市和区农业机械化主管部门应当会同财政、科技等有关部门予以支持。

**第九条** 农业机械生产者或者销售者，可以委托农业机械试验鉴定机构，对其定型生产或者销售的农业机械产品进行适用性、安全性、可靠性检测，作出技术评价。

农业机械试验鉴定机构应当公布具有适用性、安全性、可靠性的农业机械产品的检测结果，为农民和农业生产经营组织选购先进适用农业机械提供信息。

**第十条** 市农业机械化主管部门所属的农业机械试验鉴定机构应当提供农业机械推广鉴定服务，按照国家规定受理农业机械生产者或者销售者提出的推广鉴定申请，对其定型生产或者销售的农业机械产品进行适用性、安全性、可靠性检测，如实出具试验鉴定报告。通过推广鉴定的农业机械的相关信息由市农业机械化主管部门予以公告。

**第十一条** 市和区农业机械化主管部门应当组织制定农业机械化推广计划。农业机械化重点推广项目应当列入同级人民政府的科技发展计划。农业机械化推广工作由农业机械技术推广机构组织实施。

**第十二条** 市和区人民政府应当通过建立农业机械化示范基地，加快农业机械化新技术、新产品的引进和试验，为农民和农业生产经营组织使用先进适用的农业机械提供示范服务。

本市农业机械化示范基地建设标准，由市农业机械化主管部门会同有关部门制定并公布。

**第十三条** 支持在本市举办农业机械化高科技产品展览会、演示会或者技术交流研讨活动。

### 第三章 质量保障

**第十四条** 农业机械生产者、维修者、作业者应当执行农业机械产品质量、维修质量和作业质量的国家标准或者行业标准。

projects for agricultural mechanization in this Municipality. The departments for scientific technology and finance shall give support to tackling technical problems in the research and development projects for agricultural mechanization in aspects such as fund arrangement, project organization and innovation reward.

**Article 8** Technicians and users of agricultural machines shall be encouraged to carry out activities for technological improvement and innovation in accordance with actual needs for agricultural production, so as to increase the level of agricultural mechanization and agricultural productivity. The competent departments for agricultural mechanization at the municipal and the district or county level shall, jointly with departments for finance, scientific technology etc. , provide support.

**Article 9** Manufacturers or sellers of agricultural machines may entrust institutions for experiment and verification of agricultural machines to test the applicability, safety and reliability of the agricultural machines of a finalized design manufactured or sold by them, and to make a technical appraisal.

The said institutions shall publish the testing results of the agricultural machines in respect of their applicability, safety and reliability, providing information to farmers and agricultural production and operation organizations in their purchase of advanced and applicable agricultural machines.

**Article 10** The institutions for experiment and verification of agricultural machines subordinate to the competent department for agricultural mechanization at the municipal level shall provide services of experiment and verification for promotion of agricultural machines and accept applications for experiment and verification for promotion made by manufacturers or sellers of agricultural machines in accordance with the relevant provisions of the State, carry out tests on the applicability, safety, reliability of the agricultural machines of a finalized design manufactured or sold by them and truthfully present the reports on the test. The relevant information on the agricultural machines that are found up to standards after testing shall be announced by the competent department for agricultural mechanization at the municipal level.

**Article 11** The competent departments for agricultural mechanization at the municipal and the district or county level shall organize the formulation of a plan on the promotion of agricultural mechanization. The key promotion projects for agricultural mechanization shall be incorporated in the plans on scientific technology development of the people's governments at the same level. The promotion of agricultural mechanization shall be implemented under the organization of the institutions for promotion of agricultural machinery technologies.

**Article 12** The people's governments at the municipal and the district or county level shall establish demonstration points for agricultural mechanization to accelerate the introduction and experiment of new technologies and products for agricultural mechanization and provide farmers and agricultural production and operation organizations with demonstration services for the use of advanced and applicable agricultural machines.

The standard on the construction of demonstration points in this Municipality shall be formulated and published by the competent department for agricultural mechanization at the municipal level jointly with other relevant departments.

**Article 13** Exhibitions, presentations or technology exchange seminars on high-tech products for agricultural mechanization held in this Municipality shall be supported.

### **Chapter III Quality Safeguards**

**Article 14** Manufacturers, repairers and operators of agricultural machines shall implement the national or industrial standards for the quality of agricultural machines, the

本市根据都市型现代农业的需要，建立和完善农业机械维修质量和作业质量标准。没有国家标准或者行业标准，又需要在本市范围内统一农业机械技术要求的，市农业机械化主管部门应当会同市场监督管理部门及时制定地方标准。

**第十五条** 市场监督管理部门应当依法组织对农业机械产品质量的监督抽查，加强对农业机械产品市场的监督管理工作。

市农业机械化主管部门可以根据农业机械使用者的投诉情况或者农业生产的实际需要，组织对在用的特定种类农业机械产品的适用性、安全性、可靠性和售后服务状况进行调查，并公布调查结果。

**第十六条** 农业机械生产者、销售者应当对其生产、销售的农业机械产品质量负责，按照国家有关规定为用户提供零配件供应、培训等售后服务，并承担相应的维修、更换、退货责任。

销售、使用的农业机械产品，应当符合本市相关环保要求。

**第十七条** 从事农业机械维修经营的，应当依法办理工商登记手续。

**第十八条** 农业机械维修者应当执行国家有关技术标准、规范，履行与用户签订的维修协议，保证维修质量，并按照国家有关规定对维修质量承担相应的责任。

**第十九条** 提供农业机械作业服务的组织或者个人，应当按照相关作业质量标准确保作业质量；没有相关作业质量标准的，当事人双方可以约定作业验收条件。

提供有偿农业机械作业服务的组织或者个人作业质量不符合标准或者未达到约定验收条件，造成经济损失的，应当依法赔偿。

**第二十条** 因农业机械产品质量、维修质量和作业质量发生争议的，当事人可以协商解决；协商不成的，可以向当地区农业机械化主管部门或者其他有关部门申请调解，也可以直接向人民法院提起诉讼。

## 第四章 社会化服务

**第二十一条** 市和区人民政府应当采取措施，鼓励和扶持多种形式的农业机械服务组织的发展，推进农业机械化信息网络建设，完善农业机械化服务体系。



quality of their repairs and maintenance and the quality of their operation.

This Municipality shall develop and improve the standards for the quality of repair and maintenance as well as the quality of operation of agricultural machines in accordance with the needs of modern agriculture with metropolitan style. Where there are no national or industrial standards and it is necessary to unify the technical requirements of agricultural machines in this Municipality, the competent department for agricultural mechanization at the municipal level shall, jointly with the departments for market supervision and administration at the same level, formulate local standards in a timely manner.

**Article 15** The departments for market supervision and administration shall, in accordance with law, organize supervision over and spot-check of the quality of agricultural machines manufactured. The departments for market supervision and administration shall, in accordance with law, tighten supervision and control over the markets of agricultural machines manufactured.

The competent department for agricultural mechanization at the municipal level may, based on the complaints by the users of agricultural machines or on the actual need of agricultural production, arrange surveys of the applicability, safety, reliability and after-sale services of a particular type of agricultural machines that are in use, and publish the results of the surveys.

**Article 16** Manufacturers and sellers of agricultural machines shall be responsible for the quality of the machines manufactured or sold by them, and shall, in accordance with the relevant provisions of the State, provide such after-sale services as the supply of spare parts and training, and bear the corresponding responsibility for maintenance and repair, replacement or return.

The sold or applied agricultural machines shall comply with the relevant environmental requirements of this Municipality.

**Article 17** Those engaged in the maintenance and operation of agricultural machinery shall go through the formalities of industrial and commercial registration in accordance with the law.

**Article 18** Those engaged in the maintenance of agricultural machinery shall follow the relevant technical standards and specifications of the state, fulfill the maintenance agreements with users, ensure the maintenance quality, and bear the corresponding responsibility for the maintenance quality in accordance with the relevant provisions of the state.

**Article 19** The organizations or individuals that provide services of agricultural machine operation shall ensure the quality of their operation in accordance with the relevant standards for the quality of such operation; where there are no relevant standards for the quality of such operation, the parties may reach an agreement on the conditions of check for acceptance of such operation.

Where an organization or individual providing compensated services of agricultural machine operation fails to meet the standards for the quality of such operation or the agreed conditions of check for acceptance of such operation, thus causing economic losses, the organization or individual concerned shall make compensation in accordance with law.

**Article 20** Where there is any dispute arising from the quality of agricultural machines, the quality of maintenance and repair and the quality of operation, the parties may reach a settlement through consultation; where the consultation fails, they may apply for mediation to the competent department for agricultural mechanization at the district or county level in the local area, or directly bring a lawsuit to a people's court.

## **Chapter IV Commercialized Services**

**Article 21** The people's governments at the municipal and the district or county level shall take measures to encourage and assist the development of multi-forms of agricultural machinery service organizations, to facilitate the establishment of an information network



农业机械服务组织可以根据农民、农业生产经营组织的需求，提供农业机械示范推广、维修、实用技术培训、信息咨询、中介等社会化服务。

**第二十二条** 支持农业生产经营组织通过机械、土地、资本、技术等要素进行联合，在自愿的基础上，依法设立农业机械作业服务合作社。

鼓励农民共同使用、合作经营农业机械，扩大作业规模，提高农业机械利用率和作业效率。

**第二十三条** 市农业机械化主管部门应当建立全市统一的农业机械化信息服务平台，健全信息搜集、发布制度，为单位和个人购买、使用、租赁、流转、维修农业机械和跨行政区域作业提供信息服务。

**第二十四条** 市和区农业机械化主管部门应当为农业机械跨行政区域作业做好服务工作，提供作业信息，维护作业秩序，依法实施安全监督管理。

公安、交通等部门应当根据农业机械跨行政区域作业实际需要，采取有效措施，合理安排跨行政区域作业的农业机械运行时间和路线，并提供相关保障和服务。

**第二十五条** 市和区农业机械化主管部门应当组织农业机械技术推广机构和农业机械化学校，结合本地区农业生产实际，开展农业机械推广和科普宣传活动，做好农业机械化从业人员的培训和继续教育，提高农民对先进生产工具及技术的接受能力和安全操作水平。

**第二十六条** 鼓励有关高等院校、中等职业学校和培训机构通过远程教育、现场观摩、广播网络等多种形式，开展农业机械化专业人员和农业机械作业、维修、管理等高技术人才培养工作。

**第二十七条** 农业机械生产者、销售者、维修者可以依法自愿成立行业协会，实行行业自律。

行业协会应当为成员提供农业机械化的相关信息咨询、技术指导、市场营销、宣传培训等服务，维护成员和行业的合法权益。

for agricultural mechanization and improve the service system of agricultural mechanization.

Agricultural machine service organizations may, based on the needs of farmers and agricultural production and operation organizations, provide such commercialized services as demonstration and promotion of the use of agricultural machines, maintenance and repair, training in practical technologies, information consultation, and intermediary services.

**Article 22** Agricultural producers and operators shall be supported to unite through machines, land, capital, technology and other elements and set up cooperatives of agricultural machine operation services on a voluntary basis in accordance with law.

Farmers shall be encouraged to jointly use and cooperatively manage agricultural machines in order to expand the operation scale and raise the utilization ratio and operational efficiency of agricultural machines.

**Article 23** The competent department for agricultural mechanization at the municipal level shall establish a unified information service platform of agricultural mechanization for the whole Municipality and improve the system of information gathering and issuing in order to provide information services for units and individuals to purchase, use, lease, transfer and repair agricultural machines and carry out inter-regional operation.

**Article 24** The competent department for agricultural mechanization at the municipal and the district or county level shall provide good services for inter-regional agricultural machinery operation, provide information concerning such operation, maintain the order of such operation and exercise safety supervision and administration in accordance with law.

The departments for public security, traffic, etc. shall, in accordance with the actual needs of the inter-regional agricultural machinery operation, take effective measures to rationalize the schedule and routes of such inter-regional agricultural machinery operation and provide relevant support and services.

**Article 25** The competent departments for agricultural mechanization at the municipal and the district or county level shall organize the institutions for promotion of agricultural machinery technology and schools of agricultural mechanization to carry out activities for promotion of the wide use and popularization of scientific knowledge of agricultural machines in light of the actual local circumstances of agricultural production, provide good trainings and continuing education for practitioners in agricultural mechanization and improve the abilities of farmers to accept advanced tools and techniques of production and their competence of safe operation.

**Article 26** Higher educational institutions, secondary vocational schools and training institutions shall be encouraged to carry out trainings for professionals in agricultural mechanization and high level technicians in operation, maintenance and repair as well as management of agricultural machines in various forms including distance education, site observation and broadcast networks.

**Article 27** Manufacturers, sellers and repairers of agricultural machines may, in accordance with law and on a voluntary basis, establish industrial associations and practice self-discipline within the industry.

The industrial associations shall provide such services relating to agricultural mechanization as information consultation, technical guidance, marketing, publicity and training to their members and preserve the lawful rights and interests of their members and

## 第五章 扶持措施

**第二十八条** 市和区人民政府应当安排资金，用于下列农业机械化发展相关事项：

- （一）农业机械科研开发与推广；
- （二）农业机械化从业人员教育培训；
- （三）农业机械购置补贴和贷款贴息；
- （四）农业机械生产作业用燃油补贴；
- （五）农业机械维修服务体系建设；
- （六）农业机械化基础设施建设；
- （七）其他促进农业机械化发展的事项。

市和区人民政府应当加强对农业机械化扶持资金使用情况的监督。

**第二十九条** 鼓励和支持农业机械生产者增加新技术、新产品、新工艺的研究开发投入。农业机械的科研开发和生产活动，依法享受税收优惠。

**第三十条** 鼓励农民和农业生产经营组织购买先进适用的农业机械。市农业机械化主管部门会同财政部门，按照国家有关规定制定并公布本市农业机械购置补贴的机具品目及补贴额。

具有较大规模的农业机械作业服务合作社及其他农业机械作业服务组织购买农业机械产品，可以按照有关规定享受扶持政策。

**第三十一条** 市和区农业机械化主管部门应当组织有关部门和燃油供应单位采取措施，对季节性农业机械生产作业用燃油优先予以保障。

**第三十二条** 政策性金融机构应当采取多种形式为农民和农业机械作业服务组织购买先进适用的农业机械提供信贷服务，扩大购置农业机械信贷规模，加大扶持力度。

鼓励商业性金融机构开展购置农业机械信贷服务，对农民和农业机械作业服务组织提供资金支持。

the industry.

## Chapter V Support Measures

**Article 28** The people's governments at the municipal and the district or county level shall allocate funds for the following matters relating to the development of agricultural mechanization:

- (1) Scientific research, development and promotion of the wide use of agricultural machines;
- (2) Education and training of practitioners in agricultural mechanization;
- (3) Subsidies for purchase of agricultural machines and loans;
- (4) Subsidies for fuel oil used in agricultural production with operation of agricultural machines;
- (5) Development of the maintenance and repair service system for agricultural machines;
- (6) Construction of infrastructure in respect of agricultural mechanization; and
- (7) Other matters to promote the development of agricultural mechanization.

The people's governments at the municipal and the district or county level shall strengthen supervision over the use of supportive funds for agricultural mechanization.

**Article 29** Manufacturers of agricultural machines shall be encouraged to increase their input in research and development of new technologies, new products and new techniques. Activities of scientific research, development and manufacture of agricultural machines shall be eligible for preferential taxation in accordance with law.

**Article 30** Farmers and agricultural production and operation organizations shall be encouraged to purchase advanced and applicable agricultural machinery. The municipal department for agricultural mechanization shall, together with the department for finance, formulate and publish the list of machinery receiving the subsidies for the purchase of agricultural machinery in this Municipality and the amount thereof in accordance with the relevant provisions of the state.

Cooperatives of agricultural machine operation services and other agricultural machine operation service organizations with a relatively large scale may enjoy supportive policies in accordance with the relevant provisions when purchasing agricultural machines.

**Article 31** The competent departments for agricultural mechanization at the municipal and the district or county level shall organize relevant departments and fuel oil supply units to take measures to give priority to ensuring fuel oil for seasonal production with operation of agricultural machines.

**Article 32** Policy-based financial institutions shall provide credit services in various forms for farmers and agricultural machine operation service organizations to purchase advanced and applicable agricultural machines, expand the scale of credit for purchase of agricultural machines and offer more relevant support.

Commercial financial institutions shall be encouraged to carry out credit services for purchase of agricultural machines and provide funding support for farmers and agricultural machine operation service organizations.

**第三十三条** 建立和完善农业机械保险制度，将农业机械保险纳入本市政策性农业保险范围。

鼓励各类保险机构研究开发适合本市农业机械特点的保险产品。

**第三十四条** 本市各级人民政府应当采取措施，加强农村机耕道路和农业机械存放场库等农业机械化基础设施建设和维护，改善农业机械作业、通行条件。

农业机械存放场库、维修保养车间等农业机械化基础设施用地，应当符合土地利用总体规划和城乡规划；未使用建筑材料硬化地面或者虽使用建筑材料但未破坏土地并易于复垦的，按照设施农用地进行管理。农业机械化基础设施用地不得挪作他用。

村民委员会对农业机械存放场库、维修保养车间等农业机械化基础设施用地和建设，应当给予配合和支持。

**第三十五条** 市和区农业机械化主管部门应当加强农业机械维修体系建设，扶持社会力量及农业机械生产企业兴办农业机械维修服务站点，为农业机械的维修、保养提供便利。

从事农业机械维修经营活动的，依法享受税收优惠。

## 第六章 安全监督管理

**第三十六条** 本市完善农业机械安全监督管理体系，建立健全农业机械安全生产责任制。市和区农业机械化主管部门应当与同级应急管理、公安、市场监督管理等部门建立定期通报和工作协调制度，依法做好农业机械安全监督管理工作。

**第三十七条** 本市农业机械使用操作的安全监督管理及其行政处罚、安全事故处理，由市和区农业机械安全监督管理机构实施。

市和区农业机械安全监督管理机构应当定期对危及人身财产安全的农业机械进行免费实地安全检验。安全检验的农业机械目录及相关检验标准由市农业机械化主管部

**Article 33** A system of agricultural machine insurance shall be established and improved to incorporate agricultural machine insurance into the policy-based agricultural insurance of this Municipality.

Various types of insurance institutions shall be encouraged to study and develop insurance products suitable to the characteristics of the agricultural machines in this Municipality.

**Article 34** The people's governments at all levels of this Municipality shall take measures to make greater efforts in the construction and maintenance of the infrastructure in respect of agricultural mechanization, such as roads for farm machines in rural areas, yards and warehouses for storage of agricultural machines in order to improve the conditions for operation and passage of agricultural machines.

The land for infrastructure in respect of agricultural mechanization, such as storage yards and warehouses, maintenance and repair workshops for agricultural machines, shall conform to the overall land use planning and urban-rural planning; where no building materials are used to harden the land surface or the land is not damaged and can be easily reclaimed in spite of the use of building materials, the land shall be managed as land for agricultural facilities. The land for infrastructure in respect of agricultural mechanization shall not be used for other purposes.

Villagers' committees shall offer cooperation and support in relation to the land use and construction of infrastructure in respect of agricultural mechanization, such as storage yards and warehouses, maintenance and repair workshops for agricultural machines.

**Article 35** The competent departments for agricultural mechanization at the municipal and the district or county level shall strengthen the development of the maintenance and repair service system of agricultural machines, support social forces and agricultural machine manufacturing enterprises to set up maintenance and repair service sites to facilitate the maintenance and repair of agricultural machines.

Those engaging in the business of agricultural machine maintenance and repair shall enjoy preferential taxation in accordance with law.

## **Chapter VI Safety Supervision and Administration**

**Article 36** This Municipality shall improve the system of safety supervision and administration of agricultural machines, and establish and improve the work safety accountability system concerning agricultural machines. The competent departments for agricultural mechanization at the municipal and the district or county level shall establish a system of regular communication and work coordination with the departments for emergency management, public security, industrial and commercial administration, quality and technical supervision, etc. at the same level and bring to success the work of safety supervision and administration of agricultural machines.

**Article 37** The safety supervision and administration of agricultural machine operations and relevant administrative penalties as well as handling of safety accidents shall be carried out or imposed by the institutions for safety supervision and administration of agricultural machines at the municipal and the district or county level.

The institutions for safety supervision and administration of agricultural machines at the municipal and the district or county level shall regularly carry out free on-site inspections on the agricultural machines that threaten personal and property safety. The catalog of

门制定。

**第三十八条** 本市按照国家有关规定，实行农业机械的淘汰和报废制度，具体办法由市农业机械化主管部门会同有关部门制定。

明令淘汰和达到报废条件的农业机械应当停止使用并依法实行回收。

市和区农业机械化主管部门应当监督回收单位对回收的农业机械进行解体或者销毁。

**第三十九条** 农业生产经营组织应当制定农业机械安全管理制度，定期对农业机械进行必要的安全检查，排除安全事故隐患，并对农业机械操作人员及相关人员进行农业机械安全知识教育和操作培训，提高其安全意识和安全操作技能。

农业机械所有人不得将农业机械提供给未依法取得相应操作证件的人员操作，不得将明知存在安全事故隐患的农业机械出租、出借给他人使用。

**第四十条** 农业机械操作人员在农业机械作业前，应当对农业机械进行安全查验；在作业过程中，应当严格执行农业机械安全生产规章制度和安全技术操作规程，正确佩戴和使用劳动防护用品。农业机械操作人员有权拒绝违章指挥和强令冒险作业。

拖拉机、联合收割机操作人员及其他应当依法取得相应操作证件的农业机械操作人员，在农业机械作业过程中，应当随身携带本人合法、有效的操作证件。

**第四十一条** 投入使用的农业机械，应当确保安全防护装置、警示标志等安全设施完好。

禁止改装、拆除农业机械安全设施。

## 第七章 法律责任

**第四十二条** 违反本条例的行为，相关法律、行政法规对其法律责任有规定的，适用其规定；没有规定的，依照本条例规定执行。

**第四十三条** 市和区农业机械化主管部门以及农业机械鉴定、技术推广、安全监



agricultural machines subject to the safety inspection and relevant standards on such inspection shall be formulated by the competent department for agricultural mechanization at the municipal level.

**Article 38** This Municipality shall, in accordance with relevant provisions of the State, implement the system of eliminating and scrapping agricultural machines. The specific measures shall be formulated by the competent department for agricultural mechanization at the municipal level jointly with other relevant departments at the same level.

The agricultural machines that are to be eliminated under explicit orders and those that meet the conditions for scrapping shall be stopped from being used and recycled according to law.

The competent departments for agricultural mechanization at the municipal and the district or county level shall supervise the recycling units to disassemble or destroy the recycled agricultural machines.

**Article 39** Agricultural production and operation organizations shall develop the safety management system of agricultural machines, regularly carry out necessary safety inspections on agricultural machines, eliminate potential risks for safety accidents, and educate and train the agricultural machine operators and related personnel in safety knowledge and operation of agricultural machines to improve their safety awareness and skills for safe operation.

Owners of agricultural machines shall not provide the machines to be operated by those that fail to obtain the corresponding operation certificates in accordance with law, nor shall they lease or lend agricultural machines to others while being aware that the machines concerned have risks for safety accidents.

**Article 40** Operators of agricultural machines shall carry out safety inspections on the machines before operation; and shall strictly implement the work safety rules and technical operation procedures and correctly wear and use labor protection appliances during operation. Operators of agricultural machines shall have the right to refuse directions against regulations and orders to work at risk.

Operators of tractors, combine harvesters and other operators of agricultural machines that shall, in accordance with law, obtain the corresponding operation certificates shall carry with their legal and valid operation certificates during operation of agricultural machines.

**Article 41** It shall be ensured that the agricultural machines in use have safety protective devices, warning signs and other safety facilities in good conditions.

Modification and removal of safety facilities on agricultural machines shall be prohibited.

## **Chapter VII Legal Liability**

**Article 42** With regard to any act in violation of these Regulations, where there are provisions on liability in relevant laws or administrative regulations, these provisions shall prevail; where there are not such provisions, the provisions in these Regulations shall be followed.

**Article 43** The working staff of the competent departments for agricultural



督管理等机构工作人员，在农业机械化促进和安全监督管理工作中玩忽职守、滥用职权、徇私舞弊的，由所在单位或者上级主管部门给予行政处分；构成犯罪的，依法追究刑事责任。

**第四十四条** 违反本条例第三十九条第二款规定，农业机械所有人将农业机械提供给未依法取得相应操作证件的人员操作或者将明知存在安全事故隐患的农业机械出租、出借给他人使用，导致发生农业机械安全事故的，应当依法承担相应法律责任。

**第四十五条** 违反本条例第四十条第二款规定，拖拉机、联合收割机操作人员及其他应当依法取得相应操作证件的农业机械操作人员，在作业过程中未随身携带本人合法、有效操作证件的，由农业机械安全监督管理机构给予警告，责令改正，可以并处 50 元以上 100 元以下罚款。

**第四十六条** 违反本条例第四十一条第二款规定，改装、拆除农业机械安全设施的，由农业机械安全监督管理机构给予警告，责令限期改正；逾期不改正的，责令停止使用，并处 200 元以上 500 元以下罚款。

## 第八章 附 则

**第四十七条** 本条例自 2011 年 3 月 1 日起施行。1997 年 7 月 18 日北京市第十届人民代表大会常务委员会第三十八次会议通过、2001 年 5 月 18 日北京市第十一届人民代表大会常务委员会第二十六次会议修改的《北京市农业机械管理条例》同时废止。

mechanization and institutions for experiment and verification, promotion of technology and safety supervision and administration concerning agricultural machines at the Municipal and the district or county level who neglect their duties, abuse their powers engage in illegalities by fraudulent means or for personal gains shall be imposed on administrative sanctions by the units they work for or the superior competent department; and be investigated for criminal liability where a crime is constituted.

**Article 44** The owners of agricultural machines who, in violation of the provisions of Paragraph 2 of Article 39 of these Regulations, provide the machines to be operated by those that fail to obtain the corresponding operation certificates in accordance with law or lease or lend agricultural machines to others while being aware that the machines concerned have risks for safety accidents, thus causing safety accidents of agricultural machines, shall bear corresponding legal liability in accordance with law.

**Article 45** The operators of tractors, combine harvesters and other operators of agricultural machines that shall, in accordance with law, obtain the corresponding operation certificates who, in violation of the provisions of Paragraph 2 of Article 40 of these Regulations, fail to carry with their legal and valid operation certificates during operation of agricultural machines shall be warned and ordered to make corrections and may be imposed a fine of not less than 50 yuan but not more than 100 yuan by the institutions for safety supervision and administration of agricultural machines.

**Article 46** Anyone, in violation of the provisions of Paragraph 2 of Article 41 of these Regulations, who modifies or removes safety facilities on agricultural machines shall be warned and ordered to make corrections within a prescribed time limit by the institution for safety supervision and administration of agricultural machines; where no correction is made at the expiration of the time limit, the violator shall be ordered to stop using the machines and imposed on a fine of not less than 200 yuan but not more than 500 yuan.

## **Chapter VIII Supplementary Provisions**

**Article 47** These Regulations shall be effective as of March 1, 2011. The Regulations of Beijing Municipality on Administration of Agricultural Machinery, adopted at the 38th Meeting of the 10th Standing Committee of the People's Congress of Beijing Municipality on July 18, 1997 and amended at the 26th Session of the 11th Standing Committee of the People's Congress of Beijing Municipality on May 18, 2001, shall be repealed simultaneously.

# 北京市农业承包合同纠纷仲裁办法

(1991 年 1 月 4 日北京市人民政府批准 1991 年 3 月 1 日北京市人民政府农林办公室发布 根据 2007 年 11 月 23 日北京市人民政府第 200 号令修改)

**第一条** 为正确、及时解决农业承包合同纠纷，维护农村集体经济组织及其成员双方的合法权益，根据《北京市农业承包合同条例》（以下简称《条例》），制定本办法。

**第二条** 本办法适用于本市行政区域内农业承包合同纠纷的仲裁。

**第三条** 区、县承包合同仲裁委员会（以下简称仲裁委员会）负责本区、县承包合同纠纷的仲裁。仲裁委员会由区、县人民政府有关部门负责人组成。

区、县农村合作经济经营管理站为仲裁委员会的日常办事机构。

仲裁委员会设仲裁员，办理承包合同纠纷案件。

**第四条** 仲裁委员会仲裁承包合同纠纷，必须以事实为根据，以法律为准绳，当事人双方在适用法律上一律平等。

**第五条** 仲裁承包合同纠纷，实行回避，公开处理和一次裁决制度。

**第六条** 当事人认为仲裁员与本案有利害关系或者有其他关系可能影响公正仲裁的，有权申请其回避。

仲裁员认为自己与本案有利害关系或者其他关系，应当申请回避。

仲裁员的回避，由仲裁委员会决定。

**第七条** 当事人向仲裁委员会申请仲裁，应当从其知道或者应当知道权利受侵害之日起 1 年内提出。

**第八条** 农村集体经济组织作为当事人参加仲裁，其负责人为法定代表人。

# Measures of Beijing Municipality for Arbitration of Disputes over Agricultural Contracts

(Approved by the People's Government of Beijing Municipality on January 4, 1991, promulgated by the Agriculture and Forestry Office of the People's Government of Beijing Municipality on March 1, 1991, and revised in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

**Article 1** The Measures are formulated for the purposes of correctly and timely settling disputes over agricultural contracts and safeguarding the legitimate rights and interests of rural collective economic organizations and their members in accordance with the Regulations of Beijing Municipality on Agricultural Contracts (hereinafter referred to as the Regulations).

**Article 2** The Measures shall apply to arbitration of disputes over agricultural contracts within the administrative area of this Municipality.

**Article 3** The district or county contract arbitration committees (hereinafter referred to as arbitration committees) shall be responsible for the arbitration of contract disputes within their respective administrative areas. Arbitration committees shall be composed of the heads of the relevant departments of the district or county people's governments.

The district or county administrative stations of rural cooperative economic management shall be the daily offices of arbitration committees.

Arbitration committees shall be staffed with arbitrators to handle contract disputes.

**Article 4** In arbitrating contract disputes, arbitration committees must take facts as the basis and laws as the criterion, and both parties shall be equal in the application of law.

**Article 5** The system of recusal, public settlement and final award shall be applied to arbitration of contract disputes.

**Article 6** If the parties consider that arbitrators have an interest in the case or have other relations with it that may affect fair arbitration, they shall have the right to request for recusal of arbitrators.

If arbitrators consider themselves to have an interest in the case or have other relations with it, they shall recuse themselves.

The recusal of arbitrators shall be decided by arbitration committees.

**Article 7** The parties to apply to arbitration committees for arbitration shall file an application within one year from the date when they know or should have known that their rights have been infringed.

**Article 8** Where a rural collective economic organization participates in the arbitration as a party, the person in charge thereof shall be the legal representative.

集体经济组织成员以家庭作为当事人参加仲裁，其户主为代表人；集体经济组织成员以专业场（队、组）作为当事人参加仲裁，应当推选 1 人为代表人。

承包合同纠纷当事人，可以委托 1 至 2 人代理参加仲裁。委托他人代理参加仲裁的，必须向仲裁委员会提交授权委托书。授权委托书应当载明委托事项和权限。

**第九条** 承包合同发生纠纷，双方当事人可以通过协商解决，也可以请求村民委员会、乡（镇）人民政府调解解决。当事人不愿协商、调解或者协商、调解不成的，任何一方当事人均可以向所在地的区、县仲裁委员会申请仲裁。

**第十条** 当事人申请仲裁，应当提交仲裁申请书、承包合同、鉴证书或公证书以及有关证据。仲裁委员会收到仲裁申请书后，应当在 7 日内做出是否受理的决定。

申请仲裁的一方是申诉人，被申请仲裁的一方是被告人。

**第十一条** 有下列情况之一的，仲裁委员会不予受理：

（一）经济合同纠纷、民事纠纷等非承包合同纠纷。

（二）超过时效的承包合同纠纷。

（三）人民法院已经受理的承包合同纠纷。

（四）人民法院的判决、裁定已经发生法律效力或者仲裁已经终结，当事人又申请仲裁的。

**第十二条** 仲裁委员会决定受理后，应在 5 日内将申请书副本送达被告人。被告人应当自收到申请书副本之日起 15 日内，向仲裁委员会提交答辩书和有关证据。被告人不提交答辩书的，不影响案件的处理。

**第十三条** 复杂的承包合同纠纷案件，由仲裁委员会指定 3 名仲裁员组成仲裁庭处理。仲裁庭评议案件，实行少数服从多数的原则。

简单的承包合同纠纷案件，可以由 1 名仲裁员处理。

**第十四条** 承包合同纠纷仲裁实行开庭处理。开庭时，仲裁庭或仲裁员应当认真听取申诉人陈述和被告人答辩，严格审查核实有关证据，征询当事人双方的最后意见，并依法作出裁决。疑难案件由仲裁庭评议提出意见，报仲裁委员会依法作出裁决。

Where members of a collective economic organization participate in the arbitration with the household as a party, the head of the household shall be the representative; if members of a collective economic organization participate in the arbitration with the professional body (team or group) as a party, one person shall be elected as the representative.

The parties to a contract dispute may entrust one or two persons to participate in the arbitration. When entrusting others to participate in the arbitration, a power of attorney must be submitted to the arbitration committee. The power of attorney shall specify the entrusted matters and scope of authority.

**Article 9** In the event of a contract dispute, the parties may settle the dispute through consultation or request the villagers' committee or the township (or town) people's governments to settle the dispute through mediation. If the parties are unwilling to accept consultation or mediation, or if consultation or mediation fails, either party may apply to the local district or county arbitration committees for arbitration.

**Article 10** When applying for arbitration, the parties shall submit an application for arbitration, the contract, a certificate of authentication or notarization and relevant evidence. After receiving the application for arbitration, arbitration committees shall decide whether to accept it within 7 days.

The party applying for arbitration is the applicant, and the party being applied for arbitration is the respondent.

**Article 11** Under any of the following circumstances, arbitration committees will not accept the application for arbitration:

- (1) economic contract disputes, civil disputes and other non-contract disputes;
- (2) contract disputes beyond the prescribed period;
- (3) contract disputes that have been accepted by the people's court; or
- (4) applying for arbitration by the parties after the judgment or order of the people's court has taken legal effect or the arbitration has ended.

**Article 12** After the arbitration committee decides to accept the application, it shall serve a copy of the application on the respondent within 5 days. The respondent shall, within 15 days from the date of receiving the copy of the application, submit the statement of defense and relevant evidence to the arbitration committee. The respondent's failure to submit a statement of defense shall not affect the handling of the case.

**Article 13** In the event of a complex contract dispute, the arbitration committee shall appoint 3 arbitrators to form an arbitral tribunal. In deliberating cases, the arbitral tribunal shall follow the majority system.

A simple contract dispute case may be handled by one arbitrator.

**Article 14** Hearings shall be held for arbitration of contract disputes. At the hearings, the arbitral tribunal or arbitrators shall carefully listen to the statement of the applicant and the reply of the respondent, strictly examine and verify relevant evidence, seek the final opinions of both parties, and make an award according to law. In difficult cases, the arbitral tribunal shall make comments through deliberation and submit them to the arbitration committee for making an award according to law.

经两次书面通知，当事人无正当理由拒不到庭参加仲裁的，仲裁委员会可以缺席裁决。

**第十五条** 仲裁委员会仲裁承包合同纠纷，应在 2 个月内做出裁决，并制作裁决书送达当事人。

**第十六条** 仲裁委员会收集与案件有关的证据、进行现场勘察或者对物证进行技术鉴定时，有关单位或个人应当予以协助。

**第十七条** 因承包合同纠纷停止生产活动的，仲裁委员会在处理承包合同纠纷时，可以裁定先行恢复生产，然后解决纠纷。

**第十八条** 当事人对仲裁委员会裁决不服的，可以在接到裁决书之日起 30 日内向人民法院起诉。当事人一方期满不起诉又不履行裁决的，另一方可以向人民法院申请执行。

**第十九条** 承包合同纠纷当事人可以不经调解或者仲裁，直接向人民法院起诉。

承包合同纠纷案件仲裁过程中，申诉人或被上诉人一方或双方向人民法院起诉，并经人民法院受理的，仲裁即告终结。

**第二十条** 本办法经市人民政府批准，自 1991 年 3 月 1 日起施行。

After two written notices, if either party refuses to attend the arbitration without justifiable reasons, the arbitration committee may make an award by default.

**Article 15** The arbitration committee shall make an award within 2 months for contract disputes, and serve it on the parties.

**Article 16** When the arbitration committee collects evidence related to the case, conducts on-the-spot investigation or conducts technical appraisal of material evidence, relevant units or individuals shall provide assistance.

**Article 17** If production activities are suspended due to a contract dispute, the arbitration committee may, when handling the contract dispute, order to resume production first and then resolve the dispute.

**Article 18** If a party refuses to accept the award of the arbitration committee, it may bring a lawsuit in the people's court within 30 days from the date of receiving the award. If one party neither brings a lawsuit nor executes the award within the time limit, the other party may apply to the people's court for enforcement.

**Article 19** The parties to a contract dispute may directly bring a lawsuit in the people's court without mediation or arbitration.

In the process of arbitration of contract disputes, if the applicant and/or the respondent brings a lawsuit in the people's court and the case is accepted by the people's court, the arbitration shall end.

**Article 20** The Measures shall come into force as of March 1, 1991 upon approval of the Municipal People's Government.



# 北京市实施《森林病虫害防治条例》若干规定

(1991年7月18日北京市人民政府第23号令发布)

**第一条** 为贯彻实施《森林病虫害防治条例》(以下简称《条例》),结合本市实际情况,制定本规定。

**第二条** 在本市行政区域内的林木(包括果树)、林木种苗、木本花卉及木材(以下统称林木)的病虫害防治,按《条例》和本规定执行。

**第三条** 市林业局主管全市农村林木病虫害防治工作。区、县林业主管机关主管本区、县行政区域内农村林木病虫害防治工作。

市、区、县林业保护站负责农村林木病虫害防治的具体组织工作。乡、镇林业工作站负责组织本乡、镇的农村林木病虫害防治工作。

市园林局和各级城市绿化管理部门负责本市城市绿化范围内的林木病虫害防治工作。

**第四条** 本市林木病虫害防治工作,实行“谁经营、谁防治”的责任制度:

(一)国营林场(苗圃),铁路、水利、公路部门和机关、团体、部队、企业事业等单位,负责本部门和本单位经营管护林木的病虫害防治。

(二)农村农业生产合作社和个人,负责本社、本人所经营管护林木的病虫害防治。

(三)联合经营管护林木的病虫害防治,由联合经营管护各方共同负责,具体责任的划分应当在联合经营合同中明确规定。

(四)承包经营全民所有、集体所有的林木,发包方和承包方应当在承包合同中规定防治林木病虫害的责任。

**第五条** 本市林木病虫害防治工作,实行预防为主,综合治理的方针,建立健全

# Several Provisions of Beijing Municipality on the Prevention and Control of Forest Diseases and Insect Pests

(Promulgated by Decree No. 23 of the People's Government of Beijing Municipality on July 18, 1991)

**Article 1** The Provisions are formulated for the purpose of implementing the Regulations on the Prevention and Control of Forest Diseases and Insect Pests (hereinafter referred to as the Regulations) in light of actual circumstances of this Municipality.

**Article 2** The prevention and control of diseases and insect pests of trees (including fruit trees), tree seeds and seedlings, woody flowers and woods (hereinafter referred to as trees) within the administrative area of this Municipality shall be carried out in accordance with the Regulations and the Provisions.

**Article 3** The Municipal Forestry Bureau shall be in charge of the prevention and control of tree diseases and insect pests in rural areas of the whole city. The district or county forestry authorities shall be in charge of the prevention and control of tree diseases and insect pests in rural areas within their respective administrative areas.

The municipal, district and county forestry protection stations shall be responsible for specific organization of the prevention and control of tree diseases and insect pests in rural areas. The township or town forestry stations shall be responsible for organizing the prevention and control of tree diseases and insect pests in rural areas within their respective administrative areas.

The Municipal Gardening and Greening Bureau and administrative departments of urban greening at all levels shall be responsible for the prevention and control of tree diseases and insect pests within the area of urban greening in this Municipality.

**Article 4** In the prevention and control of tree diseases and insect pests in this Municipality, the responsibility system of "whoever manages shall carry out prevention and control" shall be implemented:

(1) State-owned forest farms (nurseries), railway, water conservancy and highway departments and organs, organizations, troops, enterprises and institutions, etc. shall be responsible for the prevention and control of diseases and insect pests of trees under their management and protection.

(2) Agricultural production cooperatives and individuals in rural areas shall be responsible for the prevention and control of diseases and insect pests of trees under their management and protection.

(3) The prevention and control of diseases and insect pests of trees under joint management and protection shall be the joint responsibility of all parties concerned, and the division of specific responsibilities shall be specified in the joint operation contract.

(4) In a contract for the management of trees owned by the whole people or by the collective, the party awarding the contract and the contractor shall specify the responsibility for the prevention and control of tree diseases and insect pests.

**Article 5** In the prevention and control of tree diseases and insect pests in

林木病虫害预测预报、检疫和防治服务体系。

跨区、县、乡的林区（包括林带、路树），应当建立林木病虫害联防组织，划定联防区域和分工负责的责任区、责任段，由参加联防组织的单位共同防治林木病虫害。

**第六条** 本市城区，风景旅游区，自然保护区，水源保护区，市、区、县管理的植树造林工程，平原重点片林，城市主干道，主要公路干线、铁路、河流两侧的林带，是林木病虫害重点防治区。

郊区农村重点防治区范围内的乡、镇人民政府和有林单位，应当建立林木病虫害预测预报点，配备相应的防治器材，做到发现病虫害立即除治。位于城市绿化范围内的重点防治区的林木病虫害防治具体措施，由市园林局规定。

**第七条** 各项造林绿化工程的设计方案，应当有防治病虫害措施的内容，设计方案确定前，应由制定方案的单位征求林木病虫害防治机构的意见。

**第八条** 国营林场（苗圃），铁路、公路、水利等部门和机关、团体、部队、企业事业单位以及经营管理林木的农村农业生产合作社、个人，应当按照下列规定做好林木病虫害预防工作：

- （一）进行育苗或造林，不得使用带有危险性病虫害的林木种苗。
- （二）加强对幼龄林和中龄林的抚育管理，及时清除已经感染病虫害的林木。
- （三）有计划地实行封山育林，改变纯林生态环境。
- （四）及时清除林地和果园作业迹地、贮木场、贮果场的病虫害源。

**第九条** 除治林木病虫害，须遵守下列规定：

- （一）禁止违章使用剧毒和高残留农药。
- （二）重点水源保护区应当采取生物、物理防治措施。
- （三）采用飞机喷药、施放烟剂、投放毒饵的方法防治时，防治单位应当事先通知防治区域内的单位和居民，并采取保证人、畜安全的措施。

**第十条** 各区、县林业主管机关和城市绿化管理部门以及市属有林部门，应当定

this Municipality, the principle of prevention first and comprehensive control shall be implemented, and a service system for prediction, quarantine, prevention and control of tree diseases and insect pests shall be established and improved.

For forest zones (including forest belts and roadside trees) across districts, counties or townships, a joint prevention organization against tree diseases and insect pests shall be established, the joint prevention area and the area of responsibility or section of responsibility subject to division of responsibility shall be defined, and the units participating in the joint prevention organization shall jointly prevent and control tree diseases and insect pests.

**Article 6** Urban areas of this Municipality, scenic and tourist areas, nature reserves, water source reserves, afforestation projects under management at the municipal, district or county level, key wood lots within the plains, urban main roads, forest belts on both sides of main highways, railways and rivers are key areas for prevention and control of tree diseases and insect pests.

The township or town people's governments and units with forests in key prevention and control areas of rural areas in the suburbs shall establish sites for prediction and forecast of tree diseases and insect pests, and equip them with corresponding prevention and control equipment, so as to eliminate and treat diseases and insect pests as soon as they are found. Specific measures for the prevention and control of tree diseases and insect pests in key prevention and control areas within the area of urban greening shall be formulated by the Municipal Gardening and Greening Bureau.

**Article 7** The design schemes for various afforestation projects shall include measures for the prevention and control of tree diseases and insect pests. Before the design schemes are finalized, the unit developing the schemes shall solicit the opinions of the institutions of prevention and control of tree diseases and insect pests.

**Article 8** State-owned forest farms (nurseries), railway, highway, water conservancy and other departments and organs, organizations, troops, enterprises and institutions, as well as rural agricultural production cooperatives and individuals engaged in the management of trees shall do a good job in the prevention of tree diseases and insect pests in accordance with the following provisions:

- (1) not using tree seeds and seedlings with dangerous diseases and insect pests for seedling growing or afforestation;
- (2) strengthening the management of young and medium-aged forests, and promptly removing trees that have been infected with diseases and insect pests;
- (3) closing hillsides to facilitate afforestation in a planned way, and changing the ecological environment of pure forests; and
- (4) promptly removing the source of diseases and insect pests from woodlands, orchard operation areas, timber yards and fruit yards.

**Article 9** The following provisions shall be observed in the treatment of tree diseases and insect pests:

- (1) It is forbidden to use highly toxic and high-residue pesticides in violation of regulations.
- (2) Biological and physical control measures shall be taken in key water source protection areas.
- (3) When using aerial spray, smoke agent and poison bait for prevention and control, the prevention and control units shall inform the units and residents in the prevention and control area in advance and take measures to ensure the safety of people and livestock.

**Article 10** The forestry authorities and administrative departments of urban greening

期将本区、县和本部门林木病虫害发生和防治情况向所在区、县人民政府报告。发生突发性病虫害和危险性病虫害时，必须立即报告。对新传入的危险性病虫害，须及时采取严密封锁、扑灭措施，防止病虫害传播、蔓延。

**第十一条** 违反《条例》和本规定的，由林业主管部门和城市绿化管理部门根据职责分工，按《条例》的规定予以处罚。

**第十二条** 本规定执行中的具体问题，由市林业局负责解释；属于城市绿化范围的具体问题，由市园林局负责解释。

**第十三条** 本规定自 1991 年 8 月 1 日起施行。1988 年 3 月 16 日北京市人民政府批准施行的《北京市农村林木病虫害防治管理暂行办法》同时废止。

of all districts or counties, as well as the municipal forestry departments shall regularly report the occurrence and control of trees diseases and insect pests in their respective districts, counties and departments to the local district or county people's governments. In case of sudden and dangerous diseases and insect pests, they must be reported immediately. In order to prevent the spread of new dangerous diseases and insect pests, it is necessary to take strict blockade and extinguishing measures in a timely manner.

**Article 11** Any violation of the Regulations and the Provisions shall be punished by the forestry authorities and administrative departments of urban greening within the scope of their respective functions and duties in accordance with the Regulations.

**Article 12** The Municipal Forestry Bureau shall be responsible for interpretation of specific issues in implementation of the Provisions, and the Municipal Gardening and Greening Bureau shall be responsible for interpretation of specific issues within the scope of urban greening.

**Article 13** The Provisions shall come into force as of August 1, 1991. The Interim Measures of Beijing Municipality for Management of Prevention and Control of Forest Diseases and Insect Pests in Rural Areas implemented upon approval of the People's Government of Beijing Municipality on March 16, 1988 shall be repealed simultaneously.

# 北京市实施《水产资源繁殖保护条例》若干规定

(1997年3月28日北京市人民政府第3号令发布 根据2004年6月1日北京市人民政府第150号令第一次修改 根据2007年11月23日北京市人民政府第200号令第二次修改)

**第一条** 为加强本市水产资源繁殖保护工作，发展水产事业，根据国务院发布的《水产资源繁殖保护条例》（以下简称《条例》）和有关法律、法规，结合本市实际情况，制定本规定。

**第二条** 凡本市行政区域内，具有经济价值的水生动植物亲体、幼体、卵子、孢子等及其赖以繁殖成长的水域环境，均应按照《条例》和本规定加以保护。

**第三条** 市农业局是本市渔业行政主管部门，负责本市水产资源繁殖保护工作；区、县渔业行政主管部门负责本行政区域内的水产资源繁殖保护工作。

**第四条** 本市各级渔业行政主管部门及其渔政监督管理机构，应当在同级人民政府的领导下，依法加强水产资源繁殖保护工作及监督检查，保障对水产资源的合理利用。

**第五条** 本市鼓励对水产资源的繁殖保护。在不破坏现有资源和环境的前提下，可以依法合理开发利用水产资源。任何单位和个人都有权揭发、检举破坏水产资源繁殖保护的行为。

**第六条** 本市对下列珍贵和重要水生动物、植物重点加以繁殖保护：

(一) 鱼类：鲢鱼、鲤鱼、草鱼、鳙鱼、青鱼、鲫鱼、鳊鱼、罗非鱼、鳊鱼、鲟鱼、鳊鱼、鳊鱼、香鱼、鳊鱼、团头鲂、乌鳢、圆尾斗鱼、赤眼鳟、虹鳟、中华九刺鱼、细鳞鱼、雅罗鱼、太湖短吻银鱼、多鳞铲颌鱼、东方薄鳅、黄线薄鳅、鲮鱼、池沼公鱼、

## Several Provisions of Beijing Municipality on Implementing the Regulations on the Protection and Reproduction of Aquatic Resources

(Promulgated by Decree No. 3 of the People's Government of Beijing Municipality on March 28, 1997, revised for the first time in accordance with Decree No. 150 of the People's Government of Beijing Municipality on June 1, 2004, and revised for the second time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

**Article 1** The Provisions are formulated for the purposes of strengthening protection and reproduction of aquatic resources in this Municipality and developing aquatic industry in accordance with the Regulations on the Protection and Reproduction of Aquatic Resources (hereinafter referred to as the Regulations) promulgated by the State Council as well as relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** The broodstock, larvae, ova and spores of aquatic flora and fauna with economic value as well as waters where aquatic flora and fauna reproduce and grow within the administrative area of this Municipality shall be protected in accordance with the Regulations and the Provisions.

**Article 3** The Municipal Agriculture Bureau is the competent department for fishery in this Municipality, which shall be responsible for the protection and reproduction of aquatic resources in this Municipality; the district or county competent departments for fishery shall be responsible for the protection and reproduction of aquatic resources within their respective administrative areas.

**Article 4** The competent departments for fishery at all levels in this Municipality and their fishery supervisory authorities shall, under the leadership of the people's government at the corresponding level, strengthen protection and reproduction of aquatic resources as well as supervision and inspection according to law, so as to ensure the rational utilization of aquatic resources.

**Article 5** This Municipality shall encourage the protection and reproduction of aquatic resources. On the premise of not damaging existing resources and environment, aquatic resources may be reasonably developed and utilized according to law. Any unit or individual shall have the right to expose or report any act that undermines the protection and reproduction of aquatic resources.

**Article 6** This Municipality shall give priority to the protection and reproduction of the following precious and important aquatic flora and fauna:

(1) Fish: silver carp, common carp, grass carp, bighead carp, black carp, crucian carp, catfish, tilapia, bream, sturgeon, eel, minnow, *plecoglossus altivelis*, mandarin fish,



红鳍鲌、翘嘴红鲌等。

（二）虾蟹类：罗氏沼虾、青虾、河蟹等。

（三）水生植物类：莲藕、菱角、茭白等。

（四）其他：大鲵、鳖、牛蛙、河蚌等。

**第七条** 禁止捕捞、采集国家明令保护的水生动、植物。

重点保护水生动、植物品种的捕捞、采集标准，由市农业局根据本市具体情况另行制定。

**第八条** 市农业局应当根据渔业生产和水产资源繁殖保护的需要，在渔业水域内划定禁渔区，规定禁渔期，并向社会公布。

在禁渔区四周应当设置明显标志。禁渔期间，禁渔区内禁止一切捕捞作业。

**第九条** 禁止向渔业水域排放危害水产资源的污水、油类、油性混合物及其他污染物质和废弃物质。企业排污应当符合排污标准，保证临近渔业水域的水质。

**第十条** 渔政监督管理机构每年应当负责组织向水库投放一定数量和一定规格的鱼种，并在鱼类自然繁殖季节组织敷设人工鱼巢，以保证水库渔业资源的充分增殖和合理利用。

**第十一条** 对违反本规定的，按照《条例》和有关法律、法规的规定给予处罚。

**第十二条** 本规定自 1997 年 5 月 1 日起施行。

blunt-snout bream, snakehead, macropodus ocellatus, squaliobarbus curriculus, rainbow trout, Chinese nine-spined stickleback, brachymystax lenok, leuciscus waleckii, neosalanx tangkahkeii, varicorhinus macrolepis, leptobotia orientalis, LeLeptobotia flavolineata, xenocypris, hypomesus olidus, culter erythropterus, erythroculter ilishaeformis, etc.

(2) Shrimps and crabs: Macrobrachium rosenbergii, freshwater shrimps, river crabs, etc.

(3) Aquatic flora: lotus root, water chestnut, water bamboo, etc.

(4) Others: giant salamander, soft-shelled turtle, bullfrog, freshwater mussel, etc.

**Article 7** It is prohibited to catch and collect aquatic flora and fauna that are expressly protected by the State.

The standards for catching and collecting species of aquatic flora and fauna under special protection shall be formulated separately by the Municipal Agriculture Bureau in light of actual circumstances of this Municipality.

**Article 8** The Municipal Agriculture Bureau shall, according to the needs of fishery production and the protection and reproduction of aquatic resources, delimit closed fishing areas in fishery waters, stipulate the period of closure and make it known to the public.

Obvious signs shall be set up around closed fishing areas. During the period of closure, all fishing operations are prohibited in the areas.

**Article 9** It is prohibited to discharge sewage, oils, oil mixtures and other pollutants and waste substances that endanger aquatic resources into fishery waters. The discharge of pollutants by enterprises shall conform to the standards therefor, so as to ensure the water quality around fishery waters.

**Article 10** Fishery supervisory authorities shall be responsible for organizing the distribution of fingerling of certain quantity and specifications to reservoirs every year, and organizing the laying of artificial fish nests in the natural breeding season of fish, so as to ensure the full growth and rational utilization of fishery resources in reservoirs.

**Article 11** Whoever violates the Provisions shall be punished in accordance with the Regulations and relevant laws and regulations.

**Article 12** The Provisions shall come into force as of May 1, 1997.

# 北京市农业机械安全监督管理规定

(2018年2月12日北京市人民政府第279号令公布)

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## 第一章 总 则

**第一条** 为了加强农业机械安全监督管理,预防和减少农业机械事故,保障人民生命和财产安全,促进首都现代农业发展,根据国务院《农业机械安全监督管理条例》和有关法律、法规,结合本市实际情况,制定本规定。

**第二条** 在本市行政区域内从事农业机械的使用操作及其安全监督管理等活动,应当遵守本规定。

本规定所称农业机械,是指用于农业生产及其产品初加工等相关农事活动的机械、设备。

**第三条** 农业机械安全监督管理应当以人为本,遵循安全第一、预防为主、综合治理的原则,强化和落实农业生产经营组织、农业机械所有人的主体责任,以及各级人民政府及其有关部门的监管责任。

**第四条** 市和区人民政府应当加强对农业机械安全监督管理工作的领导,完善农业机械安全监督管理体系,建立健全农业机械安全生产责任制,将农业机械安全监督

# Provisions of Beijing Municipality on Safety Supervision and Administration of Agricultural Machinery

(Promulgated by Decree No. 279 of the People's Government of Beijing Municipality on February 12, 2018)

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## Chapter I General Provisions

**Article 1** These Provisions are formulated for the purposes of strengthening the safety supervision and administration of agricultural machinery, preventing and reducing accidents of agricultural machinery, safeguarding the people's life and property safety and promoting the capital's modern agriculture development in accordance with the Regulations on Safety Supervision and Administration of Agricultural Machinery promulgated by the State Council, and in light of the actual circumstances of this Municipality.

**Article 2** These Provisions shall apply to such activities as the use, operation as well as safety supervision and administration of agricultural machinery within the administrative area of this Municipality.

As used in these Provisions, "agricultural machinery" refers to the machinery and equipment used for agricultural production, primary processing of agricultural products and other relevant agricultural activities.

**Article 3** The safety supervision and administration of agricultural machinery shall be human-oriented, and shall follow the principles of safety first, prevention foremost and comprehensive governance. The entity responsibility of agricultural production and operation organizations and owners of agricultural machinery as well as the regulatory responsibility of the people's governments at various levels and the relevant departments shall be enhanced and ascertained.

**Article 4** The municipal and district people's governments shall strengthen the leadership in safety supervision and administration of agricultural machinery, improve the systems for safety supervision and administration of agricultural machinery, set up a sound responsibility system for work safety of agricultural machinery, include the funds for safety supervision and administration of agricultural machinery in the financial budget, and

管理工作经费列入财政预算，提升农业机械安全监督管理水平。

乡、镇人民政府和街道办事处应当指定专门人员协助做好农业机械安全监督管理工作。

**第五条** 市和区农业行政部门负责本行政区域的农业机械安全监督管理工作，其所属的农业机械安全监督管理机构（以下简称为农机监理机构）实施具体工作。

财政、安全生产监管、公安交通、环境保护等部门按照各自职责，做好农业机械安全监督管理工作。

**第六条** 市农业行政部门与毗邻省、市有关部门建立农业机械安全监督管理工作区域协作机制，在农业机械的跨区作业、信息共享和技术服务等方面开展协作。

市和区农业行政部门应当与同级安全生产监管、公安交通等部门建立联合执法协调机制，强化农业机械安全监督管理工作。

**第七条** 各级人民政府及其农业、新闻出版广电等行政部门应当加强农业机械安全法律、法规、规章、标准和安全知识的宣传教育。

**第八条** 农业生产经营组织、农业机械所有人和农业机械操作人员可以依法自愿成立行业协会，实行行业自律，为会员提供市场营销、技术指导和宣传培训等服务，维护会员和行业的合法权益。

## 第二章 安全保障

**第九条** 农业生产经营组织应当加强农业机械使用操作的安全管理，建立健全使用操作的安全规章制度，做好农业机械事故隐患的排查治理工作，推进农业机械安全标准化建设，保障农业机械使用操作的安全。

**第十条** 农业生产经营组织应当对农业机械操作人员进行安全教育和培训，保证农业机械操作人员具备必要的安全知识，熟悉使用操作的安全规章制度和安全操作规程，掌握农业机械事故的应急处理措施。

promote the level of safety supervision and administration of agricultural machinery.

The township/town people's governments and subdistrict offices shall designate special personnel to assist the successful safety supervision and administration of agricultural machinery.

**Article 5** The municipal and district administrative departments for agriculture shall be responsible for the safety supervision and administration of agricultural machinery within their respective administrative areas, and their subordinate agencies for safety supervision and administration of agricultural machinery (hereinafter referred to as agricultural machinery supervisory agencies) shall be responsible for the specific implementation.

The departments for finance, work safety administration, public security traffic management and environmental protection shall bring success to safety supervision and administration of agricultural machinery according to their respective duties.

**Article 6** The municipal administrative department for agriculture shall establish the regional collaboration mechanism for safety supervision and administration of agricultural machinery with the relevant departments of neighboring provinces and municipalities, and shall carry out collaboration in such aspects as cross-regional operations of agricultural machinery, information sharing and technical services.

The municipal and district administrative departments for agriculture shall establish the joint law enforcement coordination mechanism with departments for work safety administration and public security traffic management at the corresponding levels, so as to enhance the safety supervision and administration of agricultural machinery.

**Article 7** The people's governments at various levels and their administrative departments for agriculture and press, publication, radio, film & television etc. shall strengthen the publicity and education of laws, regulations, rules, standards and knowledge on safety of agricultural machinery.

**Article 8** Agricultural production and operation organizations as well as owners and operators of agricultural machinery may voluntarily set up industrial associations in accordance with the law, so as to realize industrial self-discipline, provide such services as marketing, technical guidance, publicity and training to members, as well as safeguard lawful rights and interests of members and the industry.

## **Chapter II Safety Guarantee**

**Article 9** Agricultural production and operation organizations shall strengthen the safety management in the use and operation of agricultural machinery, set up sound rules and systems for the safe use and operation, bring success to the screening and elimination of hidden risks for accidents of agricultural machinery, promote the construction of safety standardization for agricultural machinery, and guarantee the safe use and operation of agricultural machinery.

**Article 10** Agricultural production and operation organizations shall organize safety education and trainings for operators of agricultural machinery, so as to ensure that operators of agricultural machinery master necessary safety knowledge, know well the files, systems and specifications for safe use and operation and have a perfect command of

**第十一条** 本市危及人身财产安全的农业机械的安全操作规程，由市农业行政主管部门组织制定并向社会公布。

**第十二条** 农业生产经营组织应当配备专职或者兼职安全管理人员。

**第十三条** 农业生产经营组织配备的安全管理人员应当履行下列职责：

- （一）组织或者参与拟订本单位农业机械使用操作的安全规章制度；
- （二）组织或者参与本单位农业机械操作人员的安全教育和培训；
- （三）检查本单位农业机械的安全技术状况；
- （四）及时排查并督促消除农业机械事故隐患；
- （五）法律、法规规定的其他职责。

**第十四条** 农业机械所有人履行下列职责：

- （一）定期维护和保养农业机械，确保其安全技术状况良好；
- （二）对危及人身财产安全的农业机械定期申请安全检验；
- （三）停止使用和报废已经达到国家规定报废条件的农业机械。

**第十五条** 农业生产经营组织或者农业机械所有人为他人提供农业机械作业服务前，应当与作业服务需求方签订专门的农业机械作业服务安全协议，或者在作业服务合同中约定各自的农业机械作业服务安全责任，并指定专门人员维护农业机械现场作业秩序。

**第十六条** 本市农业机械作业服务安全协议示范文本，由市农业行政部门组织制定并向社会公布。

鼓励农业生产经营组织、农业机械所有人和农业机械作业服务需求方使用农业机械作业服务安全协议示范文本。

**第十七条** 农业生产经营组织或者农业机械所有人雇用他人操作农业机械的，应当确认所雇用的拖拉机和联合收割机的操作人员持有有效操作证件、其他操作人员具备相应的安全操作技能，不得违章指挥、强令操作人员冒险作业。

农业机械操作人员有权拒绝违章指挥和强令冒险作业。

measures for emergency response to accidents of agricultural machinery.

**Article 11** The municipal administrative department for agriculture shall organize the formulation of this Municipality's safe operation rules for agricultural machinery endangering personal and property safety, and shall make them public.

**Article 12** Agricultural production and operation organizations shall deploy full-time or part-time safety management personnel.

**Article 13** The safety management personnel deployed by an agricultural production and operation organization shall perform the following duties:

(1) organizing or participating in the drafting of the organization's rules and systems for safe use and operation of agricultural machinery;

(2) organizing or participating in the safety education and trainings for the organization's operators of agricultural machinery;

(3) examining the situation of the organization's safety technologies for agricultural machinery;

(4) timely screening and urging the elimination of hidden risks for accidents of agricultural machinery; and

(5) other duties stipulated by laws and regulations.

**Article 14** Owners of agricultural machinery shall perform the following duties:

(1) regularly maintaining and servicing agricultural machinery so as to ensure a good situation of safety technologies;

(2) regularly applying for safety inspection of agricultural machinery endangering personal and property safety; and

(3) stopping using and scrapping agricultural machinery satisfying the conditions for scrapping stipulated by the State.

**Article 15** Before providing agricultural machinery operation services to others, an agricultural production and operation organization or owner of agricultural machinery shall enter into a special agreement on safety of agricultural machinery operation service or agree on their respective safety responsibility for agricultural machinery operation service in the operation service contract with the party demanding such operation service, and shall designate special personnel to maintain the order of field operation of agricultural machinery.

**Article 16** The municipal administrative department for agriculture shall organize the formulation of this Municipality's model text for the agreement on safety of agricultural machinery operation service, and shall make it public.

Agricultural production and operation organizations, owners of agricultural machinery and parties demanding agricultural machinery operation service are encouraged to use the model text for the agreement on safety of agricultural machinery operation service.

**Article 17** Where an agricultural production and operation organization or owner of agricultural machinery employs others to operate agricultural machinery, it or he shall confirm that employed operators of tractors or combine harvesters hold valid operating licenses and other operators have the corresponding skills for safe operation, and shall not make rule-breaking directions or compel operators to carry out risky operations.

Operators of agricultural machinery shall be entitled to refuse rule-breaking directions and risky operations.



**第十八条** 农业机械操作人员在作业前，应当对农业机械进行安全查验；作业时，应当遵守安全操作规程。

**第十九条** 禁止操作下列农业机械：

- （一）未按照规定悬挂牌照的拖拉机或者联合收割机；
- （二）改装或者拆卸安全防护装置的危及人身财产安全的农业机械；
- （三）拼装或者改装整机的危及人身财产安全的农业机械；
- （四）法律、法规规定的其他禁止操作的农业机械。

**第二十条** 农业机械操作人员不得有下列行为：

- （一）饮酒后操作危及人身财产安全的农业机械；
- （二）拖拉机或者联合收割机在作业或者转移过程中搭乘与操作农业机械无关的人员；
- （三）法律、法规规定的其他禁止行为。

### 第三章 事故处理

**第二十一条** 农业机械在作业或者转移过程中发生事故的，农业机械操作人员和现场其他人员应当及时向事故发生地的区农机监管机构报案。

农机监管机构应当建立值班制度，向社会公布全市统一的值班电话号码，并保持通讯畅通。

**第二十二条** 发生农业机械事故，未造成人身伤亡，且当事人对事故的事实及其成因无争议的，农机监管机构可以当场作出农业机械事故认定。

发生农业机械事故，未造成人身伤亡，但当事人对事故的事实及其成因有争议的，或者造成人身伤亡的，由农机监管机构依照国务院《农业机械安全监督管理条例》等法规、规章处理。

**第二十三条** 农机监管机构当场作出农业机械事故认定，应当遵守下列程序：

- （一）现场勘验和检查，收集和保存必要的证据；
- （二）告知当事人权利和义务；

**Article 18** Operators of agricultural machinery shall carry out safety check of agricultural machinery before operation, and shall follow safe operation rules during operation.

**Article 19** It is prohibited to operate the following agricultural machinery:

- (1) tractors and combine harvesters whose number plates are not hung as stipulated;
- (2) any agricultural machinery endangering personal and property safety which has been refitted or whose safety device has been dismantled;
- (3) any agricultural machinery endangering personal and property safety which has been self-assembled or has gone through whole-machine refitting; and
- (4) other agricultural machinery prohibited to be operated by laws and regulations.

**Article 20** An operator of agricultural machinery shall not commit any of the following acts:

- (1) operating any agricultural machinery endangering personal and property safety after drinking;
- (2) allowing a tractor or combine harvester to carry persons irrelevant to the operation of agricultural machinery during the process of operation or transfer; or
- (3) other acts prohibited by laws and regulations.

### **Chapter III Accident Disposal**

**Article 21** Where an accident occurs to agricultural machinery during the process of operation or transfer, the operator of agricultural machinery and other personnel at the site shall timely report to the district agricultural machinery supervisory agency of the place where the accident occurs.

The agricultural machinery supervisory agency shall set up the duty system, make public the uniform duty hotline of this Municipality, and maintain smooth communication.

**Article 22** Where an accident of agricultural machinery does not lead to personnel injury or death and the relevant parties have no disputes on its facts and causes, the agricultural machinery supervisory agency may make affirm the accident on the spot.

Where an accident of agricultural machinery does not lead to personnel injury or death but the relevant parties have disputes on its facts and causes, or an accident of agricultural machinery leads to personnel injury or death, the agricultural machinery supervisory agency shall dispose of the accident in accordance with the relevant regulations and rules including the Regulations on Safety Supervision and Administration of Agricultural Machinery promulgated by the State Council.

**Article 23** When affirming an accident of agricultural machinery on the spot, the agricultural machinery supervisory agency shall conform to the following procedures:

- (1) making field inspection and examination, collecting and keeping necessary evidences;
- (2) notifying the relevant parties of their rights and obligations; and

(三) 制作农业机械事故认定书，当场交付当事人。

**第二十四条** 拖拉机在道路以外通行时发生事故的，由农机监理机构依照国务院《农业机械安全监督管理条例》等法规、规章处理；公安交通管理部门接到报案并最先到达事故现场的，参照道路交通安全法、法规处理；公安交通管理部门认为不属于道路交通事故的，应当将案件移送农机监理机构。

**第二十五条** 拖拉机在道路以外通行时发生事故，造成人身伤亡的，丧葬、抢救等费用列入道路交通事故社会救助基金的救助范围，依照国家有关规定进行救助。

联合收割机发生事故，造成人身伤亡的，依照本市有关规定进行救助。

**第二十六条** 本市鼓励和支持农业机械所有人和农业机械操作人员依法成立农业机械事故互助组织，完善农业机械事故救助机制，分担农业机械事故损害风险。

## 第四章 服务与监督

**第二十七条** 农机监理机构应当根据农业生产需要，为农业生产经营组织、农业机械所有人和农业机械操作人员，提供农业机械作业服务信息、免费发放安全标志标识等服务；对农业机械的使用操作进行监督检查，纠正和处理违反有关法律、法规、规章的行为。

**第二十八条** 区农机监理机构依照申请定期对危及人身财产安全的农业机械进行免费实地安全检验。

拖拉机和联合收割机的首次安全检验，申请人应当按照国家有关规定提供材料；其他危及人身财产安全的农业机械的首次安全检验，申请人应当提供农业机械及其所有人的基本信息，说明农业机械的来源。

**第二十九条** 本市危及人身财产安全的农业机械的安全检验技术规范，由市农业行政部门组织制定并向社会公布。

**第三十条** 区农机监理机构在安全检验中发现农业机械存在事故隐患的，应当书

(3) producing the affirmation letter of the accident, and delivering it to the relevant parties on the spot.

**Article 24** Where an accident occurs when a tractor runs outside the roads, the agricultural machinery supervisory agency shall dispose of the accident in accordance with the relevant regulations and rules including the Regulations on Safety Supervision and Administration of Agricultural Machinery promulgated by the State Council; where the public security traffic management department first arrives at the scene after receiving the report, the accident shall be disposed of by referring to the laws and regulations on road traffic safety; where the public security traffic management department thinks the accident is not a road traffic accident, it shall transfer the case to the agricultural machinery supervisory agency.

**Article 25** Where an accident occurs when a tractor runs outside the roads and leads to personnel injury or death, the expenses of funeral and rescue shall be covered by the social aid fund for road traffic accidents, and the aid shall be offered in accordance with the relevant provisions of the State.

Where an accident occurs to a combine harvester and leads to personnel injury or deaths, the aid shall be offered in accordance with the relevant provisions of This Municipality.

**Article 26** This Municipality encourages and supports owners and operators of agricultural machinery to establish mutual aid organizations for accidents of agricultural machinery in accordance with the law, improve the aid mechanism for accidents of agricultural machinery, and share the risks of damages caused by accidents of agricultural machinery.

## **Chapter IV Service and Supervision**

**Article 27** The agricultural machinery supervisory agency shall provide agricultural production and operation organizations as well as owners and operators of agricultural machinery with the information about agricultural machinery operation service and the free safety signs and marks according to the need of agricultural production, shall supervise and inspect the use and operation of agricultural machinery, as well as shall correct and punish the acts violating the relevant laws, regulations and rules.

**Article 28** The district agricultural machinery supervisory agency shall regularly carry out the on-site safety inspection of agricultural machinery endangering personal and property safety according to the application.

As for the first safety inspection of a tractor or combine harvester, the applicant shall provide the materials in accordance with the relevant provisions of the State; as for the first safety inspection of any other agricultural machinery endangering personal and property safety, the applicant shall provide the basic information about the agricultural machinery and its owner, and shall explain the source of the agricultural machinery.

**Article 29** The municipal administrative department for agriculture shall organize the formulation of this Municipality's technical specifications for safety inspection of agricultural machinery endangering personal and property safety, and shall make them public.

**Article 30** Where the district agricultural machinery supervisory agency discovers any hidden risk for accidents during the safety inspection of agricultural machinery, it shall

面告知其所有人停止使用并及时排除隐患，不予核发检验合格标志。

农业机械所有人应当在农机监理机构规定的期限内排除事故隐患并申请安全检验。

**第三十一条** 危及人身财产安全的农业机械改装或者更换涉及安全性能的主要零部件的，原检验合格结果失效，农业机械所有人应当重新申请安全检验。

**第三十二条** 拖拉机和联合收割机等取得证书和牌照的农业机械，应当按照国家规定定期进行安全检验，取得检验合格标志；未取得检验合格标志的，不得使用；连续3个检验周期未取得检验合格标志的，由农业行政部门注销农业机械的证书和牌照，向社会公告，并告知公安交通管理部门。

**第三十三条** 农机监理机构根据需要在主要进京路口，设立农业机械跨区作业服务接待站点，为进入本市作业的外埠拖拉机和联合收割机及其操作人员做好服务工作。

**第三十四条** 拖拉机和联合收割机排放大气污染物，应当符合国家和本市的排放标准；排放不符合标准的，不得在本市作业。

环境保护部门应当会同农业行政部门对拖拉机和联合收割机的大气污染物排放状况进行监督检查。

拖拉机上道路行驶的，应当遵守道路交通安全法律、法规的规定。

**第三十五条** 本市享受财政补贴的拖拉机和联合收割机，由市农机监理机构组织免费加装污染物排放控制装置，控制污染物排放。

任何单位和个人不得擅自拆卸和破坏污染物排放控制装置。

**第三十六条** 市农机监理机构应当加强对区农机监理机构的指导和协调，制定全市统一的执法设备、技术装备和办公场所配置标准，强化农机监理机构执法人员培训，提高行政执法和服务水平。

**第三十七条** 市农机监理机构应当建立全市统一的农业机械注册登记、行政执法、安全检验、事故处理等信息服务平台，推进农业机械安全监督管理信息化建设。

**第三十八条** 农机监理机构执法人员应当忠于职守，坚持原则，秉公执法；执行

notify the owner in writing to stop using and timely eliminate such hidden risk, and shall not issue the inspection certificate.

The owner of agricultural machinery shall eliminate the hidden risk for accidents within the time limit prescribed by the agricultural machinery supervisory agency, and shall apply for safety inspection again.

**Article 31** Where any agricultural machinery endangering personal and property safety is refitted or its major parts concerning safety performance are replaced, the original inspection result shall be invalid and the owner shall apply for safety inspection again.

**Article 32** The agricultural machinery with certificates and licenses including tractors and combine harvesters shall accept regular safety inspection and obtain the inspection certificate as stipulated by the State; any agricultural machinery failing to obtain the inspection certificate cannot be used; where any agricultural machinery has failed to obtain the inspection certificate for 3 consecutive inspection cycles, the administrative department for agriculture shall revoke its certificate and license, make public such revocation, and notify the public security traffic management department.

**Article 33** The agricultural machinery supervisory agency shall set up reception stations for agricultural machinery carrying out cross-regional operation service at major junctions of roads to Beijing according to the need, so as to provide good services to tractors and combine harvesters entering this Municipality from other places for operations as well as their operators.

**Article 34** The emission of air pollutants by tractors and combine harvesters shall conform to the standards of the State and this Municipality; any tractor or combine harvester whose emission does not conform to such standards is not allowed to operate in this Municipality.

The department for environmental protection shall, together with the administrative department for agriculture, supervise and inspect the emission of air pollutants by tractors and combine harvesters.

Tractors running on roads shall abide by the laws and regulations on road traffic safety.

**Article 35** The municipal agricultural machinery supervisory agency shall organize the free installation of pollutant emission control devices on tractors and combine harvesters enjoying the financial subsidy of this Municipality, so as to control the emission of pollutants.

No unit or individual shall dismantle or destroy pollutant emission control devices without authorization.

**Article 36** The municipal agricultural machinery supervisory agency shall strengthen the guidance and coordination of district agricultural machinery supervisory agencies, formulate the uniform standards of this Municipality for the allocation of law enforcement equipment, technical equipment and office space, intensify the trainings to law-enforcing officers of agricultural machinery supervisory agencies, and improve the level of administrative law enforcement and service.

**Article 37** The municipal agricultural machinery supervisory agency shall establish the uniform information service platform of this Municipality for registration of agricultural machinery, administrative law enforcement, safety inspection and accident disposal, so as to promote the informatized safety supervision and administration of agricultural machinery.

**Article 38** The law-enforcing officers of agricultural machinery supervisory agencies shall be devoted to their duties, adhere to principles and carry out impartial law enforcement, and shall be neatly dressed, wear uniform badges and produce valid certificates

公务时，应当着装整齐，佩戴统一标志，出示有效的执法证件。

## 第五章 法律责任

**第三十九条** 违反本规定的行为，相关法律、法规对法律责任有规定的，适用其规定；没有规定的，适用本章规定。

**第四十条** 违反本规定第十三条规定，农业生产经营组织的安全生产管理人员未履行职责的，由农机监理机构对农业生产经营组织的主要负责人进行约谈；经约谈，农业生产经营组织的安全生产管理人员仍未履行职责的，由农机监理机构对农业生产经营组织给予警告，可以并处 1000 元以下罚款。

**第四十一条** 违反本规定第十七条第一款规定，农业生产经营组织或者农业机械所有人雇用未持有有效操作证件人员的，由农机监理机构给予警告，可以并处 500 元以下罚款。

**第四十二条** 违反本规定第十九条第一项、第二项、第三项规定，农业机械操作人员操作未按照规定悬挂牌照的农业机械、操作改装或者拆卸安全防护装置的农业机械、操作拼装或者改装整机的农业机械的，由农机监理机构给予警告，可以并处 500 元以下罚款。

**第四十三条** 违反本规定第二十条第一项、第二项规定，农业机械操作人员饮酒后操作农业机械、拖拉机或者联合收割机在作业或者转移过程中搭乘与操作农业机械无关的人员的，由农机监理机构给予警告，可以并处 1000 元以下罚款。

**第四十四条** 违反本规定第三十五条第二款规定，单位或者个人擅自拆卸、破坏污染物排放控制装置的，由农机监理机构责令恢复原状或者赔偿损失，给予警告，可以并处 500 元以下罚款。

**第四十五条** 农业行政部门、农机监理机构和其他部门的工作人员滥用职权、玩忽职守、徇私舞弊的，由有权机关依法处理。



when performing their official duties.

## Chapter V Legal Liability

**Article 39** Where there are provisions on the legal liability of any violation to these Provisions in the relevant laws and regulations, such provisions shall prevail; where there are no such provisions, this Chapter shall apply.

**Article 40** Where any staff member for safety management of an agricultural production and operation organization fails to perform his duties in violation of Article 13 of these Provisions, the agricultural machinery supervisory agency shall have a talk with the principal of the agricultural production and operation organization; where the staff member still fails to perform his duties after such talk, the agricultural machinery supervisory agency shall give a warning to the agricultural production and operation organization and may impose upon it a fine of not more than 1,000 Yuan.

**Article 41** Where any agricultural production and operation organization or owner of agricultural machinery employs any person without valid operating license in violation of Paragraph 1, Article 17 of these Provisions, the agricultural machinery supervisory agency shall give a warning and may impose upon it or him a fine of not more than 500 Yuan.

**Article 42** Where any operator of agricultural machinery, in violation of Subparagraph 1, 2 or 3, Article 19 of these Provisions, operates any agricultural machinery failing to hang the number plate as stipulated, operates any agricultural machinery which has been refitted or whose safety device has been dismantled, or operates any agricultural machinery which has been self-assembled or has gone through whole-machine refitting, the agricultural machinery supervisory agency shall give a warning and may impose upon him a fine of not more than 500 Yuan.

**Article 43** Where any operator of agricultural machinery, in violation of Subparagraph 1 or 2, Article 20 of these Provisions, operates any agricultural machinery after drinking or allowing a tractor or combine harvester to carry persons irrelevant to the operation of agricultural machinery during the process of operation or transfer, the agricultural machinery supervisory agency shall give a warning and may impose upon him a fine of not more than 1,000 Yuan.

**Article 44** Where any unit or individual dismantles or destroys pollutant emission control devices without authorization in violation of Paragraph 2, Article 35 of these Provisions, the agricultural machinery supervisory agency shall order it or him to restore to the original state or compensate the losses, give a warning and may impose upon it or him a fine of not more than 500 Yuan.

**Article 45** Where any functionary of administrative departments for agriculture, agricultural machinery supervisory agencies and other departments abuses his power, neglect his duties or practice favoritism or irregularities, the competent organ shall punish him in accordance with the law.



## 第六章 附 则

**第四十六条** 本规定所称危及人身财产安全的农业机械，是指对人身财产安全可能造成损害的农业机械，包括拖拉机、联合收割机、微耕机、田园管理机、电动卷帘机、机动植保机械、机动脱粒机、饲料粉碎机、插秧机、铡草机等。

**第四十七条** 本规定自 2018 年 4 月 1 日起施行。1995 年 8 月 2 日北京市人民政府第 23 号令发布，根据 1997 年 12 月 31 日北京市人民政府第 12 号令第一次修改，根据 2007 年 11 月 23 日北京市人民政府第 200 号令第二次修改的《北京市农业机械安全监督管理办法》同时废止。

## Chapter VI Supplementary Provisions

**Article 46** As used in these Provisions, “agricultural machinery endangering personal and property safety” refers to agricultural machinery which may cause damage to personal and property safety, including tractors, combine harvesters, micro-cultivators, fields management machines, electric rolling machines, motorized plant protection machinery, motorized threshing machines, feed grinders, rice transplanters and chaffcutters.

**Article 47** These Provisions shall be effective as of April 1, 2018. The Measures of Beijing Municipality for Safety Supervision and Administration of Agricultural Machinery promulgated by Decree No. 23 of the People’s Government of Beijing Municipality on August 2, 1995, revised for the first time by Decree No. 12 of the People’s Government of Beijing Municipality on December 31, 1997 and revised for the second time by Decree No. 200 of the People’s Government of Beijing Municipality on November 23, 2007 shall be repealed simultaneously.

## （八）审 计

### 北京市农村集体经济审计条例

（1997年1月16日北京市第十届人民代表大会常务委员会第三十五次会议通过 根据2010年12月23日北京市第十三届人民代表大会常务委员会第二十二次会议通过的《关于修改部分地方性法规的决定》修正 根据2016年11月25日北京市第十四届人民代表大会常务委员会第三十一次会议通过的《关于修改部分地方性法规的决定》修正）

#### 目 录

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- 第三章 审计机构的任务和职权
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- 第五章 法律责任
- 第六章 附 则

#### 第一章 总 则

**第一条** 为了加强农村集体经济的审计监督，巩固、发展农村集体经济，保护农民合法权益，根据有关法律、法规的规定，结合本市实际情况，制定本条例。

**第二条** 本条例适用于本市农村集体经济组织（即乡镇合作经济联合社、村经济合作社以及其他农村合作经济组织，以下简称合作社）及其所属企业事业单位的财务收支等有关经济活动的审计监督。

**第三条** 市和区人民政府农村工作主管部门是本行政区域内农村集体经济审计工作的主管机关（以下简称主管机关），日常工作由同级农村合作经济管理部门负责。

## viii. Audit

# Regulations of Beijing Municipality on Audit of Rural Collective Economy

(Adopted at the 35<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> People's Congress of Beijing Municipality on January 16, 1997, revised in accordance with the Decisions on Revising Some Local Regulations adopted at the 22<sup>nd</sup> Meeting of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on December 23, 2010, and revised in accordance with the Decisions on Revising Some Local Regulations adopted at the 31<sup>st</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on November 25, 2016)

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Chapter I	General Provisions
Chapter II	Audit Offices
Chapter III	Tasks and Powers of Audit Offices
Chapter IV	Audit Procedures
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## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of strengthening supervision over rural collective economy through auditing, consolidating and developing rural collective economy, and protecting the legitimate rights and interests of peasants in accordance with the provisions of relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to the supervision through auditing over the financial revenues and expenditures and other relevant economic activities of rural collective economic organizations (i.e. township or town cooperative economic associations, village economic cooperatives and other rural cooperative economic organizations, hereinafter referred to as cooperatives) and their subordinate enterprises and institutions in this Municipality.

**Article 3** The competent departments for rural work of the municipal and district people's governments are the competent authorities in charge of audit of rural collective economy within their respective administrative areas (hereinafter referred to as competent

农村集体经济审计工作接受国家审计机关的指导和监督。

**第四条** 农村集体经济组织设立的审计机构依照本条例规定，独立行使审计监督权，并向本级集体经济组织社员大会、职工大会或者其代表大会报告工作。

**第五条** 审计人员依法行使职权，受法律保护，任何人不得打击报复。

审计机构和审计人员办理审计事项，应当客观公正，实事求是，廉洁奉公，保守秘密。

## 第二章 审计机构

**第六条** 合作社应当设立审计机构，但经济规模较小的村经济合作社及其他农村合作经济组织可以不设，其审计工作由乡镇合作经济联合社审计机构负责。

**第七条** 规模较大的集体企业和事业单位应当设立审计机构，但规模较小的集体企业和事业单位经合作社管委会同意可以不设，其审计工作由合作社审计机构负责。

**第八条** 审计机构应当配备相应的专职或者兼职审计人员。

审计人员应当具备与其从事的审计工作相适应的专业知识和业务能力，经考核合格，持证上岗。

## 第三章 审计机构的任务和职权

**第九条** 审计机构对合作社按以下内容进行审计：

- （一）财务管理等内部控制制度；
- （二）财务收支计划执行情况；
- （三）财务会计报表、凭证、账簿的完整性、真实性和合法性；
- （四）集体资产、负债、损益；
- （五）建设项目的预算、决算及投资效益；
- （六）承包费、租金、土地征收、征用补偿费、公积金、公益金及其他收入的收支情况；
- （七）决算及收益分配；

authorities). Their daily work shall be undertaken by the administrative departments of rural cooperative economy at the corresponding level.

The audit of rural collective economy shall be guided and supervised by State audit institutions.

**Article 4** Audit offices established by rural collective economic organizations shall, in accordance with the provisions of the Regulations, independently exercise the power of supervision through auditing and report their work to the members' assembly (or congress) or employees' assembly (or congress) of the collective economic organizations at the corresponding level.

**Article 5** Audit personnel shall exercise their functions and powers according to law and shall be protected by law. No one may retaliate against them.

Audit offices and audit personnel shall handle audit matters in an objective and fair manner, seek truth from facts, be honest in performing their official duties, and keep secrets.

## **Chapter II Audit Offices**

**Article 6** Cooperatives shall establish audit offices, but village economic cooperatives and other rural cooperative economic organizations with small economic scale are not required to, the audit work of which shall be undertaken by the audit offices of township or town cooperative economic associations.

**Article 7** Audit offices shall be set up in large-scale collective enterprises and institutions; but it is not a must for small-scale collective enterprises and institutions with the consent of the management committees of cooperatives, the audit work of which can be undertaken by the audit offices of cooperatives.

**Article 8** Audit offices shall have corresponding full-time or part-time audit personnel.

Audit personnel shall have the professional knowledge and ability suitable for the audit work they are engaged in, pass the examination and take up their posts with certificates.

## **Chapter III Tasks and Powers of Audit Offices**

**Article 9** Audit offices shall carry out an audit on cooperatives in terms of the following contents:

- (1) financial management and other internal control systems;
- (2) implementation of the financial revenue and expenditure plan;
- (3) integrity, authenticity and legality of financial and accounting statements, vouchers and account books;
- (4) collective assets, liabilities, profits and losses;
- (5) budget, final accounting and investment benefits of construction projects;
- (6) receipts and disbursements of contract price, rents, land acquisition and expropriation compensations, accumulation funds, public welfare funds and other income;
- (7) final accounting and income distribution; and

（八）其他需要审计的事项。

**第十条** 审计机构对乡镇、村集体企业事业单位按以下内容进行审计：

（一）本条例第九条第（一）、（二）、（三）、（四）、（五）、（七）项规定的审计事项；

（二）经济指标完成情况和经济效益；

（三）承包合同履行情况；

（四）其他需要审计的事项。

**第十一条** 审计机构对即将离任的合作社主要负责人和集体企业厂长、经理应当按下列内容进行任期内的经济责任审计：

（一）财务收支的合法性；

（二）经济指标、经营成果等任期目标完成情况的真实性；

（三）集体资产、负债、损益；

（四）其他需要审计的事项。

**第十二条** 审计机构应当对合作社及其所属企业事业单位的下列事项进行年度审计：

（一）经营成果；

（二）农民负担；

（三）年度审计计划列入的其他事项。

**第十三条** 合作社审计机构对本合作社及其所属企业事业单位和合作社占控股地位的农村股份合作企业进行审计。

乡镇合作经济联合社审计机构可以对村经济合作社及其所属企业事业单位进行审计。

**第十四条** 根据法律、法规的规定或者必要时，农村合作经济管理部门可以对合作社及其所属企业事业单位进行审计。

**第十五条** 合作社及其所属企业事业单位可以委托会计（审计）师事务所进行审计。

**第十六条** 审计机构在审计过程中有下列职权：

（一）要求被审计单位提供财务收支计划、预算执行情况、决算、财务报告、经济合同以及其他与财务收支有关的资料，被审计单位不得拒绝、拖延、谎报；

（二）检查被审计单位的会计报表、凭证、账簿以及其他与财务收支有关的资料和资产，被审计单位不得拒绝、阻挠；

(8) other matters requiring audit.

**Article 10** Audit offices shall carry out an audit on township, town or village collective enterprises and institutions in terms of the following contents:

(1) audit matters specified in Items (1), (2), (3), (4), (5) and (7) of Article 9 of the Regulations;

(2) accomplishment of economic indicators and economic benefits;

(3) performance of contracts; and

(4) other matters requiring audit.

**Article 11** Audit offices shall carry out an audit on the economic responsibility during the term of office of the main persons in charge of cooperatives and factory directors and managers of collective enterprises who are about to leave their posts in terms of the following contents:

(1) legality of financial revenues and expenditures;

(2) authenticity of the fulfillment of economic targets, business results and other objectives set for their term of office;

(3) collective assets, liabilities, profits and losses; and

(4) other matters requiring audit.

**Article 12** Audit offices shall carry out an annual audit on cooperatives and their subordinate enterprises and institutions in terms of the following matters:

(1) business results;

(2) peasants' burdens; and

(3) other matters included in the annual audit plan.

**Article 13** Audit offices of cooperatives shall carry out an audit on the cooperatives, their subordinate enterprises and institutions, and the rural joint-stock cooperative enterprises in which the cooperatives hold a controlling stake.

Audit offices of township or town cooperative economic associations may carry out an audit on village economic cooperatives and their subordinate enterprises and institutions.

**Article 14** The administrative departments of rural cooperative economy may carry out an audit on cooperatives and their subordinate enterprises and institutions in accordance with the provisions of laws and regulations or when necessary.

**Article 15** Cooperatives and their subordinate enterprises and institutions may entrust an accounting (or auditing) firm to carry out an audit.

**Article 16** Audit offices shall have the following functions and powers in the course of audit:

(1) to require auditees to provide financial revenue and expenditure plans, budget implementation, final accounts, financial reports, economic contracts and other materials related to financial revenues and expenditures, and auditees shall not refuse, delay or give false information;

(2) to examine the accounting statements, vouchers, account books and other materials and assets related to financial revenues and expenditures of auditees, and auditees shall not refuse or obstruct the examination;



（三）就审计事项的有关问题向有关单位和个人进行调查，被调查的单位和个人应当如实提供有关资料和证明材料；

（四）有权制止正在进行的损害集体经济组织利益、违反财经纪律的行为；

（五）对转移、隐匿、篡改、毁弃会计报表、凭证、账簿等有关资料的，有权予以制止。

## 第四章 审计程序

**第十七条** 审计机构应当编制年度审计计划，报其主管领导批准后执行。

审计机构应当根据审计事项组成不少于二人的审计组，于实施审计三日前向被审计单位送达审计通知书。

**第十八条** 审计组根据审计项目工作方案审查会计报表、凭证、账簿，查阅有关文件资料，检查现金、实物，向有关单位和个人进行调查并取得证明材料。证明人提供的书面材料应当由其本人签名或者盖章。

审计人员向有关单位和个人进行调查时，应当出示有关证明文件。

**第十九条** 审计组在审计过程中，应当听取社员或者职工的意见。

**第二十条** 审计组对审计事项审计后，应当向审计机构提出审计报告。审计报告在报送前，应当征求被审计单位的意见。被审计单位在收到审计报告之日起十日内提出书面意见送交审计组。

审计机构审定审计报告后，出具审计意见书，报其领导机构批准后，通知被审计单位。审计意见书自送达之日起生效，被审计单位必须执行。

审计意见书应当报上一级审计机构备案。

**第二十一条** 对同一审计对象进行审计，上级审计机构与下级审计机构的审计意见不一致时，以上级审计机构的审计意见为准。

**第二十二条** 审计机构应当对办理的审计事项建立统一的审计档案。

## 第五章 法律责任

**第二十三条** 违反本条例规定，拒绝、拖延提供与审计事项有关资料的，或者拒绝、

(3) to investigate relevant issues of audit matters with relevant units and individuals, and the units and individuals under investigation shall truthfully provide relevant materials and supporting materials;

(4) to have the right to stop the ongoing acts that damage the interests of collective economic organizations and violate financial and economic disciplines; and

(5) to have the right to stop the transfer, concealment, alteration, or destruction of accounting statements, vouchers, account books and other relevant materials.

## **Chapter IV Audit Procedures**

**Article 17** Audit offices shall prepare annual audit plans, which shall be implemented after being approved by the leaders in charge.

An audit office shall, in light of audit matters, form an audit team composed of not less than 2 persons and serve an audit notice on auditees 3 days before the audit.

**Article 18** The audit team shall, in accordance with the work plan for the audit project, examine accounting statements, vouchers and account books, review relevant documents and materials, check cash and material objects, investigate with relevant units and individuals and obtain supporting materials. The persons providing written materials shall affix their signatures or seals thereon.

When investigating with relevant units and individuals, the audit personnel shall produce relevant credentials.

**Article 19** In the course of audit, the audit team shall listen to the opinions of members or employees.

**Article 20** After auditing audit matters, the audit team shall submit an audit report to the audit office. Before submission of the audit report, opinions of auditees shall be solicited. Auditees shall, within 10 days after receiving the audit report, submit written opinions to the audit team.

After examining and approving the audit report, the audit office shall issue audit opinions, which shall be submitted to its leading organ for approval, and then served on auditees. Audit opinions shall come into force as of the date of service and must be executed by auditees.

Audit opinions shall be submitted to the audit office at the next higher level for the record.

**Article 21** If the audit opinions of the audit office at a higher level and those of the audit office at a lower level are different on the same auditee, the audit opinions of the audit office at a higher level shall prevail.

**Article 22** Audit offices shall establish unified audit files for the audit matters handled.

## **Chapter V Legal Liability**

**Article 23** Whoever, in violation of the provisions of the Regulations, refuses to provide

阻挠审计工作的，由审计机构责令限期改正；逾期不改的，由审计机构建议其上级主管部门或者有关部门对直接责任人员给予处分。

**第二十四条** 违反本条例规定，转移、隐匿、篡改、毁弃会计报表、凭证、账簿及有关资料的，由审计机构建议其上级主管部门或者有关部门对直接责任人员给予处分；构成犯罪的，依法追究刑事责任。

**第二十五条** 转移、隐匿违法取得的资产的，由审计机构建议其上级主管部门或者有关部门责令退还财产或者赔偿损失，并对直接责任人员给予处分；构成犯罪的，依法追究刑事责任。

**第二十六条** 侵占、侵吞集体资产或者因失职、渎职造成集体资产损失的，由审计机构建议其上级主管部门或者有关部门责令退还财产或者赔偿损失，并对直接责任人员给予处分；构成犯罪的，依法追究刑事责任。

**第二十七条** 违反财务会计管理规定的，由审计机构责令改正；情节严重的，由审计机构建议其上级主管部门或者有关部门对直接责任人员给予处分。

**第二十八条** 打击报复审计人员，构成犯罪的，依法追究刑事责任；不构成犯罪的，给予行政处分。

**第二十九条** 审计人员滥用职权、徇私舞弊、玩忽职守、泄露秘密的，由其上级主管部门或者有关部门给予处分；构成犯罪的，依法追究刑事责任。

**第三十条** 对审计机构提出的审计意见书，其领导机构不作出决定的，审计机构可以提请上一级主管部门责令改正；拒不改正的，按照法定程序对直接责任人员给予处分。

## 第六章 附 则

**第三十一条** 本条例自 1997 年 4 月 1 日起施行。

or delays in providing information related to audit matters, or refuses or obstructs the audit work shall be ordered by the audit office to make corrections within a prescribed time limit; if he fails to do so within the time limit, the audit office shall suggest the competent department at the next higher level or relevant departments give sanctions on the person directly responsible.

**Article 24** If anyone, in violation of the provisions of the Regulations, transfers, conceals, alters, destroys or discards accounting statements, vouchers, account books and other relevant materials, the audit office shall suggest the competent department at the next higher level or relevant departments give sanctions on the person directly responsible; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 25** If anyone transfers or conceals the assets illegally acquired, the audit office shall suggest the competent department at the next higher level or relevant departments order him to return the assets or compensate for the losses, and give sanctions on the person directly responsible; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 26** In case of embezzlement or misappropriation of collective assets or loss of collective assets due to dereliction of duty or breach of duty on the part of anyone, the audit office shall suggest the competent department at the next higher level or relevant departments order him to return the assets or compensate for the losses, and give sanctions on the person directly responsible; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 27** Whoever violates financial and accounting management regulations shall be ordered by the audit office to make corrections; if the circumstances are serious, the audit office shall suggest the competent department at the next higher level or relevant departments give sanctions on the person directly responsible.

**Article 28** In case of retaliation against audit personnel which constitutes a crime, criminal responsibility shall be investigated for according to law; if a crime is not constituted, administrative sanctions shall be imposed.

**Article 29** Audit personnel who abuse their power, engage in malpractices for personal gains, neglect their duties or divulge secrets shall be punished by the competent department at the next higher level or relevant departments; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 30** If the leading organ of an audit office fails to make a decision on the audit opinions put forward by the audit office, the audit office may request the competent department at the next higher level to order it to make corrections; if it refuses to make corrections, the person directly responsible shall be punished in accordance with legal procedures.

## **Chapter VI Supplementary Provisions**

**Article 31** The Regulations shall come into force as of April 1, 1997.

# 北京市审计条例

(2012年7月27日北京市第十三届人民代表大会常务委员会第三十四次会议通过 根据2017年9月22日北京市第十四届人民代表大会常务委员会第四十一次会议《关于修改〈北京市审计条例〉的决定》修正)

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第二章	审计职责
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第四章	审计保障
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第六章	附 则

## 第一章 总 则

**第一条** 为了加强审计监督,规范审计行为,维护财政经济秩序,提高财政资金使用效益,发挥审计的监督、风险防范和完善制度建设功能,促进廉政建设,保障经济和社会健康发展,根据《中华人民共和国审计法》《中华人民共和国审计法实施条例》及其他有关法律、法规,结合本市实际情况,制定本条例。

**第二条** 市和区人民政府依法设立审计机关。审计机关根据工作需要,经本级人民政府批准,可以在审计管辖范围内的重点地区和重点部门设立派出机构。

审计机关在本级人民政府行政首长和上一级审计机关的领导下,负责本行政区域内的审计工作,依法履行国家审计职责。

**第三条** 审计机关依法对本市各级人民政府及其部门(含直属单位)的财政收支、

# Audit Regulations of Beijing Municipality

(Adopted at the 34<sup>th</sup> Meeting of the Standing Committee of the 13<sup>th</sup> People's Congress of Beijing Municipality on July 27, 2012, and revised in accordance with the Decision on Revising the "Audit Regulations of Beijing Municipality" adopted at the 41<sup>st</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on September 22, 2017)

## Contents

Chapter I	General Provisions
Chapter II	Audit Duties
Chapter III	Audit Results
Chapter IV	Safeguard of Audit
Chapter V	Legal Liability
Chapter VI	Supplementary Provisions

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of strengthening the supervision through auditing, regulating audit practices, maintaining the financial and economic order, improving the utilization efficiency of financial fund, bringing into play the functions of audit in supervision, risk prevention and institutional improvement, promoting the building of a clean government, and ensuring the healthy economic and social development in accordance with the Audit Law of the People's Republic of China, the Regulations on the Implementation of the Audit Law of the People's Republic of China and other relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** The municipal and district people's governments shall establish audit institutions according to law. An audit institution may set up agencies in key areas and key sectors under its jurisdiction as required by work with the approval of the people's government at the corresponding level.

An audit institution shall, under the leadership of the administrative leader of the people's government at the corresponding level and the audit institution at the next higher level, be responsible for audit work within its administrative area and performing the duties of government audit according to law.

**Article 3** An audit institution shall supervise through auditing the authenticity, legality and efficiency of budgetary revenues and expenditures of the people's governments at various levels in this Municipality and their departments (including units directly subordinate to them), financial revenues and expenditures of state-owned enterprises,

国有的企业事业组织和金融机构的财务收支，以及其他依照法律、行政法规和本条例规定应当接受审计的财政收支、财务收支及相关经济活动的真实、合法和效益进行审计监督。

**第四条** 市和区人民政府应当加强绩效审计制度建设。

审计机关应当对本级预算执行和被审计单位的财政收支、财务收支及相关经济活动的经济效益、社会效益和环境效益进行绩效审计。绩效审计应当重点审计政府部门履行职责中财政资金使用的效益。

**第五条** 市和区人民政府应当建立财政资金、国有资产等公共资源的监督协调机制，统筹安排审计等监督计划，有效利用监督结果，共享公共资源监督管理信息。

**第六条** 审计机关依法独立行使审计监督权，不受其他行政机关、社会团体和个人的干涉。

审计机关应当依照国家规定的审计程序开展审计工作。

## 第二章 审计职责

**第七条** 审计机关应当依法对下列事项进行审计：

（一）本市各级人民政府及其部门预算的执行情况、决算和其他财政收支情况；国家的事业组织和使用财政资金的其他事业组织的财务收支情况；其他取得财政资金的单位和项目接受、使用财政资金的情况。

（二）国有、国有资本占控股地位或者主导地位的企业和金融机构的财务收支及其境内外国有资产经营管理情况。

（三）政府投资和以政府投资为主的建设项目的预算执行情况和决算。

（四）政府部门管理和其他单位受政府委托管理的社会保障基金、住房公积金、社会捐赠资金、彩票公益金及其他有关基金、资金的财务收支情况。

（五）国家机关和依法属于审计监督对象的其他单位的主要负责人应负经济责任的履行情况。

（六）本级人民政府批准的其他事项。

审计机关可以依法对财经政策和宏观调控措施执行情况，预算管理情况，国家所

institutions and financial organizations, as well as other budgetary revenues & expenditures, financial revenues & expenditures and relevant economic activities subject to auditing according to the Regulations.

**Article 4** The municipal and district people's governments shall strengthen the institutional improvement of performance audit.

An audit institution shall carry out performance audit of budget implementation at the corresponding level as well as the economic, social and environmental benefits of the audited units' budgetary revenues & expenditures, financial revenues & expenditures and relevant economic activities. The emphasis of performance audit shall be the utilization efficiency of financial resources in the performance of duties by government departments.

**Article 5** The municipal and district people's governments shall establish the supervision and coordination mechanisms for such public resources as government financial resources and state-owned assets, give overall considerations to such plans as supervision through auditing, make effective use of the supervision results, and share the information about the supervision and administration of public resources.

**Article 6** Audit institutions shall independently execute their right of supervision through auditing, and are free from the intervention of other administrative organs, social organizations and individuals.

Audit institutions shall carry out the audit work according to the auditing procedure stipulated by the State.

## **Chapter II Audit Duties**

**Article 7** Audit institutions shall audit the following matters according to law:

(1) budget implementation, final accounting and other budgetary revenues and expenditures of the people's governments at all levels in this Municipality and their departments; financial revenues and expenditures of state-owned institutions and other institutions using government financial resources; the acceptance and utilization of financial resources by other units and projects that have obtained financial resources;

(2) financial revenues and expenditures of state-owned enterprises, enterprises in which state-owned capital has a holding or leading position and financial institutions, as well as the operation and management of their domestic and overseas state-owned assets;

(3) budget implementation and final accounting of construction projects wholly or mainly invested by the government;

(4) financial revenues and expenditures of social security fund, housing provident fund, social donations and public welfare fund from lottery managed by government departments or other units with government entrustment as well as other relevant funds and capital;

(5) performance of due economic responsibilities by major principals of state organs and other units subject to supervision through auditing; and

(6) other matters approved by the people's governments at the corresponding levels.

Audit institutions may, in accordance with the law, carry out special audit investigation of the implementation of financial and economic policies and macro-control measures, the



有的土地、水流、森林、矿藏等国有资产管理使用，以及其他与财政收支有关的特定事项进行专项审计调查。

**第八条** 审计机关应当依据法律、法规和其他有关规定，按照本级人民政府和上一级审计机关的要求，于每年第四季度提出下一年度审计项目计划草案，征求本级人民代表大会有关专门委员会或者常务委员会有关工作机构的意见，报本级人民政府批准后执行。

区审计机关提出的年度审计项目计划，应当在本级人民政府批准后 15 日内报市审计机关备案；区年度审计项目计划的执行情况，应当按规定向市审计机关报告。

市和区人民代表大会常务委员会可以要求本级人民政府安排绩效审计等专项审计。

**第九条** 审计机关应当对本条例第七条所列事项中社会关注度高、使用财政资金等公共资源数量大、涉及重大公共利益的事项，专门开展绩效审计。

**第十条** 审计机关应当建立并不断完善绩效审计评价体系，依照有关法律、法规、规章及政策、标准、项目目标、绩效目标等方面的规定，选择确定评价标准。政府预算确定的绩效目标应当作为政府预算绩效审计的重要评价标准。

审计机关选择确定评价标准，应当听取被审计单位、专家学者、政府部门、行业协会及社会公众等有关方面的意见。

**第十一条** 审计机关对政府投资和以政府投资为主的建设项目进行审计，可以对项目的融资情况和国有土地上房屋征收与补偿情况及项目勘察、设计、施工、监理、代理、供货等单位或者个人取得建设项目资金的真实性、合法性进行调查。

**第十二条** 审计机关按照国家有关规定对有关单位的主要负责人进行任中经济责任审计或者离任经济责任审计，作出审计评价。

有关单位的主要负责人在履行经济职责过程中存在问题的，审计评价中应当对其应承担的直接责任、主管责任、领导责任作出界定。

**第十三条** 审计机关可以对政府投资和以政府投资为主的重大建设项目的建设情

budget management, the utilization of such state-owned assets as land, rivers, forests and mineral resources belong to the State, as well as other specific matters related to budgetary revenues and expenditures.

**Article 8** An audit institution shall, in accordance with laws, regulations and other relevant provisions as well as the requirements of the people's government at the corresponding level and the audit institution at the next higher level, put forward draft plans for audit items of the next year at the fourth quarter of each year, solicit the opinions of relevant special committees or relevant working organs of the standing committee of the people's congress at the corresponding level, and implement it after reporting to the people's government at the corresponding level for approval.

The annual plan of audit items put forward by the district audit institution shall be reported to the municipal audit institution for the record within 15 days after being approved by the people's government at the corresponding level; the implementation of the district annual plan of audit items shall be reported to the municipal audit institution as stipulated.

The standing committee of the municipal and district people's congress may require the people's government at the corresponding level to arrange such special audits as performance audit.

**Article 9** Audit institutions shall specially carry out performance audit of the matters attracting high social attention, utilizing a huge amount of such public resources as financial resources or involving major public interests listed in Article 7 of the Regulations.

**Article 10** Audit institutions shall establish and continuously improve the evaluation system for performance audit, and shall select and decide the evaluation standards in accordance with the provisions of relevant laws, regulations, rules, policies, standards, project objectives and performance targets. The performance targets decided by government budget shall be important evaluation criteria for the performance audit of government budget.

When selecting and deciding the evaluation criteria, audit institutions shall listen to the opinions of the parties concerned including audited units, specialists, scholars, government departments, industrial associations and the public.

**Article 11** When auditing construction projects wholly or mainly invested by the government, audit institutions may investigate the project financing, the requisition and compensation of houses on the state-owned land, as well as the authenticity and legality of fund obtainment for such construction projects by units or individuals for project survey, design, construction, supervision, agency and material supply.

**Article 12** Audit institutions shall carry out middle term accountability audit and term-end accountability audit of the major principals of relevant units in accordance with relevant provisions of the State, and shall make audit evaluation.

Where there are problems in the performance of economic duties by major principals of relevant units, the audit opinion shall define the direct responsibilities, supervisory responsibilities and leadership responsibilities that they shall shoulder.

**Article 13** Audit institutions shall carry out follow-up audit of major construction projects wholly or mainly invested by the government and the utilization of key special

况、重点专项资金或者基金的使用情况，实施跟踪审计。

**第十四条** 本市全面推进审计信息化建设，在审计与财政、税收、社会保险等领域实现数据系统的互联互通，并逐步实施联网审计。

政府有关部门应当按照审计机关的要求及时、完整地提供有关的电子数据和计算机技术文档等资料。

**第十五条** 依法属于审计监督对象的单位应当按照国家有关规定建立健全内部审计制度，根据需要设立内部审计机构或者配备内部审计人员。

内部审计机构或者内部审计人员根据本单位确定的职责对本单位和所属单位的财政收支、财务收支及其他经济活动和所属单位负责人应负经济责任等事项，开展内部审计工作。

内部审计工作应当接受审计机关的业务指导和监督。

### 第三章 审计结果

**第十六条** 审计机关实施审计后，应当依法出具审计报告或者专项审计调查报告；实施跟踪审计的，可以出具阶段性审计报告。

对违反国家规定的财政收支、财务收支行为，依法应当由审计机关进行处理处罚的，审计机关应当出具审计决定书；依法应当由其他有关部门纠正、处理处罚或者追究有关人员责任的，审计机关应当出具审计移送处理书。

审计机关应当将审计报告和审计决定书送达被审计单位和有关主管机关、单位。

**第十七条** 被审计单位应当按照审计机关规定的期限和要求执行审计决定，对审计中发现的问题进行整改，并向审计机关报送审计整改报告。审计整改报告的内容应当包括执行审计机关作出的处理处罚决定的情况，对审计机关要求自行纠正事项采取措施的情况，根据审计机关的审计建议采取措施、健全规章制度、规范财政和财务管理及提高资金使用效益的情况，对有关责任部门和责任人的责任追究处理的情况，尚未整改到位的原因，限期整改和处理的计划等。

capital or fund.

**Article 14** This Municipality shall promote the construction of audit informatization, realize the interconnection of data systems between audit and such fields as finance, taxation and social insurance, and implement online auditing step by step.

Relevant government departments shall timely and completely provide such materials as relevant electronic data and computer technical files as to the requirements of audit institutions.

**Article 15** A unit that is subject to supervision through auditing in accordance with the law shall establish and improve its internal auditing system in accordance with relevant provisions of the State, and shall set up internal auditing office or designate internal auditing staff according to the need.

The internal auditing office or internal auditing staff shall, in accordance with the duties decided by the unit, carry out internal audit of such matters as budgetary revenues & expenditures, financial revenues & expenditures and other economic activities of the unit and its subordinate units as well as the economic responsibilities that shall be shouldered by the principals of its subordinate units.

The internal audit shall be subject to the operational guidance and supervision of audit institutions.

### Chapter III Audit Results

**Article 16** After auditing, the audit institution shall produce an audit report or a special audit & investigation report according to law; where follow-up audit is carried out, an interim audit report may be produced.

As to any behavior violating the provisions of the State on budgetary revenues & expenditures or financial revenues & expenditures that should be disposed and punished by the audit institution according to law, the audit institution shall produce an audit decision; where it shall be corrected, disposed, punished or investigated to ascertain relevant staff's responsibility by other relevant departments, the audit institution shall produce a letter of audit transfer and disposition.

The audit institution shall deliver the audit report and the audit decision to the audited unit as well as relevant competent authorities and units.

**Article 17** The audited unit shall implement the audit decision as to the time limit and requirements stipulated by the audit institution, carry out rectification and reform of the problems discovered in the audit, and submit an audit rectification and reform report to the audit institution. The contents of the audit rectification and reform report shall include the implementation of decision made by the audit institution on disposition and punishment; the measures taken for self-correction as to the requirements of the audit institution; the information about measures taken, improved rules and systems, standardized financial and accounting management, and improved utilization efficiency of funds according to the audit suggestions of the audit institution; the responsibility investigation and disposition of relevant responsible departments and responsible persons; the reasons for unsuccessful

审计机关可以对审计决定的执行情况和审计报告中提出的审计意见、建议的采纳情况及审计的整改情况进行跟踪检查或者后续审计。

**第十八条** 市和区人民政府应当建立审计整改联动机制。审计机关提请有关部门协助落实审计整改意见，或者依法移送有关主管部门纠正、处理处罚、追究有关人员责任的，有关主管部门应当依法及时作出处理，并将结果书面反馈审计机关。

**第十九条** 审计机关应当对审计工作中发现的问题加强分析研究，将涉及宏观性、普遍性、政策性的问题和制度建设方面的问题向本级人民政府报告，并提出改进建议。政府研究后，责成财政、发展和改革、国有资产管理等相关部门落实。

**第二十条** 审计报告、专项审计调查报告或者审计决定能够满足政府及其有关部门履行职责需要的，政府及其有关部门应当利用。

**第二十一条** 审计结果应当作为政府及其有关部门编制预算、安排投资、绩效考核的重要依据。

**第二十二条** 政府投资和以政府投资为主的建设项目，经审计机关审计发现存在违反基本建设投资管理有关规定的问题的，应当按照审计结论进行纠正。

纳入审计项目计划的政府投资和以政府投资为主的建设项目竣工后，建设单位应当依据审计机关的审计报告编制竣工决算报告；有关部门进行竣工决算审批、办理固定资产移交时，应当采用审计机关的审计报告。

**第二十三条** 政府投资和以政府投资为主的建设项目纳入审计项目计划的，建设单位可以与承接项目的单位或者个人在合同中约定，双方配合接受审计，审计结论作为双方工程结算的依据；依法进行招标的，招标人可以在招标文件中载明上述内容。

**第二十四条** 经济责任审计结果报告按照国家有关规定作为领导干部考核、任免的依据。

**第二十五条** 审计机关应当每年就本级预算执行和其他财政收支情况，向本级人民政府和上一级审计机关提出审计结果报告。

市和区人民政府可以要求同级审计机关就特定事项提出专项审计结果报告。

rectification and reform; as well as the plans for rectification and reform within a specified time limit and for disposition.

The audit institution may carry out audit trail or follow-up audit on the implementation of audit decision, the adoption of audit opinions and suggestions put forward in the audit report, and the rectification and reform according to the audit results.

**Article 18** The municipal and district people's governments shall establish a linkage mechanism for the rectification and reform according to the audit results. Where the audit institution requests relevant department to implement the opinions on the rectification and reform according to the audit results, or transfers relevant matter to relevant competent department for correction, disposition, punishment or investigation of relevant staff's responsibility according to law, the relevant competent department shall make timely disposition according to law, and shall feed back the results to the audit institution in writing.

**Article 19** The audit institution shall make intensified analysis and study of the problems discovered in the audit, report the macro, universal and policy problems as well as the problems related to institutional improvement to the people's government at the corresponding level, and put forward suggestions on improvement. After deliberation, the people's government shall instruct relevant departments for finance, development & reform and state-owned assets administration to implement.

**Article 20** Where the audit report, the special audit & investigation report and the audit decision can satisfy the needs of the people's government and its relevant departments to perform duties, the people's government and its relevant departments shall make use of them.

**Article 21** The audit results shall be the important basis for the people's government and its relevant departments in budget preparation, investment arrangement and performance appraisal.

**Article 22** Where any problem related to the violation of relevant provisions on the administration of investment in infrastructure is discovered by the audit of the audit institution in any construction project wholly or mainly invested by the government, corrections shall be made according to the audit conclusion.

After the completion of any construction project wholly or mainly invested by the government that is included in the audit plan, the construction unit shall prepare the final report in accordance with the audit report issued by the audit institution; relevant departments shall use the audit report by the audit institution in examining and approving the final accounting as well as handling the transfer of fixed assets.

**Article 23** If any construction project wholly or mainly invested by the government is included in the audit plan, the construction unit may agree with the unit or individual undertaking the project in the contract that both parties shall cooperate and accept the audit, and the audit results shall be the basis for the project settlement between both parties; where any bid invitation is made according to law, the tenderer may specify the above contents in the bidding document.

**Article 24** The accountability audit report shall be the basis for the assessment, appointment and removal of leading cadres in accordance with relevant provisions of the State.

**Article 25** The audit institution shall annually present to the people's government at the corresponding level and the audit institution at the next higher level the audit report on budget implementation at the corresponding level and other budgetary revenues & expenditures.

The municipal and district people's governments may require the audit institution at

**第二十六条** 市和区人民政府应当每年向本级人民代表大会常务委员会提出审计机关对预算执行和其他财政收支的审计工作报告。

市和区人民代表大会常务委员会可以要求同级人民政府提交专项审计工作报告。

市和区人民代表大会常务委员会对审计工作报告和专项审计工作报告作出的审议意见和决议，同级人民政府应当落实并报告落实情况。

**第二十七条** 市和区人民政府应当督促被审计单位对审计工作报告中指出的问题进行整改，年底前向本级人民代表大会常务委员会报告整改情况和处理结果。

市和区人民代表大会有关专门委员会或者常务委员会有关工作机构受常务委员会委托，可以组织对整改情况进行检查。

**第二十八条** 审计结果应当通过新闻媒体、政府网站等途径向社会公布。

审计工作报告经本级人民代表大会常务委员会审议后向社会公布。其他审计结果经履行规定的审核程序后 7 个工作日内，由审计机关向社会公布。

审计机关公布的审计结果应当包括被审计单位的基本情况，审计机关对被审计单位作出的审计评价，被审计单位存在的问题，审计机关提出的处理意见和建议，被审计单位的整改情况等内容。审计结果涉及国家秘密、商业秘密或者其他依法不予公开的信息的，应当依据相关法律、法规的规定处理。

**第二十九条** 审计机关应当建立被审计单位违法违规行为信息系统，记录被审计单位违法违规行为，以及处理处罚的情况。

被审计单位为企业的，其违法违规行为信息应当按照有关规定同时纳入本市企业信用信息系统。

## 第四章 审计保障

**第三十条** 审计机关负责人按照法定程序任免。

市和区审计机关正、副职负责人的任免，应当事先书面征求上一级审计机关的意见。



the corresponding level to present the special audit reports on specific matters.

**Article 26** The municipal and district people's governments shall present to the standing committee of the people's congress at the corresponding level the audit report of the audit institution on budget implementation and other budgetary revenues & expenditures every year.

The standing committees of the municipal and district people's congresses may require the people's government at the corresponding level to submit the special audit reports.

The people's government at the corresponding level shall implement the deliberation opinions and resolutions of the standing committees of the municipal and district people's congresses on the audit report and the special audit reports, and shall report the information about implementation.

**Article 27** The municipal and district people's governments shall urge the audited unit to carry out rectification and reform of the problems pointed out in the audit report, and shall report the information about rectification and reform as well as the disposition results to the standing committee of the people's congress at the corresponding level before the end of the year.

Relevant special committees or relevant agencies of the standing committees of the municipal and district people's congresses may, with the entrustment of the standing committees, organize the inspection of rectification and reform.

**Article 28** The audit results shall be made public through such channels as news media and government websites.

The audit report shall be made public after being deliberated by the standing committee of the people's congress at the corresponding level. Other audit results shall be made public by the audit institution within 7 working days after the stipulated review procedure is completed.

The audit results made public by the audit institution shall include such contents as the basic information about the audited unit, the audit opinion issued by the audit institution, the problems existing in the audited unit, the disposition opinions and suggestions put forward by the audit institution, and the rectification and reform of the audited unit. Where the audit results involve state secrets, business secrets or other information that may not be made public according to law, they shall be dealt with in accordance with the provisions of relevant laws and regulations.

**Article 29** The audit institution shall establish an information system for the law-breaking and rule-breaking behaviors of the audited units, keep records of such behaviors and relevant dispositions and punishments.

Where the audited unit is an enterprise, the information about its law-breaking and rule-breaking behaviors shall be included in the enterprise credit information system of this Municipality at the same time in accordance with relevant provisions.

## Chapter IV Safeguard of Audit

**Article 30** The principals of an audit institution shall be appointed and removed according to the stipulated procedures.

The appointment and removal of the chief and deputies of the municipal and district audit institutions shall solicit the opinions of the audit institution at the next higher level in writing in advance.



**第三十一条** 审计机关应当加强审计队伍建设，提高审计人员的综合素质、依法审计能力和审计专业化水平。

**第三十二条** 审计机关应当建立健全审计质量分级控制制度，实现从审计组到总审计师、审计机关负责人对审计业务的分级质量控制。

**第三十三条** 审计人员不得有下列行为：

- （一）接受被审计单位的馈赠、报酬、福利待遇；
- （二）在被审计单位报销费用；
- （三）参加被审计单位安排并支付费用的宴请、娱乐、旅游、出访等活动；
- （四）在被审计单位为自己、亲友或者其他人员谋取私利；
- （五）其他可能影响审计工作客观、公正的行为。

**第三十四条** 审计机关可以根据审计工作需要，按照公开、公平、公正的原则，确定符合条件的社会中介机构或者其他专业机构，并签订协议，由机构选派专业人员参加审计机关的审计工作。

依照协议约定参加审计工作的专业人员应当遵守审计法律法规、职业准则和工作纪律，恪守职业道德，接受审计机关的领导和选派机构的监督。

**第三十五条** 审计机关执行年度审计项目计划所必需的条件，政府及其有关部门应当予以保障。

**第三十六条** 审计机关有权检查被审计单位管理财政收支、财务收支和相关业务的

信息系统。

被审计单位应当按照审计机关的要求及时、完整地提供与财政收支、财务收支和相关业务有关的电子数据和计算机技术文档等资料。

**第三十七条** 审计机关在审计过程中，有权就审计事项的相关问题向有关单位和

个人进行调查，获取审计证据。

有关单位和个人应当如实向审计机关反映情况，对所提供资料的真实性和完整性负责。

有关单位和个人向审计机关提供重要情况和相关信息，对审计机关获取审计证据作出重大贡献的，由审计机关给予奖励。

**第三十八条** 审计人员依法执行职务，受法律保护。任何组织和个人不得拒绝、

**Article 31** The audit institution shall strengthen the building of its audit team, improve workforce quality, the capacity to audit according to law and the audit professionalization level of the auditors.

**Article 32** The audit institution shall establish and improve the hierarchical control system of audit quality, and realize the hierarchical quality control of audit from audit team to chief auditor and to principals of the audit institution.

**Article 33** Auditors shall not engage in the following behaviors:

- (1) accepting gifts, pay and benefits from the audited units;
- (2) reimbursing expenses at the audited units;
- (3) participating in banquets, amusements, tours and visits, etc. arranged and paid by the audited units;
- (4) seeking private gains for themselves, their relatives or other persons from the audited units; or
- (5) other behaviors that might affect the objectiveness and justness of the audit.

**Article 34** The audit institution may, according to the needs of audit work and the principles of openness, fairness and justness, determine the qualified social intermediary organizations or other professional organizations, and sign agreements with them on their assignment of professionals to participate in the audit of the audit institution.

The professionals participating in the audit in accordance with such agreements shall abide by the laws, regulations, professional norms and work disciplines of audit, observe professional ethics, and shall be subject to the leadership of the audit institution and the supervision of the assigning organizations.

**Article 35** The people's government and its relevant departments shall ensure the conditions needed by the audit institution to implement the annual audit plan.

**Article 36** The audit institution shall have the right to examine the information system of the audited unit for the management of budgetary revenues & expenditures, financial revenues & expenditures and relevant businesses.

The audited unit shall, according to the requirements of the audit institution, timely and completely provide such materials as electronic data and computer technical files related to its budgetary revenues & expenditures, financial revenues & expenditures and relevant businesses.

**Article 37** During the audit process, the audit institution shall have the right to inquire relevant units and individuals on problems related to the audit items, so as to obtain audit evidences.

Relevant units and individuals shall provide the audit institution with truthful information, and shall be responsible for the authenticity and completeness of the materials they have provided.

Relevant units and individuals that have made major contributions to the obtainment of audit evidences by the audit institution with the provision of important materials and relevant information shall be rewarded by the audit institution.

**Article 38** The execution of duties according to law by the auditors is protected by law. No organization or individual shall refuse or hinder the execution of duties according to

阻碍审计人员依法执行职务，不得威胁、打击报复审计人员。

## 第五章 法律责任

**第三十九条** 审计人员有违反本条例第三十三条规定的行为的，按照国家和本市有关规定给予行政问责和行政处分；构成犯罪的，依法追究刑事责任。

**第四十条** 社会中介机构或者其他专业机构的专业人员违反本条例第三十四条第二款规定的，审计机关有权与该机构解除协议，将有关情况通知相关主管部门。

**第四十一条** 有关单位或者个人违反本条例第三十七条第二款规定的，由审计机关责令改正，可以通报批评、给予警告。

**第四十二条** 威胁、打击报复审计人员的，依法给予行政处分；违反治安管理规定的，由公安机关依法给予治安管理处罚；构成犯罪的，依法追究刑事责任。

**第四十三条** 对违反本条例规定的行为，国家审计法律、法规已经作出处罚规定的，依照其规定执行。

## 第六章 附 则

**第四十四条** 本条例自 2012 年 10 月 1 日起施行。

law by the auditors, or threat or retaliate against the auditors.

## **Chapter V Legal Liability**

**Article 39** Where any auditor has any behavior stipulated in Article 33 of the Regulations, he shall be held administratively accountable and administrative sanctions shall be imposed in accordance with relevant provisions of the State and this Municipality; where a crime is constituted, he shall be investigated for criminal responsibility according to law.

**Article 40** Where any professional of any social intermediary organization or any other professional organization violates Paragraph 2, Article 34 of the Regulations, the audit institution shall be entitled to dissolve the agreement with such organization, and shall report relevant information to relevant competent departments.

**Article 41** Where any relevant unit or individual violates Paragraph 2, Article 37 of the Regulations, the audit institution shall order it/him to make corrections, and may circulate a notice of criticism or give a warning.

**Article 42** Where anyone threatens or retaliates against the auditors, he shall be given administrative sanctions according to law; where he violates the provisions on administration of public security, he shall be given penalties for administration of public security by the public security organ; where a crime is constituted, he shall be investigated for criminal responsibility according to law.

**Article 43** Where there are existing provisions on the punishments of behaviors in violation of the Regulations in the laws and regulations of the State on audit, such provisions shall prevail.

## **Chapter VI Supplementary Provisions**

**Article 44** The Regulations shall come into force as of October 1, 2012.

# 北京市内部审计规定

(2019年10月17日北京市人民政府令第289号公布)

**第一条** 为了建立健全内部审计制度,规范内部审计行为,加强对内部审计工作的指导和监督,充分发挥内部审计作用,根据《北京市审计条例》,结合本市实际情况,制定本规定。

**第二条** 本市行政区域内的内部审计工作及其指导和监督活动,适用本规定。

本规定所称内部审计,是指依法属于审计监督对象的国家机关、事业单位、社会团体以及国有、国有资本占控股地位或者主导地位的企业和金融机构等单位(以下统称为单位),对本单位及所属单位财政财务收支、经济活动、内部控制和风险管理实施独立、客观的监督并作出评价和建议,促进单位完善治理、实现目标的活动。

**第三条** 市和区审计机关负责本行政区域内内部审计工作的指导和监督,履行下列职责:

- (一)指导单位建立健全内部审计制度;
- (二)监督单位履行内部审计职责;
- (三)组织单位实施内部审计项目;
- (四)检查单位内部审计质量;
- (五)指导内部审计协会工作;
- (六)法律、法规规定的其他职责。

有关政府部门协助审计机关做好本行业或者本系统内部审计工作的指导和监督。

**第四条** 单位应当依照法律、法规和本规定建立健全与本单位业务规模和性质相适应的内部审计制度。

内部审计制度应当包括领导体制、机构设置、人员配备、职责权限、经费保障、审计实施、结果运用、责任追究和考核标准等内容。

# Provisions of Beijing Municipality on Internal Audit

(Promulgated by Decree No. 289 of the People's Government of Beijing Municipality on October 17, 2019)

**Article 1** These Provisions are formulated for the purposes of establishing and improving the internal audit system, regulating the internal audit behavior, strengthening the guidance and supervision of the internal audit work, and giving full play to the role of internal audit in accordance with the Regulations of Beijing Municipality on Audit and in light of the actual situation of this Municipality.

**Article 2** These Provisions shall apply to the internal audit work and its guidance and supervision activities within the administrative area of this Municipality.

The term “internal audit” as mentioned in these Provisions shall mean that state organs, public institutions, social organizations, state-owned enterprises and financial institutions, as well as enterprises and financial institutions controlled or led by state-owned capital (hereinafter collectively referred to as units), which shall be subject to supervision through auditing in accordance with the law, exercise independent and objective supervision over the financial revenues and expenditures, economic activities, internal control and risk management of the units and their subordinate units, as well as make evaluation and give advice, so as to promote the activities to improve governance and achieve objectives of the units.

**Article 3** The municipal and district audit agencies shall be responsible for the guidance and supervision of the internal audit work within their respective administrative areas, and shall perform the following duties:

- (1) Guiding the units to establish and improve the internal audit system;
- (2) Supervising the units to perform their internal audit duties;
- (3) Organizing the units to implement internal audit projects;
- (4) Inspecting the internal audit quality of the units;
- (5) Guiding the work of the internal audit association; and
- (6) Other duties stipulated by laws and regulations.

The relevant government departments shall assist the audit agencies in guiding and supervising the internal audit work of their respective industries or systems.

**Article 4** The units shall, in accordance with laws, regulations and these Provisions, establish and improve an internal audit system that is appropriate to the business scale and nature thereof.

The internal audit system shall include, among others, the leadership system, organizational structure, personnel allocation, responsibility and authority, fund guarantee, audit implementation, result application, responsibility investigation and assessment standard.

**第五条** 单位主要负责人对本单位内部审计工作全面负责，履行下列职责：

- （一）组织制定并督促落实内部审计制度；
- （二）保证内部审计工作所需经费；
- （三）定期研究内部审计工作，及时解决重大问题；
- （四）批准年度内部审计计划和审计报告；
- （五）检查内部审计工作，督促整改内部审计发现的问题。

**第六条** 国有、国有资本占控股地位或者主导地位的企业应当按照国家有关规定建立总审计师制度，协助本单位主要负责人管理内部审计工作。

**第七条** 国有、国有资本占控股地位或者主导地位的企业和金融机构应当按照国家和本市有关规定，设立独立的内部审计机构，配备专职的内部审计人员。

国家机关、事业单位、社会团体应当根据工作需要，设立独立的内部审计机构，配备专职的内部审计人员，或者明确履行内部审计职责的机构，配备专职或者兼职的内部审计人员。履行内部审计职责的机构应当与本单位财务工作相分离。

独立的内部审计机构和履行内部审计职责的机构以下统称为内部审计机构。

**第八条** 内部审计机构负责组织实施内部审计工作，对本单位管理和使用的公共资金、国有资产、国有资源和内部管理的领导人员履行经济责任情况进行审计。

**第九条** 内部审计人员应当具备从事内部审计工作所需要的专业知识和业务能力，定期接受内部审计业务岗位培训；担任内部审计机构负责人的，还应当具备审计、会计、经济、法律或者管理等工作背景。

**第十条** 单位应当保持内部审计人员的相对稳定；不得安排内部审计机构和内部审计人员从事可能影响独立、客观履行审计职责的工作。

**第十一条** 内部审计机构和内部审计人员依照法律、法规和本规定规定的职责、权限和程序，实施内部审计。

**第十二条** 内部审计机构在单位主要负责人或者其授权的总审计师的直接领导下开展内部审计工作，不受单位内部其他机构和个人的干涉。

**Article 5** The main persons in charge of the units shall be fully responsible for the internal audit work of the units, and shall perform the following duties:

- (1) Organizing the formulation of the internal audit system and supervising its implementation;
- (2) Ensuring the funds needed for internal audit;
- (3) Regularly studying the internal audit work and solving major problems in time;
- (4) Approving the annual internal audit plan and audit report; and
- (5) Inspecting the internal audit work and urging rectification of the problems found in the internal audit.

**Article 6** State-owned enterprises and enterprises controlled or led by state-owned capital shall, in accordance with the relevant provisions of the state, establish a system of general auditors to assist the main persons in charge of the units in the management of internal audit.

**Article 7** State-owned enterprises and financial institutions, as well as enterprises and financial institutions controlled or led by state-owned capital shall, in accordance with the relevant provisions of the state and this Municipality, establish independent internal audit departments with full-time internal auditors.

State organs, public institutions and social organizations shall, according to their work needs, establish independent internal audit departments with full-time internal auditors, or determine departments to perform internal audit duties, with full-time or part-time internal auditors. The departments performing internal audit duties shall be separated from the financial work of the units.

Independent internal audit departments and departments performing internal audit duties are hereinafter collectively referred to as internal audit departments.

**Article 8** Internal audit departments shall be responsible for organizing and implementing the internal audit work to audit the public funds, state-owned assets and state-owned resources managed and used by the units and the performance of economic responsibilities by leaders subject to internal management.

**Article 9** Internal auditors shall have the professional knowledge and ability required for the internal audit work, and receive the post training of the internal audit business on a regular basis; the persons in charge of internal audit departments shall also have the working background of audit, accounting, economy, law or management.

**Article 10** The units shall maintain the relative stability of internal auditors, and shall not arrange internal audit departments and internal auditors to engage in work that may affect the independent and objective performance of audit duties.

**Article 11** Internal audit departments and internal auditors shall carry out internal audit in accordance with the duties, authorities and procedures prescribed by laws, regulations and these Provisions.

**Article 12** Internal audit departments shall carry out the internal audit work under the direct leadership of the main persons in charge of the units or the chief auditors authorized thereby, and shall not be interfered by other departments and individuals within



**第十三条** 内部审计人员办理审计事项，应当遵守内部审计职业规范和本单位有关要求，恪守职业道德，保守国家秘密和商业秘密。

内部审计人员与被审计对象或者审计事项有利害关系的，应当主动申请回避。被审计对象有权申请内部审计人员回避。内部审计人员的回避，由内部审计机构负责人决定；内部审计机构负责人的回避，由本单位主要负责人决定。

**第十四条** 内部审计机构按照国家有关规定、本单位业务规模和性质，对下列事项履行内部审计职责：

- （一）本单位及所属单位落实国家和本市重大政策措施情况；
- （二）本单位及所属单位发展规划、战略决策、重大措施和年度业务计划执行情况；
- （三）本单位及所属单位财政财务收支及相关经济活动；
- （四）本单位及所属单位固定资产投资项目；
- （五）本单位及所属单位自然资源资产管理和生态环境保护责任的履行情况；
- （六）本单位及所属单位境外机构、境外资产和境外经济活动；
- （七）本单位及所属单位经济管理和经济效益情况；
- （八）本单位及所属单位内部控制和风险管理情况；
- （九）本单位内部管理的领导人员履行经济责任情况；
- （十）指导、监督和管理所属单位的内部审计工作；
- （十一）国家和本市有关规定以及本单位要求审计的其他事项。

**第十五条** 内部审计机构和内部审计人员履行内部审计职责有权采取下列措施：

- （一）要求被审计对象按时报送发展规划、战略决策、重大措施、内部控制、风险管理、财政财务收支等有关资料，以及必要的计算机信息系统技术文档；
- （二）检查有关财政财务收支、经济活动、内部控制、风险管理的资料、文件和现场勘察实物；
- （三）检查有关计算机信息系统及其电子数据和资料；
- （四）就审计事项中的有关问题，向有关单位和个人开展调查和询问，取得相关

the units.

**Article 13** When handling audit matters, internal auditors shall abide by the professional norms of internal audit and relevant requirements of the units, observe professional ethics, and keep state secrets and trade secrets.

Where internal auditors have an interest in the entities subject to audit or in audit matters, they shall take the initiative to apply for withdrawal. The entities subject to audit shall have the right to apply for the withdrawal of internal auditors. The withdrawal of internal auditors shall be decided by the persons in charge of internal audit departments; the withdrawal of the persons in charge of internal audit departments shall be decided by the main persons in charge of the units.

**Article 14** Internal audit departments shall, in accordance with the relevant provisions of the state and the business scale and nature of the units, perform the duties of internal audit on the following matters:

- (1) Implementation of major national and municipal policies and measures by the units and their subordinate units;
- (2) Implementation of development plans, strategic decisions, major measures and annual business plans by the units and their subordinate units;
- (3) Financial revenues and expenditures and related economic activities of the units and their subordinate units;
- (4) Fixed asset investment projects of the units and their subordinate units;
- (5) Performance of the responsibilities of natural resource asset management and ecological environment protection of the units and their subordinate units;
- (6) Overseas branches, overseas assets and overseas economic activities of the units and their subordinate units;
- (7) Economic management and economic benefits of the units and their subordinate units;
- (8) Internal control and risk management of the units and their subordinate units;
- (9) Performance of economic responsibilities by the leaders subject to internal management of the units;
- (10) Guidance, supervision and management of the internal audit work of subordinate units; and
- (11) Other matters required for audit by relevant regulations of the state and this Municipality and the units.

**Article 15** Internal audit departments and internal auditors shall have the right to take the following measures in performing their internal audit duties:

- (1) Requiring the entities subject to audit to submit relevant materials in terms of development planning, strategic decisions, major measures, internal control, risk management, and financial revenues and expenditures, as well as necessary technical documents of computer information system on time;
- (2) Inspecting the materials, documents and on-site survey materials related to financial revenues and expenditures, economic activities, internal control and risk management;
- (3) Inspecting the relevant computer information system and its electronic data and information;
- (4) Inquiring of relevant units and individuals on relevant issues in audit matters to obtain relevant supporting materials;

证明材料；

（五）对正在进行的违法违规、损失浪费等行为，及时向单位主要负责人报告，经同意作出临时制止决定；

（六）对可能被转移、隐匿、篡改、毁弃的会计凭证、会计账簿、会计报表以及与经济活动有关的资料，经单位主要负责人批准，有权予以暂时封存；

（七）提出纠正、处理违法违规行为的意见和改进管理、提高绩效的建议；

（八）对违法违规和造成损失浪费的，给予通报批评或者提出追究责任的建议。

**第十六条** 内部审计机构和内部审计人员依法履行职责，被审计对象应当支持和配合，按照要求提供相关资料，并对所提供资料的真实性和完整性负责。

**第十七条** 内部审计机构应当根据本单位工作实际、审计力量和经费保障等情况，制定本单位年度内部审计计划，确定审计项目，经单位主要负责人批准后实施。

**第十八条** 内部审计机构根据确定的审计项目组成审计组，编制项目审计方案。审计组不得少于 2 名审计人员。

内部审计机构应当在实施审计 3 日前，向被审计对象送达审计通知书。

**第十九条** 审计组应当按照项目审计方案实施审计，获取审计证据，形成审计工作底稿。

**第二十条** 审计组根据审计工作底稿，编制内部审计报告，并书面征求被审计对象意见。被审计对象应当在 5 个工作日内反馈书面意见。被审计对象有异议的，审计组应当核实，并根据核实结果修改内部审计报告。

内部审计机构对审计组提交的内部审计报告进行复核，经单位主要负责人批准，出具内部审计报告，并送达被审计对象。

**第二十一条** 内部审计报告应当对审计事项作出评价，指出存在的问题，提出纠正和处理的意见以及改进的建议和措施。

**第二十二条** 内部审计项目委托社会审计机构实施的，应当经本单位主要负责人同意。内部审计机构应当核查社会审计机构出具的审计报告，并对采用的审计结果负责。

(5) Reporting to the main persons in charge of the units in a timely manner and making a temporary decision upon consent to stop the ongoing illegal activities, losses and wastes;

(6) With the approval of the main persons in charge of the units, temporarily sealing up the accounting vouchers, accounting books, accounting statements and materials related to economic activities that may be transferred, concealed, tampered with or destroyed;

(7) Putting forward suggestions on correcting and handling illegal behaviors, and improving management and performance; and

(8) Circulating a notice of criticism against or putting forward suggestions for responsibility investigation for violations of laws and regulations, as well as ensuing losses and waste.

**Article 16** Where internal audit departments and internal auditors perform their duties according to law, the entities subject to audit shall provide support and cooperation, provide relevant materials as required, and be responsible for the authenticity and integrity of the materials provided.

**Article 17** Internal audit departments shall, in accordance with the actual work, audit capacity and fund guarantee of the units, formulate the annual internal audit plan of the units, determine the audit projects, and implement them with the approval of the main persons in charge of the units.

**Article 18** Internal audit departments shall form an audit team according to the audit projects determined and work out an audit plan for the projects. The audit team shall be composed of no less than 2 auditors.

Internal audit departments shall send an audit notice to the entities subject to audit 3 days before the implementation of the audit.

**Article 19** The audit team shall carry out audit in accordance with the audit plan for the projects, obtain audit evidence and form audit working paper.

**Article 20** The audit team shall, on the basis of the audit working paper, prepare internal audit reports and solicit the opinions of the entities subject to audit in writing. The entities subject to audit shall give written feedback within 5 working days. If the entities subject to audit have any objection, the audit team shall conduct verification and modify internal audit reports according to the verification results.

Internal audit departments shall review the internal audit reports submitted by the audit team, issue an internal audit report with the approval of the main persons in charge of the units, and deliver it to the entities subject to audit.

**Article 21** The internal audit report shall evaluate the audit matters, point out the existing problems, and put forward opinions on correction and handling as well as the suggestions and measures for improvement.

**Article 22** Where an internal audit project is entrusted to a social audit institution for implementation, the consent of the main person in charge of the unit shall be obtained. The internal audit department shall verify the audit report issued by the social audit institution and be responsible for the audit results adopted.

社会审计机构接受单位的委托实施内部审计的，应当遵守内部审计准则的规定，并对出具的审计报告负责。

**第二十三条** 被审计对象应当对内部审计报告提出的问题进行整改，并在规定的期限内向内部审计机构书面报告整改情况；对不能及时整改的，应当说明原因并制定整改计划。

**第二十四条** 内部审计机构应当检查被审计对象的整改情况，并向单位主要负责人报告。

内部审计结果及整改情况应当在本单位内部通报。

内部审计结果及整改情况应当作为本单位考核、任免、奖惩和相关决策的重要依据。

**第二十五条** 对内部审计发现的违法违纪问题线索，单位应当依法移送有权机关处理。

**第二十六条** 依法成立的内部审计协会是内部审计行业自律性组织，依照法律、法规、规章和章程开展活动，引导和规范内部审计机构和内部审计人员的职业行为，维护会员合法权益。

审计机关鼓励和支持内部审计协会采取学术研究、理论研讨、业务交流、宣传培训和职业教育等措施，提高内部审计人员专业素质和能力。

**第二十七条** 审计机关实施审计项目，应当对单位建立健全内部审计制度、开展内部审计工作等情况进行评价，并可以利用内部审计力量和成果。

对内部审计发现且已经纠正的问题，经审计机关核实，确认整改到位的，可以不再在审计报告中反映。

**第二十八条** 违反本规定第四条规定，单位未建立健全内部审计制度的，由审计机关责令限期改正；逾期仍不改正的，给予通报批评。

**第二十九条** 违反本规定第五条规定，单位主要负责人未履行内部审计职责的，由审计机关对单位主要负责人进行约谈；经约谈仍未履行职责的，移交有权机关追究

Where a social audit institution accepts the entrustment of the units to carry out internal audit, it shall abide by the provisions of the internal audit standards and be responsible for the audit report issued.

**Article 23** The entities subject to audit shall rectify the problems raised in the internal audit report, report the rectification situation in writing to the internal audit departments within the prescribed time limit, and explain the reasons and formulate a rectification plan in case of failure to make rectification in time.

**Article 24** Internal audit departments shall check the rectification of the entities subject to audit and report to the main persons in charge of the units.

The results of internal audit and rectification shall be notified for general information within the units.

The results of internal audit and rectification shall be taken as an important basis for assessment, appointment, removal, rewards, punishments and relevant decisions of the units.

**Article 25** The clues of illegal and disciplinary issues found in the internal audit shall be transferred by the units to the competent authority for handling according to law.

**Article 26** The internal audit association established in accordance with the law is a self-regulatory organization for the work of internal audit, which shall carry out activities in accordance with laws, regulations, rules and the articles of association, guide and regulate the professional behaviors of internal audit departments and internal auditors, and protect the legitimate rights and interests of its members.

Audit agencies shall encourage and support the internal audit association to take such measures as academic research, theoretical discussion, business exchange, publicity, training, and vocational education to improve the professional quality and ability of internal auditors.

**Article 27** When implementing audit projects, audit agencies shall evaluate the establishment and improvement of the internal audit system and the implementation of internal audit on the part of the units, and may make use of the capacity and achievements of internal audit.

As for the problems found in the internal audit, so long as their rectifications have been verified and recognized by the audit agencies, there is no need to reflect them in the audit report.

**Article 28** Where the units, in violation of the provisions of Article 4 of these Provisions, fail to establish and improve the internal audit system, the audit agencies shall order them to make corrections within a time limit and circulate a notice of criticism in case of failure to make corrections within the time limit.

**Article 29** Where the main persons in charge of the units, in violation of the provisions of Article 5 of these Provisions, fail to perform the internal audit duties, the audit agencies shall make an interview with them, and in case of failure to perform duties after the interview, transfer them to the competent authorities for responsibility investigation.

责任。

**第三十条** 内部审计机构或者内部审计人员有下列情形之一的，由单位责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分；涉嫌犯罪的，依法追究刑事责任：

- （一）未按照项目审计方案实施内部审计的；
- （二）隐瞒内部审计发现问题的；
- （三）出具虚假内部审计报告的；
- （四）泄露国家秘密或者商业秘密的；
- （五）违反回避规定的。

**第三十一条** 被审计对象有下列情形之一的，由单位责令改正，对直接负责的主管人员和其他直接责任人员依法给予处分：

- （一）拒绝接受或者拒绝配合内部审计工作的；
- （二）拒绝、拖延提供与内部审计项目有关的资料，或者提供资料不真实、不完整的；
- （三）拒绝整改内部审计发现问题的。

**第三十二条** 本规定自 2020 年 1 月 1 日起施行。

**Article 30** Under any of the following circumstances, internal audit departments or internal auditors shall be ordered by the units to make corrections, and the main persons directly in charge and other persons directly responsible shall be punished according to law; if a crime is constituted, criminal responsibility shall be investigated according to law:

- (1) Failing to carry out internal audit in accordance with the audit plan for the projects;
- (2) Concealing problems found in internal audit;
- (3) Issuing false internal audit reports;
- (4) Divulging state secrets or trade secrets; or
- (5) Violating the provisions on withdrawal.

**Article 31** Under any of the following circumstances, the entities subject to audit shall be ordered by the units to make corrections, and the main persons directly in charge and other persons directly responsible shall be punished according to law:

- (1) Refusing to accept or cooperate with the internal audit;
- (2) Refusing to provide or delaying in providing information related to internal audit projects, or providing information that is untrue or incomplete; or
- (3) Refusing to rectify the problems found in the internal audit.

**Article 32** These Provisions shall come into force as of January 1, 2020.



## （九）统 计

### 北京市统计条例

（2015 年 11 月 27 日北京市第十四届人民代表大会常务委员会  
第二十三次会议通过）

#### 目 录

第一章	总 则
第二章	统计调查
第三章	统计资料
第四章	统计服务
第五章	法律责任
第六章	附 则

#### 第一章 总 则

**第一条** 为了科学、有效地组织统计工作，保障统计资料的真实性、准确性、完整性和及时性，客观反映本市经济社会发展状况，发挥统计在服务经济社会发展和城市建设管理中的重要作用，根据《中华人民共和国统计法》，结合本市实际情况，制定本条例。

**第二条** 本条例适用于本市各级人民政府及其统计机构和有关部门组织实施的统计活动。

**第三条** 市和区、县人民政府加强对统计工作的组织领导，建立健全符合首都城市性质功能和经济社会发展规律的统计指标体系，完善统计工作方式和统计管理体制，对在统计工作中取得突出成绩的单位和个人给予表彰和奖励。

**第四条** 统计工作应当遵循职责独立、制度严谨、数据真实、结果公开的原则，充分发挥统计的信息、咨询、监督、监测和评价等作用，为政府决策和社会公众提供

## ix. Statistics

### Statistics Regulations of Beijing Municipality

(Adopted at the 23<sup>rd</sup> Session of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on November 27, 2015)

#### Contents

Chapter I	General Provisions
Chapter II	Statistical Survey
Chapter III	Statistical Materials
Chapter IV	Statistical Service
Chapter V	Legal Liabilities
Chapter VI	Supplementary Provisions

#### Chapter I General Provisions

**Article 1** These Regulations are formulated in accordance with the Statistics Law of the People's Republic of China, by taking into account the particular situations of this Municipality, and for the purposes of organizing statistical work scientifically and efficiently, ensuring the truth, accuracy, completeness and timeliness of statistical materials, objectively reflecting the economic and social development condition of this Municipality, as well as developing the important role of statistics in serving the economic and social development and urban construction management.

**Article 2** These Regulations shall apply to the statistical activities organized and implemented by the people's governments at all levels of this Municipality and the statistical organs thereof, as well as relevant departments.

**Article 3** The municipal, district or county people's governments shall strengthen the organizational leadership of statistical work, establish and improve the statistical indicator system that meets the urban designated function of the capital and the economic and social development law, improve the statistical manner and statistical management system, as well as commend and reward the entities and individuals that have obtained outstanding achievements in the statistical work.

**Article 4** The statistical work shall follow the principles of independent duties, rigorous system, true data and open results, and the role of statistics in information, consultation, supervision, monitoring and evaluation shall be fully played, so as to provide service to government decision-making and the public.

服务。

**第五条** 本市加强统计基础工作和统计信息化建设，完善统计信用制度，实施统计数据质量管理，对统计活动各环节进行质量控制。

**第六条** 国家机关、企业事业单位和其他组织以及个体工商户和个人等统计调查对象，应当依照法律法规和统计调查制度的规定，真实、准确、完整、及时地提供统计调查所需资料。

对未经依法批准的统计调查项目，统计调查对象有权予以拒绝。

**第七条** 本市鼓励统计社会服务机构和行业协会发展，为统计工作提供服务。统计社会服务机构和行业协会应当依法成立，接受政府有关部门的监督。

**第八条** 市和区、县人民政府统计机构负责本行政区域内统计工作的组织、协调、指导和监督。

区、县人民政府统计机构在乡、镇人民政府和街道办事处派出统计机构，负责本地区统计工作；村和社区的统计工作站负责相关统计工作。

市和区、县人民政府有关部门应当明确具体负责统计工作的机构或者人员，依法开展和管理本部门职责范围内的统计工作。

## 第二章 统计调查

**第九条** 本市建立统计调查对象基本情况调查制度。国家机关、企业事业单位和其他组织以及个体工商户等统计调查对象应当自设立之日起 30 个工作日内向市或者区、县人民政府统计机构报送基本情况统计资料。

市和区、县人民政府统计机构应当在政务服务场所为统计调查对象报送基本情况统计资料提供指导服务。

市和区、县人民政府应当加强政务服务场所建设，通过整合系统、优化流程等手段推进统一报送工作。

**第十条** 市人民政府应当统筹整合政府有关部门信息资源，建设全市统一的统计

**Article 5** This Municipality shall strengthen the basic work and information construction of statistics, improve the statistical credit system, as well as conduct management of the quality of statistical data, so as to carry out quality control over all links of statistical activities.

**Article 6** Such statistical respondents as State organs, enterprises, public institutions, other organizations, individual businesses and individuals shall provide the materials necessary for statistical survey in a true, accurate, complete and timely manner in accordance with the provisions of laws, regulations and statistical survey systems.

Statistical respondents shall have the right to refuse the statistical survey projects without legal approval.

**Article 7** This Municipality shall encourage the development of social service organizations and industry associations of statistics to provide service for statistical work. Social service organizations and industry associations of statistics shall be established according to law and receive the supervision of relevant government departments.

**Article 8** The statistical organs of the municipal, district or county people's governments shall be responsible for the organization, coordination, guidance and supervision of the statistical work within the respective administrative area.

The statistical organs of the municipal, district or county people's governments shall set up statistical organs at the township and town people's governments and sub-district offices to be responsible for the statistical work in the respective area; the statistical work sites in villages and communities shall be responsible for relevant statistical work.

Relevant departments of the municipal, district or county people's governments shall define organs or personnel in charge of statistical work to carry out and manage the statistical work within their scope of responsibilities according to law.

## **Chapter II Statistical Survey**

**Article 9** This Municipality shall establish a survey system for the basic information of statistical respondents. Such statistical respondents as State organs, enterprises, public institutions, other organizations and individual businesses shall submit statistical materials of basic information within 30 working days of establishment to the statistical organs of the municipal, district or county people's governments.

The statistical organs of the municipal, district or county people's governments shall provide guidance service as to the submission of statistical materials of basic information to statistical respondents at service places for government affairs.

The municipal, district or county people's governments shall strengthen the construction of service places for government affairs and promote unified submission through integrated systems and optimized procedures.

**Article 10** The Municipal People's Government shall integrate the information resources of relevant government departments in an overall manner, and construct a unified directory system of statistical respondents in this Municipality. The departments for

调查对象名录系统。统计、工商行政、民政、质量技术监督、税务等部门应当按照有关规定及时向统计调查对象名录系统提供所需资料。

统计调查对象名录系统供政府有关部门查询和使用。

**第十一条** 制定地方统计调查项目，应当体现精简效能原则，科学设置统计指标和设计调查方案，并按照国家要求进行可行性测试。能够通过已有统计资料和行政记录取得所需资料的，不得制定地方统计调查项目。

人民政府统计机构、有关部门申请地方统计调查项目，应当向具有法定审批权限的统计机构提交申请表、制定依据、统计调查制度、经费保障等材料。

**第十二条** 市或者区、县人民政府统计机构应当对地方统计调查项目的必要性、可行性、科学性进行审查。

对与国家或者部门统计调查项目重复的，不予批准；对调查对象、调查内容相同或者相近的，应当合并。

**第十三条** 市或者区、县人民政府统计机构应当自受理申请之日起20个工作日内，对符合法定条件的，作出批准决定；对不符合法定条件的，不予批准并说明理由。

地方统计调查项目未经批准的，不得开展统计调查活动。

为应对突发事件等开展的应急地方统计调查项目，市和区、县人民政府统计机构应当按照国家有关法律法规的要求，予以受理和审批。

**第十四条** 市和区、县人民政府统计机构应当自批准之日起10个工作日内，向社会公布地方统计调查项目的名称、组织实施机关和统计调查制度等相关信息。

地方统计调查项目组织实施机关应当通过公告等方式向统计调查对象告知统计调查制度。

地方统计调查项目可以采取购买服务的方式实施。

**第十五条** 组织实施地方统计调查项目应当执行国家统计标准和部门统计标准；没有国家统计标准和部门统计标准的，应当执行本市统计标准化指导性技术文件。

本市统计标准化指导性技术文件由市人民政府统计机构制定并公示。

statistics, industrial and commercial administration, civil affairs, quality supervision and tax shall provide necessary materials to the directory system of statistical respondents in a timely manner according to relevant provisions.

The directory system of statistical respondents shall be open to relevant government departments for inquiry and use.

**Article 11** Local statistical survey projects shall be established with scientific statistical indicators and survey plans to reflect the principles of simplified administration and higher efficiency, and subject to feasibility test according to State requirements. Local statistical survey projects shall not be established in the event that required materials may be obtained from existing statistical materials and administrative records.

Statistical organs of the people's governments and relevant governments applying for local statistical survey projects shall present application forms, basis of establishment, statistical survey systems and fund guarantee to the statistical organs with statutory approval authority.

**Article 12** The statistical organs of the municipal, district or county people's governments shall examine the necessity, feasibility and scientificity of local statistical survey projects.

Overlapped State or departmental statistical survey projects shall not be approved; statistical survey projects with the same or similar respondents and survey contents shall be combined.

**Article 13** The statistical organs of the municipal, district or county people's governments shall make approval decisions as to those conforming to legal conditions within 20 working days of accepting the application, while they shall not approve those not conforming to legal conditions and give reasons.

Where local statistical survey projects are unapproved, statistical survey activities shall not be carried out.

The statistical organs of the municipal, district or county people's governments shall accept and approve emergency local statistical survey projects carried out to respond to emergencies according to the requirements of relevant State laws and regulations.

**Article 14** The statistical organs of the municipal, district or county people's governments shall make public the names of local statistical survey projects, the organizational and implementation organs and statistical survey systems within 10 working days of approval.

The organizational and implementation organs of local statistical survey projects shall notify statistical respondents of statistical survey systems through announcement.

Local statistical survey projects may be implemented through purchasing service.

**Article 15** Local statistical survey projects shall be organized and implemented according to State statistical standards and departmental statistical standards; the technical guidance documents of statistical standardization of this Municipality shall be followed without state statistical standards and departmental statistical standards.

The technical guidance documents of statistical standardization of this Municipality

**第十六条** 地方统计调查项目组织实施机关应当在项目完成之日起 30 个工作日内，将调查结果和相关资料报送地方统计调查项目审批机关。

**第十七条** 市和区、县人民政府统计机构及有关部门应当制定年度统计调查计划，并于每年年底前公布下一年度拟开展的统计调查项目。

**第十八条** 企业事业单位和其他组织等统计调查对象应当加强对统计工作的管理，明确相关人员负责统计事项。

### 第三章 统计资料

**第十九条** 国家机关、企业事业单位和其他组织以及个体工商户等统计调查对象应当建立健全原始记录和统计台账，原始记录和统计台账的保存期限不少于 2 年。

统计台账的要素、内容和形式，按照统计调查制度的规定执行。

**第二十条** 统计调查对象应当按照统计调查制度规定的报送方式报送统计资料，并对统计资料的真实性、准确性、完整性和及时性负责。

统计调查对象可以委托统计社会服务机构报送统计资料。

**第二十一条** 任何单位和个人不得以任何形式指使或者授意统计人员伪造、篡改原始记录、统计台账和统计资料。

对指使或者授意伪造、篡改统计有关原始记录、统计台账和统计资料的行为，相关统计人员有权拒绝。

**第二十二条** 任何单位和个人公开使用市和区、县人民政府统计机构及有关部门公布的统计资料的，应当注明统计资料来源并如实使用。

**第二十三条** 市和区、县人民政府统计机构及有关部门在本市组织开展统计调查取得的统计资料应当共享，国家另有规定的除外。

市和区、县人民政府统计机构及有关部门通过共享取得的能够识别或者推断单个统计调查对象身份的统计资料，只能用于统计分析、统计咨询、统计监测评价等统计工作，不得对外提供、泄露。

shall be formulated and published by the statistical organ of the Municipal People's Government.

**Article 16** The organizational and implementation organs of local statistical survey projects shall submit survey results and relevant materials to the approval authority for local statistical survey projects within 30 working days of the completion thereof.

**Article 17** The statistical organs of the municipal, district or county people's governments and relevant departments shall formulate annual statistical survey plans and publish the statistical survey projects proposed to be carried out in the next year by the end of each year.

**Article 18** Such statistical respondents as enterprises, public institutions and other organizations shall strengthen the management of statistical work and define relevant personnel to be in charge of statistical matters.

### **Chapter III Statistical Materials**

**Article 19** Such statistical respondents as State organs, enterprises, public institutions, other organizations and individual businesses shall establish and improve original records and statistical accounts, which shall be kept for no less than 2 years.

The elements, contents and forms of statistical accounts shall be executed according to the provisions of statistical survey systems

**Article 20** Statistical respondents shall submit statistical materials according to the submission mode as stipulated by statistical survey systems, and shall be responsible for the truth, accuracy, completeness and timeliness of statistical materials.

Statistical respondents may entrust statistical social service organs to submit statistical materials.

**Article 21** No unit and individual may instigate or incite in any way statistical personnel to fabricate or tamper with original records, statistical accounts and statistical materials.

Relevant statistical personnel shall have the right to refuse the behaviors of fabricating or tampering with relevant original records, statistical accounts and statistical materials by instigation or incitement.

**Article 22** Any unit and individual publicly using the statistical materials published by the statistical organs of the municipal, district or county people's governments and relevant departments shall give clear indication of the source of statistical materials and use them truthfully.

**Article 23** The statistical organs of the municipal, district or county people's governments and relevant departments shall share the statistical materials obtained from the statistical survey organized in this Municipality, unless otherwise provided by the State.

The statistical materials obtained through sharing by statistical organs of the municipal, district or county people's governments and relevant departments that can identify or infer the identity of individual statistical respondent shall only be used for statistical analysis, statistical consultation and statistical monitoring and evaluation, which shall not be disclosed.



**第二十四条** 市和区、县人民政府统计机构及有关部门可以根据统计工作需要，通过与社会信息资源的拥有者合作开发或者购买服务等方式，获取社会信息资源，但不得损害社会信息资源涉及的第三方权益。鼓励和支持社会信息资源的拥有者参与合作开发。

**第二十五条** 本市建立统计资料发布制度，加强统计资料发布的统筹管理，保障发布资料的准确性和一致性。具体办法由市人民政府统计机构制定，报市人民政府批准后执行。

**第二十六条** 市和区、县人民政府统计机构和有关部门建立健全统计资料存储备份机制，防止统计资料毁损和灭失。

## 第四章 统计服务

**第二十七条** 市和区、县人民政府统计机构应当根据本市经济社会发展和城市建设管理的需要，加强统计分析和统计资料的利用。

市和区、县人民政府统计机构和有关部门开展统计调查取得的统计资料、统计分析报告等，应当及时向社会公开，供社会公众查询，但涉及国家秘密、商业秘密和个人隐私的除外。

**第二十八条** 市和区、县人民政府统计机构和有关部门应当编制年度统计资料公布计划，明确统计资料公布的时间、内容、方式、频率等。

市和区、县人民政府统计机构和有关部门应当按照计划向社会公布统计资料，并对指标含义、调查范围、调查方法、计算方法、抽样调查样本量等情况进行说明和解释。已公布的统计资料调整或者修改的，应当说明调整或者修改的具体事项和理由。

**第二十九条** 本市加强经济社会发展基础数据平台建设，整合各部门、各行业、各领域统计资料，实现统计资料共享，供社会公众查询。

市人民政府统计机构制定平台的指标体系、业务标准和数据来源。有关单位应当及时向平台提供本部门、本行业、本领域的统计资料。

**Article 24** The statistical organs of the municipal, district or county people's governments and relevant departments may obtain social information resources according to the needs of statistical work through cooperative development with the owners of social information resources or purchasing service, which, however, shall not harm the rights and interests of third parties related to social information resources. Owners of social information resources shall be encouraged and supported to participate in cooperative development.

**Article 25** This Municipality shall establish the release system for statistical materials, strengthen the overall management of the release of statistical materials and guarantee the accuracy and consistency of released materials. Specific measures shall be formulated by the statistical organ of the Municipal People's Government and executed after submitted to the Municipal People's Government for approval.

**Article 26** The statistical organs of the municipal, district or county people's governments and relevant governments shall establish and improve the storage and backup mechanism for statistical materials, so as to prevent the damage and loss of statistical materials.

## **Chapter IV Statistical Service**

**Article 27** The statistical organs of the municipal, district or county people's governments shall strengthen statistical analysis and the utilization of statistical materials according to the needs of the economic and social development and urban construction management of this Municipality.

The statistical organs of the municipal, district or county people's governments and relevant departments shall make public for inquiry in a timely manner the statistical materials and statistical analysis reports obtained from statistical survey, unless those related to State secrets, trade secrets and individual privacy.

**Article 28** The statistical organs of the municipal, district or county people's governments and relevant departments shall work out the annual release plan for statistical materials, so as to define the time, contents, mode and frequency to release statistical materials.

The statistical organs of the municipal, district or county people's governments and relevant departments shall make public statistical materials according to the plan, describe and explain such conditions as index definition, scope of survey, method of survey, method of calculation and sample size of sample survey, as well as explain the specific matters and reasons of adjustment or amendment in case of adjustment or amendment of released statistical materials.

**Article 29** This Municipality shall strengthen the platform construction for the basic economic and social development data, as well as integrate the statistical materials of all departments, all industries and all fields, so as to realize the sharing of statistical materials for public inquiry.

The statistical organ of the Municipal People's Government shall formulate the indicator system, business standards and data sources of the platform. Relevant units shall

**第三十条** 企业事业单位、其他组织、个体工商户和个人可以通过下列方式获取统计资料：

- （一）通过经济社会发展基础数据平台查询；
- （二）通过市和区、县人民政府统计机构和有关部门的门户网站查询；
- （三）通过市和区、县人民政府统计机构和有关部门设置的信息查阅场所、设施查询或者索取。

通过上述方式无法获取的统计资料，企业事业单位、其他组织、个体工商户和个人可以根据自身生产、生活、科研等合理需要，依法向市和区、县人民政府统计机构和有关部门提出申请。市和区、县人民政府统计机构和有关部门应当依法作出答复或者提供相应的便利。

**第三十一条** 市和区、县人民政府统计机构及有关部门在组织实施统计调查过程中，应当加强对统计调查对象的业务指导，为统计调查对象报送统计资料提供服务，并优先满足其对相关统计资料的合理需求。

**第三十二条** 统计人员应当具备与其从事的统计工作相适应的专业知识和业务能力，依法取得统计专业技术职务资格或者统计从业资格。

市和区、县人民政府统计机构及有关部门应当采取多种形式，加强对统计人员的业务培训和职业道德教育。有关单位应当为统计人员接受培训和教育提供便利条件。

## 第五章 法律责任

**第三十三条** 违反本条例第二十二条规定，未注明统计资料来源或者未如实使用的，由市或者区、县人民政府统计机构责令改正；逾期未改正或者造成严重后果的，可以处 5 万元以下罚款。

**第三十四条** 市和区、县人民政府统计机构及有关部门有下列行为之一的，由本级人民政府、上级人民政府统计机构或者本级人民政府统计机构责令改正，予以通报；对直接负责的主管人员和其他直接责任人员由任免机关或者监察机关给予处分：

timely provide the statistical materials of respective unit, industry and field to the platform.

**Article 30** Enterprises, public institutions, other organizations, individual businesses and individuals may obtain statistical materials through the following ways:

- (1) inquiry through the platform for basic economic and social development data;
- (2) inquiry through the web portals of the statistical organs of the municipal, district or county people's governments and relevant departments;
- (3) inquiry or demand through the information reference places and facilities established by the statistical organs of the municipal, district or county people's governments and relevant departments.

Enterprises, public institutions, other organizations, individual businesses and individuals may apply with the statistical organs of the municipal, district or county people's governments and relevant departments for the statistical materials that cannot be obtained through the above-mentioned ways according to their reasonable production, living and scientific research needs. The statistical organs of the municipal, district or county people's governments and relevant departments shall make a reply according to law or provide corresponding convenience.

**Article 31** The statistical organs of the municipal, district or county people's governments and relevant departments organizing and implementing statistical survey shall strengthen operational guidance to statistical respondents, provide service to statistical respondents for submitting statistical materials, as well as give priority to the reasonable needs thereof for relevant statistical materials.

**Article 32** Statistical personnel shall possess the professional knowledge and business abilities corresponding to the statistical work they engage in, and acquire the occupational qualifications or requirements for statistics.

The statistical organs of the municipal, district or county people's governments and relevant departments shall adopt various forms to strengthen business training and professional ethics education of statistical personnel. Relevant units shall provide convenience to statistical personnel for receiving training and education.

## Chapter V Legal Liabilities

**Article 33** Any unit or individual, in violation of the provisions of Article 22 of these Regulations, failing to give clear indication of the sources of statistical materials or failing to use them truthfully shall be ordered by the statistical organs of the municipal, district or county people's governments to make rectification; where the unit or individual fails to make rectification upon expiry of the time limit or causes serious consequences, a fine of not more than 50,000 yuan may be imposed thereupon.

**Article 34** Under one of the following circumstances, the statistical organs of the municipal, district or county people's governments and relevant departments shall be ordered to make rectification and notified for general information by the people's government at the same level, the statistical organ of the people's government at the higher level or the statistical organ of the people's government at the same level; the leading person directly in charge and the other persons directly responsible shall be given sanctions by the

(一) 违反本条例第二十三条第二款规定，将统计资料用于统计以外目的，或者对外提供、泄露的；

(二) 违反本条例第二十六条规定，造成统计资料毁损和灭失的；

(三) 违反本条例第二十八条第二款规定，未按照计划公布统计资料，或者擅自调整、修改已公布的统计资料未说明理由的。

**第三十五条** 国家机关、企业事业单位和其他组织以及个体工商户等统计调查对象有下列行为之一的，由市或者区、县人民政府统计机构按照有关法律法规规定给予处罚：

(一) 拒绝、阻碍统计调查或者统计检查的；

(二) 拒绝、阻碍统计调查人员或者统计检查人员进入办公场所执行统计调查或者统计检查任务的；

(三) 拒绝、阻碍统计调查人员或者统计检查人员调取相关资料、记录、复制、录音、录像的。

**第三十六条** 统计调查对象有下列行为之一的，由市或者区、县人民政府统计机构向社会公示：

(一) 拒绝、阻碍统计调查或者统计检查的；

(二) 拒绝提供统计资料或者经催报后仍未提供统计资料的；

(三) 提供不真实、不准确、不完整统计资料的；

(四) 转移、隐匿、篡改、毁弃或者拒绝提供原始记录和凭证、统计台账、统计调查表及其他相关证明和资料的；

(五) 利用虚假统计资料骗取荣誉称号、物质利益的；

(六) 国家规定的其他应当公示的统计违法行为。

**第三十七条** 对企业事业单位、其他组织、个体工商户和个人违反统计法律法规的行为，应当纳入社会信用信息系统。

## 第六章 附 则

**第三十八条** 本条例所称统计调查制度，是对统计调查项目的调查目的、调查内容、调查方法、调查对象、调查组织方式、调查表式、统计资料的报送和公布等作出的规定。

organ in charge of appointment and removal or the supervisory organ:

(1) violating the provisions of Paragraph 2 of Article 23 of these Regulations and using statistical materials for purposes other than statistical or disclosing statistical materials;

(2) violating the provisions of Article 26 of these Regulations and causing the damage and loss of statistical materials;

(3) violating the provisions of Paragraph 2 of Article 28 of these Regulations and failing to release statistical materials as planned, or arbitrarily adjusting and amending released statistical materials without giving reasons.

**Article 35** Under one of the following circumstances, such statistical respondents as State organs, enterprises, public institutions, other organizations and individual businesses shall be given sanctions by the statistical organs of the municipal, district or county people's governments according to the provisions of laws and regulations:

(1) refusing or hindering statistical survey or statistical examination;

(2) refusing or hindering statistical investigators or statistical examiners from entering offices to carry out statistical survey or statistical examination;

(3) refusing or hindering statistical investigators or statistical examiners from collecting relevant materials, taking notes, copying, recording and picture recording.

**Article 36** Under one of the following circumstances, statistical respondents shall be announced to the public by the statistical organs of the municipal, district or county people's governments:

(1) refusing or hindering statistical survey or statistical examination;

(2) refusing to provide statistical materials or failing to provide statistical materials upon reminder;

(3) providing untrue, inaccurate and incomplete statistical materials;

(4) transferring, hiding, tampering with, destroying or refusing to provide original records and certificates, statistical accounts, statistical survey forms and other relevant certificates and materials;

(5) gaining honorary titles and material benefits by cheating by using false statistical materials;

(6) other unlawful acts as to statistics that shall be announced provided by the State.

**Article 37** The acts of enterprises, public institutions, other organizations, individual businesses and individuals violating statistical laws and regulations shall be included in the social credit information system.

## Chapter VI Supplementary Provisions

**Article 38** The statistical survey system as referred to in these Regulations shall provide for the survey purpose, survey contents, survey method, respondents, organizational mode of survey, survey forms, as well as the submission and release of statistical materials of statistical survey projects.

**第三十九条** 本条例自 2016 年 1 月 1 日起施行。1994 年 9 月 8 日北京市第十届人民代表大会常务委员会第十二次会议通过，根据 1997 年 9 月 4 日北京市第十届人民代表大会常务委员会第三十九次会议《关于修改〈北京市统计管理条例〉的决定》第一次修正，根据 2001 年 10 月 16 日北京市第十一届人民代表大会常务委员会第三十次会议《关于修改〈北京市统计管理条例〉的决定》第二次修正的《北京市统计管理条例》同时废止

**Article 39** These Regulations shall be effective as of January 1, 2016. The Regulations on Administration of Statistics of Beijing Municipality adopted at the 12<sup>th</sup> Session of the Standing Committee of the 10th People's Congress of Beijing Municipality on September 8, 1994, revised for the first time in accordance with the Decisions on Amending the Regulations on Administration of Statistics of Beijing Municipality adopted at the 39<sup>th</sup> Session of the Standing Committee of the Tenth People's Congress of Beijing Municipality on September 4, 1997 and revised for the second time in accordance with the Decisions on Amending the Regulations on Administration of Statistics of Beijing Municipality adopted at the 30<sup>th</sup> Session of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on October 16, 2001 shall be repealed simultaneously.



## （十）价格管理

### 北京市涉案财产价格鉴定管理办法

（1999 年 11 月 11 日北京市人民政府第 46 号令发布 根据  
2007 年 11 月 23 日北京市人民政府第 200 号令修改）

**第一条** 为了加强对本市涉案财产价格鉴定工作的管理，保护公民、法人和其他组织的合法权益，维护国家利益，保证司法和行政执法活动的正常进行，根据国家有关规定，结合本市实际情况，制定本办法。

**第二条** 在本市行政区域内进行涉案财产价格鉴定，应当遵守本办法。

本办法所称涉案财产价格鉴定是指审判机关、检察机关、公安机关、仲裁机构等委托方（以下简称委托方），对办理、执行案件中涉及的财产价格委托价格鉴定机构进行鉴定和确认。其他行政执法机关对办理、执行案件中涉及的财产价格需要委托价格鉴定机构进行鉴定和确认的，依照本办法办理。

法律、法规对涉案财产价格鉴定另有规定的，依照其规定。

**第三条** 市人民政府价格主管部门负责本市涉案财产价格鉴定的管理、监督工作。

**第四条** 涉案财产价格鉴定机构和人员的资质、资格及执业范围，按照国家有关规定执行。

市和区、县人民政府价格主管部门设立的价格认证机构承担涉及国家利益和公益性服务的涉案财产价格鉴定工作。

**第五条** 涉案财产价格鉴定应当遵循客观、公正、及时、科学的原则。

**第六条** 涉案财产价格鉴定机构及其执业人员，必须遵守法律、法规和规章，执行国家和本市有关涉案财产价格鉴定的规定，严格执业，恪守信用，诚实服务，对涉案财产价格鉴定业务中涉及的情况和资料保密。

## x. Price Management

### Administrative Measures of Beijing Municipality on Litigation Property Appraisal

(Promulgated by Decree No. 46 of the People's Government of Beijing Municipality on November 11, 1999, and revised in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007)

**Article 1** The Measures are formulated for the purposes of strengthening the administration of litigation property appraisal in this Municipality, protecting the legitimate rights and interests of citizens, legal persons and other organizations, safeguarding the interests of the State, and ensuring the normal progress of judicial and administrative law enforcement activities in accordance with relevant provisions of the State and in light of actual circumstances of this Municipality.

**Article 2** The Measures shall apply to the litigation property appraisal within the administrative area of this Municipality.

The term “litigation property appraisal” as mentioned in the Measures means the entrusting party such as judicial organs, procuratorial organs, public security organs and arbitration institutions (hereinafter referred to as the entrusting party) entrusts a value appraisal institution to appraise and confirm the value of property involved in the handling and execution of cases. Where other administrative law enforcement organs need to entrust a value appraisal institution to appraise and confirm the value of property involved in the handling and execution of cases, the Measures shall be followed.

If laws and regulations have provided otherwise for litigation property appraisal, such provisions shall prevail.

**Article 3** The competent price administration department of the Municipal People's Government shall be responsible for the administration and supervision of litigation property appraisal in this Municipality.

**Article 4** The qualifications, eligibility and scope of practice of the institutions and personnel engaged in litigation property appraisal shall follow relevant provisions of the State.

The price certification offices established by the competent price administration departments of the municipal, district and county people's governments shall undertake the litigation property appraisal relating to national interests and public welfare services.

**Article 5** The principles of objectivity, impartiality, timeliness and science shall be followed in litigation property appraisal.

**Article 6** Appraisal institutions and personnel must abide by laws, regulations and rules, implement the provisions of the State and this Municipality on litigation property appraisal, strictly practice, act in good faith, honestly provide services, and keep confidential

**第七条** 委托方委托涉案财产价格鉴定机构进行涉案财产价格鉴定的，应当在案件处理、审理、裁决过程中或者涉案财产强制执行前进行。

委托方在委托时应当出具《北京市涉案财产价格鉴定委托书》，并提供鉴定机构指定的鉴定样品、资料及相应文件。

**第八条** 涉案财产价格鉴定机构接受委托后，应当指定2名以上涉案财产价格鉴定人员依法进行涉案财产价格鉴定。

**第九条** 涉案财产价格鉴定机构应当在接到委托书之日起7日内作出鉴定结论，出具《北京市涉案财产价格鉴定结论书》，并送交委托方；委托时对涉案财产价格鉴定期限另有约定的，从其约定。

《北京市涉案财产价格鉴定结论书》必须有涉案财产价格鉴定专职人员、涉案财产价格鉴定机构负责人的签名和机构印章。涉案财产价格鉴定机构依据本办法出具的《北京市涉案财产价格鉴定结论书》应当作为委托方处理、审理、裁决案件中确定涉案财产价格的依据。

**第十条** 涉案财产价格鉴定机构应当根据基准日当时、当地同类财产价格、质量、成新率、完工率等，对涉案财产价格进行鉴定。

涉案财产价格鉴定的基准日，应当由委托方根据案件发生时的实际情况确定。但法律、法规另有规定的，依照其规定。

**第十一条** 对涉案财产的价格鉴定按下列规定办理：

（一）对流通领域的涉案财产，属于政府定价的，按政府定价计算；属于政府指导价的，按政府指导价的基准价计算；属于市场调节价的，按市场平均价格计算。

（二）对生产领域的涉案财产，按原材料、完工程度和进货成本折合计算。

（三）对有使用价值的伪劣物品，按成新率、实际使用价值或者残值折合计算。

（四）对文物、艺术品、入境物品等特殊涉案财产，按国家和本市有关规定计算。

（五）涉案财产价格鉴定机构根据委托方的要求，可以采用其他价格鉴定方法进行涉案财产价格鉴定，但法律、法规另有规定的，依照其规定。

the information and materials involved in the litigation property appraisal.

**Article 7** Where the entrusting party entrusts an appraisal institution for litigation property appraisal, the appraisal shall be conducted in the process of handling, hearing or adjudication of cases or before the compulsory execution of the property involved.

For entrustment, the entrusting party shall issue the Power of Attorney of Beijing Municipality for Litigation Property Appraisal, and provide the appraisal samples, materials and corresponding documents designated by the appraisal institution.

**Article 8** After accepting the entrustment, the appraisal institution shall appoint at least 2 appraisers to appraise the value of property involved in cases according to law.

**Article 9** The appraisal institution shall, within 7 days from the date of receiving the power of attorney, make an appraisal conclusion, issue the Litigation Property Appraisal Report of Beijing Municipality, and deliver it to the entrusting party; if the parties have agreed otherwise on the period of litigation property appraisal in the entrustment, such agreement shall prevail.

The Litigation Property Appraisal Report of Beijing Municipality must bear the signature and official seal of the full-time appraisal personnel or the person in charge of the appraisal institution. The Litigation Property Appraisal Report of Beijing Municipality issued by the appraisal institution in accordance with the Measures shall serve as the basis for the entrusting party to determine the value of property involved in cases in handling, hearing or adjudication of cases.

**Article 10** The appraisal institution shall appraise the value of property involved in cases according to the price, quality, depreciation rate, completion rate, etc. of the local similar property on the base date.

The base date for the litigation property appraisal shall be determined by the entrusting party according to the actual situation at the occurrence of cases. However, if laws and regulations have provided otherwise, such provisions shall prevail.

**Article 11** The litigation property appraisal shall be conducted in accordance with the following provisions:

(1) For the property involved in cases in the circulation field, if the government pricing is to apply, the value shall be calculated according to the government pricing; if the government guidance price is to apply, the value shall be calculated according to the benchmark price of the government guiding price; if the market-adjusted price is to apply, the value shall be calculated according to the average market price;

(2) For the property involved in cases in the production field, the value shall be calculated according to the raw materials, degree of completion and purchase cost;

(3) For the fake and inferior articles with use value, the value shall be calculated according to the depreciation rate, actual use value or residual value;

(4) For special property involved in cases, such as cultural relics, artworks and imported articles, the value shall be calculated in accordance with relevant provisions of the State and this Municipality;

(5) The appraisal institution may, as requested by the entrusting party, adopt other appraisal methods for the appraisal of value of property involved in cases, but if laws and regulations have provided otherwise, such provisions shall prevail.

**第十二条** 涉案财产价格鉴定机构需要对涉案财产进行质量检验和技术鉴定的，应当委托相应的法定专门机构办理，并将其检验鉴定的结论作为附件提供给委托方。

**第十三条** 市人民政府价格主管部门指定涉案财产价格鉴定复核裁定机构，根据国家涉案财产价格鉴定复核裁定的规定进行复核裁定。

**第十四条** 委托方对《北京市涉案财产价格鉴定结论书》有异议的，应当在接到《北京市涉案财产价格鉴定结论书》之日起 15 日内向原价格鉴定机构提出重新鉴定，或者向涉案财产价格鉴定复核裁定机构提出复核裁定。

重新鉴定或者复核裁定应当在接到重新鉴定或者复核裁定要求之日起 15 日内完成，并送交委托方。

委托方对复核裁定结论仍有异议的，可以向国家发展改革委员会设立的涉案财产价格鉴定机构提出最终复核裁定。

**第十五条** 涉案财产价格鉴定人员对涉案财产价格进行鉴定时，有下列情形之一的，应当自行回避，委托方也有权要求其回避：

- （一）本案当事人或者当事人的近亲属；
- （二）本人或者其近亲属与本案有关系的；
- （三）与本案当事人有其他利害关系，可能影响对涉案财产公正价格鉴定的。

委托方要求涉案财产价格鉴定人员回避的，由市或者区、县人民政府价格主管部门决定。

**第十六条** 《北京市涉案财产价格鉴定委托书》、《北京市涉案财产价格鉴定结论书》、《北京市涉案财产价格鉴定复核结论书》等规范性涉案财产价格鉴定文书，由市人民政府价格主管部门统一印制。

**第十七条** 涉案财产价格鉴定收费按国家和本市有关规定执行。

**第十八条** 因提供虚假情况和资料，致使涉案财产价格鉴定结论失实，造成当事人人身伤害和财产损失的，由提供方承担法律责任。

**第十九条** 未经市人民政府价格主管部门指定，擅自从事涉案财产价格鉴定业务

**Article 12** Where the appraisal institution needs to carry out quality inspection and technical appraisal on the property involved in cases, it shall entrust the corresponding statutory specialized agency to conduct the inspection and appraisal, and provide the conclusion of the inspection and appraisal as an attachment to the entrusting party.

**Article 13** The competent price administration department of the Municipal People's Government shall designate a reexamination and adjudication institution for the litigation property appraisal, which shall carry out reexamination and adjudication in accordance with the provisions of the State on the reexamination and adjudication of litigation property appraisal.

**Article 14** If the entrusting party has any objection to the Litigation Property Appraisal Report of Beijing Municipality, it shall, within 15 days from the date of receiving the Litigation Property Appraisal Report of Beijing Municipality, request a new appraisal by the original appraisal institution, or request reexamination and adjudication by the reexamination and adjudication institution.

The new appraisal or reexamination and adjudication shall be completed within 15 days from the date of receiving the request for new appraisal or reexamination and adjudication, and the conclusion thereof shall be delivered to the entrusting party.

If the entrusting party still disagrees with the conclusion of the reexamination and adjudication, it may request final reexamination and adjudication by the appraisal institution established by the National Development and Reform Commission.

**Article 15** Under any of the following circumstances, the appraiser shall recuse himself and the entrusting party shall also have the right to require him to recuse:

- (1) He is a party to the case or a close relative of a party to the case;
- (2) He or his close relative is related to the case; or
- (3) He has other interests in a party to the case, which may affect the fair appraisal of value of property involved in the case.

Where the entrusting party requests to recuse the appraiser, it shall be decided by the competent price department of the municipal, district or county people's government.

**Article 16** The Power of Attorney of Beijing Municipality for Litigation Property Appraisal, the Litigation Property Appraisal Report of Beijing Municipality, the Reexamination Conclusion of Beijing Municipality on Litigation Property Appraisal and other normative documents for appraisal of value of property involved in cases shall be uniformly printed by the competent price administration department of the Municipal People's Government.

**Article 17** The charges for litigation property appraisal shall be implemented in accordance with relevant provisions of the State and this Municipality.

**Article 18** Where the conclusion of the litigation property appraisal is untrue due to the false information and materials provided, thus causing personal injury and property loss to the parties concerned, the provider shall bear legal liability.

**Article 19** Where any unit or individual engages in the litigation property appraisal without the designation of the competent price administration department of the Municipal

的，其所出具的涉案财产价格鉴定结论无效，并由市人民政府价格主管部门对单位处以 1 万元以下的罚款，对个人处以 1000 元以下的罚款。

**第二十条** 涉案财产价格鉴定机构、人员违反本办法规定，致使涉案财产价格鉴定结论失实，由市人民政府价格主管部门裁定结论无效，处以警告，并可对机构处以 3 万元以下罚款，对人员处以 1000 元以下罚款。

**第二十一条** 涉案财产价格鉴定人员在鉴定过程中滥用职权、玩忽职守、徇私舞弊构成犯罪的，依法追究刑事责任。尚未构成犯罪的，由市和区、县人民政府价格主管部门或者行政监察部门给予行政处分。

**第二十二条** 对于不以价格作为处理、审理案件依据的财产，不需进行涉案财产价格鉴定。

**第二十三条** 非涉案财产需要进行价格鉴定的，可以参照本办法执行。

**第二十四条** 本办法自 1999 年 12 月 1 日起施行。

People's Government, the appraisal report on the value of property involved in cases issued thereby shall be invalid, and the competent price administration department of the Municipal People's Government shall impose a fine of not more than 10,000 yuan on the unit or not more than 1,000 yuan on the individual.

**Article 20** Where the appraisal institution and personnel violate the provisions of the Measures, resulting in an untrue conclusion of appraisal, the competent price administration department of the Municipal People's Government shall decide that the conclusion is invalid and give a warning, and may impose a fine of not more than 30,000 yuan on the institution and not more than 1,000 yuan on the personnel.

**Article 21** Where the appraisal personnel abuse their power, neglect their duties, or engage in malpractice for personal gains in the process of appraisal, which constitutes a crime, they shall be investigated for criminal responsibility according to law. If a crime is not constituted, administrative sanctions shall be imposed by the competent price administration department or administrative supervision department of the municipal, district or county people's government.

**Article 22** For the property whose value is not the basis for handling and hearing of cases, it is not necessary to conduct the litigation property appraisal.

**Article 23** The non-litigation property appraisal may be conducted by reference to the Measures.

**Article 24** The Measures shall come into force as of December 1, 1999.



# 北京市价格监测办法

(2011年10月19日北京市人民政府第240号令公布)

**第一条** 为规范价格监测工作，保障价格监测信息的准确性和及时性，发挥价格监测在宏观经济调控中的作用，根据《中华人民共和国价格法》，结合本市实际情况，制定本办法。

**第二条** 本办法适用于本市行政区域内的价格监测工作。

本办法所称价格监测是指价格主管部门对重要商品和服务价格的相关信息进行跟踪、采集、分析、预警、报告的活动。

**第三条** 市和区、县价格主管部门负责本行政区域内的价格监测工作，组织实施价格监测报告制度；监测分析重要商品和服务价格及市场供求的变动情况；跟踪反馈价格政策和措施的执行效果；实施价格预测、预警，及时提出建议。

价格主管部门设立的价格监测机构具体承担价格监测工作。

**第四条** 本市对下列重要商品和服务实施价格监测：

- (一) 粮、油、肉、蛋、菜等农副产品；
- (二) 钢材、水泥、有色金属等工业生产资料；
- (三) 化肥、农膜、农药等农业生产资料；
- (四) 成品油、燃气、煤炭等能源产品；
- (五) 汽车、通讯设备、家用电器等机电产品；
- (六) 房屋买卖、租赁和土地出让；
- (七) 医疗、教育、客货运输等服务；
- (八) 国家和本市确定的其他重要商品和服务。

**第五条** 市价格主管部门根据国家价格监测报告制度，结合实际情况，制定本市价格监测报告制度，确定重要商品和服务价格的具体监测项目，明确价格信息的采集、

# Price Monitoring Measures of Beijing Municipality

(Promulgated by Decree No. 240 of the People's Government of Beijing Municipality on October 19, 2011)

**Article 1** To regulate the price monitoring work, ensure the accuracy and timeliness of price monitoring information, and bring into play the role of price monitoring in macro-economic control, these Measures are formulated pursuant to Price Law of the People's Republic of China and in light of the actual situations of this Municipality.

**Article 2** These Measures shall apply to price monitoring work within the administrative region of this Municipality.

For the purpose of these Measures, the term “price monitoring” refers to activities of the price departments of tracking, gathering, analyzing, giving early warnings for and reporting the price information of important goods and services.

**Article 3** The price departments of this Municipality, districts and counties shall, within their respective administrative regions, be responsible for price monitoring work, organize the implementation of the price monitoring reporting system, oversee and analyze fluctuations in the price and market supply and demand of important goods and services, track and provide feedback on the effect of price policies and measures, conduct price forecasting and provide early warnings, and offer advices in a timely manner.

The price monitoring institutions set up by the price departments shall undertake the specific price monitoring work.

**Article 4** In this Municipality, the following important goods and services are subject to price monitoring:

1. Agricultural and sideline products such as grain, oil, meat, eggs and vegetables;
2. Industrial means of production such as steel, cement and non-ferrous metals;
3. Agricultural means of production such as fertilizer, agricultural film and pesticides;
4. Energy products such as product oil, fuel gas and coal;
5. Electromechanical products such as automobiles, telecommunication equipment and household electrical appliances;
6. House trading and lease, and land leasing;
7. Medical, educational and passenger and goods transportation services; and
8. Other important goods and services as specified by the State or this Municipality.

**Article 5** The price department of this Municipality shall, based on the state price monitoring reporting system, create the price monitoring reporting system of this Municipality in light of the actual situations, determine the specific monitoring items of important goods and services, and specify the measures for gathering, summarizing, analyzing and reporting price information.

汇总、分析和报告办法。

**第六条** 价格监测涉及的单位和个人应当配合价格主管部门做好价格监测工作，如实提供价格相关信息。

**第七条** 价格监测包括常规监测、专项调查和应急监测等方式。

**第八条** 价格主管部门根据本市价格监测报告制度，确定合法经营、信誉良好、具有行业代表性的经营者作为定点单位，开展常规监测。价格主管部门与定点单位可以签订协议。

价格主管部门应当向定点单位颁发证书和标牌，并向社会公告。

**第九条** 定点单位有权了解所提供商品和服务的本地区价格平均水平。

定点单位应当建立价格监测台账，安排专职或者兼职人员，按照价格监测报告制度的要求，准确、及时、完整报送价格相关信息。

**第十条** 定点单位因生产、经营调整，不能满足价格监测工作需要的，价格主管部门应当及时收回证书和标牌，并向社会公告。

**第十一条** 有下列情况之一的，价格主管部门可以开展专项调查：

- （一）经济运行中的热点和难点问题；
- （二）社会关注度较高的价格问题；
- （三）价格政策和措施的执行情况。

**第十二条** 专项调查应当明确调查对象，制定调查方案，获取特定商品和服务的价格相关信息，提供及时准确的情况和分析，为宏观经济调控提供参考。

**第十三条** 有下列情况之一的，价格主管部门应当开展应急监测：

- （一）社会公众集中购买某类商品；
- （二）某类商品价格波动明显；
- （三）其他应当开展应急监测的情况。

**第十四条** 价格主管部门应当建立健全价格监测预警网络，制定应急监测预案，明确预案启动和解除条件、工作程序、保障措施等内容，及时向本级人民政府和上一级价格主管部门报告应急监测期间市场价格波动情况、原因和建议。

**第十五条** 价格主管部门应当对定点单位给予政策咨询、业务指导和免费培训，

**Article 6** Entities and individuals involved in price monitoring shall cooperate with price departments in price monitoring work and truthfully provide the relevant price information.

**Article 7** Price monitoring includes routine monitoring, special-purpose investigation and emergency monitoring.

**Article 8** Price departments shall, based on the price monitoring reporting system of this Municipality, select business operators that operate business by law, have good credit standing and are representative of the relevant sectors as designated entities to conduct routine monitoring. Price departments may conclude agreements with designated entities.

Price departments shall issue certificates and plates to designated entities, and announce them to the public.

**Article 9** The designated entity is entitled to know the local average price of the goods or services provided by it.

The designated entity shall maintain price monitoring records, and arrange full-time or part-time workers to accurately, timely and completely file price information according to the requirements of the price monitoring reporting system.

**Article 10** If a designated entity cannot meet the price monitoring needs as a result of production or operation adjustment, the competent price department shall take back its certificate and plate and make an announcement thereupon to the public.

**Article 11** For any of the following issues, a price department may conduct a special purpose investigation:

1. Hotspot or difficult problems concerning economic operation;
2. Price problems which attract much attention from the general public; and
3. Implementation of price policies and measures.

**Article 12** A special-purpose investigation shall have a clear target an investigation plan, acquire information on the price of certain specific goods and services, and provide timely and accurate data and analysis results so as to provide reference for macroeconomic control.

**Article 13** Under any of the following circumstances, a price department shall conduct emergency monitoring:

1. The general public flock to purchase certain types of goods;
2. The price of a certain type of good fluctuates greatly; or
3. Other circumstances under which emergency monitoring needs to be conducted.

**Article 14** A price department shall set up and improve the price monitoring warning network, make emergency monitoring plans, specify the conditions for beginning and stopping such plans, work process and protection measures, and timely report price fluctuations which occur during the emergency monitoring period together with reasons and suggestions to the people's government at the same level and the price department at the next higher level.

**Article 15** The price department shall provide policy consulting services, operating guidance and free trainings for designated entities, and arrange necessary working

并提供必要的工作条件。

价格监测信息不得用于宏观经济调控和价格管理工作以外的其他目的。

**第十六条** 价格监测工作人员应当具备从事价格监测工作所需的专业知识，按照价格监测报告制度规定的内容、标准、方法、时间和程序，持证开展价格监测工作。

对属于国家机密或者商业秘密的价格监测信息，价格主管部门及其工作人员应当予以保密。

**第十七条** 价格主管部门建立价格监测专家会商制度，根据工作需要，会同有关专家及时分析市场变化情况、预测价格走势。

**第十八条** 价格主管部门应当及时向本级人民政府和上一级价格主管部门报送价格监测报告。

价格监测报告主要包括下列内容：

- （一）监测商品和服务价格的运行情况及社会反应；
- （二）监测商品和服务价格的变动原因分析及趋势预测、预警；
- （三）价格政策和措施的执行效果；
- （四）应对的政策和措施建议；
- （五）与监测商品和服务价格有关的其他情况。

**第十九条** 价格主管部门应当加强信息化建设，完善信息采集、处理、传输系统，畅通信息报送渠道，实现政府相关部门信息共享。

价格监测工作所需经费列入预算。

**第二十条** 价格监测工作人员有下列行为之一的，由有关部门依法给予行政处分；构成犯罪的，依法追究刑事责任：

- （一）未按照价格监测报告制度规定的内容、标准、方法、时间和程序，开展价格监测工作的；
- （二）瞒报、虚报或者篡改价格监测信息的；
- （三）泄露属于国家机密或者商业秘密的价格监测信息的；
- （四）将价格监测信息用于宏观经济调控和价格管理工作以外的其他目的的。

**第二十一条** 违反本办法第六条规定，价格监测涉及的单位和个人拒绝配合或者拒绝提供信息，影响价格监测工作的，由价格主管部门责令限期改正；逾期不改的，

conditions.

It is prohibited to use price monitoring information for purposes other than macroeconomic control and price management.

**Article 16** Price monitoring workers shall have professional knowledge necessary for price monitoring work, and carry out the price monitoring work with certificates according to the contents, standards, methods, time and procedure as specified in the price monitoring reporting system.

Price departments and their workers shall maintain confidential price monitoring information regarded as national secrets or trade secrets.

**Article 17** A price department shall set up a price monitoring expert consultation system to analyze market fluctuations and forecast the development trends of price in consultation with the relevant experts in light of the actual needs.

**Article 18** A price department shall file price monitoring reports with the people's government at the same level and the price department at the next higher level in a timely manner.

A price monitoring report primarily covers:

1. Operation circumstances and social reactions to the price of goods and services under monitoring;
2. Analysis of the reasons for fluctuations in the price of goods and services under monitoring, and forecast and early warnings of the development trend thereof;
3. Effect of price policies and measures;
4. Suggestions on policies and measures to deal with the circumstances; and
5. Other circumstances regarding the price of goods and services under monitoring.

**Article 19** A price department shall strengthen informatization construction, improve the information gathering, processing and transmission systems, maintain smooth channels for filing information, and realize information sharing among the relevant government departments.

Price monitoring expenses shall be listed into budget.

**Article 20** If a price monitoring worker commits any of the following acts, the relevant department shall impose an administrative sanction; if any crime is constituted, he/she shall be subject to criminal liability:

1. Failing to conduct price monitoring according to the contents, standards, methods, time and procedure as specified by the price monitoring reporting system;
  2. Concealing the truth in making reports of, making false reports of or falsifying the price monitoring information;
  3. Divulging price monitoring information regarded as national secrets or trade secrets;
- or
4. Using price monitoring information for purposes other than macroeconomic control and price management.

**Article 21** If, in violation of Article 6 of these Measures, any entity or individual involved in price monitoring refuses to cooperate or provide information, which affects the

处 3 万元以下罚款。

**第二十二条** 违反本办法第九条第二款规定，定点单位未准确、及时、完整报送价格相关信息的，由价格主管部门责令改正，可处 1 万元以下罚款。

**第二十三条** 本办法自 2011 年 12 月 1 日起施行。

price monitoring work, the competent price department shall order it or him/her to make correction within a specified time period and, if it or him/her fails to do so, impose a fine of not more than 30,000 yuan.

**Article 22** If any designated entity, in violation of Paragraph 2, Article 9 of these Measures, fails to accurately, timely and completely file price information, the competent price department shall order it to make correction, and may impose a fine of not more than 10,000 yuan.

**Article 23** These Measures shall come into force on December 1, 2011.



## （十一）质量监督

### 北京市实施《中华人民共和国强制检定的 工作计量器具检定管理办法》的若干规定

（1987 年 11 月 7 日北京市人民政府京政发 140 号文件发布）

为实施《中华人民共和国强制检定的工作计量器具检定管理办法》，特作以下规定：

一、本市行政区域内凡用于贸易结算、医疗卫生、环境监测、安全防护方面，并列入《北京市强制检定的工作计量器具管理目录》的工作计量器具（以下简称计量器具）的检定工作，均按本规定管理。

《北京市强制检定的工作计量器具管理目录》由市技术监督局公布。

二、市技术监督局对全市的强制检定工作统一实施监督管理；指定所属或授权的计量检定机构执行强制检定任务。

区、县政府计量管理部门对本区、县的强制检定工作统一实施监督管理；指定所属或授权的计量检定机构执行强制检定任务。

三、被授权执行强制检定任务的计量检定机构（以下简称强制检定机构）必须具备下列条件：

（一）具有经计量管理部门考核合格并获得《北京市计量检定员证》的计量检定人员。

（二）具有经计量管理部门检定合格，并发给合格证书的计量标准器具。

（三）具有与其承担的强制检定任务相适应的环境条件、检定设备和技术力量。

（四）具有完善的管理制度。

四、执行跨区、县以及全市专业性强制检定任务的计量检定机构，由市技术监督

## xi. Quality Supervision

### **Several Provisions of Beijing Municipality on the Implementation of the Administrative Measures of the People's Republic of China for Verification of Working Measuring Instruments subject to Compulsory Verification**

(Promulgated by Document JZF No. 140 of the People's Government of Beijing Municipality on November 7, 1987)

The following provisions are hereby formulated for the purpose of implementing the Administrative Measures of the People's Republic of China for Verification of Working Measuring Instruments subject to Compulsory Verification:

1. The Provisions shall apply to the verification of working measuring instruments (hereinafter referred to as measuring instruments) used in trade settlement, medical treatment and public health, environmental monitoring and safety protection and listed in the Catalogue of Working Measuring Instruments subject to Compulsory Verification in Beijing within the administrative area of this Municipality.

The Catalogue of Working Measuring Instruments subject to Compulsory Verification in Beijing shall be published by the Municipal Bureau of Technical Supervision.

2. The Municipal Bureau of Technical Supervision shall supervise and manage the work of compulsory verification of the whole city in a unified way, and designate subordinate or authorized metrological verification institutions to carry out compulsory verification tasks.

The administrative departments of metrology of the district or county governments shall supervise and manage the work of compulsory verification within their respective administrative areas in a unified way, and designate subordinate or authorized metrological verification institutions to carry out compulsory verification tasks.

3. The metrological verification institutions authorized to perform compulsory verification tasks (hereinafter referred to as compulsory verification institutions) must meet the following conditions:

(1) having the metrological verification personnel who have passed the examination of the administrative departments of metrology and obtained the Beijing Metrological Verification Certificate;

(2) having standard measuring instruments that have passed the verification of the administrative departments of metrology and have a certificate of conformity issued thereby;

(3) having the environmental conditions, verification equipment and technical

局考核和授权。

执行区、县或部门、单位内部强制检定的任务的计量检定机构，由区、县政府计量管理部门考核和授权。区、县政府计量管理部门考核有困难的项目，由市技术监督局考核。

**五、**计量管理部门授权强制检定机构，应给予授权证书，无授权证书的，不得执行强制检定任务。

**六、**使用计量器具的单位和个人，应按照规定对计量器具进行登记造册，报所在区、县政府计量管理部门备案，并向授权的强制检定机构申请周期检定。区、县不能检定的，向市技术监督局授权的强制检定机构申请周期检定。

**七、**申请计量器具周期检定的单位和个人，应填报《北京市强制检定的工作计量器具周期检定申请表》。计量器具的检定周期，由强制检定机构根据规程和计量器具的使用情况确定。检定周期确定后即具有法定效力，必须认真执行，不得随意更改和违反。

**八、**强制检定机构对检定合格的计量器具，发给检定合格证或加盖检定合格印；对检定不合格的，发给检定结果通知书或吊销原检定合格证、合格印。

**九、**新购置、修复、安装、调试的计量器具，必须经强制检定机构检定合格后，方准使用。

**十、**禁止使用下列计量器具：

- （一）未按规定检定周期的；
- （二）检定不合格的；
- （三）无合格印、合格证的；
- （四）合格印、合格证超过有效期的。

**十一、**强制检定机构应当遵守下列规定：

- （一）对使用的计量标准器具，按规定进行计量基准或社会公用计量标准器具

workforce suitable for the compulsory verification tasks they undertake; and

(4) having a sound management system.

4. The metrological verification institutions that perform cross-district/county and citywide professional compulsory verification tasks shall be examined and authorized by the Municipal Bureau of Technical Supervision.

The metrological verification institutions that perform compulsory verification tasks at the district or county level or within departments or units shall be examined and authorized by the administrative departments of metrology of the district or county governments. Items that are difficult to be examined by the administrative departments of metrology of the district or county governments shall be examined by the Municipal Bureau of Technical Supervision.

5. The compulsory verification institutions authorized by the administrative departments of metrology shall be given a certificate of authorization, those without a certificate of authorization shall not perform compulsory verification tasks.

6. Units and individuals using measuring instruments shall register the measuring instruments as stipulated, report to the administrative departments of metrology of the local district or county governments for the record, and apply to the authorized compulsory verification institutions for periodic verification. In the district or county where verification cannot be performed, an application shall be submitted to the compulsory verification institutions authorized by the Municipal Bureau of Technical Supervision for periodic verification.

7. Units and individuals applying for periodic verification of measuring instruments shall fill in the Application Form for Periodic Verification of Working Measuring Instruments subject to Compulsory Verification in Beijing. The verification period of measuring instruments shall be determined by the compulsory verification institutions in accordance with the regulations and the use conditions of measuring instruments. After the verification period is determined, it shall have legal effect and must be implemented carefully, which shall not be changed or violated at will.

8. The compulsory verification institutions shall issue a verification certificate to or affix a verification seal on the measuring instruments that pass the verification; if the verification fails, a notice of verification result shall be issued or the original verification certificate or seal shall be revoked.

9. Newly purchased, repaired, installed or tested measuring instruments may be used only after they have passed the verification by the compulsory verification institutions.

10. The following measuring instruments are prohibited:

- (1) failing to be verified according to the specified verification period;
- (2) failing to pass the verification;
- (3) in the absence of a verification seal or certificate; or
- (4) with a verification seal or certificate beyond the validity period.

11. Compulsory verification institutions shall abide by the following provisions:

- (1) to carry out periodic verification of the standard measuring instruments used

周期检定：

- （二）认真执行计量检定规程，保证检定质量；
- （三）对送检的计量器具，必须按规定期限检定完毕，不得拒绝和拖延；
- （四）督促计量器具使用单位或个人按规定执行周期检定；
- （五）接受计量管理部门的监督检查，并定期汇报强制检定工作情况。

十二、强制检定机构对各种计量器具进行检定的期限，不得超过 1 个月。

十三、强制检定机构对计量器具进行周期检定，可按国家和本市的有关规定收取检定费。

十四、对违反本规定，使用禁止使用的计量器具的单位和个人，由计量管理部门责令其停止使用，并处以 100 元以下的罚款；情节严重的，可处 100 元以上 1000 元以下的罚款。

十五、强制检定机构违反本规定的，由计量管理部门批评教育，令其改正，情节严重的，由计量管理部门撤销其授权证书。

十六、计量监督管理人员、执行强制检定任务人员，玩忽职守、徇私舞弊的，依照《中华人民共和国计量法实施细则》第 57 条、第 59 条的规定，给予行政处分；构成犯罪的，依法追究刑事责任。

十七、本规定执行中的具体问题，由市技术监督局负责解释。

十八、本规定经市人民政府批准，自 1987 年 12 月 1 日起施行。

based on reference standards of measurement or social public measurement standards as stipulated;

(2) to faithfully implement the metrological verification regulations so as to ensure the verification quality;

(3) to complete verification of the measuring instruments delivered for verification within the prescribed time limit without rejection or delay;

(4) to urge units or individuals that use measuring instruments to carry out periodic verification as stipulated; and

(5) to accept the supervision and inspection of the administrative departments of metrology, and regularly report the work of compulsory verification.

12. The time limit for compulsory verification institutions to carry out verification of various measuring instruments shall not exceed one month.

13. Compulsory verification institutions may charge for periodic verification of measuring instruments in accordance with relevant provisions of the State and this Municipality.

14. Any unit or individual that violates the Provisions and uses the prohibited measuring instruments shall be ordered by the administrative departments of metrology to stop the use and be fined not more than 100 yuan; if the circumstances are serious, a fine of not less than 100 yuan but not more than 1,000 yuan may be imposed.

15. Compulsory verification institutions violating the Provisions shall be criticized and educated and ordered to make corrections by the administrative departments of metrology. If the circumstances are serious, the administrative departments of metrology shall revoke the certificate of authorization.

16. Where the metrological supervision and management personnel or the personnel performing compulsory verification tasks neglect their duties or engage in malpractices for personal gains, they shall be given administrative sanctions in accordance with the provisions of Articles 57 and 59 of the Detailed Rules for Implementing the Metrology Law of the People's Republic of China; if a crime is constituted, criminal responsibility shall be investigated for according to law.

17. The Municipal Bureau of Technical Supervision shall be responsible for the interpretation of specific issues during the implementation of the Provisions.

18. The Provisions shall come into force as of December 1, 1987 upon approval of the Municipal People's Government.

# 北京市关于在公众交易中禁止使用杆秤的规定

(1995 年 7 月 5 日北京市人民政府第 20 号令发布)

**第一条** 为了保证计量准确，维护公平交易，保护消费者和经营者的合法权益，制定本规定。

**第二条** 在本市公众交易中使用衡器的企业、其他经济组织和个体工商户（以下统称经营者），必须遵守本规定。

**第三条** 本市在公众交易中禁止使用杆秤。

本市城区、近郊区自 1995 年 12 月 1 日起，禁止在公众交易中使用杆秤；本市远郊区、县禁止使用杆秤的具体范围、时间，由区、县人民政府决定，报市技术监督局备案。

**第四条** 在公众交易中使用的衡器，应当符合国家和本市有关规定，并经市和区、县技术监督局检定合格。

在公众交易中使用衡器的经营者，应当在本交易场所设置“公平秤”；举办集贸市场、展销会和出租柜台、摊位的单位（以下简称举办者和出租者），负责在本交易场所设置“公平秤”。

鼓励将电子秤作为“公平秤”。

**第五条** 举办者和出租者应当督促使用衡器的经营者使用由市技术监督局确认的双面显示的电子秤或者机械秤。

经营者自带衡器有困难的，由举办者和出租者负责提供。

**第六条** 违反本规定的行为，按照下列规定处罚：

（一）违反本规定第三条的规定，在公众交易中继续使用杆秤的，没收杆秤，并处以 100 元以上 500 元以下罚款；

（二）违反本规定第四条第一款规定，使用衡器不符合要求的，依照国家有关法律、

# Provisions of Beijing Municipality on Prohibiting the Use of Steelyard in Public Transactions

(Promulgated by Decree No. 20 of the People's Government of Beijing Municipality on July 5, 1995)

**Article 1** The Provisions are formulated for the purposes of ensuring the accuracy of measurement, safeguarding fair trade and protecting the legitimate rights and interests of consumers and business operators.

**Article 2** Enterprises, other economic organizations and individual businesses (hereinafter referred to as operators) that use weighing instruments in public transactions of this Municipality shall abide by the Provisions.

**Article 3** Steelyard is prohibited in public transactions in this Municipality.

Since December 1, 1995, steelyard is prohibited in public transactions in the urban and suburban areas of this Municipality; the specific scope and time of prohibition of steelyard in districts or counties in the outer suburbs of this Municipality shall be determined by the district or county people's governments and reported to the Municipal Bureau of Technical Supervision for the record.

**Article 4** The weighing instruments used in public transactions shall conform to relevant provisions of the State and this Municipality, and shall pass the verification of the municipal, district and county technical supervision bureaus.

Operators using weighing instruments in public transactions shall set up "check scales" in the trading place; units that organize market fairs or trade fairs and lease out counters or stalls (hereinafter referred to as organizers and lessors) shall be responsible for setting up "check scales" in the trading place.

They shall be encouraged to use electronic scales as "check scales".

**Article 5** Organizers and lessors shall urge the operators that use weighing instruments to use the electronic scales or mechanical scales with double-sided display confirmed by the Municipal Bureau of Technical Supervision.

Where operators have difficulty in having their own weighing instruments, organizers and lessors shall be responsible for providing one.

**Article 6** Any violation of the Provisions shall be punished in accordance with the following provisions:

(1) Whoever, in violation of the provisions of Article 3 of the Provisions, continues to use steelyard in public transactions shall have the steelyard confiscated and be fined not less than 100 yuan but not more than 500 yuan;

(2) Whoever, in violation of the provisions of Paragraph 1, Article 4 of the Provisions, fails to use weighing instruments as required shall be punished in accordance with relevant



法规的规定处罚；

（三）违反本规定第四条第二款规定，不设置“公平秤”的，责令其限期设置；逾期仍不设置的，处以 1000 元以上 5000 元以下罚款；

（四）举办者和出租者不履行本规定第五条第一款的督促责任或者不按照第二款规定提供衡器，致使在公众交易中继续使用不符合规定的衡器的，对举办者和出租者处以 5000 元以上 1 万元以下罚款。

**第七条** 本规定第六条规定的行政处罚，由技术监督部门和工商行政管理部门执行。但对同一违法行为的行政处罚，不得重复进行。

**第八条** 本规定自 1995 年 12 月 1 日起施行。

laws and regulations of the State;

(3) Whoever, in violation of the provisions of Paragraph 2, Article 4 of the Provisions, fails to set up a “check scale” shall be ordered to set up one within a specified time limit; those who fail to do so within the time limit shall be fined not less than 1,000 yuan but not more than 5,000 yuan; and

(4) Where organizers and lessors fail to perform the duty of supervision as stipulated in Paragraph 1, Article 5 of the Provisions or fail to provide weighing instruments as stipulated in the second paragraph, leading to continued use of weighing instruments not conforming to the provisions in public transactions, they shall be fined not less than 5,000 yuan but not more than 10,000 yuan.

**Article 7** The administrative punishments specified in Article 6 of the Provisions shall be implemented by the technical supervision departments and the administrative departments for industry and commerce. However, for the same illegal act, repeated administrative punishments are prohibited.

**Article 8** The Provisions shall come into force as of December 1, 1995.

# 北京市计量监督管理规定

(2001年6月18日北京市人民政府第79号令发布)

**第一条** 为了加强计量监督管理,保障计量单位制的统一和量值的准确可靠,保护生产者、经营者、消费者的合法权益,根据《中华人民共和国计量法》和有关法律、法规,结合本市实际情况,制定本规定。

**第二条** 本规定适用于在本市行政区域内从事计量活动的单位和个人。

本规定所称的计量活动是指与计量有关的全部过程和结果。

**第三条** 市质量技术监督局对全市的计量活动实施统一的监督和管理;区、县质量技术监督局对本行政区域内的计量活动进行监督和管理。

**第四条** 本市对涉及国家和社会公众利益的计量器具实施重点管理。

实施重点管理的计量器具目录由市质量技术监督局按照国家有关部门的规定确定并公布。

**第五条** 制造、修理计量器具的企业、事业单位必须具备与所制造、修理的计量器具相适应的设施、人员和检定仪器设备,经市或者区、县质量技术监督局考核合格,取得《制造计量器具许可证》或者《修理计量器具许可证》。

从事大型、技术复杂的计量器具安装业务、实施重点管理的计量器具改装业务的单位和个人必须持有《制造计量器具许可证》或者《修理计量器具许可证》。但国家另有规定的除外。

计量器具安装、改装完成后,必须经计量检定合格,方可投入使用。

大型、技术复杂的计量器具目录由市质量技术监督局确定并公布。国家另有规定的从其规定。

# Provisions of Beijing Municipality on Metrological Supervision and Administration

(Promulgated by Decree No. 79 of the People's Government of Beijing Municipality on June 18, 2001)

**Article 1** The Provisions are formulated for the purposes of strengthening metrological supervision and administration, ensuring the uniformity of the system of units of measurement and the accuracy and reliability of the values of quantities, and protecting the lawful rights and interests of producers, business operators and consumers in accordance with the Metrology Law of the People's Republic of China and other relevant laws and regulations as well as in light of actual circumstances of this Municipality.

**Article 2** The Provisions shall apply to the units and individuals that carry out metrological activities within the administrative area of this Municipality.

The term "metrological activities" as mentioned in the Provisions refers to the complete processes and outcomes that are related to measurement.

**Article 3** The Municipal Bureau of Quality and Technical Supervision shall exercise unified supervision and administration of metrological activities throughout this Municipality; the district or county bureaus of quality and technical supervision shall carry out supervision and administration of metrological activities within their respective administrative areas.

**Article 4** This Municipality shall implement special administration on the measuring instruments involving the interests of the State and the general public.

The catalogue of measuring instruments under special administration shall be determined and published by the Municipal Bureau of Quality and Technical Supervision in accordance with the provisions of relevant state departments.

**Article 5** Enterprises and institutions that are to engage in manufacturing or repairing measuring instruments shall have the facilities, personnel and verification equipment appropriate to the measuring instruments they are to manufacture or repair, and, after being checked and considered qualified by the municipal, district or county bureaus of quality and technical supervision, obtain the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments.

Units and individuals engaged in the installation operations of large and technically complex measuring instruments or the refitting operations of the measuring instruments under special administration must hold the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments, except where the State has provided otherwise.

Measuring instruments may, upon completion of installation or refitting, be put into use only after they have been verified and found to be up to standard.

The catalogue of large and technically complex measuring instruments shall be

**第六条** 下列计量器具禁止销售：

- （一）国家和本市明令淘汰或者禁止使用的；
- （二）无产品合格印、证，无《制造计量器具许可证》标志、编号以及制造厂厂名、厂址的；
- （三）伪造或者冒用《制造计量器具许可证》标志、编号、产品合格印、证以及他人厂名、厂址的；
- （四）未经检定或者经检定不合格的；
- （五）用残次零配件组装的。

**第七条** 用于计量检定的计量标准必须经考核合格。

法定的计量检定机构和授权的计量检定机构应当在规定的范围内进行计量检定。

**第八条** 为社会提供公证数据的检验、测试机构和计量公正服务机构必须经计量认证合格；新增检验、测试、计量公正服务项目，应当申请单项计量认证。

产品质量检验机构的计量认证按照《中华人民共和国计量法实施细则》执行。

**第九条** 大宗物料交易的结算数据交易双方有约定的，以约定为准；无约定的，以计量公正服务机构提供的计量公证数据为准。

**第十条** 在贸易结算、安全防护、医疗卫生、环境监测、执法检查等领域从事计量活动的单位应当按照国家和本市的有关规定，对保证量值准确可靠的必备条件进行确认。

**第十一条** 在商贸计量活动中，应当使用符合规定的计量器具。

商品交易场所的举办者应当要求经营者使用符合规定的计量器具，并在商品交易场所的显著位置放置计量性能准确可靠的供消费者复核使用的计量器具。

**第十二条** 以量值为结算依据的商品、服务交易的结算量应当与实际量相符，计量偏差应当符合国家和本市有关规定。

不得以掺杂异物等方法改变商品量值。

determined and published by the Municipal Bureau of Quality and Technical Supervision, except where the State has provided otherwise.

**Article 6** The sale of the following measuring instruments is prohibited:

- (1) those the elimination of which has been clearly prescribed or those the use of which has been banned by the State and this Municipality;
- (2) those without seals or certificates of conformity, mark and serial number of the License for Manufacturing Measuring Instruments, and names and addresses of manufacturers;
- (3) those that forge or falsely use the mark and serial number of the License for Manufacturing Measuring Instruments, seals or certificates of conformity, and names and addresses of other manufacturers;
- (4) those that have not been verified or have failed to pass the verification; and
- (5) those that are assembled with defective or sub-standard spare and accessory parts.

**Article 7** The measurement standards that are used in metrological verification must be verified and found to be acceptable.

Statutory and authorized metrological verification agencies shall conduct metrological verification within the prescribed scope.

**Article 8** Inspection and testing agencies that provide notarial data and measurement fairness service agencies must be confirmed as qualified through metrological certification; for newly added service items relating to inspection, testing and measurement fairness, an application for metrological certification for each item shall be filed.

The metrological certification of product quality inspection agencies shall be governed by the Detailed Rules for Implementing the Metrology Law of the People's Republic of China.

**Article 9** If the parties to a deal involving bulk materials have agreed on the settlement data, such agreement shall prevail; in the absence of such agreement, the notarial measurement data provided by the measurement fairness service agencies shall prevail.

**Article 10** Units that are engaged in metrological activities in the fields of trade settlement, safety protection, medical treatment and public health, environmental monitoring, inspection of law enforcement, etc. shall, in accordance with relevant provisions of the State and this Municipality, verify and confirm the requisite conditions that ensure the accuracy and reliability of values of quantities.

**Article 11** Measuring instruments that conform to the relevant provisions shall be used in the metrological activities relating to commerce and trade.

Hosts of commodity trading places shall require that business operators use the measuring instruments that conform to the set provisions, and place in conspicuous positions measuring instruments with accurate and reliable metrological performance to be used by consumers for check.

**Article 12** The settlement quantities of commodity and service transactions that use values of quantities as the basis for settlement shall be in conformity with the actual quantities, and the measurement variances shall be in line with relevant provisions of the State and this Municipality.

Values of quantities of commodities shall not be changed by adulteration, etc.

**第十三条** 生产者或者经营者应当在定量包装商品包装物的显著位置标明内装商品的净含量。

不得销售未标明净含量的定量包装商品。

**第十四条** 对商品量进行计量监督检查所需的样品由计量监督检查人员持计量监督检查凭证，按照规定向受检单位随机抽取。监督检查结束后，除正常损耗和国家另有规定的外，应当将样品退还受检单位。

**第十五条** 计量监督检查人员进行监督检查时，可以查阅、复制有关账册、单据、文件、记录、业务函电和其他资料；可以进入产品存放地和仓库。

计量监督检查人员进行检查时，应当表明身份、出示证件，并为被检查者保守商业秘密和技术秘密。

**第十六条** 违反本规定第五条规定，未取得《制造计量器具许可证》或者《修理计量器具许可证》制造、修理计量器具的，按照《中华人民共和国计量法实施细则》第四十七条规定处罚。

**第十七条** 违反本规定第五条规定，没有《制造计量器具许可证》或者《修理计量器具许可证》，从事大型、技术复杂的计量器具安装业务的，责令停止安装，可以处 3 万元以下罚款；没有《制造计量器具许可证》或者《修理计量器具许可证》，从事实施重点管理的计量器具改装业务的，责令停止改装，对经营性的改装行为，可以处 1 万元以下罚款，情节严重的，可以处 3 万元以下罚款；对非经营性的改装行为，可以处 1000 元以下罚款。

**第十八条** 违反本规定第六条规定，销售禁止销售的计量器具的，责令停止销售，可以处 3 万元以下罚款。

**第十九条** 违反本规定第七条规定，使用未经考核或者经考核不合格的计量标准进行计量检定的、法定和授权的计量检定机构超过规定范围进行计量检定的，责令停止检定，可以处 1 万元以下罚款。

**Article 13** Producers or business operators shall indicate in conspicuous positions of the packages of prepackaged commodities the net contents of the commodities contained therein.

Prepackaged commodities the net contents of which are not clearly indicated shall not be sold.

**Article 14** The metrological supervision and inspection personnel shall, on the strength of their metrological supervision and inspection certificates, conduct random selection of samples needed for metrological supervision and inspection of commodity quantities from the units to be inspected as stipulated. The samples shall, upon completion of the supervision and inspection, be returned to the units inspected except the normal loss thereof and where the State has provided otherwise.

**Article 15** The metrological supervision and inspection personnel may, when conducting supervision and inspection, review and reproduce relevant account books, bills and vouchers, documents, records, business correspondence and other materials, and may enter places where goods are kept and storehouses.

The metrological supervision and inspection personnel shall, when conducting inspection, identify themselves, produce their certificates, and keep confidential the business and technological secrets for those inspected.

**Article 16** Whoever, in violation of the provisions of Article 5 of the Provisions, manufactures or repairs measuring instruments without the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments shall be punished in accordance with the provisions of Article 47 of the Detailed Rules for Implementing the Metrology Law of the People's Republic of China.

**Article 17** Whoever, in violation of the provisions of Article 5 of the Provisions, carries out installation operations of bulk or technically complex measuring instruments without the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments shall be ordered to stop such operations, and may be fined not more than 30,000 yuan; whoever, without the License for Manufacturing Measuring Instruments or the License for Repairing Measuring Instruments, engaged in the refitting operations of the measuring instruments under special administration shall be ordered to stop such refitting operations, and may be fined not more than 10,000 yuan in the case of commercial refitting activities, or may be fined not more than 30,000 yuan if the circumstances are serious; a fine of not more than 1,000 yuan may be imposed where non-commercial refitting activities are involved.

**Article 18** Whoever, in violation of the provisions of Article 6 of the Provisions, sells the measuring instruments prohibited for sale, shall be ordered to stop such sales, and may be fined not more than 30,000 yuan.

**Article 19** Where agencies, in violation of the provisions of Article 7 of the Provisions, use measuring instruments which have not be checked or have failed to pass the check, or statutory and authorized metrological verification agencies conduct metrological verification beyond the specified scope, they shall be ordered to stop such act, and a fine of



**第二十条** 违反本规定第八条规定，检验、测试机构和计量公正服务机构未经计量认证或者经计量认证不合格的，责令限期改正，逾期不改的，可以处2万元以下罚款。

**第二十一条** 违反本规定第十一条规定，使用不符合规定的计量器具的，责令改正，可以处5000元以下罚款；商品交易场所的举办者未设置复核用计量器具的，责令改正，可以处5000元以下罚款；设置的复核用计量器具经检定不合格的，责令改正，可以处5000元以下罚款。

**第二十二条** 违反第十二条规定，结算量与实际量不符，且偏差超过国家和本市有关规定的，责令限期改正，可以处3万元以下罚款；以掺杂异物等方法改变商品量值的，责令改正，可以处5000元以下罚款。

**第二十三条** 违反本规定第十三条规定，销售未标明净含量的定量包装商品的，责令停止销售，可以处5000元以下罚款。

**第二十四条** 计量监督检查人员玩忽职守、滥用职权、徇私舞弊的，由所在单位或者上级主管部门给予行政处分；构成犯罪的，依法追究其刑事责任。

**第二十五条** 本规定规定的行政处罚由市或者区、县质量技术监督局决定。法律、行政法规对行使行政处罚权的机关另有规定的，依照有关法律、行政法规执行。

**第二十六条** 本规定自2001年7月1日起施行。北京市人民政府1987年12月16日发布的《北京市实施〈中华人民共和国计量法〉的若干规定》同时废止。

not more than 10,000 yuan may be imposed.

**Article 20** Where inspection and testing agencies and measurement fairness service agencies, in violation of the provisions of Article 8 of the Provisions, have not gone through metrological certification or have failed to pass the metrological certification, they shall be ordered to make corrections within a specified time limit, and may be fined not more than 20,000 yuan.

**Article 21** Whoever, in violation of the provisions of Article 11 of the Provisions, uses measuring instruments that do not conform to the relevant provisions shall be ordered to make corrections, and may be fined not more than 5,000 yuan; hosts of commodity trading places that have not set up measuring instruments for check shall be ordered to make corrections, and may be fined not more than 5,000 yuan; hosts of commodity trading places that have set up measuring instruments failing to pass the verification shall be ordered to make corrections, and may be fined not more than 5,000 yuan.

**Article 22** Whoever, in violation of the provisions of Article 12 of the Provisions, comes up with settlement quantities that do not tally with the actual quantities or measurement variances that exceed those laid down in relevant provisions of the State and this Municipality shall be ordered to make corrections within a specified time limit, and may be fined not more than 30,000 yuan; whoever changes values of quantities of commodities by adulteration, etc. shall be ordered to make corrections, and may be fined not more than 5,000 yuan.

**Article 23** Whoever, in violation of the provisions of Article 13 of the Provisions, sells prepackaged commodities without indicating on their packages the net contents, shall be ordered to stop such sales, and may be fined not more than 5,000 yuan.

**Article 24** Where the metrological supervision and inspection personnel neglect their duties, abuse their powers or engage in malpractices for personal gains, they shall be given administrative sanctions by the units to which they belong or by the competent department at the next higher level; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 25** The administrative punishments prescribed in the Provisions shall be determined by the municipal, district or county bureaus of quality and technical supervision. If laws and administrative regulations have provided otherwise on the organs that exercise the power of administrative punishment, such provisions shall prevail.

**Article 26** The Provisions shall come into force as of July 1, 2001. The Several Provisions of Beijing Municipality on the Implementation of the “Metrology Law of the People’s Republic of China” promulgated by Beijing Municipal People’s Government on December 16, 1987 shall be repealed simultaneously.

## （十二）检验检疫

### 北京市动物防疫条例

（2014年5月23日北京市第十四届人民代表大会常务委员会第十一次会议通过 根据2019年7月26日北京市第十五届人民代表大会常务委员会第十四次会议通过的《关于修改〈北京市河湖保护管理条例〉〈北京市农业机械化促进条例〉等十一部地方性法规的决定》修正）

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#### 第一章 总 则

**第一条** 为了加强对动物防疫活动的管理，预防、控制和扑灭动物疫病，促进养殖业发展，保护人体健康，维护公共卫生安全，根据《中华人民共和国动物防疫法》等有关法律、法规的规定，结合本市实际，制定本条例。

**第二条** 本条例适用于本市行政区域内的动物防疫及其监督管理活动。

进出境动物、动物产品的检疫以及实验动物的预防免疫，适用其他有关法律、法规的规定。

## xii. Inspection and Quarantine

### Regulations of Beijing Municipality on Animal Epidemic Prevention

(Adopted at the 11<sup>th</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on May 23, 2014, and revised based on the Decisions of the Standing Committee of the People's Congress of Beijing Municipality on Revising Eleven Local Regulations including the Regulations of Beijing Municipality on the Protection and Administration of Rivers and Lakes and the Regulations of Beijing Municipality on the Promotion of Agricultural Mechanization, which was adopted at the 14<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup> People's Congress of Beijing Municipality on July 26, 2019)

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#### Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of strengthening the administration of animal epidemic prevention, preventing, controlling and eliminating animal epidemics, promoting the development of breeding industry, protecting human health, and maintaining public health and safety in accordance with the Law of the People's Republic of China on Animal Epidemic Prevention and other relevant laws and regulations, and in light of the actual circumstances of this Municipality.

**Article 2** These Regulations are applicable to animal epidemic prevention as well as supervision and control in this respect within the administrative area of this Municipality.

The quarantine of animals and animal products for entry or exit, as well as the epidemic prevention of experimental animals shall be governed by the provisions of other relevant laws and regulations.

**第三条** 本市动物防疫工作坚持预防为主、综合防治、全程监管、重点控制的原则，建立政府监管与服务、企业主责、行业自律和社会参与的共同治理工作机制。

**第四条** 市和区人民政府应当加强对动物防疫工作的统一领导，将动物防疫工作纳入国民经济和社会发展规划和计划，建立健全动物防疫体系，按照职责将动物疫病的预防、监测、控制、检疫、监督管理以及动物疫情应急处理所需经费纳入本级财政预算。

乡镇人民政府、街道办事处应当建立动物防疫责任制度，明确专门人员，协助做好本辖区内的动物防疫知识宣传、动物饲养情况调查、动物疫病监测、重大动物疫情控制和扑灭等工作。

村民委员会、居民委员会应当配合做好本辖区内的动物防疫工作，督促和引导村民、居民依法履行动物防疫义务。

**第五条** 市和区兽医主管部门主管本行政区域内的动物防疫工作。

区兽医主管部门根据动物防疫工作需要，在乡镇或者特定区域派驻基层兽医机构，在村、社区可以设置村级动物防疫员、社区动物防疫协管员。村级动物防疫员、社区动物防疫协管员应当协助做好动物防疫知识宣传、强制免疫接种、动物饲养情况调查、疫情观察报告和调查处置、违法行为报告和制止等动物防疫工作。

卫生健康、园林绿化、水务、生态环境、城市管理、市场监督管理、公安等部门和海关，按照各自职责做好动物防疫相关工作。与动物防疫相关、一时难以定性且涉及多部门的事项，由兽医主管部门先行处理并负责协调。

**第六条** 市和区人民政府设立的动物卫生监督机构负责动物、动物产品的检疫工作和其他有关动物防疫的监督管理执法工作。

**第七条** 市和区人民政府设立的动物疫病预防控制机构，承担动物疫病的监测、检测、诊断、流行病学调查、疫情报告、动物防疫知识宣传以及其他预防、控制等技术工作。未设立动物疫病预防控制机构的区，区兽医主管部门可以委托其他专业机构

**Article 3** This Municipality shall adhere to the principles of giving priority to prevention, comprehensive prevention and cure, whole-course supervision and administration, as well as key control in the work of animal epidemic prevention, and establish the work mechanism for joint governance, which is characterized by government supervision and service, enterprises assuming main responsibilities, self-discipline among industries and social participation.

**Article 4** The people's governments at the municipal and the district or county level shall strengthen their unified leadership over animal epidemic prevention, incorporate animal epidemic prevention into the national economic and social development planning and plans, establish sound systems for animal epidemic prevention, and include the expenses required for prevention, monitoring, control, quarantine, supervision and administration of animal epidemics, as well as emergency response to animal epidemics in the financial budgets at the corresponding level according to their duties and functions.

The people's governments at the town or township level and the sub-district offices shall establish a responsibility system for animal epidemic prevention, and designate special staff to give assistance to make a success of the work on the publicity of animal epidemic prevention knowledge, investigation into animal breeding, monitoring of animal epidemics, as well as control and elimination of major animal epidemic situations within the areas under their respective jurisdiction.

The villagers' committees and residents' committees shall provide cooperation to make a success of the work on animal epidemic prevention within the areas under their respective jurisdiction, and urge and guide villagers and residents to perform the obligations of animal epidemic prevention according to law.

**Article 5** The departments for veterinarian at the municipal and the district or county level shall be in charge of the work on animal epidemic prevention within their respective administrative areas.

The departments for veterinarian at the district or county level shall, according to the needs of the work on animal epidemic prevention, station local veterinary institutions in towns or townships, or in particular areas, and appoint animal epidemic prevention staff at the village level and community animal epidemic prevention coordinators in villages and communities. Animal epidemic prevention staff at the village level and community animal epidemic prevention coordinators shall assist in making a success of the work on animal epidemic prevention, such as the publicity of animal epidemic prevention knowledge, mandatory immunization, investigation into animal breeding conditions, reporting on, investigation into and treatment of epidemic situations, as well as reporting and stopping of illegal behaviors.

Administrative departments for public health, landscaping and afforestation, water affairs, ecological environment, city management, market supervision and administration, and public security, as well as the customs shall make a success of the work related to animal epidemic prevention in accordance with their respective duties and functions. Matters related to animal epidemic prevention and involving multiple departments, the nature of which is difficult to be determined at once, shall be dealt with in advance and coordinated by the departments for veterinarian.

**Article 6** The animal health supervision institutions set up by the people's governments at the municipal and the district or county level shall establish be responsible for quarantine of animals and animal products, as well as supervision, administration and law enforcement with regard to animal epidemic prevention.

**Article 7** The institutions for prevention and control of animal epidemics set up by

承担动物疫病预防、控制等技术工作。

**第八条** 从事动物饲养、屠宰、经营、隔离、运输、诊疗以及动物产品生产、经营、加工、贮藏等活动的单位和个人，应当遵守动物防疫法律、法规、规章和标准的规定，做好动物疫病的预防、报告、控制等工作，降低动物疫病发生风险，防止疫情扩散。

**第九条** 市和区人民政府有关部门应当加强对动物防疫相关行业协会的支持、指导和服务，并可以委托符合条件的行业协会承担部分动物防疫相关事项。

动物防疫相关行业协会应当承担行业自律责任，根据章程指导、规范和监督会员依法从事动物、动物产品生产经营等活动，推进行业诚信建设；为会员提供信息、技术、营销、培训等服务，参与制定、修订生产和服务标准，向兽医主管部门提出改进工作的意见和建议，维护会员合法权益；开展动物防疫知识宣传。

**第十条** 市和区人民政府应当采取措施支持保险机构开发动物疫病保险产品，逐步扩大承保的动物疫病种类和范围，鼓励动物养殖者参加动物疫病保险。

**第十一条** 市和区人民政府对在动物防疫工作、动物防疫科学研究中作出突出成绩和贡献的单位和个人按照规定给予表彰和奖励。

## 第二章 动物疫病的预防和控制

**第十二条** 市和区人民政府应当组织兽医主管部门和卫生健康、园林绿化、水务等部门以及海关建立健全统一的动物疫情监测网络，加强动物疫情监测，及时互相通报信息。

市和区兽医主管部门应当会同卫生健康、园林绿化等部门和海关建立健全协调机制，加强人畜共患传染病防治、野生动物疫源疫病监测、外来动物疫病防范等方面的合作。

**第十三条** 市兽医主管部门应当制定动物疫病监测计划，组织动物疫病预防控制

the people's governments at the municipal and the district or county level shall undertake the tasks of monitoring, detection, diagnosis and epidemiological investigation of animal epidemics, reporting on epidemic situations, publicity of animal epidemic prevention knowledge and other technical work in respect of epidemic prevention and control. As to the districts or counties with no institutions for prevention and control of animal epidemics, the departments for veterinarian at the district or county level may entrust other special organs to undertake the technical work in respect of epidemic prevention and control.

**Article 8** Units and individuals engaged in animal raising, slaughtering, marketing, isolation, transportation, diagnosis and treatment of animal diseases as well as those engaged in animal product manufacturing, marketing, processing or storing shall abide by the provisions of laws, regulations, rules and standards on animal epidemic prevention, make a success of the work on prevention, report and control of animal epidemics so as to reduce the risks of animal epidemics and prevent the spread of epidemics.

**Article 9** Relevant departments of the people's governments at the municipal and the district or county level shall strengthen support, guidance and service to the industry associations related to animal epidemic prevention, and may entrust qualified industry associations to undertake part of the matters concerning animal epidemic prevention.

The industry associations related to animal epidemic prevention shall undertake the responsibility of self-discipline, guide, regulate and supervise their members to engage in manufacturing and marketing of animals and animal products according to law, as well as promote the honesty construction among industries; provide their members with services in terms of information, technology, marketing and training, participate in the formulation or revision of production and service standards, bring forward opinions and advices on work improvement to the departments for veterinarian, as well as protect the legal rights and interests of their members; and conduct the publicity of animal epidemic prevention knowledge.

**Article 10** The people's governments at the municipal and the district or county level shall take measures to support insurance institutions in developing the insurance products related to animal epidemics, gradually expand insurance scopes and coverage of animal epidemics, as well as encourage animal breeders to participate in animal epidemic insurances.

**Article 11** The people's governments at the municipal and the district or county level shall, in accordance with provisions, commend or reward the units and individuals that have scored outstanding successes or made outstanding contributions in animal epidemic prevention and scientific research in this field.

## **Chapter II Prevention and Control of Animal Epidemics**

**Article 12** The people's governments at the municipal and the district or county level shall organize the departments for veterinarian, public health, landscaping and afforestation, water affairs, as well as the customs to establish and improve a unified network for animal epidemic monitoring to strengthen such animal epidemic monitoring and mutually exchange information in a timely manner.

The departments for veterinarian at the municipal and the district or county level shall, together with the administrative departments for public health and landscaping and afforestation, and the customs, establish and improve a coordination mechanism to strengthen cooperation in terms of prevention and treatment of zoonosis, epidemic monitoring of wild animal epidemic sources and prevention of entry animal epidemics.

**Article 13** The departments for veterinarian at the municipal level shall formulate



机构开展动物疫病监测和流行病学调查。

因开展动物疫病监测和流行病学调查需要采集样品的，应当按照规定标准给予动物养殖者动物应激损失补偿。

**第十四条** 本市建立动物疫病状况风险评估制度。

市和区兽医主管部门应当组织有关部门和专家，根据国内外动物疫病发生规律、流行趋势和动物疫病监测结果，开展动物疫病状况风险评估。评估结果应当及时向有关部门通报。

**第十五条** 动物疫病状况风险评估结果表明具有较高程度动物疫病发生风险的，市兽医主管部门应当及时发出动物疫病风险警示，制定相应的预防、控制措施，并及时向社会公布。

动物疫病状况风险评估结果表明情况紧急、可能引发重大动物疫情的，市兽医主管部门应当根据需要实施隔离、紧急免疫接种等临时控制措施。必要时，经市人民政府批准，可以实施责令暂停销售和购进相关动物及动物产品、限制相关动物及动物产品移动等临时控制措施。重大动物疫情风险消除后，应当及时解除临时控制措施。

**第十六条** 市和区人民政府应当制定本行政区域的重大动物疫情应急预案，按照规定分别报国务院兽医主管部门和市兽医主管部门备案。

市和区兽医主管部门应当按照不同动物疫病病种及其流行特点和危害程度，分别制定重大动物疫情应急预案的实施方案。

市和区人民政府应当根据重大动物疫情防控需要，适时启动重大动物疫情应急预案。

**第十七条** 市和区人民政府应当制定并组织实施动物疫病防治规划，分级分类、有计划地控制和净化严重危害养殖业生产和人体健康的重点动物疫病和人畜共患传染病。

市兽医主管部门根据动物疫病防治规划制定本市动物疫病净化计划，建立动物免

a plan for animal epidemic monitoring and organize the institutions for prevention and control of animal epidemic to carry out animal epidemic monitoring and epidemiological investigation.

Where it is necessary to collect samples for carrying out animal epidemic monitoring and epidemiological investigation, the animal breeders shall be compensated for the loss resulting from animal stress in accordance with the stipulated standards.

**Article 14** This Municipality shall establish a risk assessment system for animal epidemic conditions.

The departments for veterinarian at the municipal and the district or county level shall organize relevant departments and experts to carry out risk assessment of animal epidemic conditions on the basis of the outbreak rule and trend of spread of domestic and foreign animal epidemics, as well as the results of animal epidemic monitoring. The assessment results shall be notified to relevant departments in a timely manner.

**Article 15** Where the risk assessment result of animal epidemic conditions indicates that there is a relatively high risk of animal epidemics, the departments for veterinarian at the municipal level shall, in a timely manner, issue a risk warning against animal epidemics, formulate appropriate prevention and control measures, and publish them to the society in a timely manner.

Where the risk assessment result of animal epidemic conditions indicates that there are emergencies which may result in major animal epidemic situations, the departments for veterinarian at the municipal level shall, based on needs, adopt such temporary control measures as isolation and emergency vaccination. Where necessary, the departments for veterinarian at the municipal level may, upon the approval of the Municipal People's Government, order to suspend the sale and purchase of relevant animals and animal products, as well as restrict the movement of relevant animals and animal products. Where the risk of major animal epidemic situations is eliminated, such temporary control measures shall be relieved in a timely manner.

**Article 16** The people's governments at the municipal and the district or county level shall formulate emergency plans for major animal epidemic situations within their respective administrative areas, and submit them for the record respectively to the departments for veterinarian under the State Council and the department for veterinarian medicine at the municipal level as stipulated.

The departments for veterinarian medicine at the municipal and the district or county level shall respectively formulate implementation plans for the emergency plans for major animal epidemic situations in accordance with different types, characteristics of spread and degrees of injury of animal epidemics.

The people's governments at the municipal and the district or county level shall, in an appropriate and timely manner, initiate the emergency plans for major animal epidemic situations based on the needs of prevention and control of major animal epidemic situations.

**Article 17** The people's governments at the municipal and the district or county level shall formulate and organize the implementation of the prevention and control planning against animal epidemics, and, in a planned manner and according to grades and types, control and exterminate major epidemics and zoonosis which seriously harm production of the breeding industry and human health .

The departments for veterinarian medicine at the municipal level shall, in accordance with the prevention and control planning against animal epidemics, formulate the plan for extermination of animal epidemics within this Municipality, establish the system for freeing

疫退出和动物疫病传播阻断制度，支持企业通过开展生物安全隔离区、无特定动物病原场群建设，实施对动物疫病的区域化管理，控制和净化重点动物疫病和人畜共患传染病。

动物饲养者应当遵守本市动物免疫退出和动物疫病传播阻断制度的有关规定。

**第十八条** 市和区兽医主管部门应当加强对动物养殖场、养殖小区以外的养殖场所动物防疫的指导服务和监督管理。动物养殖场、养殖小区以外的养殖场所应当在基层兽医机构指导下做好动物防疫相关工作。

**第十九条** 市兽医主管部门制定本市动物疫病强制免疫计划，区兽医主管部门根据本市动物疫病强制免疫计划，制定并组织实施本行政区域的动物疫病强制免疫实施方案。

乡镇人民政府、街道办事处应当组织本辖区内的动物饲养者做好动物疫病强制免疫工作。

**第二十条** 动物饲养者应当依法履行动物疫病强制免疫义务。

动物养殖场、养殖小区应当配备动物防疫技术人员，实施免疫接种，做好免疫记录，建立免疫档案；不具备自行实施免疫接种条件的单位和个人，应当向区兽医主管部门设立的基层兽医机构申请强制免疫接种服务。

**第二十一条** 市和区兽医主管部门应当加强对强制免疫和动物疫病净化相关疫苗采购、储存、分发和使用的监督管理，开展免疫效果监测和免疫质量评估。

**第二十二条** 本市对犬只实施狂犬病强制免疫。

犬只养殖场配备的动物防疫技术人员应当为饲养的犬只实施免疫接种。其他犬只饲养者应当到区兽医主管部门认定的狂犬病免疫点对犬只进行免疫接种，并支付免疫费用，本市地方性法规另有规定的除外。

犬只接受狂犬病强制免疫接种的，取得狂犬病免疫证明、标识。狂犬病免疫标识由市兽医主管部门监制。

animals from immunization and blocking spread of animal epidemics, support enterprises to carry out zoning management against animal epidemics by construction of biological safety isolation areas and farms of specific pathogen free animals to control and exterminate the major epidemic epidemics and zoonosis.

Animal breeders shall abide by relevant provisions of the system for freeing animals from immunization and blocking spread of animal epidemics of this Municipality.

**Article 18** The departments for veterinarian at the municipal and the district or county level shall strengthen guidance, service, supervision and administration of the breeding places other than animal raising farms and small breeding villages in respect of animal epidemic prevention. The breeding places other than animal raising farms and small breeding villages shall make a success of relevant work on animal epidemic prevention under the guidance of local veterinarian institutions.

**Article 19** The departments for veterinarian at the municipal level shall formulate the plan for mandatory immunization against animal epidemics of this Municipality, and the departments for veterinarian at the district or county level shall, in accordance with the plan for mandatory immunization against animal epidemics of this Municipality, formulate and organize the implementation of the implementation plans for mandatory immunization against animal epidemics within their respective administrative areas.

The people's governments at the township or town level and the sub-district offices shall make arrangements for the animal breeders in the areas under their respective jurisdiction to make a success of mandatory immunization against animal epidemics.

**Article 20** Animal breeders shall perform their duties in mandatory immunization against animal epidemics according to law.

Animal raising farms and small breeding villages shall be equipped with technical personnel for animal epidemic prevention to conduct vaccination, make records of immunization and establish archives of immunization; the units and individuals without conditions of conducting vaccination by themselves shall apply for mandatory vaccination service to the local veterinary institutions established by the departments for veterinarian at the district or county level.

**Article 21** The departments for veterinarian at the municipal and the district or county level shall strengthen supervision and administration of the purchase, storage, distribution and use of the vaccine related to mandatory immunization and extermination of animal epidemics, and carry out the monitoring of immunization effects and assessment of immunization quality.

**Article 22** This Municipality implements mandatory immunization against rabies on dogs.

The technical personnel for animal epidemic prevention equipped at the dog raising farms shall carry out vaccination for dogs raised therein. Other dog breeders shall bring their dogs at the rabies immunization sites designated by the departments for veterinarian at the district or county level to accept vaccination, and pay immunization fees, unless otherwise provided by the local regulations of this Municipality.

Rabies immunity certificates and marks shall be obtained for dogs having received vaccination for mandatory immunization against rabies. The rabies immunity marks shall be

犬只饲养者携带犬只在户外活动，应当为犬只佩戴狂犬病免疫标识；犬只饲养者不得携带未佩戴狂犬病免疫标识的犬只在户外活动。

**第二十三条** 禁止在有形市场现场销售活畜禽。

禁止携带活畜禽乘坐公共电汽车、轨道交通车辆、道路客运车辆等公共交通工具，法律、法规另有规定的除外。

携带训练合格的导盲犬等工作犬乘坐公共交通工具不受本条第二款规定的限制。

**第二十四条** 下列动物、动物产品应当按照规定进行无害化处理，任何单位和个人不得随意处置：

- （一）动物饲养活动中死亡的动物；
- （二）动物诊疗、教学科研活动中死亡的动物和产生的病理组织；
- （三）染疫的动物和动物产品；
- （四）经检验对人体健康有危害的动物和动物产品；
- （五）其他可能造成动物疫病传播的动物和动物产品。

**第二十五条** 动物、动物产品无害化处理公共设施是公益性城市基础设施。

市兽医主管部门会同发展改革、财政、规划自然资源、生态环境等部门编制动物、动物产品无害化处理公共设施建设实施方案，报市人民政府同意后组织实施。区人民政府应当按照实施方案的要求建设动物、动物产品无害化处理公共设施。

本市鼓励和支持单位和个人投资建设动物、动物产品无害化处理设施，向社会提供无害化处理服务。

**第二十六条** 对本条例第二十四条所列举的动物、动物产品的收集、运输、处理以及无害化处理公共设施的运行维护、财政支持等办法，由市兽医主管部门会同财政、城市管理、生态环境、水务、园林绿化等部门制定，并向社会公布。

**第二十七条** 动物屠宰加工场所、动物养殖场、养殖小区、动物隔离场所应当具备符合规定的无害化处理设施设备，并保证无害化处理设施设备正常运转。已经委托

made under supervision of the departments for veterinarian at the municipal level.

Dog breeders participating in outdoor activities with dogs shall make dogs wear rabies immunity marks; dog breeders shall not participate in outdoor activities with dogs not wearing rabies immunity marks.

**Article 23** It is forbidden to sell live livestock or poultry in tangible markets.

It is forbidden to carry live livestock or poultry to travel on buses or trams, rail vehicles, road passenger vehicles and other public transport means, unless otherwise provided by laws or regulations.

Carrying trained and qualified seeing-eye dogs to travel on public transport means is not within the restriction of the provisions of Paragraph 2 of this Article.

**Article 24** The following animals and animal products shall be given innocuous treatment as stipulated and no unit or individual may arbitrarily dispose of them:

- (1) dead animals in animal raising activities;
- (2) dead animals in animal diagnosis and treatment, or in teaching and scientific research activities, as well as pathological tissues thereof;
- (3) animals and animal products that have contracted epidemics;
- (4) animals and animal products harmful to human health upon inspection; and
- (5) other animals and animal products that may cause the spread of animal epidemics.

**Article 25** The public facilities for innocuous treatment of animals and animal products are urban infrastructure for public welfare.

The departments for veterinarian at the municipal level shall, together with the departments for development and reform, finance, planning and natural resources, and ecological environment formulate the implementation plan for construction of public facilities for innocuous treatment of animals and animal products, and organize its implementation after submitting it to and obtaining consent from the Municipal People's Government. The people's governments at the district or county level shall construct the public facilities for innocuous treatment of animals and animal products in accordance with the requirements of the implementation plan.

This Municipality shall encourage and support units and individuals to invest in construction of facilities for innocuous treatment of animals and animal products to provide the public with innocuous treatment services.

**Article 26** The measures for collection, transportation and treatment of animals and animal products listed in Article 24 of these Regulations, as well as those for operation, maintenance and financial support of public facilities for innocuous treatment, shall be formulated by the departments for veterinarian at the municipal level, together with the departments for finance, city management, ecological environment, water affairs and landscaping and afforestation, and made public to the society.

**Article 27** Animal slaughtering and processing houses, animal raising farms, small breeding villages and animal isolation places shall be equipped with qualified facilities and equipment for innocuous treatment and ensure normal operation of such facilities and equipment for innocuous treatment. Those who have already entrusted others to carry out innocuous treatment may not construct the facilities and equipment for innocuous treatment

他人进行无害化处理的，可以不自行建设无害化处理设施设备。

本条第一款规定以外的动物饲养者不能实施无害化处理的，应当将需要进行无害化处理的动物、动物产品及时送交无害化处理设施运营单位实施无害化处理，或者及时告知兽医主管部门指定的收集单位，由收集单位送交无害化处理设施运营单位实施无害化处理。

区兽医主管部门应当会同有关部门根据需要在交通不便的农村地区设置小型无害化处理设施设备。

**第二十八条** 动物、动物产品无害化处理设施的选址，应当避让饮用水水源保护地、风景名胜区、居住区等区域。

**第二十九条** 市和区兽医主管部门应当会同科技、生态环境部门制定政策措施，支持和鼓励无害化处理先进技术、设施设备的研究开发和成果示范推广。

市兽医主管部门应当组织制定动物、动物产品无害化处理技术通则，为动物、动物产品的无害化处理提供技术指导。

**第三十条** 动物饲养者应当遵守下列规定：

- （一）为动物提供适宜的环境；
- （二）保证动物达到国家规定的健康标准；
- （三）对患病动物进行必要的治疗；
- （四）不遗弃、虐待饲养的动物。

市公安机关依法设立犬类留检所，负责收容处理犬只饲养者放弃饲养的犬只、被没收的犬只和无主犬只。动物卫生监督机构根据需要自行设立或者委托有条件的社会组织设立犬只以外的动物收容场所或者暂存场所，实施犬只以外动物的收容。

**第三十一条** 因依法实施强制免疫造成动物应激死亡，以及在动物疫病预防和控制、扑灭过程中强制扑杀的动物、销毁的动物产品和相关物品，市和区人民政府应当依据国家规定给予补偿。

### 第三章 动物和动物产品的检疫

**第三十二条** 动物卫生监督机构可以根据工作需要，在特定区域或者场所设立官方兽医室，派驻官方兽医。



by themselves.

Where the animal breeders other than those stipulated in Paragraph 1 of this Article are unable to carry out innocuous treatment, they shall timely deliver the animals and animal products in need of innocuous treatment to the operation units of facilities for innocuous treatment to carry out innocuous treatment, or timely inform the collecting units designated by the departments for veterinarian, which shall deliver them to the operation units of facilities for innocuous treatment to carry out innocuous treatment.

The departments for veterinarian at the district or county level shall, together with relevant departments and based on needs, set up small-sized facilities and equipment for innocuous treatment in rural areas with inconvenient transportation.

**Article 28** The locations selected for facilities for innocuous treatment of animals and animal products shall avoid such areas as the protected areas of sources of drinking water, scenic spots and places of residence.

**Article 29** The departments for veterinarian at the municipal and the district or county level shall, together with the departments for science and technology, and ecological environment, formulate policies and measures to support and encourage research and development of advanced technologies, facilities and equipment for innocuous treatment, as well as demonstration and promotion of the achievements in this respect.

The departments for veterinarian at the municipal level shall organize the formulation of technical rules of innocuous treatment of animals and animal products to provide technical guidance for innocuous treatment of animals and animal products.

**Article 30** Animal breeders shall abide by the following provisions:

- (1) providing animals with favorable environment;
- (2) ensuring animals meet the health standards provided by the State;
- (3) conducting necessary treatment on ill animals; and
- (4) not abandoning or abusing animals they breed.

The public security organ at the municipal level shall establish dog reception and inspection offices to be responsible for taking in dogs abandoned by dog breeders, confiscated dogs and unclaimed dogs. The animal health supervision institutions shall, based on needs, set up by themselves or entrust social organizations qualified to set up reception offices or temporary offices for animals other than dogs to take in the animals other than dogs.

**Article 31** The people's governments at the municipal and the district or county level shall compensate for dead animals resulting from stress due to mandatory immunization, animals compulsorily killed as well as animal products and relevant items destroyed during the prevention, control and elimination of animal epidemics.

### **Chapter III Quarantine of Animals and Animal Products**

**Article 32** The animal health supervision institutions may, based on needs of work, set up official veterinary offices in specific areas or places, and dispatch official veterinarians.



动物卫生监督机构可以根据工作需要，指定兽医专业人员，或者聘用兽医专业人员作为签约兽医，协助官方兽医实施动物检疫技术工作。

官方兽医出具检疫证明，并对检疫结论负责。

**第三十三条** 本市对猪、牛、羊、鸡、鸭实行定点屠宰，集中检疫，农村地区自宰自食的除外。

猪、牛、羊、鸡、鸭定点屠宰加工场所应当符合行业发展规划和动物防疫条件；牛、羊、鸡、鸭的定点屠宰场所应当取得市兽医主管部门核发的定点屠宰证，生猪定点屠宰证的核发按照生猪屠宰管理条例执行。

本条第一款规定以外的动物的屠宰加工场所，应当符合动物防疫条件，并在屠宰前向区动物卫生监督机构申报检疫。

屠宰加工场所的经营管理者应当如实记录动物来源、动物产品流向、检疫证明编号等可追溯信息，记录应当至少保存 2 年。

**第三十四条** 动物屠宰加工场所应当按照规定进行致病性微生物、兽药残留、违禁药物和非法添加物检测，并如实记录检测结果。检测结果记录应当至少保存 2 年。

**第三十五条** 从事动物收购、销售、运输的单位和个人，应当向所在区动物卫生监督机构备案。

从事动物产品经营的单位和个人，应当记录动物产品的产地、生产者、检疫证明编号、购入日期和数量等事项。记录应当至少保存 2 年。

**第三十六条** 集中交易市场或者庙会、游园会、展销会等场所内有动物、动物产品经营的，或者提供出租柜台供经营者从事动物、动物产品经营的，市场开办者、活动主办者或者柜台出租者应当遵守下列规定：

- （一）配备专职人员，指导并督促入场经营者落实动物防疫责任；
- （二）建立场内动物、动物产品经营者档案，记录经营者的基本情况、主要进货渠道、经营品种、品牌和供货商等信息；
- （三）对入场销售的动物、动物产品实施查证、验章、验物；

The animal health supervision institutions may, based on needs of work, designate veterinary professionals or engage veterinary professionals to be contracted veterinarians to assist official veterinarians in carrying out the technical work of animal quarantine.

The official veterinarians shall issue quarantine certificates and be accountable for the conclusions of the quarantine.

**Article 33** Pigs, cows, sheep, chickens and ducks in this Municipality shall be subject to slaughter at designated points and centralized quarantine, unless those slaughtered in rural areas by farmers themselves as their own food.

The designated slaughtering and processing houses for pigs, cows, sheep, chickens and ducks shall conform to the industry development planning and conditions for animal epidemic prevention; the designated slaughtering and processing houses for pigs, cows, sheep, chickens and ducks shall obtain the designated slaughter certificates issued by the departments for veterinarian at the municipal level, while the issuance of designated slaughter certificates for live pigs shall be subject to the Regulations on Slaughter of Live Pigs.

The slaughtering and processing houses for animals other than those stipulated in Paragraph 1 of this Article shall conform to the conditions for animal epidemic prevention and submit applications for quarantine to the animal health supervision institutions at the district or county level prior to the slaughter.

The managers of the slaughtering and processing houses shall truthfully record such traceable information as the sources of animals, flow directions of animal products, numbers of quarantine certificates, and such records shall be kept for at least two years.

**Article 34** Animal slaughtering and processing houses shall, in accordance with provisions, carry out detection of pathogenic microorganism, residue of veterinary drugs, forbidden drugs and illegal additives, and truthfully record the detection results, which shall be kept for at least two years.

**Article 35** Units and individuals engaged in purchase, sale and transportation of animals shall be filed for the record with the animal health supervision institutions at the district or county level at the place where they are located.

Units and individuals engaged in operation of animal products shall record such matters as the places of production, producers, numbers of quarantine certificates, dates of purchase and quantities of animal products, and such records shall be kept for at least two years.

**Article 36** Where animals and animal products are transacted in such places as centralized trading markets, temple fairs, garden parties and trade fairs, or counters are rented to operators to engage in marketing of animals and animal products, the market initiators, activity organizers or counter lessors shall abide by the following provisions:

(1) to be equipped with full-time personnel to guide and urge the admitted operators to put into practice the responsibility of animal epidemic prevention;

(2) to establish the archives of admitted operators of animals and animal products, record such information as basic information, main purchase channels, categories operated, brands and suppliers of operators;

(3) to exercise verification and examination of certificates, seals and goods against

（四）根据需要配备动物产品检验、冷藏冷冻等设施设备。

动物、动物产品经营者应当公示动物、动物产品的检疫信息、产地信息。

**第三十七条** 冷库经营者在动物产品入库时应当查验、留存检疫证明，记录动物产品的产地、生产者、检疫证明编号、入库日期和数量等信息。

动物产品出库时，动物产品经营者应当向动物卫生监督机构申请换发检疫证明；动物产品出库后，冷库经营者应当保存原检疫证明和相关记录至少 2 年。

**第三十八条** 动物产品销售者应当为消费者提供动物产品可追溯信息凭据。

餐饮经营者和单位食堂购买动物产品，应当保存检疫证明或者可追溯信息凭据，并至少保存 2 年。

**第三十九条** 动物展览、演出和比赛等活动的主办者，应当在活动举办 60 日前向活动举办地的区动物卫生监督机构报告。区动物卫生监督机构给予防疫指导，实施监督检查。

## 第四章 动物诊疗

**第四十条** 动物诊疗机构应当遵守下列规定：

- （一）公示动物诊疗许可证和执业兽医资格证书、监督电话；
- （二）建立符合规定的病历、处方、药品、手术、住院等诊疗管理制度；
- （三）保存动物诊疗病历、处方、检验报告、手术及麻醉记录等资料至少 3 年；
- （四）执行有关防止动物疫病医源性感染或者扩散的技术规范和操作规程；
- （五）按照规定对动物诊疗活动中产生的医疗废物进行处理；
- （六）聘用注册或者备案的执业兽医从事动物诊疗活动。

动物诊疗机构兼营动物用品、动物美容等项目的区域与诊疗区域应当经过物理分隔、独立设置。

animals and animal products to be sold therein; and

(4) to be equipped with facilities and equipment for inspection, cooling and refrigeration of animal products in light of needs.

Operators of animals and animal products shall publish the information of quarantine and places of production of animals and animal products.

**Article 37** Where animal products are delivered to freezers, the freezer operators shall verify and keep the quarantine certificates, and record such information as the places of production, producers, numbers of the quarantine certificates, dates of storage and quantities of animal products.

Where animal products are discharged from freezers, the operators of animal products shall apply to the animal health supervision institutions for change of the quarantine certificates; after animal products are discharged from freezers, the freezer operators shall keep the original quarantine certificates and relevant records for at least two years.

**Article 38** Sellers of animal products shall provide customers with the proof of traceable information of animal products.

Catering service providers and unit canteens which purchase animal products shall keep the quarantine certificates or proof of traceable information for at least two years.

**Article 39** Sponsors of such activities as animal exhibitions, performances and competitions shall make reports to the animal health supervision institutions at the district or county level at the places where the activities are to be held 60 days before the activities are to be held. The animal health supervision institutions at the district or county level shall provide guidance on epidemic prevention and exercise supervision and inspection in this respect.

## **Chapter IV Diagnosis and Treatment of Animal Diseases**

**Article 40** The institutions for diagnosis and treatment of animal diseases shall abide by the following provisions:

(1) to publish the license for diagnosis and treatment of animal diseases, qualification certificates of licensed veterinarians and complaint hotline;

(2) to establish a management system for diagnosis and treatment regarding medical records, prescriptions, medicines, surgery and being in hospitals in conformity with provisions;

(3) to keep such materials as records of diagnosis and treatment of animal diseases, prescriptions, examination reports, surgery and anesthesia records for at least three years;

(4) to execute the technical rules and operating procedures related to the prevention of the iatrogenic infection or spread of animal epidemics;

(5) to dispose of medical wastes generated from diagnosis and treatment of animal diseases in accordance with provisions; and

(6) to employ licensed veterinaries who are registered or filed for the record to engage in diagnosis and treatment of animal diseases.

The areas for operation of animal products and animal cosmetology by the institutions

**第四十一条** 动物诊疗机构应当确定专门部门或者人员承担诊疗活动中与动物疫病医源性感染有关的危险因素的监测、安全防护、消毒、隔离、动物疫情报告和医疗废物处置等工作。

**第四十二条** 动物诊疗机构不得在动物诊疗场所从事动物交易、寄养活动。

**第四十三条** 从事动物寄养活动应当符合下列条件：

- （一）有兽医专业技术人员；
- （二）有相应的消毒、废物处理或者暂存设施设备；
- （三）有与其服务规模相适应的隔离饲养器具和动物活动空间；
- （四）有完善的动物防疫管理制度。

**第四十四条** 执业兽医从事动物诊疗活动，应当佩戴载有本人姓名、照片、执业地点、执业等级等内容的标牌。

**第四十五条** 市兽医主管部门应当制定执业兽医考核和培训计划，对执业兽医的业务水平、工作成绩和职业道德状况进行定期考核，为执业兽医接受继续教育提供条件。

市兽医主管部门可以委托相关机构或者组织承担执业兽医考核、培训和继续教育等工作。

聘用执业兽医的单位和个人应当保证所聘用的执业兽医接受培训和继续教育的时间。

## 第五章 监督管理

**第四十六条** 市和区人民政府应当采取有效措施，建立健全动物防疫队伍，加强动物防疫基础设施建设，提高动物防疫和监督管理水平。

**第四十七条** 动物卫生监督机构的官方兽医开展动物防疫监督执法，应当统一着装、佩戴统一标志，出示行政执法证件。

**第四十八条** 市兽医主管部门应当与其他省、自治区、直辖市的兽医主管部门建立协作机制，开展信息共享、全程追溯、技术协作等合作，并根据需要对进京动物、

for diagnosis and treatment of animal diseases shall be physically separated from the areas for diagnosis and treatment, and set up independently.

**Article 41** The institutions conducting in diagnosis and treatment of animal diseases shall determine special department or personnel to undertake the monitoring of dangerous elements related to the iatrogenic infection of animal epidemics, safety protection, disinfection, isolation, report of animal epidemics and treatment of medical wastes in diagnosis and treatment activities.

**Article 42** The institutions for diagnosis and treatment of animal diseases shall not engage in trading or breeding of animals under entrustment in the places for diagnosis and treatment of animal diseases.

**Article 43** The following conditions shall be met for breeding animals under entrustment:

- (1) having veterinary professionals;
- (2) having corresponding facilities and equipment for disinfection, treatment or temporary storage of wastes;
- (3) having isolated breeding appliances and space for animals consistent to the service scale; and
- (4) having a sound management system for animal epidemic prevention.

**Article 44** Licensed veterinarians engaged in diagnosis and treatment of animal diseases shall wear the cards with their names, photos, practicing localities and practicing grades.

**Article 45** The department for veterinarians at the municipal level shall formulate plans for examination and training of licensed veterinarians, carry out regular examination on the profession level, performances and occupational ethics of licensed veterinarians, and provide licensed veterinarians with conditions for further education.

The departments for veterinarian at the municipal level may entrust relevant institutions or organizations to undertake the work on examination, training and further education of licensed veterinarians.

Units and individuals employing licensed veterinarians shall guarantee the time for the employed licensed veterinarians to receive training and further education.

## **Chapter V Supervision and Control**

**Article 46** The people's governments at the municipal and the district or county level shall take effective measures to establish and improve the teams for animal epidemic prevention, strengthen the construction of infrastructure for animal epidemic prevention, and enhance the level of animal epidemic prevention, supervision and control.

**Article 47** Official veterinarians of the animal health supervision institutions carrying out supervision and law enforcement of animal epidemic prevention shall wear unified uniforms and badges, and present credentials for administrative law enforcement.

**Article 48** The departments for veterinarian at the municipal level shall establish a coordination mechanism with the departments for veterinarian of other provinces,

动物产品的外埠供应基地提供动物防疫方面的技术支持和服务。

**第四十九条** 市和区人民政府鼓励和支持本市食品和食用农产品批发市场、超市等企业在外埠建立稳定的动物、动物产品供应基地，保障输入本市的动物、动物产品安全。

**第五十条** 经公路运输动物、动物产品进入本市的，承运人应当在本市人民政府确定并公布的检疫通道向动物卫生监督机构报验；经铁路、航空运输动物、动物产品进入本市的，承运人应当提前向动物卫生监督机构报告。

动物卫生监督机构按照规定实施查证、验物和车辆消毒，在动物检疫合格证明上加盖监督检查专用章。任何单位、个人不得接收未取得动物卫生监督机构监督检查专用章的动物、动物产品。

市兽医主管部门在本市检疫通道以外的乡级以上公路的市界道口设立动物、动物产品运输禁行标志的，按照本市公路管理有关规定执行。

**第五十一条** 有下列情形之一的，动物卫生监督机构应当监督货主对动物、动物产品进行无害化处理：

- （一）发现检疫不合格的动物、动物产品；
- （二）发现运输过程中病死或者死因不明的动物。

情况紧急，需要对前款规定的动物、动物产品立即处理的，由动物卫生监督机构组织进行无害化处理，所需费用由货主承担。

**第五十二条** 本市建立动物防疫信息平台，统一归集、公布从事动物饲养、屠宰、经营、隔离、运输、诊疗，以及动物产品生产、经营、加工、运输、贮藏等活动的单位和个人的信用信息；涉及食品安全的，纳入本市统一的食品安全追溯信息系统。

**第五十三条** 禁止转让、伪造或者变造检疫证、章、标志或者畜禽标识。

禁止持有、使用伪造或者变造的检疫证、章、标志或者畜禽标识；使用伪造或者变造的检疫证、章、标志或者畜禽标识的，视同未经检疫。

autonomous regions and municipalities directly under the State Council to carry out cooperation in terms of information sharing, whole-course traceability and technical coordination, and provide technical support and service in terms of animal epidemics to the supply bases of animals and animal products entering this Municipality in other cities.

**Article 49** The people's governments at the municipal and the district or county level shall encourage and support such enterprises as wholesale markets of food and edible agricultural products and supermarkets in this Municipality to establish stable supply bases for animals and animal products in other cities so as to guarantee the safety of animals and animal products delivered to this Municipality.

**Article 50** Where animals and animal products are delivered to this Municipality through road transportation, the carriers shall apply for quarantine to the animal health supervision institutions through the quarantine channels determined and published by the Municipal People's Government; where animals and animal products are delivered to this Municipality through railway and air transportation, the carriers shall report to the animal health supervision institutions in advance.

The animal health supervision institutions shall, in accordance with provisions, carry out verification and examination of certificates and goods, and vehicle disinfection, and affix the special supervision and inspection seals on the animal quarantine certificates. No unit or individual may receive animals and animal products without the special supervision and inspection seals issued by animal health supervision institutions.

Where the departments for veterinarian at the municipal level sets up forbidding signals against the transportation of animals and animal products at the junction of cities on the roads above the township level other than the quarantine channels of this Municipality, the provisions related to road transportation of this Municipality shall be followed.

**Article 51** Under any of the following circumstances, the animal health supervision institutions shall exercise supervision over the owners of goods to carry out innocuous treatment of animals or animal products:

- (1) animals and animal products failing to pass the quarantine; or
- (2) animals that die of illness or of uncertain reasons during the transportation.

In emergency cases where animals and animal products stipulated in the preceding paragraph shall be treated immediately, the animal health supervision institutions shall organize the innocuous treatment, while the expenses required shall be borne by the owners of the goods.

**Article 52** This Municipality shall establish an information platform for animal epidemic prevention to collect and publish, in a unified manner, the credit information of units and individuals engaged in raising, slaughtering, marketing, isolation, transportation, diagnosis and treatment of animals, as well as production, marketing, processing, transportation and storage of animal products; where food safety is involved, the information shall be incorporated into the unified system for traceable information of food safety of this Municipality.

**Article 53** It's forbidden to transfer, forge or alter quarantine certificates, seals signs or labels of livestock and poultry.

It's forbidden to hold or use forged or altered quarantine certificates, seals, signs or labels of livestock and poultry; using forged or altered quarantine certificates, seals, signs or labels of livestock and poultry shall be deemed to be non-quarantine.



**第五十四条** 本市鼓励组织或者个人举报动物防疫违法行为；市和区人民政府对为查处动物防疫重大违法案件提供关键线索或者证据的举报人给予奖励。

动物卫生监督机构应当将举报方式向社会公布，对接到的举报应当及时处理。

## 第六章 法律责任

**第五十五条** 市和区人民政府及其有关部门、动物卫生监督机构、动物疫病预防控制机构和工作人员违反本条例规定，违法履行、不履行或者不当履行行政职责的，按照国家和本市有关规定对直接负责的主管人员和其他直接负责人员给予行政问责和行政处分；构成犯罪的，依法追究刑事责任。

**第五十六条** 违反本条例第十五条第二款规定，不执行隔离、紧急免疫接种、暂停销售和购进相关动物及动物产品、限制相关动物及动物产品移动等临时控制措施的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，由动物卫生监督机构代作处理，所需处理费用由违法行为人承担，并处 1000 元以上 1 万元以下罚款。

**第五十七条** 违反本条例第十七条第三款规定，不遵守动物免疫退出和动物疫病传播阻断制度的，由动物卫生监督机构给予警告，对单位处 5000 元以上 5 万元以下罚款，对个人处 1000 元以上 1 万元以下罚款。

**第五十八条** 违反本条例第二十二条第二款规定，未对犬只进行免疫接种的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，由动物卫生监督机构代作处理，所需费用由违法行为人承担，并处 1000 元以下罚款；犬只给他人造成人身伤害、财产损失的，饲养者依法承担相应的民事责任。

**第五十九条** 违反本条例第二十三条第一款规定，在有形市场现场销售活畜禽的，由市场监督管理部门责令改正，没收经营的活畜禽和器具，对销售者可以处 1000 元以上 1 万元以下罚款，对市场开办者处 5000 元以上 5 万元以下罚款。

**Article 54** This Municipality shall encourage organizations or units to report illegal behaviors in terms of animal epidemic prevention; the people's governments at the municipal and the district or county level shall reward those who have provided key clues or evidence for investigation and treatment of major illegal cases in terms of animal epidemic prevention.

The animal health supervision institutions shall publish the reporting way to the society and deal with the reports received timely.

## **Chapter VI Legal Liability**

**Article 55** Where the people's governments at the municipal and the district or county level and relevant departments thereof, the animal health supervision institutions, the institutions for prevention and control of animal epidemics, as well as the working staff thereof, in violation of the provisions of these Regulations, illegally perform, fail to perform or improperly perform their administrative duties and functions, the leading persons directly in charge and other persons directly responsible shall be given administrative accountability and sanctions in accordance with relevant provisions of the State and this Municipality; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 56** Whoever, in violation of the provisions of Paragraph 2 of Article 15 of these Regulations, fails to execute such temporary control measures as isolation, emergency vaccination, suspension of sale or purchase of relevant animals or animal products, as well as restriction of movement of relevant animals or animal products shall be ordered to make corrections within a specified time limit and given a warning by the animal health supervision institution; where there is a failure to make such corrections upon expiration of the time limit, the animal health supervision institution shall do it instead, and the expenses thus incurred shall be borne by the violator, who may be fined not less than 1,000 Yuan but not more than 10,000 Yuan.

**Article 57** Whichever, in violation of the provisions of Paragraph 3 of Article 17 of these Regulations, fails to abide by the system for freeing animals from immunization and blocking spread of animal epidemics shall be given a warning by the animal health supervision institution, and a fine of not less than 5,000 Yuan but not more than 50,000 Yuan shall be imposed on the unit, while a fine of not less than 1,000 Yuan but not more than 10,000 Yuan shall be imposed on the individual.

**Article 58** Whichever, in violation of the provisions of Paragraph 2 of Article 22 of these Regulations, fails to carry out vaccination for dogs shall be ordered to make corrections within a specified time limit and given a warning by the animal health supervision institution; where there is a failure to make such corrections upon expiration of the time limit, the animal health supervision institution shall do it instead, and the expenses thus incurred shall be borne by the violator, who may be fined not more than 1,000 Yuan simultaneously; where the dogs have caused physical damages or property losses to others, the breeders shall assume corresponding civil responsibilities.

**Article 59** Whoever, in violation of the provisions of Paragraph 1 of Article 23 of these Regulations, sells live livestock or poultry in tangible markets shall be ordered to make corrections and confiscated of the live livestock and poultry as well as appliances for operation by the departments for market supervision and administration, and a fine of not less than 1,000 Yuan but not more than 10,000 Yuan may be imposed on the seller, while a fine of not less than 5,000 Yuan and not more than 50,000 Yuan may be imposed on the

**第六十条** 违反本条例第二十四条规定，未对动物、动物产品进行无害化处理的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，由动物卫生监督机构代作处理，所需处理费用由违法行为人承担，并处 3000 元以下罚款。

**第六十一条** 违反本条例第二十七条第一款规定，未按规定建设无害化处理设施设备或者自行建设的设施设备不符合规定，也未委托他人进行无害化处理的，由动物卫生监督机构或者生态环境部门责令停止生产、使用，可以处 1 万元以上 10 万元以下罚款。

**第六十二条** 违反本条例第三十三条第二款规定，未取得定点屠宰证擅自屠宰猪、牛、羊、鸡、鸭的，由动物卫生监督机构予以取缔，没收动物、动物产品、屠宰工具和设备以及违法所得，并处货值金额 3 倍以上 5 倍以下罚款；货值金额难以确定的，对单位处 10 万元以上 20 万元以下罚款，对个人处 5000 元以上 1 万元以下罚款。

违反本条例第三十三条第三款规定，未在屠宰前申报检疫的，由动物卫生监督机构给予警告，处 3000 元以上 3 万元以下罚款。

**第六十三条** 有下列情形之一的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，可以处 1000 元以上 1 万元以下罚款；造成严重后果的，责令停产停业：

（一）动物屠宰加工场所未按照本条例第三十四条规定进行致病性微生物、兽药残留、违禁药物和非法添加物检测的；

（二）不具备本条例第四十三条规定的条件，从事动物寄养活动的。

**第六十四条** 违反本条例第三十五条第一款规定，从事动物收购、销售、运输的单位和个人未备案的，由动物卫生监督机构责令限期改正，给予警告，可以处 1000 元以上 1 万元以下罚款。

**第六十五条** 有下列情形之一的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，处 3000 元以上 3 万元以下罚款；涉及食品安全监督管理的，由市场监督管理部门依法处理：

market initiator.

**Article 60** Whoever, in violation of the provisions of Article 24 of these Regulations, fails to conduct innocuous treatment of animals and animal products shall be ordered to make corrections within a specified time limit and given a warning by the animal health supervision institution; where there is a failure to make such corrections upon expiration of the time limit, the animal health supervision institution shall do it instead, and the expenses thus incurred shall be borne by the violator, who shall be fined not less than 3,000 Yuan simultaneously .

**Article 61** The units which, in violation of the provisions of Paragraph 1 of Article 27 of these Regulations, fail to construct facilities and equipment for innocuous treatment as stipulated, or whose facilities and equipment constructed by themselves fail to conform to provisions, while failing to entrust others to carry out innocuous treatment, shall be ordered to suspend production and use by the animal health supervision institutions or the competent department for ecological environment, and may be fined not less than 10,000 Yuan but not more than 100,000 Yuan.

**Article 62** Whoever, in violation of the provisions of Paragraph 2 of Article 33 of these Regulations, arbitrarily slaughters pigs, cows, sheep, chickens or ducks without the designated slaughter certificate shall be banned and confiscated of animals, animal products, slaughter appliances and equipment and illegal gains by the animal health supervision institution, and a fine equivalent to more than three times but less than five times the value of goods shall be simultaneously imposed; where it is hard to determine the value of goods, a fine of not less than 100,000 Yuan but not more than 200,000 Yuan shall be imposed on the unit, while a fine of not less than 5,000 Yuan but not more than 10,000 Yuan shall be imposed on the individual.

Whoever, in violation of the provisions of Paragraph 3 of Article 33 of these Regulations, fails to apply for quarantine prior to slaughter shall be warned and fined not less than 3,000 Yuan but not more than 30,000 Yuan by the animal health supervision institution.

**Article 63** Whoever, falls into any of the following circumstances, shall be ordered to make corrections within a specified time limit and given a warning by the animal health supervision institution; where there is a failure to make such corrections upon expiration of the time limit, a fine not less than 1,000 Yuan but not more than 10,000 Yuan may be imposed; where serious results are caused, the violator shall be ordered to suspend production and operation:

(1) the animal slaughtering and processing house failing to carry out detection of pathogenic microorganism, residue of veterinary drugs, forbidden drugs and illegal additives in accordance with the provisions of Article 34 of these Regulations; or

(2) engaged in breeding animals under entrustment without conditions stipulated in the provisions of Article 43 of these Regulations.

**Article 64** Units and individuals engaged in purchase, sale or transportation of animals, in violation of the provisions of Paragraph 1 of Article 35 of these Regulations, failing to be filed for the record shall be ordered to make corrections within a specified time limit and given warnings, and may be fined not less than 1,000 Yuan but not more than 10,000 Yuan by the animal health supervision institutions.

**Article 65** Whichever, falls into any of the following circumstances, shall be ordered to make corrections within a specified time limit and given a warning by the animal health supervision institution; where there is a failure to make such corrections upon expiration of the time limit, a fine of not less than 3,000 Yuan but not more than 30,000 Yuan shall be imposed; the case involving supervision and administration of food safety shall be dealt with by the departments for market supervision and administration according to law:

（一）违反本条例第三十三条第四款规定，屠宰加工场所的经营管理者未记录、保存相关可追溯信息的；

（二）违反本条例第三十五条第二款规定，从事动物产品经营的单位和个人未记录、保存相关事项的；

（三）违反本条例第三十七条规定，冷库经营者未查验、留存、保存相关证明和记录的；

（四）违反本条例第三十八条第一款规定，动物产品销售者未提供动物产品可追溯信息凭据的；

（五）违反本条例第三十八条第二款规定，餐饮经营者和单位食堂未保存动物检疫证明或者可追溯信息凭据的。

**第六十六条** 市场开办者、活动主办者或者柜台出租者违反本条例第三十六条规定的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，处 5000 元以上 5 万元以下罚款；涉及食品安全监督管理的，由市场监督管理部门依法处理。

**第六十七条** 违反本条例第三十九条规定，举办动物展览、演出和比赛等活动的主办者，未按规定报告并接受防疫指导和监督检查的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，责令停止举办活动；活动已经结束的，处 1000 元以上 1 万元以下罚款。

**第六十八条** 违反本条例第四十条规定的，由动物卫生监督机构责令限期改正，给予警告；逾期不改的，责令停业，处 5000 元以上 5 万元以下罚款；情节严重的，由发证机关吊销动物诊疗许可证；给当事人造成损失的，由该动物诊疗机构承担赔偿责任。

**第六十九条** 违反本条例第四十二条规定，动物诊疗机构在动物诊疗场所从事动物交易、寄养活动的，由动物卫生监督机构责令限期改正，给予警告，没收违法所得，并处 5000 元以上 5 万元以下罚款；逾期不改的，责令停业；情节严重的，由发证机

(1) Managers of slaughtering and processing houses, in violation of the provisions of Paragraph 4 of Article 33 of these Regulations, fail to record and keep relevant traceable information;

(2) Units and individuals engaged in operation of animal products, in violation of the provisions of Paragraph 2 of Article 35 of these Regulations, fail to record and keep relevant matters;

(3) Operators of freezers, in violation of the provisions of Article 37 of these Regulations, fail to verify, maintain and keep relevant certificates and records;

(4) Sellers of animal products, in violation of the provisions of Paragraph 1 of Article 38 of these Regulations, fail to provide the proof of traceable information of animal products; or

(5) Catering service providers and unit canteens, in violation of the provisions of Paragraph 2 of Article 38 of these Regulations, fail to keep the animal quarantine certificates or proof of traceable information.

**Article 66** Market initiators, activity organizers or counter lessors, in violation of the provisions of Article 36 of these Regulations, shall be ordered to make corrections within a specified time limit and given warnings by the animal health supervision institutions; where they fail to make such corrections upon expiration of the time limit, a fine of not less than 5,000 Yuan but not more than 50,000 Yuan shall be imposed; the cases involving supervision and administration of food safety shall be dealt with by the departments for market supervision and administration according to law.

**Article 67** Sponsors of animal exhibitions, performances and competitions, in violation of the provisions of Article 39 of these Regulations, failing to make reports and receive the guidance, supervision and inspection in terms of epidemic prevention as stipulated shall be ordered to make corrections within a specified time limit and given warnings by the animal health supervision institutions; where they fail to make such corrections upon expiration of the time limit, they shall be ordered to stop the activities; where the activities end, they shall be fined not less than 1,000 Yuan but not more than 10,000 Yuan.

**Article 68** Whichever violates the provisions of Article 40 of these Regulations shall be ordered to make corrections within a specified time limit and given a warning by the animal health supervision institution; where it fails to make such corrections upon expiration of the time limit, it shall be ordered to suspend operation and fined not less than 5,000 Yuan but not more than 50,000 Yuan; where the circumstances are serious, the license-issuing authority shall revoke its license for diagnosis and treatment of animal diseases; where losses are caused to the parties concerned, the institution for diagnosis and treatment of animal diseases shall assume the liability for compensation.

**Article 69** The institutions for diagnosis and treatment of animal diseases, in violation of the provisions of Article 42 of these Regulations, engaged in trading or breeding of animals under entrustment in the places for diagnosis and treatment of animal diseases shall be ordered to make corrections within a specified time limit and given warnings, confiscated of illegal gains, and fined not less than 5,000 Yuan but not more than 50,000

关吊销动物诊疗许可证。

**第七十条** 违反本条例第四十四条规定，执业兽医从事动物诊疗活动未佩戴标牌的，由动物卫生监督机构责令改正，给予警告；拒不改正的，处 1000 元以下罚款。

**第七十一条** 违反本条例第五十条第一款、第二款规定，未经检疫通道运输动物、动物产品进入本市，或者接收未取得动物卫生监督机构监督检查专用章的动物、动物产品的，由动物卫生监督机构对承运人、接收人处 1000 元以上 1 万元以下罚款。

**第七十二条** 违反本条例第五十三条第一款规定，转让、伪造或者变造检疫证、章、标志或者畜禽标识的，由动物卫生监督机构没收违法所得，收缴检疫证、章、标志或者畜禽标识，处 3000 元以上 3 万元以下罚款。

**第七十三条** 违反本条例规定，其他法律、法规规定有法律责任的，按照其他法律、法规规定执行。

## 第七章 附 则

**第七十四条** 本条例自 2014 年 10 月 1 日起施行。2004 年 10 月 22 日北京市第十二届人民代表大会常务委员会第十五次会议通过的《北京市实施〈中华人民共和国动物防疫法〉办法》同时废止。

Yuan simultaneously by the animal health supervision institutions; where they fail to make such corrections upon expiration of the time limit, they shall be ordered to suspend operation; where the circumstances are serious, the license-issuing authorities shall revoke their licenses for diagnosis and treatment of animal diseases.

**Article 70** Practicing veterinarians, in violation of the provisions of Article 44 of these Regulations, failing to wear marks during diagnosis and treatment of animal diseases shall be ordered to make corrections within a specified time limit and given warnings by the animal health supervision institutions; whoever refuses to make such corrections shall be fined not more than 1,000 Yuan.

**Article 71** Whichever, in violation of the provisions of Paragraph 1 and Paragraph 2 of Article 50 of these Regulations, fails to transport animals or animal products into this Municipality through the quarantine channels, or receives animals or animal products without the special supervision and inspection seals by any animal health supervision institution shall be fined not less than 1,000 Yuan but not more than 10,000 Yuan by the animal health supervision institution.

**Article 72** Whoever, in violation of the provisions of Paragraph 1 of Article 53 of these Regulations, transfers, forges or alters quarantine certificates, seals, signs or labels of livestock or poultry shall be confiscated of the illegal gains, revoked of the quarantine certificates, seals, signs or labels of livestock or poultry, and fined not less than 3,000 Yuan but not more than 30,000 Yuan by the animal health supervision institution.

**Article 73** Where other laws or regulations have provided for legal liability for the violation of the provisions of these Regulations, the provisions of other laws or regulations shall prevail.

## **Chapter VII Supplementary Provisions**

**Article 74** These Regulations shall be effective as of October 1, 2014. The Measures of Beijing Municipality for Implementing the Law of the People's Republic of China on Animal Epidemic Prevention adopted at the 15th Meeting of the Standing Committee of the 12th People's Congress of Beijing Municipality on October 22, 2004 shall be repealed simultaneously.



# 北京市林业植物检疫办法

(2008年4月22日北京市人民政府第206号令公布)

**第一条** 为防止检疫性、危险性林业有害生物的入侵和传播蔓延，保护首都生态环境，根据《中华人民共和国森林法》和国务院《植物检疫条例》等法律、法规的规定，结合本市实际情况，制定本办法。

**第二条** 本市行政区域内林业植物及其产品的检疫活动，应当遵守本办法。

**第三条** 市园林绿化行政主管部门（以下简称市园林绿化部门）负责全市林业植物检疫工作；各区（县）林业行政部门负责本行政区域内的林业植物检疫工作。市和区（县）林业植物检疫机构（以下简称林检机构），负责执行林业植物检疫任务。

本市农业、工商行政管理、交通运输、邮政等有关部门和出入境检验检疫机构根据职责分工，做好林业植物检疫的相关工作。

**第四条** 市和区（县）林检机构应当配备林业植物检疫员（以下简称检疫员），根据需要建立检疫检验实验室，配备相应的检疫工作设备和除害处理设施。

市园林绿化部门和区（县）林业行政部门可以依法聘请兼职检疫员协助林检机构开展林业植物检疫工作。

**第五条** 检疫员执行检疫任务时，可以进入林业植物及其产品的生产、经营、存放等场所进行现场检查、调查和检疫工作，可以采集相关样品，查阅、复制和拍摄与检疫有关的资料，收集与检疫有关的证据，调查了解相关情况。

检疫员在执行检疫任务时，应当穿着检疫制服，佩戴检疫标志，出示执法证件。有关单位和个人应当予以配合，不得阻碍检疫员开展检疫工作。

**第六条** 检疫机构应当对下列林业植物及其产品和可能被检疫性、危险性林业有

# Measures of Beijing Municipality for Quarantine of Forestry Plants

(Promulgated by Decree No.206 of the People's Government of Beijing Municipality on April 22, 2008)

**Article 1** These Measures are formulated for the purposes of preventing the invasion, spread and extension of quarantine, dangerous and harmful forestry organisms and protecting the Capital's eco-environment in accordance with the provisions of such laws and regulations as the Forest Law of the People's Republic of China and the Regulations on Plant Quarantine of the State Council and in light of the actual circumstances of this Municipality.

**Article 2** The quarantine of forestry plants and their products within the administrative area of this Municipality shall be in compliance with these Measures.

**Article 3** The municipal competent administrative department for landscaping and afforestation (hereinafter referred to as the municipal landscaping and afforestation department) shall be responsible for the quarantine of forestry plants in the whole city; the administrative departments for forestry at the district or county level shall be responsible for the quarantine of forestry plants within their respective administrative areas. The organs for the quarantine of forestry plants at the municipal and the district or county level (hereinafter referred to as the forestry quarantine organs) shall be responsible for carrying out the task of quarantine of forestry plants.

Relevant departments for agriculture, industrial and commercial administration, communications and transportation, post and other departments as well as the organs for entry and exit inspection and quarantine of this Municipality shall, in accordance with the division of duties and responsibilities, bring to success the work related to the quarantine of forestry plants.

**Article 4** The forestry quarantine organs at the municipal and the district or county level shall be staffed with the quarantine officers for forestry plants (hereinafter referred to as the quarantine officers) ,and based on the needs, set up the laboratories for the quarantine and inspection equipped with corresponding quarantine equipment and facilities for disinfection treatment.

The municipal landscaping and afforestation department and the administrative departments for forestry at the district or county level may engage part-time quarantine officers to assist the forestry quarantine organs to carry out the quarantine of forestry plants.

**Article 5** When carrying out the task of quarantine, the quarantine officers may enter the places where the forestry plants and their products are produced, processed or stored to carry out on-the spot inspection, investigation and quarantine, may collect relevant specimens, look up, copy and take photos of the materials related to the quarantine, gather evidences related to the quarantine, and carry out investigation to find out relevant information.

When carrying out the task of quarantine, the quarantine officers shall wear the uniform for the quarantine, wear the sign for the quarantine and show the law enforcement certificates. Relevant units and individuals shall offer assistance and shall not hinder the quarantine by the quarantine officers.

**Article 6** The quarantine organs shall carry out the quarantine over the following forestry plants and their products as well as the means of transport and places for storage

害生物污染的运载工具、存放场所实施检疫：

- （一）乔木、灌木、竹类、花卉等林业植物，及其种子、苗木和其他繁殖材料；
- （二）木材、竹材、藤条、中药材、果品、盆景和标本等木质成品或者半成品；
- （三）用于承载、包装、铺垫、支撑、加固货物的木质材料；
- （四）国家和本市确定的其他应施检疫的林业植物及其产品。

检疫机构应当加强对调入本市的林业植物及其产品的复检工作。

**第七条** 林检机构应当依据国务院有关部门公布的检疫性、危险性林业有害生物名单和市园林绿化部门公布的补充检疫性、危险性林业有害生物名单开展林业植物检疫工作，检查林业植物及其产品是否带有林业有害生物。

**第八条** 单位和个人发现林业有害生物的，应当立即向所在地林检机构报告。接到报告的林检机构应当迅速组织专业技术人员进行检验鉴定，确定是否属于疫情。

属于本市新发现的检疫性、危险性林业有害生物的，林检机构应当按规定向市园林绿化部门报告，并采取封锁、扑灭或者控制措施。

**第九条** 本市局部地区发生林业检疫性有害生物的，应当按规定划定疫区和保护区。疫区、保护区的划定、变更和撤销，由市园林绿化部门提出，报市人民政府批准，并报国务院林业主管部门备案。

市园林绿化部门和区（县）林业行政部门应当制定并落实突发林业有害生物应急预案。

**第十条** 市园林绿化部门应当加强林业有害生物调查工作，每年组织开展重点林业有害生物调查，按照国家规定组织开展普查。

市和区（县）林检机构应当建立林业植物检疫档案，编制检疫性、危险性林业有害生物分布资料和封锁、除治方案，并报上一级林检机构备案。

**第十一条** 林业植物种苗繁育基地、母树林、花圃、果园的生产经营者，应当在生产期间或者调运之前向当地林检机构申请产地检疫。

that are probably contaminated by quarantine, dangerous and harmful forestry organisms:

- (1) such forestry plants as arbores, shrubs, bamboos and flowers as well as their seeds, nursery stocks and other propagating materials;
- (2) such wooden products or semi-products as timbers, bamboo materials, rattans, traditional Chinese medicinal materials, fruits, bonsais and samples;
- (3) wooden materials used for bearing, packaging, padding, supporting or reinforcing goods;
- (4) other forestry plants and their products subject to quarantine that are fixed by the State and this Municipality.

The quarantine organs shall strengthen re-inspection of the forestry plants and their products transferred into this Municipality.

**Article 7** The forestry quarantine organs shall carry out the quarantine of forestry plants in accordance with the list of quarantine, dangerous and harmful forestry organisms promulgated by relevant departments of the State Council and the supplementary list of quarantine, dangerous and harmful forestry organisms promulgated by the municipal landscaping and afforestation department to inspect whether the forestry plants and their products bring with any harmful organism.

**Article 8** Where any unit or individual discovers any harmful organism, it shall immediately report to the local forestry quarantine organ. The forestry quarantine organ receiving the report shall quickly organize professional technicians to carry out the inspection and authentication to identify whether it is an epidemic.

Where the harmful organism is a kind of quarantine, dangerous and harmful organism newly discovered in this Municipality, the forestry quarantine organ shall report to the municipal landscaping and afforestation department in accordance with provisions and take blockade, elimination or control measures.

**Article 9** Where any harmful organism is discovered in part of this Municipality, the epidemic-stricken area and the protection area shall be delimited in accordance with provisions. With respect to the delimitation, modification and cancellation of the epidemic-stricken area and the protection area, a proposal shall be put forward by the municipal landscaping and afforestation department, reported to the Municipal People's Government for approval and to the competent department of forestry of the State Council for the record.

The municipal landscaping and afforestation department and the administrative departments for forestry at the district or county level shall work out and implement the contingency pre-plans for unexpected harmful organisms.

**Article 10** The municipal landscaping and afforestation department shall strengthen the investigation of harmful forestry organisms, organize the investigation of key harmful forestry organisms every year, and organize the general survey in accordance with the provisions of the State.

The forestry quarantine organs at the municipal and the district or county level shall establish the archives for the quarantine of forestry plants, compile the materials on the distribution of quarantine, dangerous and harmful forestry organisms and the plans for the blockade, elimination and treatment, and report to the forestry quarantine organs at the next higher level for the record.

**Article 11** Those engaged in production and operation of breeding bases of forestry plant seedlings, maternal woods, flower nurseries and orchards shall apply to the local forestry quarantine organ for the origin quarantine during the production or before the transfer.

林检机构应当加强对下列场所的植物检疫工作：

- （一）木材加工、贮存或者转运场所；
- （二）果品贮存、转运场所；
- （三）苗木、花卉集散地。

对检疫合格的，由检疫员签发《产地检疫合格证》；对检疫不合格的，签发《检疫处理通知单》。

**第十二条** 调运林业植物种子、苗木和其他繁殖材料或者从发生疫情的地区调运应施检疫的林业植物及其产品的，调运人应当按照下列规定办理检疫手续：

（一）拟调入本市的，应当事先向市林检机构或者其委托的区（县）林检机构提出申请，由其向调出地林检机构开具《森林植物检疫要求书》；调运人取得调出地林检机构签发的《植物检疫证书（出省）》后，方准调入。

（二）拟调出本市的，应当持调入地林检机构出具的《森林植物检疫要求书》向市林检机构或者其委托的区（县）林检机构报检；经检疫合格，取得《植物检疫证书（出省）》后，方准调出。

在本市跨区（县）调运林业植物种子、苗木和其他繁殖材料的，应当凭《产地检疫合格证》调运。

**第十三条** 运输、邮寄应施检疫的林业植物及其产品时，应当凭《植物检疫证书》办理托运手续；其中，在本市跨区（县）运输、邮寄林业植物种子、苗木和其他繁殖材料的，应当凭《产地检疫合格证》办理托运手续。

托运物品有下列情形之一的，承运人不得办理托运；发现相关物品的，应当及时通知当地林检机构，不得擅自承运：

- （一）未按规定取得《植物检疫证书》或者《产地检疫合格证》的，或者所持证书超过有效期的；
- （二）相关林业植物及其产品的种类、名称或者数量与证书记载内容不符的。

The forestry quarantine organs shall strengthen the plant quarantine over the following places:

- (1) the places for processing, storage or transshipment of timbers;
- (2) the places for storage or transshipment of fruits;
- (3) the distribution centres of nursery stocks or flowers.

Where the above places have passed the quarantine inspection, the quarantine officers shall issue the Qualification Certificate of Origin Quarantine; where such places have failed in the quarantine inspection, the Quarantine Treatment Notice shall be issued.

**Article 12** When transferring the seeds, nursery stocks and other propagating materials of forestry plants or transferring the forestry plants and their products subject to quarantine from epidemic-stricken areas, the transferor shall handle the quarantine procedures in accordance with the following provisions:

(1) Where the above plants plan to be transferred into this Municipality, an application shall be put forward to the municipal forestry quarantine organ or the forestry quarantine organ at the district or county level entrusted by it in advance, which shall issue the Forest Plant Quarantine Requirement Certificate to the forestry quarantine organ of the place from which the plants are transferred; the transferor may be permitted to transfer the plants into this Municipality only after it obtains the Plant Quarantine Certificate (Outbound) issued by the forestry quarantine organ of the place from which the plants are transferred;

(2) Where the above plants plan to be transferred from this Municipality, an application for inspection shall be submitted to the municipal forestry quarantine organ or the forestry quarantine organ at the district or county level entrusted by it on the strength of the Forest Plant Quarantine Requirement Certificate issued by the forestry quarantine organ of the place into which the plants are transferred; the transferor may be permitted to transfer the plants from this Municipality only after the plants pass the quarantine and the Plant Quarantine Certificate (Outbound) is obtained.

When the seeds, nursery stocks and other propagating materials of forestry plants are transferred across the districts or counties of this Municipality, the transfer shall be carried out with the Qualification Certificate of Origin Quarantine.

**Article 13** When the forestry plants and their products subject to quarantine are transported or mailed, the checking procedures shall be handled with the Plant Quarantine Certificate; where the seeds, nursery stocks and other propagating materials of forestry plants are transported or mailed across the districts or counties of this Municipality, the checking procedures shall be handled with the Qualification Certificate of Origin Quarantine.

Where the consignment falls into one of the following circumstances, the carrier shall not handle the checking procedures; where relevant articles are discovered, the carrier shall timely notify the local forestry quarantine organ and shall not undertake the transportation without authorization:

- (1) the Plant Quarantine Certificate or the Qualification Certificate of Origin Quarantine is not obtained in accordance with provisions, or the period of validity of the certificate held is exceeded;
- (2) the categories, names or quantities of relevant forestry plants and their products are not in conformity with the contents recorded in the certificate.

**第十四条** 使用单位应当对用于承载、包装、铺垫、支撑、加固货物的木质材料进行妥善保管，发现可能带有林业有害生物的，应当及时向当地林检机构报告，并采取控制措施，防止其扩散蔓延。

**第十五条** 经批准从境外引进林业植物种子、苗木和其他繁殖材料在本市种植的，引进单位或者个人应当取得出入境检验检疫机构发放的准予入境证明，并按照市林检机构的要求在指定时间、地点进行隔离试种。

引进单位或者个人应当自引进的林业植物种子、苗木和其他繁殖材料进入本市之日起7日内，告知市林检机构。

市林检机构应当与出入境检验检疫机构加强联系，及时互相通报经批准从境外引进林业植物种子、苗木和其他繁殖材料在本市种植的情况和林业植物检疫工作动态情况，共同做好引种后的监督管理。

**第十六条** 禁止在非疫情发生区使用或者饲养活体检疫性、危险性林业有害生物。因教学、科研确需使用或者饲养活体检疫性、危险性林业有害生物的单位，应当在使用或者饲养前，报市园林绿化部门，由其进行审批或者按照规定报国务院林业主管部门审批；经批准后，方可开展教学、科研活动。

在非疫情发生区使用或者饲养活体检疫性、危险性林业有害生物的，相关教学、科研单位应当制定并落实防治预案，防止检疫性、危险性林业有害生物逃逸、扩散蔓延，并严格按照批准的试验时间、试验场所、试验种类和数量开展教学、科研活动。

**第十七条** 林检机构检查过程中发现林业植物或其产品、相关运载工具以及存放场所被检疫性、危险性林业有害生物污染的，应当签发《检疫处理通知单》，责令并监督当事人进行处理。

当事人应当按照《检疫处理通知单》的要求在指定时间、指定地点进行除害处理；难以除害处理的，应当按照规定停止调运、改变用途或者就地销毁。

**第十八条** 本市实施林业植物检疫行政许可不收费。开展林业植物检疫方面的行



**Article 14** The using unit shall well keep the wooden materials used for bearing, packaging, padding, supporting or reinforcing goods, and where it discovers any material that probably brings with any harmful forestry organisms, it shall timely report to the local forestry quarantine organ and take the control measures to prevent their spread and extension.

**Article 15** Where the seeds, nursery stocks and other propagating materials of forestry plants are introduced from the place out of the territory to be planted in this Municipality upon approval, the unit or individual that introduces them shall obtain the certificate permitting the entry issued by the organ for entry and exit inspection and quarantine and carry out the isolated planting on a trial basis at the designated time and site required by the municipal forestry quarantine organ.

The unit or individual shall within seven days as of the entry into this Municipality of the introduced seeds, nursery stocks and other propagating materials of forestry plants, notify the municipal forestry quarantine organ.

The municipal forestry quarantine organ shall strengthen contact with the organ, for entry and exit inspection and quarantine, timely communicate the circumstances about the planting of the seeds, nursery stocks and other propagating materials of forestry plants in this Municipality introduced from the place out of the territory upon approval and the dynamic situation of the quarantine of forestry plants to each other, and jointly bring to success the supervision and administration after the introduction.

**Article 16** It is forbidden to use or raise living quarantine, dangerous and harmful forestry organisms in non-epidemic-stricken areas. Where any unit really needs to use or raise living quarantine, dangerous and harmful forestry organisms for teaching or scientific research, it shall, before the use or raising, report to the municipal landscaping and afforestation department for examination and approval or report to the competent department for forestry of the State Council for examination and approval; the teaching or scientific research activities may only be carried out after the approval.

When using or raising living quarantine, dangerous and harmful forestry organisms in non-epidemic-stricken areas, relevant teaching or research units shall work out and implement the prevention pre-plan so as to prevent the escape, spread or extension of the quarantine, dangerous and harmful forestry organisms, and carry out the teaching or scientific research activities in strict accordance with the approved experimental time, experimental site, experimental types and quantities.

**Article 17** Where the forestry quarantine organ discovers that the forestry plants and their products, relevant means of transport or places for storage are contaminated by the quarantine, dangerous and harmful forestry organisms, it shall issue the Quarantine Treatment Notice and order and supervise the parties concerned to carry out the treatment.

The parties concerned shall carry out the disinfestation at the designated time and site; where it is too difficult to carry out the disinfestation, the parties concerned shall stop the transfer, change the usage or carry out on-the-spot destruction in accordance with provisions.

**Article 18** No charge shall be collected for the administrative license for the quarantine of forestry plants in this Municipality. The expenses needed by such activities as the administrative license related to the quarantine of forestry plants, quarantine law



政许可、检疫执法、疫情监测调查、林业有害生物普查和疫情紧急除治等活动所需费用，纳入同级财政预算。

**第十九条** 市园林绿化部门应当将本市林业植物检疫行政许可的申请条件和办理情况、国家公布的林业植物检疫疫情以及疫区划定等情况及时向社会公开，便于公众查询和知晓。

**第二十条** 市园林绿化部门和区（县）林业行政部门及其林检机构应当加强林业植物检疫的宣传工作，普及检疫知识，提高全社会的生态环境保护意识。

**第二十一条** 市园林绿化部门和区（县）林业行政部门应当开展法律知识和专业技术培训，提高检疫人员的执法能力和专业技术水平。

**第二十二条** 违反本办法第十一条第一款、第十二条、第十三条第一款规定，调运人有下列行为之一的，由林检机构责令改正，可以并处 500 元以上 2000 元以下罚款：

（一）应施检疫的林业植物及其产品未办理《产地检疫合格证》或者《植物检疫证书》的；

（二）在报检过程中不如实报检，谎报或者瞒报林业植物及其产品种类、名称、数量的；

（三）擅自开拆检讫的林业植物及其产品封识、包装，调换植物或其产品，或者擅自改变植物或其产品规定用途的；

（四）伪造、变造、买卖、转让、骗取林业植物检疫单证、印章、标志、封识的。

承运人违反本办法第十三条第二款规定，擅自承运不具有《植物检疫证书》或者《产地检疫合格证》的应施检疫林业植物及其产品的、所持证件与承运货物不相符或者所持证件超过有效期的，由林检机构责令补检，可以对相关承运人并处 200 元以上 500 元以下罚款。

**第二十三条** 违反本办法第十五条第一款规定，擅自从境外引种或者未按照检疫要求隔离试种的，由市林检机构责令改正，并处 2000 元罚款。

enforcement, epidemic monitoring and investigation, general survey of harmful forestry organisms and emergency elimination and control of epidemics shall be incorporated into the financial budget at the same level.

**Article 19** The municipal landscaping and afforestation department shall timely publicize the application conditions and handling circumstances of the administrative licenses for the quarantine of forestry plants in this Municipality as well as the epidemics and delimitation of epidemic-stricken areas related to the quarantine of forestry plants promulgated by the State to the society so as to facilitate the inquiry and knowledge of the public.

**Article 20** The municipal landscaping and afforestation department, the administrative departments for forestry at the district or county level and their forestry quarantine organs shall strengthen the propaganda of quarantine of forestry plants so as to popularize the quarantine knowledge and improve the consciousness of the whole society in protecting the eco-environment.

**Article 21** The municipal landscaping and afforestation department and the administrative departments for forestry at the district or county level shall carry out the trainings on relevant legal knowledge and professional skills so as to improve the law enforcement capability and professional skill level of the quarantine officers.

**Article 22** Any transferor who, in violation of the provisions of Paragraph 1 of Article 11, Article 12 and Paragraph 1 of Article 13 of these Measures, commits one of the following acts, shall be ordered to make corrections and may be fined not less than 500 yuan but not more than 2,000 yuan by the forestry quarantine organ:

- (1) failing to handle the Qualification Certificate of Origin Quarantine or Plant Quarantine Certificate for the forestry plants and their products subject to quarantine;
- (2) failing to report as to the facts, making false reports or concealing the types, names and quantities of forestry plants and their products during the reporting process;
- (3) opening the seals or packages of forestry plants and their products passing the quarantine without authorization, replacing the plants or their products, or changing the prescribed usage of the plants or their products without authorization;
- (4) forging, altering, selling or buying, transferring or obtaining by cheating the certificates, stamps, marks or seals for the quarantine of forestry plants.

Where any carrier, in violation of the provisions of Paragraph 2 of Article 13 of these Measures, undertakes the transportation of forestry plants and their products subject to quarantine without the Plant Quarantine Certificate or Qualification Certificate of Origin Quarantine, or bearing a certificate not in conformity with the goods it carries or for which the period of validity of the certificate is exceeded, the forestry quarantine organ shall order relevant party to accept the supplementary quarantine and may impose a fine of not less than 200 yuan but not more than 500 yuan on the carrier concerned.

**Article 23** Whoever, in violation of the provisions of Paragraph 1 of Article 15 of these Measures, introduces the seeds from the places out of the territory without authorization or fails to carry out the isolated planting on a trial basis in accordance with the quarantine requirements, shall be ordered to make corrections and fined 2,000 yuan simultaneously by the municipal forestry quarantine organ.

违反本办法第十五条第二款规定，引进林业植物种子、苗木和其他繁殖材料后未及时告知的，由市林检机构给予警告，可以并处 1000 元罚款。

**第二十四条** 违反本办法第十六条第一款规定，擅自在非疫情发生区进行活体检疫性、危险性林业有害生物教学、科研的，由市林检机构责令改正，并处 1 万元罚款。

违反本办法第十六条第二款规定，开展教学、科研活动时，未制定防治预案或者未按照批准的试验时间、试验场所、试验种类和数量开展教学、科研活动的，由市林检机构责令改正，可以并处 5000 元以上 3 万元以下罚款；造成检疫性、危险性林业有害生物逃逸、扩散蔓延的，处 3 万元以上 5 万元以下罚款。

**第二十五条** 违反本办法第十七条第二款规定，当事人未按照《检疫处理通知单》的要求对受污染的林业植物或其产品、相关运载工具或者存放场所进行处理的，由林检机构责令改正，可以并处 500 元以上 5000 元以下罚款。

**第二十六条** 违反有关法律、法规和本办法的规定，造成重大林业植物疫情或者导致疫情扩散蔓延的，由市林检机构对相关当事人处 5 万元以上 10 万元以下罚款；造成经济损失的，依法负责赔偿；构成犯罪的，依法追究刑事责任。

**第二十七条** 本办法自 2008 年 6 月 1 日起施行。1986 年 6 月 5 日发布的《北京市林业植物检疫试行办法》同时废止。

Whoever, in violation of the provisions of Paragraph 2 of Article 15 of these Measures, fails to make timely notification after introducing the seeds, nursery stocks and other propagating materials of forestry plants shall be warned and may be fined 1,000 yuan simultaneously by the municipal forestry quarantine organ.

**Article 24** Whoever, in violation of the provisions of Paragraph 1 of Article 16 of these Measures, carries out the teaching or scientific research activities with living quarantine, dangerous and harmful forestry organisms in non-epidemic-stricken areas shall be ordered to make corrections and fined 10,000 yuan simultaneously by the municipal forestry quarantine organ.

Whoever, in violation of the provisions of Paragraph 2 of Article 16 of these Measures, fails to work out and implement the prevention pre-plan when carrying out the teaching or scientific research activities or fails to carry out the teaching or scientific research activities in accordance with the approved experimental time, experimental site, experimental types and quantities shall be ordered to make corrections and may be fined not less than 5,000 yuan but not more than 30 ,000 yuan simultaneously by the municipal forestry quarantine organ; where such activities cause the escape, spread or extension of the quarantine, dangerous and harmful forestry organisms, a fine of not less than 30 ,000 yuan but not more than 50 ,000 yuan shall be imposed.

**Article 25** Any party concerned who, in violation of the provisions of Paragraph 2 of Article 17 of these Measures, fails to carry out the treatment on the forestry plants and their products, relevant means of transport or places for storage that are contaminated in accordance with the requirements of the Quarantine Treatment Notice, shall be ordered to make corrections and may be fined not less than 500 yuan but not more than 5,000 yuan simultaneously by the forestry quarantine organ.

**Article 26** Where any violation of the provisions of relevant laws, regulations and these Measures causes a major epidemic related to forestry plants or causes the spread or extension of an epidemic, the municipal forestry quarantine organ shall impose a fine of not less than 50,000 yuan but not more than 100,000 yuan on the party concerned; where economic losses are caused, the party concerned shall be responsible for the compensation in accordance with law, where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 27** These Measures shall be effective as of June 1, 2008. The Trial Measures of Beijing Municipality for Quarantine of Forestry Plants promulgated on June 5, 1986 shall be repealed simultaneously.

# 北京市农业植物检疫办法

(2013年4月26日北京市人民政府令第246号公布)

**第一条** 为防止危害农业植物的危险性病、虫、杂草的传播蔓延，保障农业生产安全、生态安全和人民身体健康，根据《植物检疫条例》，结合本市实际情况，制定本办法。

**第二条** 本市行政区域内农业植物检疫及其监督管理活动适用《植物检疫条例》和本办法。

**第三条** 市和区、县人民政府应当加强对农业植物检疫工作的领导，建立健全农业植物检疫队伍，加强农业植物检疫基础设施建设，将农业植物疫情监测、调查、控制、扑灭及其监督管理所需经费纳入同级财政预算。

乡镇人民政府、街道办事处应当协助做好本辖区内农业植物疫情的控制和扑灭工作。

**第四条** 市和区、县农业行政部门主管本行政区域内农业植物检疫工作；市和区、县农业行政部门所属的农业植物检疫机构具体承担农业植物检疫工作。

园林绿化、工商行政管理、交通运输、邮政等有关部门和出入境检验检疫机构在各自职责范围内做好农业植物检疫的相关工作。

农业行政部门应当与园林绿化行政部门和出入境检验检疫机构建立健全工作沟通会商机制，定期交流工作情况，通报植物疫情信息，加强植物检疫工作方面的协作与配合。

**第五条** 市和区、县农业行政部门及其农业植物检疫机构应当加强农业植物检疫知识的宣传和普及，提高全社会农业植物疫情风险防范意识和能力。

# Measures of Beijing Municipality for Quarantine of Agricultural Plants

(Promulgated by Decree No. 246 of the People's Government of Beijing Municipality on April 26, 2013)

**Article 1** These Measures are formulated for the purposes of preventing harmful diseases, insect and weeds dangerous to agricultural plants from spreading and protecting the safety of agricultural production, ecological security and people's physical health in accordance with the Regulations on Plant Quarantine and in light of the actual circumstances of this Municipality.

**Article 2** The Regulations on Plant Quarantine and these Measures shall apply to quarantine of agricultural plants and relevant supervision and administration activities within the administrative area of this Municipality.

**Article 3** The people's governments at the municipal and the district or county level shall strengthen leadership on the work of quarantine of agricultural plants, set up and develop the team for quarantine of agricultural plants, strengthen the infrastructure construction for quarantine of agricultural plants, and include the expenses for monitoring, investigating, controlling and eradicating agricultural plant epidemics as well as relevant supervision and administration work in the financial budgets at the corresponding levels.

The people's governments at the township or town level and sub-district offices shall assist in bringing success to the control and eradication of agricultural plant epidemics within the areas under their jurisdiction.

**Article 4** The administrative departments for agriculture at the municipal and the district or county level shall be in charge of quarantine of agricultural plants within their respective administrative areas; the institutions for quarantine of agricultural plants subordinate to the administrative departments for agriculture at the municipal and the district or county level shall undertake the concrete work of quarantine of agricultural plants.

Relevant departments for landscaping and afforestation, administration of industry and commerce, traffic and transportation, and post as well as the entry-exit inspection and quarantine organs shall bring success to the work related to quarantine of agricultural plants within their respective functions and duties.

The administrative departments for agriculture shall establish and improve a mechanism for work-related communication and consultation with the administrative departments for landscaping and afforestation as well as the entry-exit inspection and quarantine organs, regularly exchange work-related information, circulate reports on plant epidemics, and strengthen coordination and cooperation in the work of plant quarantine.

**Article 5** The administrative departments for agriculture at the municipal and the district or county level and their institutions for quarantine of agricultural plants shall strengthen the publicity and popularity of knowledge about quarantine of agricultural plants so as to improve the whole society's consciousness and capacity of preventing from the risks related to agricultural plant epidemics.

**第六条** 农业植物检疫机构应当配备一定数量的专职农业植物检疫员，设立检疫检验实验室和必要的隔离种植场所，配备相应的农业植物检疫工作设备和除害处理设施，组织开展先进适用的农业植物检疫技术的研究和推广。

根据工作需要，农业植物检疫机构可以按照规定聘请兼职检疫员协助开展农业植物检疫工作。

**第七条** 农业植物检疫机构应当按照国务院农业行政部门公布的农业植物检疫性有害生物名单和应施检疫的植物及植物产品名单以及本市公布的补充名单实施检疫。

本市补充名单由市农业行政部门制定，报国务院农业行政部门备案。

**第八条** 对于在本市繁育的，用于试验、示范或者推广的农作物种子、苗木和其他繁殖材料，繁育单位或者个人应当到繁育基地所在区、县农业植物检疫机构申请产地检疫；检疫合格的，核发产地检疫证明。

凭产地检疫证明，农作物种子、苗木和其他繁殖材料可以在本市行政区域内调运。

**第九条** 有下列情形之一的，调入单位或者个人调入的农业植物、植物产品应当经过检疫，并附具调运检疫证明：

（一）本办法第七条规定的应施检疫的农业植物、植物产品从疫情发生地调入本市的；

（二）农作物种子、苗木和其他繁殖材料调入本市的。

凭调运检疫证明，农业植物、植物产品可以在本市行政区域内调运。

**第十条** 对调入的农业植物、植物产品，农业植物检疫机构应当查验其调运检疫证明；对来自疫情发生地的应施检疫的农业植物、植物产品，或者其他可能带有检疫性有害生物的应施检疫的农业植物、植物产品，可以进行复检。

调入的农业植物、植物产品经复检不合格的，农业植物检疫机构应当监督调入单位或者个人在指定地点对其进行除害处理，并通知核发该调运检疫证明的农业植物检疫机构。

**Article 6** The institutions for quarantine of agricultural plants shall be equipped with a certain number of full-time inspectors for quarantine of agricultural plants, set up inspection and quarantine labs and necessary places for isolated planting, install corresponding equipment for quarantine of agricultural plants and quarantine treatment facilities, and organize the research on and popularization of advanced and applicable technologies for quarantine of agricultural plants.

According to the work needs, the institutions for quarantine of agricultural plants may, in accordance with provisions, employ part-time quarantine inspectors to assist in developing the work of quarantine of agricultural plants.

**Article 7** The institutions for quarantine of agricultural plants shall carry out quarantine according to the name list of quarantine pests and the name list of plants and plant products subject to quarantine promulgated by the administrative department for agriculture of the State Council as well as the supplementary name list promulgated by this Municipality.

The supplementary name list of this Municipality shall be formulated by the administrative department for agriculture at the municipal level and submitted to the administrative department for agriculture of the State Council for the record.

**Article 8** As to the crop seeds, seedlings and other propagating materials bred and propagated in this Municipality for experiment, demonstration or popularization, the breeding and propagating units or individuals shall apply for original planting area quarantine inspection at the institutions for quarantine of agricultural plants at the district or county level of the place where the breeding and propagation bases are located; and for those qualified through quarantine, the certificates of original planting area quarantine inspection shall be issued.

The crop seeds, seedlings and other propagating materials may be transferred within the administrative area of this Municipality with the certificates of original planting area quarantine inspection.

**Article 9** In any of the following circumstances, the agricultural plants or plant products transferred in by units or individuals shall be quarantined and the certificates of quarantine inspection for transferring shall be attached:

- (1) the agricultural plants or plant products subject to quarantine as stipulated in Article 7 of these Measures to be transferred into this Municipality from a place where an epidemic occurred; or
- (2) the crop seeds, seedlings and other propagating materials to be transferred into this Municipality.

Agricultural plants or plant products may be transferred within the administrative area of this Municipality with the certificates of quarantine inspection for transferring.

**Article 10** The institutions for quarantine of agricultural plants shall check the certificates of quarantine inspection for transferring for agricultural plants or plant products transferred in; re-inspection may be conducted on the agricultural plants or plant products subject to quarantine that are from a place where an epidemic occurs or possible of carrying quarantine pests and subject to quarantine.

Where the agricultural plants or plant products transferred in fail the re-inspection, the institution for quarantine of agricultural plants shall supervise the units or individuals transferring in to conduct quarantine treatment at a designated place, and notify the institution for quarantine of agricultural plants issuing the certificate of quarantine inspection for transferring.



**第十一条** 有下列情形之一的，调出单位或者个人应当在调出前向农业植物、植物产品存放地所在区、县农业植物检疫机构申请调运检疫；存放地所在区、县未设立农业植物检疫机构的，向市农业植物检疫机构申请调运检疫：

- （一）国家规定的应施检疫的农业植物、植物产品从疫情发生地调出本市的；
- （二）调入地规定的应施检疫的农业植物、植物产品调出本市的；
- （三）农作物种子、苗木和其他繁殖材料调出本市的。

农业植物、植物产品经检疫合格的，核发调运检疫证明；检疫不合格，但能进行除害处理的，调出单位或者个人应当按照农业植物检疫机构的要求，在指定地点对其进行除害处理，除害处理后合格的，核发调运检疫证明；无法进行除害处理的，应当停止调运。

承运单位承运本条第一款规定的农业植物、植物产品，应当查验调运检疫证明。

**第十二条** 农业植物检疫机构应当按照检疫规程实施检疫；有关农业植物检疫的程序、办理时限等内容应当公示，接受社会监督。

**第十三条** 产地检疫和调运检疫证明的原件或者复印件应当至少保存 2 年。

**第十四条** 销售农作物种子、苗木和其他繁殖材料的单位或者个人，应当依法建立经营档案。经营档案至少应当包括下列内容：

- （一）产地检疫或者调运检疫证明的原件或者复印件；
- （二）农作物种子、苗木和其他繁殖材料的来源、销售去向、销售数量。

**第十五条** 农业植物检疫机构可以在农作物种子、苗木和其他繁殖材料交易市场或者会展现场派驻检疫人员，加强现场检查，办理检疫手续。

**第十六条** 农业植物检疫机构应当建立健全监测网络，设置疫情监测点；根据农业植物检疫性有害生物发生规律，开展对农业植物检疫性有害生物的日常监测和定期调查。

农业植物检疫性有害生物日常监测和定期调查方案由市农业植物检疫机构统一制

**Article 11** In any of the following circumstances, the units or individuals shall, before the transfer, apply for quarantine inspection for transferring to the institution for quarantine of agricultural plants at the district or county level in the place where the agricultural plants or plant products are stored; where there is no institution for quarantine of agricultural plants in the place where the agricultural plants or plant products are stored, the application for quarantine inspection for transferring shall be submitted to the institution for quarantine of agricultural plants at the municipal level:

(1) the agricultural plants or plant products subject to quarantine as stipulated by the State to be transferred out of this Municipality from a place where an epidemic occurred;

(2) the agricultural plants or plant products subject to quarantine as stipulated by the destination place to be transferred out of this Municipality;

(3) the crop seeds, seedlings and other propagating materials to be transferred out of this Municipality.

Where the agricultural plants or plant products are qualified through quarantine, the certificate of quarantine inspection for transferring shall be issued; for those unqualified but the quarantine treatment is applicable, the unit or individual transferring out shall conduct the quarantine treatment at a designated place as required by the institution for quarantine of agricultural plants, and the certificate of quarantine inspection for transferring shall be issued where they are qualified after the quarantine treatment; where the quarantine treatment is not applicable, the transfer shall be stopped.

The carriers of the agricultural plants or plant products stipulated in Paragraph 1 of this Article shall check the certificates of quarantine inspection for transferring.

**Article 12** The institutions for quarantine of agricultural plants shall implement the quarantine according to the quarantine rules; such contents as the procedures and time limit for quarantine of agricultural plants shall be promulgated and subject to supervision by the public.

**Article 13** The originals or copies of the certificates of original planting area quarantine inspection and quarantine inspection for transferring shall be kept for at least two years.

**Article 14** A unit or an individual selling crop seeds, seedlings and other propagating materials shall set up the trading files in accordance with law, which shall at least include the following contents:

(1) the originals or copies of the certificates of original planting area quarantine inspection or quarantine inspection for transferring; and

(2) the sources, selling directions and quantities of crop seeds, seedlings and other propagating materials.

**Article 15** The institutions for quarantine of agricultural plants may dispatch quarantine inspectors on the spot to the fairs or exhibitions of crop seeds, seedlings and other propagating materials so as to strengthen on-site inspection and handle quarantine procedures.

**Article 16** The institutions for quarantine of agricultural plants shall establish and improve monitoring networks and set up epidemic monitoring points; and carry out routine monitoring and regular investigation on quarantine pests of agricultural plants according to the regularity of outbreak for such pests.

The plans for routine monitoring and regular investigation on quarantine pests of agricultural plants shall be uniformly formulated by the institution for quarantine of agricultural plants at the municipal level and submitted to the administrative department for

定，报市农业行政部门备案。

**第十七条** 区、县农业植物检疫机构发现农业植物疫情的，应当立即向本级农业行政部门和市农业植物检疫机构报告，区、县农业行政部门接到报告后，应当及时采取必要的控制和扑灭措施；市农业植物检疫机构接到报告后，应当及时向市农业行政部门报告。

市农业植物检疫机构发现农业植物疫情的，应当立即向市农业行政部门报告；市农业行政部门应当立即通知相关区、县农业行政部门，区、县农业行政部门应当及时采取必要的控制和扑灭措施。

农业行政部门、农业植物检疫机构及其工作人员对农业植物疫情不得瞒报、谎报、迟报，不得授意他人瞒报、谎报、迟报，不得阻碍他人报告。

其他单位和个人发现农业植物染疫或者疑似染疫的，应当及时向农业植物检疫机构报告。

**第十八条** 农业行政部门对染疫的农业植物、植物产品以及相关物品，可以采取高温消毒、药剂处理、填埋、焚烧等措施；对被污染的场地，可以进行高温消毒或者药剂处理。

农业行政部门实施前款规定的措施，应当尽可能减少对土壤、大气、水体、植被等造成污染和破坏。

农业行政部门实施本条第一款规定措施，发生疫情的单位或者个人应当服从和配合。

**第十九条** 市农业行政部门应当对区、县农业植物疫情控制和扑灭工作进行协调、指导和监督；市农业植物检疫机构应当对疫情控制和扑灭工作提供技术指导和服务。

**第二十条** 发生重大农业植物疫情的，按照本市重大农业植物疫情应急预案的规定进行处置。

**第二十一条** 因控制和扑灭农业植物疫情给相关单位或者个人合法权益造成损失

agriculture at the municipal level for the record.

**Article 17** Where the institution for quarantine of agricultural plants at the district or county level discovers any epidemic of agricultural plants, it shall immediately report to the administrative department for agriculture at the same level and the institution for quarantine of agricultural plants at the municipal level. The administrative department for agriculture at the district or county level shall take necessary control and eradication measures after receiving the report; the institution for quarantine of agricultural plants at the municipal level shall timely report to the administrative department for agriculture at the municipal level after receiving the report.

Where the institution for quarantine of agricultural plants at the municipal level discovers any epidemic of agricultural plants, it shall immediately report to the administrative department for agriculture at the municipal level; the administrative department for agriculture at the municipal level shall immediately notify the related administrative department for agriculture at the district or county level and the latter shall timely take necessary control and eradication measures.

The administrative departments for agriculture, institutions for quarantine of agricultural plants and their working staff shall not conceal, make false or delayed reports on any agricultural plant epidemic, shall not incite others to conceal, or make false or delayed reports, and shall not hinder others from making reports.

Where other units and individuals discover any agricultural plant epidemic or suspected epidemic, they shall timely report to the institutions for quarantine of agricultural plants.

**Article 18** The administrative departments for agriculture may take such measures as high temperature disinfection, pharmaceutical treatment, landfill and incineration to agricultural plants and plant products with epidemics as well as related articles; and may adopt high temperature disinfection or pharmaceutical treatment to contaminated places.

When taking the measures stipulated in the preceding paragraph, the administrative departments for agriculture shall reduce the pollution and damage of soil, air, water and vegetation as much as possible.

When the administrative departments for agriculture are taking measures stipulated in Paragraph 1 of this Article, the units or individuals where epidemics occur shall be obedient and render cooperation.

**Article 19** The administrative department for agriculture at the municipal level shall coordinate, guide and supervise the control and eradication of agricultural plant epidemics in districts or counties; the institution for quarantine of agricultural plants at the municipal level shall provide technical guidance and services to the control and eradication of agricultural plant epidemics.

**Article 20** Where any major agricultural plant epidemic occurs, it shall be dealt with according to the provisions in the emergency plan of this Municipality for major agricultural plant epidemics.

**Article 21** Where the control and eradication of agricultural plant epidemics cause losses to the lawful rights and interests of relevant units or individuals, compensation shall be made in accordance with law. The specific measures and standards of compensation shall be formulated by the administrative department for agriculture together with the

的，依法给予补偿。具体补偿办法和标准由市农业行政部门会同财政部门制定。

**第二十二条** 农业植物疫情处置后，疫情发生所在区、县农业植物检疫机构应当加强监测；疫情发生地3年内未再次发现同种疫情的，由区、县农业行政部门提请市农业行政部门确认该疫情完全扑灭。

在疫情被确认完全扑灭前，疫情发生地不得种植引发该疫情的有害生物的寄主植物；违反规定种植的，由区、县农业植物检疫机构责令改正。

**第二十三条** 市农业植物检疫机构应当建立健全农业植物检疫信息通报制度，加强农业植物检疫信息平台建设，及时汇总、通报农业植物检疫信息。

**第二十四条** 农业植物检疫人员在实施农业植物检疫等相关执法活动时，应当穿着检疫制服，佩戴检疫标志，出示执法证件，并有权采取下列措施：

（一）进入农业植物、植物产品的生产、经营、贮存以及其他可能发生检疫性有害生物的场所，进行现场检查和疫情调查；

（二）采集相关样品，查阅、复制与检疫有关的资料，收集与检疫有关的证据；

（三）依法封存、没收、销毁违反规定调运的农业植物、植物产品，或者责令改变用途；

（四）监督有关单位或者个人落实除害处理等措施。

农业植物检疫人员实施农业植物检疫等相关执法活动，不得干扰当事人的正常生产经营活动；有关单位和个人应当予以配合，不得拒绝、干扰和阻挠。

**第二十五条** 对在农业植物疫情控制和扑灭工作中做出突出贡献的单位和个人，应当给予表彰。

**第二十六条** 市和区、县农业行政部门及其农业植物检疫机构工作人员违反本办法规定，不履行、违法履行、不当履行农业植物检疫职责的，按照国家和本市有关规定给予行政问责和行政处分；构成犯罪的，依法追究刑事责任。

**第二十七条** 有下列违法行为之一，尚未构成犯罪的，由农业植物检疫机构给予

administrative department for finance at the municipal level.

**Article 22** After the disposal of any agricultural plant epidemic, the institution for quarantine of agricultural plants at the district or county level in the place where the epidemic occurred shall strengthen the monitoring; where no epidemic of the same kind is discovered at the place where the epidemic occurred within three years, the administrative department for agriculture at the district or county level may request the administrative department for agriculture at the municipal level to confirm the complete eradication of this epidemic.

Before the complete eradication of the epidemic is confirmed, the place where the epidemic occurred shall not grow plant hosts of the pest triggering the epidemic; where such plant hosts are grown in violation of provisions, the institution for quarantine of agricultural plants at the district or county level shall order to make corrections.

**Article 23** The institution for quarantine of agricultural plants at the municipal level shall establish and improve the information circulating system for quarantine of agricultural plants, strengthen the construction of information platform for quarantine of agricultural plants and timely sum up and circulate information about quarantine of agricultural plants.

**Article 24** In law enforcement activities related to quarantine of agricultural plants, the inspectors for quarantine of agricultural plants shall be dressed in quarantine uniforms, wear quarantine badges, show certificates for law enforcement, and have the power to take the following measures:

- (1) to enter the places for production, operation and storage of agricultural plants or plant products as well as other places where quarantine pests may exist for on-site inspection and epidemic investigation;
- (2) to collect relevant samples, consult and duplicate materials related to quarantine, and gather evidences related to quarantine;
- (3) to seal up, confiscate or destroy, in accordance with law, the agricultural plants or plant products transferred in violation of provisions, or order the change of their purposes;
- (4) to supervise relevant units or individuals to conduct such measures as quarantine treatment.

In law enforcement activities related to quarantine of agricultural plants, the inspectors for quarantine of agricultural plants shall not interfere with the normal production and operation activities of relevant parties; relevant units and individuals shall offer cooperation and shall not refuse, interfere with or obstruct such law enforcement activities.

**Article 25** The units and individuals making outstanding contributions in the control and eradication of agricultural plant epidemics shall be commended.

**Article 26** Where any working staff of the administrative departments for agriculture at the municipal and the district or county level and their institutions for quarantine of agricultural plants, in violation of the provisions of these Measures, fails to, illegally or improperly perform their duties in quarantine of agricultural plants, the administrative accountability and administrative sanctions shall be applicable in accordance with relevant provisions of the State and this Municipality; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 27** Any of the following illegal acts not constituting a crime shall be subject to

处罚：

（一）违反本办法第八条第一款规定，繁育单位或者个人未取得产地检疫证明试验、示范或者推广种子、苗木或者其他繁殖材料的；

（二）违反本办法第八条第二款规定，在本市调运农作物种子、苗木或者其他繁殖材料的；

（三）违反本办法第九条第一款规定，调入单位或者个人调入未经检疫合格的农业植物、植物产品的；

（四）违反本办法第十一条第一、二款规定，调出单位或者个人未取得调运检疫证明擅自调运的。

对前款规定的非经营活动中的违法行为，处以 1000 元以下罚款；对前款规定的经营活动中的违法行为，有违法所得的，没收违法所得，处以违法所得 3 倍以下罚款，最高不得超过 3 万元，没有违法所得的，处以 1 万元以下罚款。

**第二十八条** 违反本办法第十一条第三款规定，承运单位承运未办理调运检疫证明的农业植物、植物产品，或者承运的数量、种类与调运检疫证明不符的，由农业植物检疫机构给予警告，可处 1000 元以上 1 万元以下罚款。

**第二十九条** 违反本办法第十三条规定，未按照要求保存产地检疫或者调运检疫证明原件或者复印件的，由农业植物检疫机构责令改正，对单位可处 2000 元以下罚款，对个人可处 200 元以下罚款。

**第三十条** 违反本办法第十四条规定，销售农作物种子、苗木或者其他繁殖材料的单位或者个人未按照要求建立经营档案的，由农业植物检疫机构责令改正，对单位可处 2000 元以下罚款，对个人可处 200 元以下罚款。

**第三十一条** 违反本办法第十八条第三款规定，发生疫情的单位或者个人拒绝服从、配合疫情处理的，由农业行政部门责令改正；拒不改正，构成违反治安管理行为的，由公安机关依法给予处罚；构成犯罪的，依法追究刑事责任。



punishment by the institutions for quarantine of agricultural plants:

(1) breeding and propagating units or individuals, in violation of the provisions of Paragraph 1, Article 8 of these Measures, experiment, demonstrate or popularize crop seeds, seedlings or other propagating materials without obtaining the certificates of original planting area quarantine inspection;

(2) crop seeds, seedlings or other propagating materials are transferred within this Municipality in violation of the provisions of Paragraph 2, Article 8 of these Measures;

(3) units or individuals, in violation of the provisions of Paragraph 1, Article 9 of these Measures, transferred in agricultural plants or plant products which have not proved qualified through quarantine;

(4) units or individuals, in violation of the provisions of Paragraphs 1 or 2, Article 11 of these Measures, and without authorization, transferred out agricultural plants or plant products without obtaining the certificates of quarantine inspection for transferring.

For any illegal act in non-operational activities stipulated in the preceding paragraph, a fine of not more than 1,000 Yuan shall be imposed; as to any illegal act in operational activities stipulated in the preceding paragraph, where there are illegal gains, the illegal gains shall be confiscated and a fine of not more than three times the illegal gains but 30,000 Yuan at the most shall be imposed, and where there are no illegal gains, a fine of not more than 10,000 Yuan shall be imposed.

**Article 28** Where any carrier, in violation of the provisions of Paragraph 3, Article 11 of these Measures, carries agricultural plants or plant products without the certificates of quarantine inspection for transferring, or carries agricultural plants or plant products with quantities or categories inconsistent with the certificates of quarantine inspection for transferring, the institution for quarantine of agricultural plants shall give it a warning and may impose upon it a fine of not less than 1,000 Yuan but not more than 10,000 Yuan.

**Article 29** Whichever, in violation of the provisions of Article 13 of these Measures, fails to keep the originals or copies of the certificates of original planting area quarantine inspection or quarantine inspection for transferring as required shall be ordered by the institution for quarantine of agricultural plants to make corrections, and a fine of not more than 2,000 Yuan may be imposed on a unit and a fine of not more than 200 Yuan may be imposed on an individual.

**Article 30** Where a unit or an individual selling crop seeds, seedlings or other propagating materials, in violation of the provisions of Article 14 of these Measures, fails to keep the trading files as required, it shall be ordered by the institution for quarantine of agricultural plants to make corrections, a fine of not more than 2,000 Yuan may be imposed on a unit and a fine of not more than 200 Yuan may be imposed on an individual.

**Article 31** Where a unit or an individual where an epidemic occurs, in violation of the provisions of Paragraph 3, Article 18 of these Measures, refuses to be obedient and render cooperation with the epidemic treatment, it shall be ordered by the administrative department for agriculture to make corrections; where its refusal to make corrections constitutes a violation of public security administration, it shall be punished by the public security organ in accordance with law; where a crime is constituted, criminal liability shall be investigated for in accordance with law.



**第三十二条** 单位或者个人违反本办法规定，导致农业植物疫情发生或者危害扩大，给他人人身、财产造成损害的，应当依法承担民事责任。

**第三十三条** 对违反本办法规定的行为，有关法律、法规已经规定相应法律责任的，依照其规定执行。

**第三十四条** 本办法自 2013 年 7 月 1 日起施行。1987 年 8 月 20 日北京市人民政府京政发 106 号文件发布，根据 2007 年 11 月 23 日北京市人民政府第 200 号令修改的《北京市农业植物检疫实施办法》同时废止。

**Article 32** A unit or an individual whose violation of the provisions of these Measures lead to occurrence or expanded hazards of agricultural plant epidemics and cause personal or property damages to others shall shoulder civil liability in accordance with law.

**Article 33** Where there are provisions on the corresponding legal liability for violations of the provisions of these Measures in relevant laws or regulations, such provisions shall be followed.

**Article 34** These Measures shall be effective as of July 1, 2013. The Implementing Measures of Beijing Municipality for Quarantine of Agricultural Plants promulgated by Jingzhengfa Document No. 106 of the People's Government of Beijing Municipality on August 20, 1987 and revised by Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007 shall be repealed simultaneously.

## （十三）知识产权

### 北京市专利保护和促进条例

（2005年5月20日北京市第十二届人民代表大会常务委员会  
第二十次会议通过 2013年9月27日北京市第十四届人民代表大  
会常务委员会第六次会议修订）

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- 第二章 专利保护
- 第三章 专利促进
- 第四章 法律责任
- 第五章 附 则

#### 第一章 总 则

**第一条** 为了鼓励发明创造，保护专利权人的合法权益，推动发明创造的应用，促进科学技术进步和经济社会发展，提高创新能力，根据《中华人民共和国专利法》、《中华人民共和国专利法实施细则》和其他有关法律、行政法规，结合本市实际情况，制定本条例。

**第二条** 本市行政区域内专利的保护、促进及相关活动，适用本条例。

**第三条** 本市专利工作应当遵循激励创新、合理运用、依法保护、科学管理、完善服务的原则。

**第四条** 市和区、县人民政府应当按照首都知识产权战略制定专利保护和促进规划，将专利工作纳入国民经济和社会发展规划并组织实施，保障专利事业发展需要的经费和投入，加强体制机制创新和政策环境建设，建立和完善专利发展评价指标，提升社会的专利创造、运用、保护和管理能力。

市和区、县人民政府应当加强服务，完善有利于专利保护和促进的市场环境，健

## xiii. Intellectual Property Right

### Regulations of Beijing Municipality on Protection and Promotion of Patents

(Adopted at the 20<sup>th</sup> Meeting of the Standing Committee of the 12<sup>th</sup> People's Congress of Beijing Municipality on May 20, 2005, And revised at the 6<sup>th</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on September 27, 2013)

#### Contents

Chapter I	General Provisions
Chapter II	Protection of Patents
Chapter III	Promotion of Patents
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#### Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of encouraging invention-creations, protecting the lawful rights and interests of patentees, promoting the application of invention-creations, promoting the advancement of science and technology and the economic and social development, and enhancing innovation capability in accordance with the Patent Law of the People's Republic of China, the Rules for Implementing the Patent Law of the People's Republic of China and other relevant laws and administrative regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Regulations shall apply to the protection and promotion of patents as well as related activities within the administrative area of this Municipality.

**Article 3** This Municipality shall carry out patent work following the principles of encouraging innovation, reasonable application, legally protection, scientific management and improving services.

**Article 4** The people's governments at the municipal and the district or county level shall formulate the plans for protection and promotion of patents in accordance with the capital intellectual property strategy, include the patent work into the plan of national economy and social development and organize their implementation, guarantee the funds and investment needed for development of the patent undertaking, strengthen innovation of systems and mechanisms as well as construction of policy environment, establish and improve the evaluation indicators for patent development, and enhance the society's capability of patent creation, application, protection and management.

The people's governments at the municipal and the district or county level shall strengthen service, improve market environment favorable to protection and promotion of patents and perfect overall coordination mechanism between the governments and the

全政府与市场、社会的统筹协调机制。

**第五条** 市专利管理部门负责本行政区域内的专利工作。

区、县专利管理部门在市专利管理部门的指导下，开展有关专利保护和促进工作。

发展改革、科学技术、经济和信息化、人力资源和社会保障、教育、农业、工商、商务以及国有资产管理等有关部门，应当按照各自的职责做好相关工作。

**第六条** 市和区、县人民政府有关部门应当指导企业、事业单位开展专利工作，引导企业、事业单位建立健全专利管理体系和管理制度。

**第七条** 市和区、县人民政府有关部门及有关单位应当加强专利宣传教育，在法制宣传教育计划和公务员培训体系中纳入专利知识的内容，加强对企业、事业单位人员的培训，鼓励高等院校开设专利课程，提高全社会的专利意识，营造专利保护和促进的良好环境。

**第八条** 市和区、县人民政府有关部门应当加强对专利信息发布、新闻报道工作的组织、协调，对重大专利事件新闻报道和舆情进行收集、分析、通报。

## 第二章 专利保护

**第九条** 市专利管理、工商、商务等有关部门应当建立专利保护的预防、查处、处理工作机制，重点预防假冒专利行为和群体性专利侵权行为，依法查处假冒专利行为、处理专利侵权纠纷。

**第十条** 市专利管理部门查处假冒专利行为、处理专利侵权纠纷时，应当依法调查取证，相关单位和个人应当协助配合，如实反映情况，不得拒绝、阻挠。

市专利管理部门查处假冒专利行为时，对有证据证明是假冒专利的产品，依法查封或者扣押。

**第十一条** 市专利管理部门处理专利侵权纠纷，认定专利侵权行为成立并作出处理决定的，应当按照下列规定采取措施制止侵权行为：

（一）侵权人制造专利侵权产品的，责令其立即停止制造行为、销毁制造侵权产

market or the society.

**Article 5** The department for patent administration at the municipal level shall be responsible for the patent work within the administrative area of this Municipality.

The departments for patent administration at the district or county level shall carry out the work related to protection and promotion of patents under the guidance of the department for patent administration at the municipal level.

Relevant departments for development and reform, science and technology, economy and information, human resources and social security, education, agriculture, industry and commerce, commerce, State-owned asset management, etc. shall make a success of relevant work in accordance with their respective functions and duties.

**Article 6** Relevant departments of the people's governments at the municipal and the district or county level shall direct enterprises and institutions to carry out patent work and guide them to establish and improve their patent management systems and regulations.

**Article 7** Relevant departments of the people's governments at the municipal and the district or county level and relevant units shall strengthen publicity and education of patents, include patent knowledge into the plan for legal publicity and education as well as the trainingsystems for civil servants, strengthen the training of personnel of enterprises and institutions, encourage institutions of higher education to offer patent courses so as to enhance the whole society's awareness of patents and create a favorable environment for protection and promotion of patents.

**Article 8** Relevant departments of the people's governments at the municipal and the district or county level shall strengthen organization and coordination of the publication of patent information and news report, and collect, analyze and notify news reports and public sentiment on significant patent events.

## Chapter II Protection of Patents

**Article 9** Relevant departments for patent administration, industry and commerce, commerce, etc. at the municipal level shall establish a precaution, investigation and handling mechanism for protection of patents in order to focus on prevention of counterfeit patents and mass patent infringements, and investigate into and deal with the acts of counterfeiting patents and handle the disputes over patent infringements according to law.

**Article 10** When the department for patent administration at the municipal level investigates into and deals with the acts of counterfeiting patents and handles disputes over patent infringements, it shall carry out investigation and collect evidence according to law, while relevant units and individuals shall provide assistance and cooperation and truthfully offer information instead of refusing to do so or creating obstacles.

When the department for patent administration at the municipal level investigates into and deals with the acts of counterfeiting patents, it shall seal or detain the products that are proved to be produced by counterfeited patents.

**Article 11** Where the department for patent administration at the municipal level determines that a patent infringement is constituted and makes a handling decision to deal with the disputes over the patent infringement, it shall take measures to stop the infringement in accordance with the following provisions:

(1) Where an infringes produces patent-infringing products, it shall order him to immediately stop the production and destroy such production tools as special equipment and moulds used to produce patent-infringing products, and not to sell or use the patent-infringing

品的专用设备、模具等生产工具，并不得销售、使用尚未售出的侵权产品或者以其他形式将其投放市场；

（二）侵权人未经专利权人许可使用专利方法的，责令其立即停止使用行为、销毁实施专利方法的专用设备、模具等生产工具，并不得销售、使用尚未售出的依照专利方法所直接获得的侵权产品或者以其他形式将其投放市场；

（三）侵权人销售专利侵权产品或者依照专利方法直接获得的侵权产品的，责令其立即停止销售行为，并不得使用尚未售出的侵权产品或者以其他形式将其投放市场；

（四）侵权人许诺销售专利侵权产品或者依照专利方法直接获得的侵权产品的，责令其立即停止许诺销售侵权产品的行为、消除影响，并不得进行任何实际销售行为；

（五）侵权人进口专利侵权产品或者依照专利方法直接获得的侵权产品，已经进入本市的，责令其不得销售、使用该侵权产品或者以其他形式将其投放市场；

（六）侵权人以生产经营为目的使用专利侵权产品的，责令其立即停止使用行为；

（七）制止侵权行为的其他必要措施。

**第十二条** 本市建立专利保护工作协调机制，完善执法协作工作平台，健全专利案件行政执法和司法衔接机制，完善行政机关之间以及行政机关与司法机关之间的案件移送和线索通报制度。

**第十三条** 发生专利纠纷的，当事人可以自行协商解决，也可以在行政处理时向市专利管理部门申请行政调解，或者向人民法院提起诉讼。行业协会及其他中介组织可以接受行政机关或者人民法院委托进行调解的相关工作。

**第十四条** 市专利管理部门处理专利纠纷时，在当事人自愿的基础上优先采用调解的方式解决纠纷。专利纠纷当事人可以就下列专利纠纷请求市专利管理部门调解：

（一）侵犯专利权的赔偿数额纠纷；

（二）专利申请权和专利权归属纠纷；

（三）发明人、设计人资格纠纷；

（四）职务发明创造的发明人、设计人的奖励和报酬纠纷；

（五）专利权被授予之后提出，该发明专利申请公布后，专利权授予前使用发明而未支付适当费用的纠纷；

products that haven't been sold out, or bring them to the market in other forms;

(2) Where an infringer uses a patented method without permission of the patentee, it shall order him to immediately stop the use and destroy such production tools as special equipment and moulds used to exploit the patented method, and not to sell or use the infringing products developed directly through the use of the patented method that haven't been sold out or bring them to the market in other forms;

(3) Where an infringer sells patent-infringing products or infringing products developed directly through the use of a patented method, it shall order him to immediately stop the sale, and not to use the infringing products that haven't been sold out or bring them to the market in other forms;

(4) Where an infringer offers to sell patent-infringing products or infringing products developed directly through the use of a patented method, it shall order him to immediately stop the offer to sell the infringing products and eliminate effects, and not to conduct any actual sale;

(5) Where an infringer imports patent-infringing products or infringing products developed directly through the use of a patented method, and such products have entered this Municipality, it shall order him not to sell, use the infringing products or bring them to the market in other forms;

(6) Where an infringer uses patent-infringing products for the purpose of production and operation, it shall order him to immediately stop such use; and

(7) Other necessary measures to stop the acts of infringement.

**Article 12** This Municipality shall establish a mechanism for coordination of the patent protection work, improve the work platform for cooperation in law enforcement, perfect the mechanism for connection of administrative law enforcement with justice in patent cases, as well as improve the system for case transfer and clue notification among administrative organs and between administrative organs and judicial organs.

**Article 13** Where a patent dispute rises, the parties concerned may settle them on their own through negotiation, or apply for administrative mediation to the department for patent administration at the municipal level during administrative handling, or file a lawsuit to the people's court. Industry associations and other intermediary organizations may also accept the entrustment of administrative organs or people's courts to conduct relevant mediation work.

**Article 14** Where the department for patent administration at the municipal level deals with patent disputes, it shall, on a voluntary basis on the part of the parties, give priority to mediation to settle the disputes. The parties to patent disputes may apply to the department for patent administration at the municipal level for mediation as to the following patent disputes:

(1) disputes over the amount of compensation in infringement of patent rights;

(2) disputes over the ownership of patent application rights or patent rights;

(3) disputes over the qualification of inventors or designers;

(4) disputes over the awards and remuneration of inventors or designers of employment invention-creations;

(5) disputes, put forward after the grant of patent rights, over unpaid appropriate fees for exploiting inventions after the publication of patent applications for inventions but before the grant of patent rights;

(6) other patent disputes.



（六）其他专利纠纷。

**第十五条** 市专利管理部门进行调解时应当坚持自愿、合法原则，在查明事实、分清是非的基础上，促使当事人相互谅解，协商解决纠纷。双方当事人经调解达成协议的，市专利管理部门应当制作调解协议书，并告知双方当事人可以向人民法院申请司法确认；未能达成协议的，市专利管理部门应当依法处理。

**第十六条** 专利权人或者利害关系人应当合理运用专利制度，不得滥用专利权限制技术竞争和技术发展，维护公平竞争的市场秩序、公共利益以及他人合法权益。

**第十七条** 大型零售企业应当与供货企业就专利保护事项进行约定，明确双方的专利保护责任，预防假冒专利产品和专利侵权产品进入流通市场；专利产品的供货企业应当提供专利证书或者专利实施许可合同等相关证明材料。

**第十八条** 展览会、展示会、博览会、交易会等活动的主办方应当与参展方就专利保护事项进行约定，按照相关规定做好专利保护工作；参展方以专利产品或者专利技术的名义进场参展的，应当提供专利证书或者专利实施许可合同等相关证明材料；依法需要向海关部门申报的，应当提交相关材料。

在展会期间，展会的主办方、承办方、参展方应当对专利管理等部门的工作予以配合。

**第十九条** 市专利管理部门应当建立企业实施假冒专利、专利侵权违法行为的档案，纳入本市企业信用信息系统，对于依法给予行政处罚或者追究刑事责任的情形，应当及时向社会公布。

**第二十条** 本市设立专利举报投诉工作平台，公布举报投诉方式，并为举报人保密。

任何单位和个人有权向市和区、县专利管理部门举报投诉假冒专利行为，提供违法行为线索。对于举报查实的，应当予以奖励。

**第二十一条** 本市知识产权维权援助机构应当积极开展专利维权援助工作，重点援助、扶持困难人员和中小企业，实现维权援助的公益化、专业化、规范化。

**第二十二条** 市专利管理及相关部门应当指导企业、行业协会建立专利海外援助机制，鼓励行业协会、服务机构为企业提供应对海外专利纠纷、争端和突发事件的服务。

**Article 15** The department for patent administration at the municipal level, carrying out mediation, shall adhere to the principles of voluntariness and legality, and, on the basis of ascertaining facts and distinguishing right from wrong, facilitate both parties concerned to reach mutual understanding and settle disputes through negotiation. Where the parties concerned reach an agreement through mediation, the department for patent administration at the municipal level shall prepare a mediation agreement, and inform the parties concerned that they may apply to the people's court for judicial confirmation; where the parties concerned fail to reach an agreement, the department for patent administration at the municipal level shall handle it according to law.

**Article 16** Patentees or interested parties shall reasonably make use of the patent systems, and shall not abuse patent rights to limit technical competition and development in order to maintain the market order under fair competition, public interests and others' lawful rights and interests.

**Article 17** Large retail enterprises shall agree with suppliers on matters of protection of patents to define parties' responsibilities for protection of patents and prevent counterfeit patented products and patent-infringing products entering the trading market; the suppliers of patented products shall provide such relevant certifying documents as patent certificates or contracts for license of patent exploitation.

**Article 18** Sponsors of such activities as exhibitions, shows, expos and trade fairs shall agree with the participants on matters of protection of patents, and make a success of the patent protection work in accordance with relevant provisions; the participants participating in such activities in the name of patented products or patented technologies shall provide such relevant certifying documents as patent certificates or contracts for license of patent exploitation; where customs declarations are necessary to be made according to law, relevant materials shall be submitted.

During such activities, the sponsors, organizers and participants shall provide cooperation in the work of the departments for patent administration and other departments.

**Article 19** The department for patent administration at the municipal level shall establish an archive of enterprises counterfeiting patents and infringing upon patent rights, include it in the enterprise credit information system of this Municipality, and make public to the society the circumstances subject to administrative penalties or criminal liabilities according to law in a timely manner .

**Article 20** This Municipality shall set up a work platform for patent reports and complaints, make public the means of making reports and complaints, and keep secret the informants.

Any unit and individual shall have the right to report or complain of acts of counterfeiting patents to the departments for patent administration at the municipal and the district or county level to provide clues of illegal acts. Where a report is verified to be true upon investigation, awards shall be given.

**Article 21** The agencies for safeguarding rights and providing assistance in terms of intellectual property within this Municipality shall positively carry out the work of safeguarding rights and providing assistance in terms of intellectual property, and focus on assisting and supporting personnel as well as small and medium-sized enterprises in difficulties, so as to realize non-profit, professional and standardized protection of rights and assistance.

**Article 22** The department for patent administration and relevant departments at the municipal level shall guide enterprises and industry associations to establish an overseas

行业协会应当制定本行业专利海外应急预案，指导会员建立海外专利保护制度。

### 第三章 专利促进

**第二十三条** 本市鼓励企业、科研院所、高等院校制定专利战略，加强科学技术的研究开发和专利创造、运用、保护、管理工作；鼓励个人发明创造，申请专利。

**第二十四条** 本市应当以提高自主创新能力为核心，创新组织模式，构建、完善以项目为载体、企业为主体、市场为导向、产学研用相结合的技术创新体系。

**第二十五条** 本市鼓励高等院校和科研院所依法申请专利，实施专利；支持企业、高等院校、科研院所开展多渠道、多形式的合作，共同研究开发和实施专利。

**第二十六条** 本市建立重大经济活动专利评议制度，对使用大额政府财政资金、涉及国有资产数额较大或者对经济社会发展有重大影响的经济活动进行专利评估和审议，防范专利纠纷隐患和市场风险，避免低水平重复研究，为政府科学决策提供依据。具体评议办法由市人民政府规定。

**第二十七条** 本市建立专利预警制度，对重点区域、行业的国内外专利状况、发展趋势、竞争态势等信息进行收集、分析、发布、反馈。市和区、县人民政府应当鼓励、引导企业开展专利预警工作，支持行业协会、专利中介服务机构在专利预警方面为政府决策和企业发展提供服务，维护产业安全，提高企业应对专利纠纷的能力。

**第二十八条** 本市建立专利研究开发、实施和交易的服务体系，建设专利公共服务信息基础设施、各类专业专题专利数据库，开展专利信息数据检索、加工和分析，促进专利信息的传播和利用，推动专利交易和专利运用。

**第二十九条** 本市设立专利奖，对在本市进行发明创造并实施，为促进本市经济社会发展做出突出贡献的专利权人予以表彰奖励。

专利奖资金应当用于奖励发明人、设计人以及对专利的实施、转让、许可做出实质贡献的专利管理、技术转移人员。

assistance mechanism for patents and encourage industry associations and service agencies to provide enterprises with services in response to overseas patent disputes, controversies and emergencies. Industry associations shall formulate precautionary plans for response to overseas patent emergencies of their respective industries and guide their members to establish systems for overseas protection of patents.

### Chapter III Promotion of Patents

**Article 23** This Municipality shall encourage enterprises, scientific research institutes and higher education institutions to formulate patent strategies, and strengthen research and development of scientific technologies, as well as the work of patent creation, application, protection and management; and encourage individuals to make invention-creations, and apply for patents for their invention-creations.

**Article 24** This Municipality shall, centering enhancement of the capability of self-innovation, innovate on organizational patterns, and establish and improve the market-oriented and industry-academia-research-practice integrated technical innovation system with projects as carriers and enterprises as main bodies.

**Article 25** This Municipality shall encourage higher education institutions and scientific research institutes to apply for and exploit patents according to law; and support enterprises, higher education institutions and scientific research institutes to carry out cooperation in multi-channels and multi-forms so as to jointly research, develop and exploit patents.

**Article 26** This Municipality shall establish a system for patent evaluation and review in significant economic activities, and carry out patent evaluation and review of economic activities using a large amount of government funds, involving a large amount of State-owned assets, or having a significant impact on economic and social development, in order to prevent potential dangers and market risks in patent disputes, avoid low-level and repeated research, and provide governments with a basis for scientific policy-making. The specific evaluation and review measures shall be formulated by the Municipal People's Government.

**Article 27** This Municipality shall establish a precautionary system for patents, and carry out collection, analysis, announcement and feedback of domestic and foreign patent status, development trends and competition situations in key areas and industries. The people's governments at the municipal and the district or county level shall encourage and guide enterprises to carry out precautionary work on patents, support industry associations and patent intermediary agencies to provide service to government policy-making and corporate development in terms of patent precaution, so as to maintain industrial safety and enhance enterprises' capability to response to patent disputes.

**Article 28** This Municipality shall establish a service system for patent research, development, exploitation and trading, construct service infrastructure for public information on patents and a data base for varieties of professional topics on patents, so as to carry out data search, processing and analysis of patent information, promote the popularization and utilization of patent information and facilitate patent trading and patent utilization.

**Article 29** This Municipality shall set up patent awards to commend and reward the patentees who have made and exploited invention-creations within this Municipality, and made outstanding contributions to the economic and social development of this Municipality.

The funds for patent awards shall be used to reward inventors, designers, and personnel for patent administration and technical transfer who have made material contributions to

**第三十条** 本市对在进行发明创造、专利申请、专利实施、专利保护、专利预警等方面确需获得帮助的单位和个人，可以予以资金支持。具体办法由市专利管理部门、市财政部门会同市科学技术、发展改革、经济和信息化等有关部门制定。

**第三十一条** 本市通过各种优惠政策鼓励企业及其他组织增加专利研究开发的投入，其专利研究开发费用，在计算应纳税所得额时，可以在实际成本基础上按照规定比例加计扣除或者摊销。

企业购买专利所发生的费用，可以按照规定列入成本。

**第三十二条** 专利权转让合同、专利申请权转让合同、专利实施许可合同经依法认定登记的，当事人享受国家和本市有关技术交易的税收优惠政策。

**第三十三条** 市专利管理工作部门会同市科学技术、发展改革、经济和信息化、教育、农业等相关部门建立企业、高等院校、科研院所、社会组织等各类创新主体认定的专利考核指标体系，并将认定考核结果作为相关部门支持、奖励创新主体的依据之一。

**第三十四条** 本市鼓励企业将自主研发的专利产品、技术参与政府采购活动。

**第三十五条** 申请本市政府财政资金支持的研究开发、技术改造、技术引进等项目，涉及发明、实用新型专利的，应当根据项目的具体情况，按照有关规定和项目主管部门的要求提交专利文献检索报告或者专利分析报告。

市专利管理部门应当会同市科学技术、发展改革等有关部门，公布可以出具专利文献检索报告或者专利分析报告机构的推荐目录。

**第三十六条** 本市政府财政资金支持项目可能产生专利的，项目承担单位应当全面、准确、真实地报告专利成果。项目主管部门应当与项目承担单位就以下事项进行约定：

（一）涉及专利成果的研发目标和验收标准。

（二）资金使用计划。属于科技计划项目的，按照计划和规定所发生的费用，在项目验收后，可以按照相关规定在科技计划项目经费中列支。

patent exploitation, transfer and licensing.

**Article 30** This Municipality may provide financial supports to the units and individuals who indeed need help in terms of invention-creations, patent application, patent exploitation, patent protection and patent precaution. The specific measures shall be formulated by the department for patent administration and the department for finance at the municipal level, together with departments for science and technology, development and reform, economy and information, etc. at the municipal level.

**Article 31** This Municipality shall encourage enterprises and other organizations to increase investment in patent research and development through various preferential policies, and when the amount of taxable income is calculated, a weighted deduction or amortization may, in accordance with stipulated proportion, be made for the patent research and development expenses in addition to the actual costs.

The expenses for enterprises to purchase patents may be included in costs as stipulated.

**Article 32** Where contracts for transfer of patent rights, contracts for transfer of patent application rights and contracts for license of patent exploitation are registered upon recognition according to law, the parties concerned may enjoy the tax preferential policies related to technical trading of the State and this Municipality.

**Article 33** The department for patent administration at the municipal level shall, together with relevant departments for science and technology, reform and development, economy and information, education and agriculture, etc. at the municipal level, establish a system of examination indicators on patents for recognizing enterprises, higher education institutions, scientific research institutes and organizations as innovative bodies, and make the examination results as a basis for relevant departments to support and reward innovative bodies.

**Article 34** This Municipality shall encourage enterprises to participate in government procurement activities with the patented products and technologies under self-research and development.

**Article 35** Where the projects of research and development, technical reform and technical introduction subject to application for government financial supports of this Municipality involve patents of invention or utility model, the reports on searching patent documents or patent analysis reports shall be submitted in accordance with relevant provisions and the requirements of the competent department for projects and in light of the specific circumstances of projects.

The department for patent administration at the municipal level shall, together with relevant departments for science and technology, development and reform, etc. at the municipal level, make public a catalog of institutions recommended that may issue reports on searching patent documents or patent analysis reports.

**Article 36** Where the projects supported by government financial funds of this Municipality may generate patents, the project-undertaking units shall report patent results in an overall, accurate and truthful manner. The competent departments for projects shall agree with the project-undertaking units on the following matters:

(1) objectives of research and development, as well as standards on acceptance upon check involving patent results;

(2) fund-using plan. As to the projects in the science and technology plans, expenses incurred in accordance with the plans and provisions may, after the acceptance upon check of projects, be listed and disbursed in the funds for the projects in the science and technology plans in accordance with relevant provisions;

（三）专利权的权属及相关权益。未约定的，专利权归项目承担单位所有，由项目承担单位自主决定专利的实施、许可、转让、作价入股等，并取得相应的收益。法律、法规另有规定的除外。

（四）专利申请权及申请的合理期限。项目承担单位在合理期限内不提出专利申请的，发明人、设计人可以申请专利，专利权被授予后，项目承担单位享有专利免费实施权。

（五）专利的实施运用计划及其期限。项目承担单位未依照约定实施的，项目主管部门可以许可他人实施，所收取的费用，应当给予项目承担单位。

（六）专利维持的合理期限。

**第三十七条** 以专利出资方式设立企业的，专利出资占企业注册资本的比例，依法由出资各方约定。以专利作价出资的，应当出具评估机构的评估报告和验资机构的验资证明。涉及国有企事业单位的，应当符合有关国有资产管理规定。

**第三十八条** 本市国有企事业单位应当按照规定建立专利管理制度，健全专利管理体系。有下列情形之一的，应当按照有关规定进行专利评估：

- （一）以专利作价出资设立企业的；
- （二）许可境外企业、其他组织或者个人使用专利权的；
- （三）改制、上市、投资、转让、置换、拍卖、偿还债务等涉及专利的；
- （四）合并、分立、解散、清算等涉及专利的；
- （五）其他需要进行专利评估的。

**第三十九条** 被授予专利权的单位应当按照规定和约定给予职务发明创造的发明人、设计人以及对专利的实施、转让、许可做出实质贡献的专利管理、技术转移人员奖金和报酬。

奖金和报酬可以现金、股权收益或者当事人约定的其他形式给付。给付的数额、时间和方式等，由当事人依法约定。没有约定数额的，可以按照下列比例确定：

- （一）单位转让、许可他人实施的，不低于转让费、许可使用费净收入的 20%；
- （二）以专利权入股的，不低于股份或者股权收益的 20%。

**第四十条** 本市进行专业技术职称评审时，应当将发明人、设计人已经实施并取得经济或者社会效益的相关专利作为评价考核的重要因素；对技术进步能够产生重大



(3) ownership of patent rights as well as relevant rights and interests. Where there is no agreement thereon, the patent rights shall belong to the project-undertaking units, which shall, on their own, decide on the exploitation, licensing, transfer and evaluation in terms of shares of patents, as well as obtain corresponding revenues, unless otherwise provided by laws or regulations;

(4) patent application rights and reasonable period for application. Where the project-undertaking units fail to file patent applications within the reasonable period, the inventors or designers may apply for patents. Where the patent rights are granted, the project-undertaking units may enjoy the right to exploit the patents free of charge;

(5) plans for patent exploitation and utilization as well as the period thereof. Where the project-undertaking units fail to exploit the patents as agreed, the competent departments for projects may license others to carry out the exploitation, while the fees collected shall be given to the project-undertaking units; and

(6) reasonable periods for patent maintenance.

**Article 37** Where an enterprise is set up with contributions in the form of patents, the proportion of patent contributions in the registered capital of the enterprises shall be agreed upon by the parties concerned that make contributions. Where the patents are evaluated as contributions, the evaluation reports of evaluation institutions and capital verification certificates of capital verification institutions shall be submitted. Where State-owned enterprises and institutions are involved, the provisions on State-owned asset management shall be complied with.

**Article 38** The State-owned enterprises and institutions in this Municipality shall establish rules for patent management and improve systems for patent management in accordance with provisions. In any one of the following circumstances, patent evaluation shall be conducted in accordance with relevant provisions:

(1) setting up enterprises with patents evaluated as contributions;

(2) licensing overseas enterprises, other organizations or individuals to use patent rights;

(3) restructure, going public, investment, transfer, placement, auction and repayment of debts involving patents;

(4) merger, split-up, dissolution and liquidation involving patents; or

(5) other circumstances in which patent evaluation is required.

**Article 39** The units that are granted patent rights shall provide awards and remuneration to the inventors or designers of employment invention-creations, as well as the personnel for patent administration and technical transfer who have made material contributions to patent exploitation, transfer and licensing.

Awards and remuneration may be provided in cash, equity interests or other forms as agreed upon by the parties concerned. The amount, time and way of provision shall be agreed upon by the parties concerned according to law. Where there is no agreement on the amount, it may be determined in accordance with the following proportion:

(1) no less than 20 percent of the net income from the transfer fees or license fees in the event of transfer or grant of the license to others on the part of units; and

(2) no less than 20 percent of the shares or equity interests in the event of buying shares with patent rights.

**Article 40** Where the review of professional technical titles is conducted in this Municipality, the facts that inventors or designers have exploited relevant patents and obtained economic or social benefits shall be deemed to be important factors of evaluation



作用、取得显著经济或者社会效益的专利，可以作为发明人、设计人以及对专利的实施、转让、许可做出实质贡献的专利管理、技术转移人员破格申报相关专业技术职称评价考核的重要因素。

**第四十一条** 对于具备实施条件、未能适时实施的单位拥有的专利，本市鼓励职务发明的发明人、设计人或者其他单位和个人，与拥有专利权的单位以签订合同的方式予以实施。

**第四十二条** 本市鼓励开展专利领域的金融创新，支持金融机构开展专利质押业务，创新专利质权处置机制，建立质押贷款和风险补偿机制，鼓励拥有专利的企业利用资本市场融资，支持境内外个人和机构开展以专利运用为目的的投资。

市和区、县人民政府及有关部门依法设立的创业投资引导资金和基金，应当采取阶段参股、跟进投资、风险补助等多种方式，支持专利产业化和商用化。

**第四十三条** 本市鼓励发展专利服务业，支持专利中介服务机构发展，加强专利中介服务业人才队伍建设，培育专利中介服务市场，完善专利中介服务体系。

**第四十四条** 专利中介服务机构及其执业人员应当依法提供服务，不得利用商业贿赂手段招揽业务、不得泄露委托人的商业秘密。

**第四十五条** 市专利管理部门依法对专利中介服务机构及执业人员进行监督和管理。依法设立并在本市从事专利代理业务的专利中介服务机构应当按照规定将机构及其执业人员的情况向市专利管理部门备案，并由市专利管理部门公示。

市专利管理部门建立专利中介服务机构及执业人员的违法行为信息管理系统，及时披露违法行为信息。

**第四十六条** 本市有关行业协会应当开展专利知识的宣传和培训，增强会员专利意识，规范会员行为，指导支持会员建立专利联盟和专利池，为会员提供专利信息咨询、预警、维权援助等服务。

行业协会应当加强与高校、科研院所的合作，充分利用高校、科研院所的优势，促进产学研合作。

and examination; the patents that may have significant impacts on technical progress and obtain significant economic or social benefits may be deemed as important factors of evaluation and examination for inventors, designers and personnel for patent administration and technical transfer that have made material contributions to patent exploitation, transfer and licensing to break rules for the declaration of relevant professional technical titles.

**Article 41** As to the patents owned by the units that possess the conditions for exploitation but fail to carry out the exploitation in good time, this Municipality shall encourage the inventors, designers of employment inventions or other units and individuals to enter into contracts with the units owning the patent rights to carry out the exploitation.

**Article 42** This Municipality shall encourage financial innovation in the field of patents, support financial institutions to carry out patent pledge business, innovate on the mechanism for dealing with patent pledge, and establish the mechanism for pledge loan and risk compensation, encourage enterprises owning patents to finance at the capital market, and support individuals and institutions at home or overseas to make investment for the purpose of patent utilization.

The funds and foundations guiding venture capital investment set up by the people's governments at the municipal and the district or county level and relevant departments shall adopt such various forms as phased purchase of shares, follow-up investment and subsidies against risks to support industrialization and commercialization of patents.

**Article 43** This Municipality shall encourage the development of patent service industry, support the development of patent intermediary agencies, strengthen the construction of talent teams in the patent service industry, foster the patent intermediary service market, and improve the patent intermediary service systems.

**Article 44** The patent intermediary agencies and practitioners thereof shall provide services according to law, and shall not solicit businesses through commercial bribery or disclose the principals' commercial secrets.

**Article 45** The department of patent administration at the municipal level shall conduct supervision and administration of patent intermediary agencies and practitioners thereof according to law. The patent intermediary agencies established according to law and engaging in patent agent services within this Municipality shall, in accordance with provisions, file the information of agencies and practitioners thereof to the department for patent administration at the municipal level for the record, which shall be made public by the department for patent administration at the municipal level.

The department for patent administration at the municipal level shall establish an information management system against illegal acts of patent intermediary agencies and practitioners thereof to disclose the information of illegal acts in a timely manner.

**Article 46** Relevant industry associations in this Municipality shall carry out publicity of and training on patent knowledge, strengthen members' patent awareness, regulate members, acts, guide and support members to set up alliances for patents and patent pools, as well as provide members with consultation on patent information, early warning and assistance in safeguarding rights.

Industry associations shall strengthen cooperation with higher education institutions and scientific research institutes, and make full use of the advantages thereof to facilitate industry-academia-research cooperation.

## 第四章 法律责任

**第四十七条** 专利侵权纠纷的行政处理决定或者法院判决生效后，同一侵权人再次侵犯同一专利权的，可以由市专利管理部门责令改正，没收违法所得，并处二万元以上二十万元以下的罚款。

**第四十八条** 市专利管理部门根据本条例第十一条采取措施制止侵权行为，侵权人拒不履行行政处理决定，市专利管理部门可以对涉及的产品以及设备、模具等生产工具予以没收。

**第四十九条** 专利中介服务机构及其执业人员违反本条例第四十四条规定的，由市工商行政管理部门依法予以查处。

**第五十条** 负有专利保护和促进责任的相关部门及其工作人员，违反本条例规定，不履行、违法履行或者不当履行保护和审查职责的，依法追究行政责任；相关人员的行为构成犯罪的，依法追究刑事责任。

## 第五章 附 则

**第五十一条** 本条例自 2014 年 3 月 1 日起施行。

## Chapter IV Legal liability

**Article 47** Where an administrative handling decision or a court judgment on a patent infringement dispute has been effective, and the same infringer infringes upon the same patent right again, he may be ordered to make corrections, confiscated illegal income, and fined not less than 20, 000 yuan but not more than 200, 000 yuan by the department for patent administration at the municipal level.

**Article 48** Where the department for patent administration at the municipal level takes measures to stop infringements according to Article 11 of these Regulations and the infringer refuses to perform the administrative handling decision, the department for patent administration at the municipal level may confiscate the products and such production tools as equipment and moulds involved.

**Article 49** The patent intermediary agencies and practitioners thereof, in violation of the provisions of Article 44 of these Regulations, shall be investigated into and punished by the administrative department for industry and commerce at the municipal level according to law.

**Article 50** Relevant departments undertaking the responsibility for protection and promotion of patents and personnel thereof, in violation of the provisions of these Regulations, failing to perform, illegally performing or improperly performing the functions of protection and review, shall be investigated for administrative responsibilities; where the acts of relevant personnel constitute a crime, criminal liability shall be investigated for according to law.

## Chapter V Supplementary Provisions

**Article 51** These Regulations shall be effective as of March 1, 2014.

# 北京市展会知识产权保护办法

(2007年11月24日北京市人民政府第201号令公布)

**第一条** 为了加强展会知识产权保护,维护展会秩序,促进会展业健康发展,根据有关法律、法规,结合本市实际情况,制定本办法。

**第二条** 本办法适用于本市行政区域内举办的展览会、展销会、博览会、交易会、展示会等活动中有关专利权、商标权、版权等知识产权的保护。

**第三条** 展会知识产权保护工作坚持政府指导、主办方负责、参展方自律、社会公众监督的原则。

**第四条** 市知识产权局负责本市展会知识产权保护工作的统筹协调。区、县人民政府负责本行政区域内展会知识产权保护工作的领导和协调。

知识产权、工商行政管理、版权等知识产权行政管理部门(以下统称知识产权行政管理部门)应当依照各自职责做好对展会知识产权保护工作的指导和监督,帮助主办方建立健全展会知识产权保护制度。

**第五条** 展会管理部门应当加强对展会知识产权保护工作的协调、监督、检查,维护展会的正常秩序。

**第六条** 有关行业协会应当通过制定行业自律规范、开展宣传培训等方式,增强会员的知识产权保护意识,协助知识产权行政管理部门开展展会知识产权保护工作。

**第七条** 主办方应当依法做好展会知识产权保护工作,建立健全展前审查参展项目(包括展品、展板、展台及相关宣传资料等)知识产权状况的制度,督促参展方对可能引发知识产权纠纷的参展项目进行检索。

**第八条** 参展方应当合法参展,配合主办方在展前对参展项目知识产权状况进行

# Measures of Beijing Municipality for Protection of Intellectual Property Rights in Exhibitions

(Promulgated by Decree No. 201 of the People's Government of Beijing Municipality on November 24, 2007)

**Article 1** These Measures are formulated for the purposes of strengthening the protection of intellectual property rights in exhibitions, maintaining the order of exhibitions and promoting the healthy development of exhibition industry in accordance with relevant laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to the protection of such intellectual property rights as patent right, trademark right and copyright in such activities as exhibitions, commodity fairs, expos, trade fairs and shows held within the administrative areas of this Municipality.

**Article 3** The principles of government's guidance, sponsor's responsibility, exhibition-participant's self-discipline and social public's supervision shall be stuck to in the work of protection of intellectual property rights in exhibitions.

**Article 4** The Municipal Intellectual Property Bureau shall be responsible for the overall planning and coordination of the work of protection of intellectual property rights in exhibitions in this Municipality. The district or county people's governments shall be responsible for the leadership and coordination of the work of protection of intellectual property rights in exhibitions within their respective administrative areas.

Such administrative departments for intellectual property rights as intellectual property bureaus, administrations of industry and commerce and copyright bureaus (hereinafter collectively referred to as "administrative departments for intellectual property rights") shall, in accordance with their respective functions and duties, bring to success the guidance and supervision of the work of protection of intellectual property rights in exhibitions and help the sponsors to establish and perfect the system for protection of intellectual property rights.

**Article 5** The administrative departments of exhibitions shall strengthen the coordination, supervision and examination of the work of protection of intellectual property rights and maintain the normal order of exhibitions.

**Article 6** Relevant trade associations shall, by means of making the self-discipline standards for the industries and carrying out propaganda and training activities, strengthen the consciousness of their members on protection of intellectual property rights and assist the administrative departments for intellectual property rights to carry out the work of protection of intellectual property rights.

**Article 7** The sponsors shall, in accordance with law, bring success to the work of protection of intellectual property rights, establish and perfect the system for examining the intellectual property rights of the exhibition-participating items (including exhibits, display boards, showcases and relevant promotion materials) before exhibitions, and urge the exhibition-participants to search the exhibition-participating items which may cause disputes on intellectual property rights.

**Article 8** The exhibition-participants shall legally participate in exhibitions,

的审查工作，不得侵犯他人的知识产权。

参展项目依法应当具有相关权利证明的，参展方应当携带相关的权利证明参展；对参展项目标注知识产权标记、标识的，应当按照有关规定标注。

**第九条** 主办方与参展方应当在参展合同中约定双方知识产权保护的权利、义务和相关内容。知识产权保护的内容应当包括：

- （一）参展方对参展项目不侵犯他人知识产权的承诺；
- （二）知识产权投诉处理程序和解决方式；
- （三）参展项目涉嫌侵权的，应当采取遮盖、撤展等处理措施。

市知识产权局应当会同市工商行政管理、市版权等行政管理部门制定展会知识产权保护合同示范文本，并向社会公布。

**第十条** 举办时间在三天以上，且具有下列情形之一的展会，知识产权行政管理部门应当进驻：

- （一）政府和政府部门主办的展会；
- （二）展出面积二万平方米以上的展会；
- （三）在国际或者国内具有重大影响的展会。

主办方应当为知识产权行政管理部门进驻展会开展工作提供必要的便利条件。

**第十一条** 举办第十条第一款规定的展会，由本市展会管理部门审批或者登记的，展会管理部门应当自批准或者登记之日起 10 日内，将展会的名称、时间、地点、展出面积、主办方的基本情况告知市知识产权局；由非本市展会管理部门审批或者登记的，展会的承办方应当按照前述规定将举办展会的有关情况告知市知识产权局。

**第十二条** 主办方应当根据国家有关规定和实际工作需要设立展会知识产权投诉机构。

投诉机构可以由主办方人员、相关领域的专业技术人员和法律专业人员等组成。必要时，主办方可以邀请知识产权行政管理部门派人指导。

cooperate with the sponsors in the work of examining the intellectual property rights of the exhibition-participating items before exhibitions and shall not infringe upon others' intellectual property rights.

Where relevant certificates of rights are required for the exhibition-participating items according to law, the exhibition-participants shall bring relevant certificates of rights to participate in exhibitions; where marks or signs of intellectual property rights shall be indicated on the exhibition-participating items, the marks or signs shall be indicated in accordance with relevant provisions.

**Article 9** The sponsors and exhibition-participants shall make agreements on their rights and obligations for protection of intellectual property rights and related contents in the exhibition-participating contracts. The contents of protection of intellectual property rights shall include:

(1) the exhibition-participants' commitments that the exhibition-participating items do not infringe on others' intellectual property rights;

(2) the procedures and ways for handling and settling the complaints about intellectual property rights; and

(3) such disposal measures as concealment or withdrawal from exhibitions shall be taken where the exhibition-participating items are inspected of involving infringing on other's intellectual property rights.

The Municipal Intellectual Property Bureau shall, together with the municipal administrative departments for industry and commerce, copyright, etc., work out the model texts of contracts for protection of intellectual property rights in exhibitions and make them public to the society.

**Article 10** The administrative departments for intellectual property rights shall be stationed in the exhibitions which last for more than three days and fall into one of the following circumstances:

(1) the exhibitions sponsored by the governments or government departments;

(2) the exhibitions with a display area of more than 20, 000 square meters; or

(3) the exhibitions with major international or national influences.

The sponsors shall provide necessary conveniences for the administrative departments for intellectual property rights to be stationed in the exhibitions to carry out their work.

**Article 11** Where the holding of any exhibition stipulated in the first paragraph of Article 10 is examined and approved or registered by the administrative department of exhibition of this Municipality, the administrative department of exhibition shall, within 10 days starting from the date of approval or registration, notify the title, time, place, display area and general information about the sponsor of the exhibition to the Municipal Intellectual Property Bureau; where the exhibition is examined and approved or registered by the administrative department of exhibition other than that of this Municipality, the exhibition-undertaking party shall notify relevant information of the exhibition to the Municipal Intellectual Property Bureau in accordance with the preceding provisions.

**Article 12** The sponsors shall, in accordance with relevant provisions of the State and actual needs of the work, set up the institutions to accept complaints about intellectual property rights in exhibitions.

The institutions to accept complaints may be composed of staff of sponsors, professional technicians of relevant fields, legal professionals, etc.. Where necessary, the sponsors may invite the staff dispatched by the administrative departments for intellectual property rights to give guidance.



**第十三条** 知识产权权利人或者利害关系人认为参展项目侵犯其知识产权的，可以依照有关规定向主办方或者主办方设立的投诉机构投诉。主办方或者投诉机构接到投诉后应当及时指派工作人员进行调查处理。

**第十四条** 知识产权权利人或者利害关系人向主办方或者主办方设立的投诉机构投诉的，应当提供下列材料：

（一）投诉人与被投诉人基本情况资料，包括投诉人名称、住所、被投诉人名称及展位号码。投诉人委托代理人投诉的，应当提交授权委托书。

（二）涉嫌侵权参展项目的名称、涉嫌侵权的证据和必要说明。

（三）知识产权权利证明，包括知识产权权属证明、知识产权内容证明和其他必要的知识产权法律状况证明。

**第十五条** 被投诉人在被告知其参展项目涉嫌侵权后，应当及时出示权利证书或者其他证据，证明其拥有对被投诉内容的合法权属，作出不侵权的举证，并协助主办方或者主办方设立的投诉机构工作人员对涉嫌侵权物品进行查验。

被投诉人不能作出有效举证的，应当按照与主办方的合同约定将涉嫌侵权的物品自行撤展；被投诉人不自行撤展的，主办方或者主办方设立的投诉机构可以作出撤展的决定。

**第十六条** 因投诉人恶意投诉而给被投诉人造成损失的，投诉人应当依法承担相应的赔偿责任。

**第十七条** 参展方应当遵守与主办方签订的有关知识产权保护的有关条款，履行知识产权保护义务，配合主办方解决纠纷。

**第十八条** 主办方在展会举办期间应当履行下列职责：

（一）接受知识产权侵权投诉，协调解决侵权纠纷；

（二）提供知识产权保护法律和相关专业技术方面的宣传咨询服务；

（三）在显著位置公示知识产权行政管理部门的受案范围和联系方式，并公布主

**Article 13** The owners or interested parties of intellectual property rights who consider that the exhibition-participating items infringe on their intellectual property rights may, in accordance with relevant provisions, complain to the sponsors or the institutions to accept complaints set up by the sponsors. After receiving the complaints, the sponsors or the institutions to accept complaints shall timely assign the working staff to make investigations and disposal.

**Article 14** Any owner or interested party of intellectual property rights who complains to the sponsor or the institution to accept complaints set up by the sponsor shall provide the following materials:

(1) the materials of the general information about the complainant and the complained, including the name and address of the complainant, the name of the complained, and the number of the exhibition booth of the complained. Where the complainant entrusts an agent to make the complaint, the Power of Attorney shall be submitted;

(2) the name of the exhibition-participating items suspected of involving infringement, evidences on such infringement and necessary explanations; and

(3) the certificates of the intellectual property rights, including the ownership certificates of the intellectual property rights, certificates of the contents of the intellectual property rights and other necessary certificates of the legal status of the intellectual property rights.

**Article 15** After being notified that the exhibition-participating item is suspected of involving infringing on other' intellectual property right, the complained shall timely show his certificate of right or other evidences to prove that he owns the legal ownership of the complained contents, adduce evidences on non-infringement, and assist the staff of the sponsor or the institution to accept complaints set up by the sponsor to examine the articles suspected of involving infringement.

Where the complained fails to adduce valid evidences, he shall, in accordance with the agreements in the contract with the sponsor, withdraw the item suspected of involving infringement from the exhibition on his own; where the complained fails to withdraw the articles from the exhibition on his own, the sponsors or the institution to accept complaints set up by the sponsor may make a decision to withdraw such articles from the exhibition.

**Article 16** Where the complained suffers losses due to the malicious complaint made by the complainant, the complainant shall bear the corresponding compensation responsibility in accordance with law.

**Article 17** The exhibition-participants shall abide by the clauses on protection of intellectual property rights in the contracts signed with the sponsors, perform their obligations on protection of intellectual property rights and cooperate with the sponsors to settle disputes.

**Article 18** The sponsors shall perform the following functions and duties during the holding of exhibitions:

(1) to accept the complaints about infringement of intellectual property rights and coordinate the settlement of disputes on infringement;

(2) to provide the propaganda and consultation services on the laws concerning protection of intellectual property rights and relevant professional technologies;

(3) to make public the case acceptance scope and contact manner of the administrative departments for intellectual property rights in conspicuous positions, and make public

办方或者投诉机构的服务事项、投诉地点和联系方式；

（四）应知识产权权利人或者利害关系人的合理要求，出具相关事实证明；

（五）主办方应当履行的其他职责。

**第十九条** 展会期间发生知识产权纠纷的，主办方或者主办方设立的投诉机构应当按照事先的约定，在当事人各方自愿的基础上进行调解。经调解达成一致的，有关各方应当执行；不能达成一致的，知识产权权利人或者利害关系人可以向知识产权行政管理部门投诉，也可以直接向人民法院起诉。

**第二十条** 主办方和参展方应当接受知识产权行政管理部门的指导、监督和检查，配合知识产权行政管理部门和司法机关的调查取证等执法活动。

**第二十一条** 主办方应当妥善保存展会期间的知识产权保护信息与资料，并在展会结束后报送市知识产权局。

**第二十二条** 知识产权行政管理部门应当履行下列展会知识产权保护职责：

（一）依法受理知识产权权利人或者利害关系人的投诉，处理展会知识产权侵权纠纷；

（二）组织开展知识产权保护相关法律、政策的宣传，以巡视、督导等方式监督主办方履行知识产权保护义务；

（三）依法查处展会期间发生的知识产权违法行为；

（四）建立展会知识产权保护情况的信息披露制度，提供有关知识产权保护的信息查询服务。

知识产权行政管理部门应当严格依法履行职责，不得干扰正常的展会秩序。

**第二十三条** 知识产权行政管理部门可以将主办方履行展会知识产权保护职责的有关情况通报展会管理部门。

**第二十四条** 主办方违反本办法第十八条第（一）项、第（二）项、第（三）项和第二十一条规定的，由知识产权行政管理部门依照各自的管理职责责令改正；拒不

the services, places for accepting complaints and contact manner of the sponsors or the institutions to accept complaints;

(4) to present the certificates of relevant facts upon the reasonable request of the owners or interested parties of intellectual property rights; and

(5) other functions and duties the sponsors shall perform.

**Article 19** Any dispute on intellectual property rights happening during exhibitions shall be mediated, in accordance with the agreements in advance, by the sponsors or the institutions to accept complaints set up by the sponsors on the basis of various parties' willingness. Where a consensus is reached through mediation, relevant various parties shall implement it; where no consensus is reached, the owner or interested party of intellectual property rights may complain to the administrative departments for intellectual property rights or directly bring a lawsuit at the people's court.

**Article 20** The sponsors and exhibition-participants shall accept the guidance, supervision and inspection of the administrative departments for intellectual property rights, and cooperate with the administrative departments for intellectual property rights and judicial organs in such law enforcement activities as investigation and evidence collection.

**Article 21** The sponsors shall well keep the information about and materials of protection of intellectual property rights in exhibitions, and submit them to the Municipal Intellectual Property Bureau after the ending of exhibitions.

**Article 22** The administrative departments for intellectual property rights shall perform the following functions and duties on protection of intellectual property rights in exhibitions:

(1) to accept the complaints by owners or interested parties of intellectual property rights and dispose of the disputes on infringement of intellectual property rights in exhibitions in accordance with law;

(2) to organize the propaganda of relevant laws and policies on protection of intellectual property rights and supervise the performance of the obligations of protection of intellectual property rights by the sponsors by means of patrolling and superintending;

(3) to investigate and handle the illegalities concerning intellectual property rights happening during exhibitions in accordance with law; and

(4) to set up the information disclosure system on protection of intellectual property rights in exhibitions and provide the information inquiry services on protection of intellectual property rights.

The administrative departments for intellectual property rights shall perform their functions and duties in strict accordance with law and shall not interfere with the normal order of exhibitions.

**Article 23** The administrative departments for intellectual property may circulate relevant information about the sponsors' performance of their functions and duties on protection of intellectual property rights to the administrative departments of exhibitions.

**Article 24** Any sponsor who violates the provisions of Item (1), (2) and (3) of Article 18 and Article 21 of these Measures shall be ordered to make corrections by the administrative departments for intellectual property rights in accordance with their respective administrative functions and duties; any sponsor who refuses to make such

改正的，可处 1000 元以上 3 万元以下罚款。

主办方违反本办法规定，不履行展会知识产权保护职责，其他法律、法规已规定法律责任的，依照其规定执行。

**第二十五条** 知识产权行政管理部门及其工作人员玩忽职守、滥用职权、徇私舞弊的，由有关部门依法给予行政处分；构成犯罪的，依法追究刑事责任。

**第二十六条** 本办法自 2008 年 3 月 1 日起施行。

corrections may be fined not less than 1, 000 Yuan but not more than 30, 000 Yuan.

Where any sponsor, in violation of the provisions of these Measures, fails to perform his functions and duties on protection of intellectual property rights in exhibitions and other laws or regulations have provided for the legal liabilities, these provisions shall prevail.

**Article 25** Where any administrative department for intellectual property rights and any working staff thereof neglect their duties, abuses their powers, or commit illegalities for personal gains or by fraudulent means, relevant departments shall impose administrative sanctions in accordance with law; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 26** These Measures shall be effective as of March 1, 2008.

## （十四）商 业

### 北京市优化营商环境条例

（2020年3月27日北京市第十五届人民代表大会常务委员会  
第二十次会议通过）

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第五章	法治保障
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#### 第一章 总 则

**第一条** 为了持续优化营商环境，推进首都治理体系和治理能力现代化，推动高质量发展，根据国务院《优化营商环境条例》，结合本市实际情况，制定本条例。

**第二条** 优化营商环境应当坚持市场化、法治化、国际化原则，以市场主体需求为导向，持续深化简政放权、放管结合、优化服务改革，构建以告知承诺为基础的审批制度、以信用为基础的监管制度、以标准化为基础的政务服务制度、以区块链等新一代信息技术为基础的数据共享和业务协同制度，以法治为基础的政策保障制度，切实降低制度性交易成本，激发市场主体活力，充分发挥市场在资源配置中的决定性作用，打造国际一流的营商环境。

**第三条** 市场主体在市场经济活动中的权利平等、机会平等、规则平等，依法享

## xiv. Business

### Regulations of Beijing Municipality on the Optimization of the Business Environment

(Adopted at the 20<sup>th</sup> Meeting of the Standing Committee of the 15<sup>th</sup> People's Congress of Beijing Municipality on March 27, 2020)

#### Contents

Chapter I	General Provisions
Chapter II	Market Environment
Chapter III	Government Services
Chapter IV	Regulation and Law Enforcement
Chapter V	Legal Guarantee
Chapter VI	Supplementary Provisions

#### Chapter I General Provisions

**Article 1** The Regulations are formulated to continuously optimize the business environment, promote modernization of the capital's governance system and governance capacity, and advance high-quality development in accordance with the Regulations on the Optimization of the Business Environment of the State Council and in light of actual conditions of this Municipality.

**Article 2** To optimize the business environment, it is necessary to adhere to the principles of marketization, legalization and internationalization, focus on the needs of market entities, continuously deepen the reform in terms of simplifying administrative procedures, delegating powers to lower levels, combining decentralization with appropriate control, and improving services, establish an approval system based on informed commitments, a regulatory system based on credit, a government service system based on standardization, a data sharing and business coordination system based on new-generation information technology such as blockchain, and a policy guarantee system based on the rule of law, effectively reduce institutional transaction costs, stimulate the vitality of market entities, maximize the decisive role of the market in resource allocation, and create a world-class business environment.

**Article 3** Market entities shall have equal access to rights, opportunities and rules in market economic activities, and shall enjoy, according to law, the right to independently determine business forms and models, the right to protection of personal and property interests, the right to be informed of, among others, laws, policies, and information



有自主决定经营业态、模式的权利，人身和财产权益受到保护的權利，知悉法律、政策和监管、服务等情况的權利，自主加入或者退出社会组织的權利，对营商环境工作进行监督的權利。

市场主体应当遵守法律法规，恪守社会公德和商业道德，诚实守信、公平竞争，履行安全、质量、环境保护、劳动者权益保护、消费者权益保护等方面的法定义务，在国际经贸活动中遵循国际通行规则。

**第四条** 本市建立健全优化营商环境议事协调工作机制，组建专家咨询委员会，完善优化营商环境政策措施，开展营商环境评价，及时协调解决重大问题，统筹推进、督促落实优化营商环境工作。

市、区人民政府应当加强对优化营商环境工作的领导，政府主要负责人是优化营商环境第一责任人。

市、区发展改革部门主管本行政区域内优化营商环境工作，组织、指导、协调优化营商环境日常事务；有关政府部门依照各自职责，做好优化营商环境的相关工作。

**第五条** 本市鼓励政府及有关部门结合实际情况，在法治框架内积极探索原创性、差异化的优化营商环境具体措施；对探索中出现的失误或者偏差，符合规定条件的，可以予以免责或者减轻责任。

**第六条** 市、区人民政府应当每年向同级人民代表大会常务委员会报告优化营商环境工作，人大常委会可以采取听取专项工作报告、执法检查、质询、询问或者代表视察等方式，对优化营商环境工作进行监督。

**第七条** 本市建立优化营商环境社会监督员制度，聘请企业经营者、有关社会人士作为监督员，发现营商环境问题，及时提出意见和建议。政府及有关部门应当接受社会监督员的监督，及时整改查实的问题。

**第八条** 本市与天津市、河北省协同推进优化营商环境工作，逐步实现政务服务标准统一、资质互认、区域通办。

on regulation and services, the right to join or withdraw from social organizations independently, and the right to supervise the work in relation to the business environment.

Market entities shall abide by laws and regulations, observe social ethics and business ethics, be honest and trustworthy, engage in fair competition, perform legal obligations in terms of safety, quality, environmental protection, protection of the rights and interests of employees, protection of the rights and interests of consumers, etc., and follow internationally accepted rules in international economic and trade activities.

**Article 4** This Municipality shall establish and improve the working mechanism for discussion and coordination for optimizing the business environment, establish an expert advisory committee, improve the policies and measures for optimizing the business environment, conduct assessment of the business environment, coordinate resolution of major issues in a timely manner, and make overall plans for advancing and urging implementation of the optimization of the business environment.

The municipal and district people's governments shall strengthen leadership over the optimization of the business environment, and the main persons in charge of the governments shall be the first persons responsible for optimizing the business environment.

The municipal and district government departments for development and reform shall be in charge of the optimization of the business environment within their respective administrative areas, and shall organize, direct, and coordinate the routine affairs in relation to the optimization of the business environment; relevant government departments shall exercise their respective duties and functions and do a good job in the work in relation to the optimization of the business environment.

**Article 5** This Municipality shall encourage the government and relevant departments to, in light of actual conditions, actively explore original and differentiated specific measures for optimizing the business environment within the framework of the rule of law; in case of any mistake or deviation in the exploration, they may be exempted or relieved from liability if the prescribed conditions are met.

**Article 6** The municipal and district people's governments shall report to the standing committees of the people's congresses at the corresponding levels on optimizing the business environment every year, and the latter may supervise the optimization of the business environment by hearing special work reports, conducting law enforcement inspections, addressing inquiries, raising questions, or paying inspection visits on the part of deputies.

**Article 7** This Municipality shall establish a system of social supervisors for optimizing the business environment, and engage enterprise operators and relevant community members as supervisors, who shall promptly put forward opinions and suggestions upon discovering problems in the business environment. The government and relevant departments shall accept the supervision of social supervisors and address the verified problems in a timely manner.

**Article 8** This Municipality shall, in coordination with Tianjin Municipality and Hebei Province, advance the optimization of the business environment, and gradually achieve unified standards for government services, mutual recognition of qualifications, and intra-regional availability of services.

## 第二章 市场环境

**第九条** 本市以市场主体需求为导向，创新体制机制，为市场主体从事生产经营活动创造国际领先的发展条件。

**第十条** 保障各种所有制经济平等受到法律保护。保障各类市场主体依法平等使用资金、技术、人力资源、土地等各类生产要素和公共服务资源；保障依法平等适用国家和本市各类支持发展政策；保障在政府采购和招标投标等公共资源交易活动中获得公平待遇。

禁止违反法定权限、条件、程序对市场主体的财产和企业经营者个人财产实施查封、冻结和扣押等行政强制措施；禁止在法律、法规规定之外要求市场主体提供财力、物力或者人力的收费和摊派行为。

因国家利益、社会公共利益需要，政府采取征收征用、变更或者撤回已经生效的行政许可、承诺等措施的，应当依法对市场主体予以补偿。

**第十一条** 本市按照党中央、国务院批复的《北京城市总体规划》和国家要求，制定符合首都功能定位的产业发展政策和新增产业禁止限制目录。本市新增产业禁止限制目录，由市发展改革部门会同有关政府部门拟订，报市人民政府批准后向社会公布。

各区人民政府、有关政府部门不得制定新增产业禁止限制目录。

本市新增产业禁止限制目录和国家市场准入负面清单以外的领域，各类市场主体均可以依法平等进入。

**第十二条** 政府有关部门应当采取下列措施简化市场主体注册登记手续，法律、行政法规另有规定的除外：

（一）申请设立市场主体或者变更登记事项，申请人承诺所提交的章程、协议、决议和住所使用证明等材料真实、合法、有效的，市场监督管理部门对提交的材料实行形式审查；

（二）设立一般经营项目，申请人提交材料齐全的，有关政府部门应当即时办结，

## Chapter II Market Environment

**Article 9** This Municipality shall focus on the needs of market entities, innovate on systems and mechanisms, and create internationally leading development conditions for market entities to engage in production and operation activities.

**Article 10** Economies under various forms of ownership shall be entitled to equal protection under the law. Various market entities shall have equal access to funds, technologies, human resources, land, and other production factors and public service resources according to law, shall equally benefit from various development support policies of the State and this Municipality according to law, and shall be entitled to fair treatment in public resource trading activities such as government procurement and bidding.

The imposition of administrative compulsory measures, such as seizure, freezing and impoundment, against the property of market entities and the personal property of enterprise operators in violation of statutory authority, conditions and procedures shall be prohibited; and any levy or apportionment that requires market entities to contribute financial, material or human resources shall be prohibited, except as stipulated by laws and regulations.

Where the government, in the interests of the State or the public, takes measures such as expropriation, requisition, and modification or revocation of an administrative license already in effect or a commitment, it shall make compensations to market entities according to law.

**Article 11** This Municipality shall, in accordance with the Overall Beijing Urban Plan approved by the CPC Central Committee and the State Council as well as state requirements, formulate industrial development policies that conform to the capital's functional orientation and a catalog of prohibitions and restrictions on new industries. This Municipality's catalog of prohibitions and restrictions on new industries shall be prepared by the municipal government department for development and reform together with relevant government departments, which shall be reported to the Municipal People's Government for approval before announced to the public.

The district people's governments and relevant government departments shall not formulate a catalog of prohibitions and restrictions on new industries.

All market entities may have equal access to fields other than those in this Municipality's catalog of prohibitions and restrictions on new industries and the national negative list for market access according to law.

**Article 12** Relevant government departments shall take the following measures to simplify the registration procedures for market entities, unless otherwise stipulated by laws and administrative regulations:

(1) For an application for establishment of a market entity or for change of items of registration, if the applicant undertakes that the bylaws, agreements, resolutions, certificates of domicile use, and other materials submitted are true, legal and valid, the government department for market supervision shall conduct a formal examination of the materials submitted.

(2) For the establishment of a general business item, if the applicant has submitted complete materials, the relevant government department shall conclude the matter

并根据需要一次性向申请人提供开展生产经营活动所需的营业执照、公章和票据。不能即时办结的，应当在一个工作日内办结；

（三）设立一般经营项目的市场主体，可以按照《国民经济行业分类》中的大类登记经营范围；

（四）多个市场主体可以使用同一地址作为登记住所；

（五）市场主体可以在登记住所以外的场所开展生产经营活动，但是应当通过企业信用信息公示系统自行公示实际生产经营场所的地址；

（六）市场主体设立分支机构，可以申请在其营业执照上注明分支机构住所，不再单独申请营业执照。

前款第二项、第三项所称一般经营项目，是指市场主体不需要经过有关政府部门行政许可即可以开展的经营项目。

市场主体简化注册登记手续的具体办法，由市市场监督管理部门制定，并向社会公布。

**第十三条** 市场主体应当将登记的住所或者通过北京市企业登记服务平台自行填报公示的其他地址承诺作为纸质法律文书送达地址；市场主体同意适用电子送达方式的，在北京市企业登记服务平台中填写的电子邮箱、传真号、移动即时通讯账号等视为电子法律文书送达地址，但法律法规另有规定的除外。

**第十四条** 本市推进科技、文化重点产业发展。市场主体可以利用国家自主创新示范区和北京经济技术开发区现有资源，建设科技、文化企业孵化器。经依法登记的农村集体经营性建设用地符合规划的，可以用于科技、文化孵化，科技、文化成果转化和产业落地等项目建设。

本市统筹推进应用场景建设，为新技术、新产品应用提供实验空间。科学技术、经济和信息化等有关政府部门应当发布重点领域应用场景项目清单。

支持在本市设立国际科技组织或者联盟、国际知识产权组织或者其分支机构。

**第十五条** 知识产权等有关政府部门应当健全知识产权保护的举报、投诉、维权、援助平台以及有关案件行政处理的快速通道，完善行政机关之间、行政机关与司法机

immediately and provide the applicant with the business license, seal and notes required for production and operation activities. If the matter cannot be concluded immediately, it shall be concluded within one working day.

(3) A market entity that establishes a general business item may register its business scope according to the major categories in the Industrial Classification for National Economic Activities.

(4) Multiple market entities may use the same address as their registered domicile.

(5) A market entity may carry out production and operation activities in a place other than the registered domicile, but shall take the initiative to publicize the address of the place for actual production and operation in the enterprise credit information system.

(6) A market entity that establishes a branch office may apply for specifying the domicile of the branch office on its business license, instead of applying for a business license separately.

The term “general business item” referred to in Items (2) and (3) in the preceding paragraph shall refer to a business item that a market entity may engage in without the administrative licensing from the relevant government department.

Specific measures for simplifying registration procedures for market entities shall be formulated by the municipal government department for market supervision and announced to the public.

**Article 13** A market entity shall undertake to use the registered domicile or any other address that is submitted and publicized on its own initiative through the Beijing Municipal Enterprise Registration Service Platform as the address for service of paper legal documents; if the market entity agrees to electronic service, the e-mail address, fax number, or mobile instant messaging account number entered on the Beijing Municipal Enterprise Registration Service Platform shall be regarded as the address for service of electronic legal documents, unless otherwise stipulated by laws and regulations.

**Article 14** This Municipality shall promote the development of key high-tech and cultural industries. A market entity may use the existing resources of the National Independent Innovation Demonstration Zone and the Beijing Economic and Technological Development Area to build a high-tech or cultural business incubator. Rural collective land for commercial construction purposes that has been legally registered, if conforming to the planning, may be used for construction of the projects of high-tech or cultural incubation, high-tech or cultural achievement transformation, and industrial application.

This Municipality shall make plans for advancing the construction of application scenarios to provide experimental space for application of new technologies and products. The government departments for science and technology, economy and information technology, etc. shall issue a list of application scenario projects for key fields.

Support shall be provided for establishment of international scientific and technological organizations or unions and international intellectual property organizations or their branches in this Municipality.

**Article 15** Intellectual property and other relevant government departments shall improve the reporting, complaints, rights protection and assistance platforms for the protection of intellectual property rights and the fast channels for administrative handling of relevant cases, and shall improve the system for case transfer and clue disclosure among

关之间的案件移送和线索通报制度。

市知识产权部门应当鼓励、引导企业建立专利预警制度，支持协会、知识产权中介机构为企业提供目标市场的知识产权预警和战略分析服务。

市知识产权部门应当建立企业专利海外应急援助机制，指导企业、协会制定海外重大突发知识产权案件应对预案，支持协会、知识产权中介机构为企业提供海外知识产权纠纷、争端和突发事件的应急援助。

**第十六条** 市人力资源和社会保障部门建立健全人力资源服务体制机制，培育国际化、专业化人力资源服务机构，为人力资源合理流动和优化配置提供服务；畅通劳动者维权渠道，完善调解机制，加大监督执法力度，依法保护劳动者合法权益；按照国家规定取消水平评价类技能人员职业资格，推行社会化职业技能等级认定。

**第十七条** 市地方金融监督管理部门应当组织协调有关金融机构和中介机构，为市场主体首贷、续贷业务受理和其他金融业务提供服务，提高对中小企业信贷规模和比重。

在确保商业秘密、个人隐私受到保护的前提下，推动不动产登记、税务、市场监督管理、民政等有关政府部门的信息与金融机构共享；建立以区块链为基础的企业电子身份认证信息系统，减少企业需要提供的材料。

**第十八条** 本市由人民银行动产融资登记系统对动产担保物进行统一登记，航空器、船舶、机动车和知识产权除外。市场主体办理动产担保登记，可以对担保物进行概括性描述。

动产担保双方当事人可以约定担保权益涵盖担保物本身及其将来产生的产品、收益、替代品等资产。市地方金融监督管理部门推动建立担保物处置平台，为债权人实现担保权益提供便利。

**第十九条** 本市推动区域性股权市场规范健康发展，支持北京股权交易中心完善股东名册托管登记机制，扩大中小微企业股权直接融资规模。

**第二十条** 政府及有关部门应当严格落实国家各项减税降费政策，及时研究解决政策落实中的具体问题，确保减税降费政策全面、及时惠及市场主体。



administrative organs and between administrative organs and judicial organs.

The municipal government department for intellectual property shall encourage and direct enterprises to establish a patent warning system, and support associations and intellectual property intermediaries in providing enterprises with intellectual property warning and strategic analysis services in target markets.

The municipal government department for intellectual property shall establish an overseas emergency assistance mechanism for enterprise patents, direct enterprises and associations to formulate response plans for sudden major overseas intellectual property cases, and support associations and intellectual property intermediaries in providing enterprises with emergency assistance in overseas intellectual property disputes, conflicts and emergencies.

**Article 16** The municipal government department for human resources and social security shall establish and improve human resource service systems and mechanisms and develop international and specialized human resource service institutions to provide services for the reasonable flow and optimal allocation of human resources; keep the rights protection channels for laborers unimpeded, improve the mediation mechanism, enhance supervision and law enforcement, and protect the lawful rights and interests of laborers; and cancel the professional qualifications of skilled personnel under level assessment in accordance with the provisions of the State and implement socialized recognition of the level of professional skills.

**Article 17** The municipal government department for local financial supervision and administration shall organize and coordinate relevant financial institutions and intermediaries, provide services for the acceptance of first loan and loan renewal applications of market entities and other financial practices, and increase the scale and proportion of credit to small and medium-sized enterprises.

The government departments for real property registration, tax, market supervision, civil affairs, etc. shall, on the premise of ensuring the protection of trade secrets and personal privacy, be encouraged to share their information with financial institutions; and a blockchain-based information system for electronic enterprise identity authentication shall be established to reduce the materials to be provided by enterprises.

**Article 18** This Municipality shall use the personal property financing registration system of the People's Bank of China to register personal property securities in a unified way, except aircrafts, ships, motor vehicles and intellectual property rights. A market entity may, when applying for registration of personal property securities, make a general description thereof.

The parties to a personal property security may agree that the security interest covers the security itself and the assets generated in the future such as products, income and substitutes. The municipal government department for local financial supervision and administration shall promote the establishment of a security disposal platform to facilitate creditors' realization of security interests.

**Article 19** This Municipality shall promote the standardized and sound development of regional equity markets, support the Beijing Equity Exchange Center in improving the mechanism for custody and registration of registers of shareholders, and expand the scale of direct equity financing for small and medium-sized enterprises.

**Article 20** The government and relevant departments shall strictly implement various policies of the State on cutting down on taxes and administrative fees, and study and resolve specific problems in policy implementation in a timely manner, so as to ensure that



**第二十一条** 发生突发事件的，市、区人民政府应当根据遭受突发事件影响的市场主体损失情况，制定救助、补偿、补贴、减免、安置等措施并组织实施。

**第二十二条** 政府采购和招标投标等公共资源交易活动，不得有下列限制或者排斥潜在供应商或者投标人的行为：

- （一）违法限定潜在供应商或者投标人的所有制形式或者组织形式；
- （二）违法要求潜在供应商或者投标人设立分支机构；
- （三）以特定行政区域或者特定行业的业绩、奖项作为加分条件；
- （四）限定或者指定特定的专利、商标、品牌、原产地或者供应商等；
- （五）其他限制或者排斥潜在供应商或者投标人的行为。

**第二十三条** 市发展改革部门推动建立健全本市公共资源交易平台体系，实行公共资源交易目录管理，依法公开公共资源交易的规则、流程、结果、监管和信用等信息，推进公共资源交易全流程电子化，实现一表申请、一证通用、一网通办服务。

推广投标保证金和履约保证金使用电子保函，降低市场主体交易成本，提高交易效率。

**第二十四条** 本市加大对公司中小股东权益保护力度。

公司董事对公司负有忠实义务和勤勉义务；审议公司股东关联交易等事项时，应当维护公司利益和中小股东合法权益。经董事会决议的关联交易致使公司遭受损失的，董事应当承担赔偿责任。

**第二十五条** 政府及有关部门应当履行向市场主体依法作出的政策承诺以及依法订立的各类合同，不得以行政区划调整、政府换届、机构或者职能调整以及相关责任人更替等为由违约毁约，不得违背市场主体真实意愿延长付款期限。因国家利益、社会公共利益需要改变政策承诺、合同约定的，应当依照法定权限和程序进行，并依法对市场主体因此受到的损失予以补偿。

市场主体以应收账款申请担保融资，向国家机关、事业单位和企业等应付款方提出确权请求的，应付款方应当及时确认债权债务关系。

the policies on cutting down on taxes and administrative fees benefit market entities in a comprehensive and timely manner.

**Article 21** In case of an emergency, the municipal and district people's governments shall, in light of the losses of market entities affected by the emergency, formulate and organize implementation of rescue, compensation, subsidy, relief, settlement and other measures.

**Article 22** The following acts of restricting or excluding potential suppliers or bidders shall be prohibited in public resource trading activities such as government procurement and bidding:

- (1) illegally restricting the forms of ownership or organization of potential suppliers or bidders;
- (2) illegally requiring potential suppliers or bidders to establish branch offices;
- (3) taking the achievements and awards from a specific administrative area or industry as the conditions for bonus points;
- (4) restricting or designating specific patents, trademarks, brands, places of origin, suppliers, etc.; and
- (5) other acts of restricting or excluding potential suppliers or bidders.

**Article 23** The municipal government department for development and reform shall promote the establishment and improvement of this Municipality's public resource trading platform system, implement catalog management of public resource trading, publicize the rules, procedures, results, supervision, credit and other information related to public resource trading according to law, advance whole-process electronic public resource trading, and achieve application by completing one form, universal use of one certificate, and conclusion of matters on one integrated platform.

The use of electronic letters of guarantee for bid bonds and performance bonds shall be promoted, so as to reduce transaction costs for market entities, and improve transaction efficiency.

**Article 24** This Municipality shall enhance protection of the rights and interests of minority shareholders of companies.

The directors of a company shall fulfill the duty of loyalty and diligence to the company, and shall, when deliberating on related transactions of the company's shareholders and other matters, safeguard the interests of the company and the lawful rights and interests of minority shareholders. If any related transaction under the resolution of the board of directors causes any loss to the company, the directors shall be held accountable.

**Article 25** The government and relevant departments shall fulfill the policy commitments made to market entities according to law and the various contracts lawfully concluded, and shall not breach or repudiate any contract on the grounds of administrative division adjustment, change of administration, institutional or functional adjustment, or replacement of relevant persons responsible, or extend the period for payment against the true intention of market entities. Any change to a policy commitment or contract in the interests of the State or the public shall be made in accordance with the statutory authority and procedures, and compensations shall be made for any loss thus caused to market entities.

Where a market entity that applies for financing secured by receivables makes a request for affirmation of rights to the party obligated to pay such as a state organ, public institution and enterprise, the party obligated to pay shall promptly confirm the creditor-debtor relationship.

**第二十六条** 有下列情形之一的，市场监督管理部门应当为企业办理注销登记：

（一）领取营业执照后未开展生产经营活动或者无债权债务，在国家企业信用信息公示系统发布拟注销公告满二十日，且无异议的；

（二）破产管理人依据人民法院终结破产程序裁定文书提出申请的；

（三）被吊销营业执照三年以上的公司，其股东书面承诺承担未清偿债务的。

**第二十七条** 本市鼓励和支持行业协会商会依法自主发展会员，代表会员反映诉求，服务会员发展；政府及有关部门起草或者制定有关行业发展的政策措施，应当主动听取有关行业协会商会的意见，对其意见采纳情况及时反馈和说明。

### 第三章 政务服务

**第二十八条** 政府及有关部门应当统一政务服务标准，创新政务服务方式，推动区块链、人工智能、大数据、物联网等新一代信息技术在政务服务领域的应用，不断提高政务服务质量，为市场主体提供规范、便利、高效的政务服务。

**第二十九条** 本市推进政务服务标准化办理。

市政务服务部门会同有关政府部门编制并公布全市统一的政务服务事项目录及其办事指南，办事指南应当明确各政务服务事项办理条件和流程、所需材料、容缺受理、办理环节和时限、收费标准、联系方式、投诉渠道等内容。办事指南中的办理条件、所需材料不得含有其他、有关等模糊性兜底要求。

**第三十条** 有关政府部门及其工作人员应当按照有利于市场主体的原则办理政务服务事项，并遵守下列规定：

（一）按照办事指南的规定办理政务服务事项，不得对市场主体提出办事指南规定以外的要求；

（二）能够通过政府部门之间信息共享获取的材料，不得要求市场主体提供；

（三）需要进行现场踏勘、现场核查、技术审查、听证论证的，应当在规定时限内及时安排，不得推诿、拖延；

**Article 26** An enterprise shall be deregistered by the government department for market supervision under any of the following circumstances:

(1) The enterprise fails to carry out production and operation activities or has no debt or claim after receiving the business license, and raises no objection to the proposed deregistration after it has been announced in the national enterprise credit information system for 20 days;

(2) The bankruptcy administrator files an application under a ruling of the people's court on termination of bankruptcy proceedings; or

(3) For a company whose business license has been suspended for not less than 3 years, its shareholders undertake in writing to assume its outstanding debts.

**Article 27** This Municipality shall encourage and support industry associations and chambers of commerce to independently recruit members according to law, convey members' demands, and serve the development of members. The government and relevant departments shall, when drafting or formulating policies and measures related to industry development, take the initiative to listen to the opinions of relevant industry associations and chambers of commerce, and give prompt feedback and explanation on the adoption of their opinions.

### Chapter III Government Services

**Article 28** The government and relevant departments shall apply unified government service standards, innovate on the mode of government services, promote the application of new-generation information technologies such as blockchain, artificial intelligence, big data and Internet of Things in the field of government services, and continuously improve the quality of government services, so as to provide standardized, convenient and efficient government services to market entities.

**Article 29** This Municipality shall advance the standardization of government services.

The municipal department for government services shall, together with relevant government departments, compile and issue a unified catalog of government service matters of this Municipality and service guidelines. The service guidelines shall specify, among others, the conditions and procedures for handling various government service matters, materials required, acceptance notwithstanding temporary lack of some documents, links, time limits, fee rates, contact information and complaints channels. The service guidelines shall not impose ambiguous miscellaneous requirements on handling conditions and materials required by using such terms as "other" and "relevant".

**Article 30** Relevant government departments and their staff shall handle government service matters in the interests of market entities and comply with the following provisions:

(1) Government service matters shall be handled in accordance with the service guidelines, and no requirements other than those specified in the service guidelines shall be imposed on market entities;

(2) No market entity shall be required to provide materials accessible by information sharing between government departments;

(3) On-site survey, on-site verification, technical review, or hearing and demonstration, if required, shall be arranged in a timely manner within the prescribed time limit, without

（四）同一政务服务事项在同等情况下，应当同标准受理、同标准办理，不得差别对待；

（五）遵守工作纪律，不得与市场主体有任何影响依法履职的交往。

**第三十一条** 本市在除直接涉及国家安全、公共安全和人民群众生命健康等以外的行业、领域，推行政务服务事项办理告知承诺制。申请人承诺符合办理条件的，有关政府部门应当直接作出同意的决定；未履行承诺的，责令其限期整改，整改后仍未达到条件的，撤销决定，并将有关情况纳入本市信用信息平台；作出虚假承诺的，直接撤销决定，按照未取得决定擅自从事相关活动追究相应法律责任，并将有关情况纳入本市信用信息平台。

告知承诺事项的具体范围和办理条件、标准、流程等，分别由市政务服务部门和有关政府部门制定并向社会公布。

**第三十二条** 本市推行政务服务事项在政务服务大厅或者站点统一办理。

政府建立市、区、街道和乡镇政务服务体系，根据需要在北京城市副中心、交通便利的区域设立政务服务大厅或者政务服务站点，统一政务服务场所名称和标识，实行政务服务大厅或者政务服务站点周末服务、错时或者延时服务，为市场主体就近办事、多点办事、快速办事、随时办事提供便利。

**第三十三条** 本市推行政务服务事项在服务窗口集中办理。

有关政府部门可以通过协议委托同级政务服务机构受理政务服务事项，政务服务机构在政务服务大厅或者政务服务站点，设置综合窗口统一受理政务服务事项，有关政府部门分别进行行政审批，综合窗口统一反馈办理结果。

有关政府部门在政务服务大厅或者政务服务站点派驻人员的，应当赋予派驻人员充分的行政审批权限，对已经受理的事项，原则上实行经办人、首席代表最多签两次办结的工作机制，实现受理、审批、办结一站式服务。

有关政府部门应当根据市场主体的申请，在行政审批有效期届满前作出是否准予延续的决定；逾期未作出决定的，视为准予延续。

**第三十四条** 本市推行全部政务服务事项在网上全程办理。

any buck-passing or delay;

(4) Under the same circumstances, the same government service matters shall be accepted and handled under the same standards, and no differentiated treatment may be given; and

(5) The work discipline shall be observed, and no relation with a market entity that affects the performance of duties according to law shall be established.

**Article 31** This Municipality shall implement a system of informed commitments for handling of government service matters in industries and fields other than those directly related to national security, public security, and the people's lives and health. If an applicant undertakes to meet the handling conditions, the relevant government department shall directly make a decision to grant approval; if the applicant fails to fulfill its undertaking, it shall be ordered to make corrections within a prescribed time limit, and if the conditions are still not met after corrections, the decision shall be revoked, and the relevant information shall be included in the credit information platform of this Municipality. If a false undertaking is given, the decision shall be directly revoked, the corresponding legal liability shall be investigated for as if the relevant activities were carried out without obtaining a decision, and the relevant information shall be included in the credit information platform of this Municipality.

The specific scope of and the handling conditions, standards, and procedures for informed undertaking matters shall be respectively formulated by the municipal department for government services and other relevant government departments and announced to the public.

**Article 32** This Municipality shall handle government service matters in government service halls or offices in a unified way.

The government shall establish government service systems at the municipal, district, sub-district and township (or town) levels, set up government service halls or government service offices in Beijing sub-center and other easily accessible areas as needed, apply unified names and marks in government service places, make available weekend, staggered or overtime services at government service halls or government service offices, and provide convenience for market entities to handle matters quickly at convenient and multiple locations and at any time.

**Article 33** This Municipality shall handle government service matters at service windows in a centralized way.

A relevant government department may, by agreement, entrust a government service agency at the same level to accept government service matters, and the government service department shall establish a comprehensive window at the government service hall or government service office to accept government service matters in a unified way. Relevant government departments shall separately conduct administrative examination, while the comprehensive window shall give feedback on handling results in a unified way.

A relevant government department that assigns a person to work at a government service hall or government service office shall grant the person sufficient administrative approval authority and, in principle, implement the working mechanism for matters that have been accepted, whereby a matter must be concluded by signature of the handling person and the chief representative at the maximum, so as to achieve one-stop acceptance, approval and conclusion services.

Relevant government departments shall, upon application of a market entity, make a decision on whether to grant a renewal before the administrative approval expires; and if such a decision fails to be made within the time limit, a renewal shall be deemed to have been granted.

**Article 34** This Municipality shall promote the whole-process online handling of all government service matters.

市政务服务部门建设全市统一的在线政务服务平台，推进各区、各部门政务服务平台规范化、标准化和互联互通。

**第三十五条** 市经济和信息化部门建立全市统一的大数据管理平台和信息共享机制，推进政务信息共享。有关政府部门应当依据职责准确、及时、完整向大数据管理平台汇集政务信息。

市场主体办理政务服务事项，使用的符合《中华人民共和国电子签名法》规定条件的可靠的电子签名，与手写签名或者盖章具有同等法律效力；电子印章与实物印章具有同等法律效力；电子证照与纸质证照具有同等法律效力，但法律、行政法规另有规定的除外。

区块链技术应用中产生的电子数据可以作为办理政务服务事项的依据和归档材料。

**第三十六条** 市政务服务部门依法制定作为办理行政审批条件的中介服务事项目录，并向社会公布；有关政府部门不得将目录以外的中介服务事项作为办理行政审批的条件。

**第三十七条** 企业固定资产投资项目实施告知承诺制，其范围由市发展改革部门拟订，报市人民政府批准后向社会公布。

**第三十八条** 在北京城市副中心、中关村科学城、怀柔科学城、未来科学城、北京经济技术开发区及其他有条件的区域，政府及有关部门编制控制性详细规划应当同步开展环境、水、交通等区域评估，不再对区域内市场主体的建设项目单独提出评估要求。

**第三十九条** 市规划和自然资源部门会同市住房和城乡建设、发展改革等部门根据建设工程规模、类型、位置等因素，制定社会投资工程建设项目分类管理制度，按照风险等级实施差别化管理。

对社会投资的低风险工程建设项目，建设工程规划许可和施工许可可以合并办理，从立项到不动产登记全流程审批时间不超过十五个工作日。

**第四十条** 本市探索在民用和低风险工业建筑工程领域推行建筑师负责制，注册



The municipal department for government services shall establish a unified online government service platform of this Municipality, and advance the regularization, standardization and connectivity of the government service platforms of all districts and departments.

**Article 35** The municipal government department for economy and information technology shall establish a unified big data management platform and information sharing mechanism of this Municipality to advance the sharing of government information. Relevant government departments shall exercise their respective duties and functions and input government information into the big data management platform accurately, promptly, and completely.

The reliable electronic signatures affixed by market entities when handling government service matters which meet the conditions specified in the Electronic Signature Law of the People's Republic of China shall have the same legal effect as handwritten signatures or seals; electronic seals shall have the same legal effect as physical seals; and electronic permits and licenses shall have the same legal effect as paper ones, unless otherwise stipulated by laws and administrative regulations.

The electronic data generated in the application of blockchain technology may be used as the basis and archival materials for handling government service matters.

**Article 36** The municipal department for government services shall formulate a catalog of intermediary service matters as a condition for applying for administrative approval according to law and announce it to the public; and relevant government departments shall not use any intermediary service matter not in the catalog as a condition for applying for administrative approval.

**Article 37** An informed commitment system shall be implemented for enterprise fixed asset investment projects, the scope of which shall be proposed by the municipal government department for development and reform and submitted to the Municipal People's Government for approval before announced to the public.

**Article 38** For the Beijing sub-center, Zhongguancun Science City, Huairou Science City, Future Science City, Beijing Economic and Technological Development Area, and other areas that meet the conditions, the government and relevant departments shall, when preparing detailed control plans, concurrently conduct environment, water, transportation, and other regional assessments and stop separately requiring assessment of the construction projects of market entities in these areas.

**Article 39** The municipal government department for planning and natural resources shall, together with the municipal government departments for housing and urban-rural development, development and reform, etc., formulate a classified management system for social investment construction projects in light of such factors as the size, type and location of the construction projects, and implement differentiated management according to risk levels.

For a low-risk social investment construction project, the application for a construction project planning permit and that for a construction permit may be handled together, and the period of approval in the whole process from project initiation to real property registration shall not exceed 15 working days.

**Article 40** This Municipality shall explore implementation of an architect



建筑师为核心的设计团队、所属的设计企业可以为建筑工程提供全周期设计、咨询、管理等服务。探索建筑师负责制职业责任保险制度，支持保险企业开发建筑师负责制职业责任保险产品。

对于可以不聘用工程监理、建设单位不具备工程建设项目管理能力的建设项目，建设单位可以通过购买工程质量潜在缺陷保险，由保险公司委托风险管理机构对工程建设项目实施管理。

**第四十一条** 本市进一步优化工程建设项目施工管理。房屋建筑工程项目和土方作业量大的市政工程项目，项目单位取得项目设计方案审查意见且施工现场具备条件的，可以先期开展土方、护坡、降水等作业；但是最迟应当在主体工程施工前取得建设工程施工许可证。

**第四十二条** 供水、排水、供电、供气、供热、通信等公用企事业单位，应当公开服务范围、标准、收费、流程、完成时限等信息。

对市场主体投资的建设项目需要附属接入市政公用设施的小型工程项目，由供水、排水、低压供电等市政公用企业直接上门提供免费服务；接入低压供电的，时间不超过八个工作日。

**第四十三条** 供电企业应当保障供电设施的正常、稳定运行，确保供电质量符合国家规定。市城市管理部门应当加强对供电企业年供电可靠率的监督，对低于国家有关规定的，责令改正，可以处五万元以上五十万元以下罚款。

**第四十四条** 税务、人力资源和社会保障等部门在确保信息安全的前提下，应当采取下列缴纳税费便利措施：

（一）推动纳税事项全市通办；

（二）推行使用财税辅助申报系统，为市场主体提供财务报表与税务申报表数据自动转换服务；

（三）对市场主体进行纳税提醒和风险提示；

（四）推行社会保险、医疗保险、住房公积金合并申报，网上缴纳；

（五）利用区块链技术推行增值税电子专用发票及其他电子票据。

responsibility system in the field of civil and low-risk industrial construction projects, whereby a design team with registered architects as the core or the design enterprise it is affiliated to may provide full-cycle design, consulting and management services for construction projects. A professional liability insurance system for the architect responsibility system shall be explored to support insurance enterprises in developing professional liability insurance products for the architect responsibility system.

For a construction project for which it is not necessary to retain a project supervisor and the development unit of which does not have the project management capacity, the development unit may purchase insurance against potential defects in project quality, so that the insurance company will entrust a risk management institution to manage the construction project.

**Article 41** This Municipality shall further optimize the construction management of construction projects. For a building construction project or a municipal project that requires intensive earthwork operations, if the construction unit has obtained the review opinions on the project design scheme, earthwork, slope protection, precipitation, and other operations may be conducted in advance, if possible, on the construction site, while a construction permit shall be obtained before commencement of the main project at the latest.

**Article 42** Water supply, drainage, power supply, gas supply, heating, communications and other utility enterprises and institutions shall make public information on, among others, their service scope, standards, charges, procedures, and time limit for completion.

For a small construction project in which a market entity-invested construction project requires access to municipal utilities, water supply, drainage, low-voltage power supply and other municipal utility enterprises shall directly provide free visiting services; and the time for access to low-voltage power shall not exceed 8 working days.

**Article 43** Power supply enterprises shall ensure normal and stable operation of power supply facilities and that the power supply quality conforms to the provisions of the State. The municipal government department for urban management shall strengthen supervision over the annual power supply reliability rate of power supply enterprises. A power supply enterprise whose annual power supply reliability rate is lower than that stipulated by the State shall be ordered to make corrections and may be fined not less than 50,000 yuan but not more than 500,000 yuan.

**Article 44** The government departments for tax, human resources and social security, etc. shall, on the premise of ensuring information security, adopt the following measures to facilitate tax payment:

- (1) promoting citywide handling of tax matters;
- (2) implementing an auxiliary fiscal and tax reporting system to provide market entities with automatic data conversion services between financial statements and tax returns;
- (3) issuing tax reminder and risk warning to market entities;
- (4) promoting the combined reporting and online payment of social insurance premiums, medical insurance premiums and housing provident funds; and
- (5) applying electronic special VAT invoices and other electronic notes by means of blockchain technology.

**第四十五条** 不动产登记部门应当按照国家有关规定，加强与住房和城乡建设、税务等部门的协作，为市场主体转让不动产提供登记、交易和缴税一窗受理、并行办理服务，时间不超过一个工作日。

不动产登记部门应当按照国家和本市相关规定，为市场主体查询下列信息，提供网上和现场服务：

- （一）不动产面积、用途等自然状况信息；
- （二）抵押、查封等限制信息；
- （三）规划用途为非住宅，且权利人为法人和非法人组织的房屋权属信息，但涉及国家秘密的除外；
- （四）地籍图、宗地图等图件信息。

人民法院应当及时公开涉及土地纠纷案件的审理情况及有关数据。

**第四十六条** 市口岸管理部门应当按照国家促进跨境贸易便利化的要求，对进出口货物申报、舱单申报和运输工具申报业务提供单一窗口服务，推进监管信息和物流运输服务信息互联互通，实现无纸化通关，涉及国家秘密的特殊情况除外。

海关应当公布报关企业整体通关时间；口岸管理部门应当组织编制并公布口岸收费目录，口岸经营服务企业不得在目录以外收取费用。

**第四十七条** 海关、商务等有关政府部门应当依法精简进出口环节审批事项和单证，优化通关流程，能够退出口岸验核的，全部退出；对符合规定条件的市场主体，实行先验放后检测、先放行后缴税、先放行后改单管理。

鼓励企业提前申报通关，提前办理单证审核，对于提前申报通关存在差错的，按照有关容错机制处理。

**第四十八条** 政府及有关部门应当建立常态化的政企沟通机制，听取市场主体意见，为市场主体提供政策信息，协调解决市场主体的困难和问题。

市场主体可以通过 12345 服务热线电话、部门电话、政府网站、政务新媒体等提出有关营商环境的咨询和投诉举报。有关政府部门、市政公用企事业单位应当按照规定的时限协调解决、答复；无法解决的，应当及时告知并说明情况。

**Article 45** The government departments for real property registration shall, in accordance with relevant provisions of the State, strengthen cooperation with the government departments for housing and urban-rural development, tax, etc., and provide market entities that transfer real property with the service of one-window acceptance and concurrent handling of registration, transaction and tax payment, for which the time limit shall not exceed one working day.

The government departments for real property registration shall, in accordance with relevant provisions of the State and this Municipality, provide online and on-site services for market entities to inquire about the following information:

- (1) information on the area, use and other natural conditions of real property;
- (2) information on mortgage, seizure and other restrictions;
- (3) information on the ownership of a house planned to be used for non-residential purposes, whose right holder is a legal person or unincorporated organization, unless state secrets are involved; and
- (4) information on cadastral maps, parcel maps and other maps.

The people's courts shall promptly make public information on the trial of cases related to land disputes and relevant data.

**Article 46** The municipal government department for port management shall, in accordance with the requirements of the State on facilitating cross-border trade, provide single window services for declaration of import and export goods, manifest declaration and conveyance declaration, and advance the connectivity of regulatory information and logistics transportation service information, so as to achieve paperless customs clearance, except under special circumstances where state secrets are involved.

The Customs shall make public the overall customs clearance time of customs brokers; and the government departments for port management shall organize compilation of and release a catalog of port charges, and a port management service enterprise shall not charge fees outside the catalog.

**Article 47** The relevant government departments for customs, commerce, etc. shall simplify approval matters and documents for import and export in accordance with the law, optimize customs clearance procedures, and cancel port inspections, wherever possible. Market entities that meet the prescribed conditions shall be given customs clearance before testing, tax payment and document correction.

Enterprises shall be encouraged to make declaration for customs clearance and apply for document review in advance, and the errors found in the declaration for customs clearance in advance shall be handled in accordance with the relevant error tolerance mechanisms.

**Article 48** The government and relevant departments shall establish a regular mechanism for communication between the government and enterprises, listen to the opinions of market entities, provide policy information to market entities, and coordinate resolution of the difficulties and problems of market entities.

Market entities may seek advice and make complaints and reports in relation to the business environment through the 12345 service hotline, departmental phone numbers, government websites, new government media, etc. Relevant government departments, municipal utility enterprises and institutions shall coordinate resolution of issues and make a reply within the prescribed time limit, and if resolution fails, shall promptly tell the situation

**第四十九条** 支持北京城市副中心管理委员会、北京经济技术开发区管理委员会和有条件的区人民政府，探索实施相对集中行政许可权试点，可以由一个行政机关行使有关行政机关的行政许可权。

本市探索在部分领域开展营业执照和有关行政许可联合审批试点。市场主体在申请设立登记时，可以一并提出相关行政许可申请，由市场监督管理部门与其他有关政府部门并联办理。

本市探索在部分行业开展综合行政许可试点。一个行业经营涉及的多项行政许可可以整合为一项行业综合行政许可，一张行业综合经营许可证统一记载相关行政许可信息。

本市探索基于风险的分级分类审批管理机制。

**第五十条** 本市推行政务服务“好差评”制度，市场主体可以对有关政府部门及其工作人员办理政务服务事项的情况进行评价。具体办法由市政务服务部门制定并向社会公布。

## 第四章 监管执法

**第五十一条** 政府及其有关部门应当依法履行监管职责，创新监管方式，坚持公平公正监管、信用监管、综合监管，做到严格规范公正文明执法。

**第五十二条** 有关政府部门编制的权力清单应当明确监管执法事项、依据、主体、权限、内容、方法、程序和处罚措施等内容。

**第五十三条** 本市推行以信用为基础的分级分类监管制度。市有关政府部门以公共信用信息评价结果等为依据，制定本行业、本领域信用分级分类监管标准。信用较好、风险较低的市场主体，应当减少检查比例和频次；违法失信、风险较高的市场主体，应当提高检查比例和频次。

**第五十四条** 市经济和信息化部门建立健全市场主体信用修复制度，明确失信的市场主体可以采取作出信用承诺、完成信用整改、通过信用核查、接受专题培训、提

and make an explanation.

**Article 49** The Management Committee of Beijing Sub-center, the Management Committee of Beijing Economic and Technological Development Area, and the eligible district people's governments shall be supported in exploring implementation of the pilot program of relatively centralized administrative licensing power, whereby an administrative organ may exercise the administrative licensing power of relevant administrative organs.

This Municipality shall explore pilot joint approval of business licenses and relevant administrative licenses in certain fields. A market entity may, when applying for establishment registration, concurrently apply for relevant administrative licenses, which shall be handled by the government department for market supervision together with other relevant government departments.

This Municipality shall explore implementation of a pilot program of comprehensive administrative licensing in certain industries. Multiple administrative licensing involved in the operations in an industry may be integrated into a single comprehensive administrative licensing, and a comprehensive administrative license shall specify all the relevant administrative licensing information.

This Municipality shall explore a risk-based approval administration mechanism by levels and categories.

**Article 50** This Municipality shall implement a “positive and negative comment” system for government services, and market entities may evaluate the handling of government service matters by relevant government departments and their staff. Specific measures shall be formulated by the municipal department for government services and announced to the public.

## Chapter IV Regulation and Law Enforcement

**Article 51** The government and relevant departments shall perform their regulatory duties in accordance with the law, innovate on the mode of regulation, adhere to fair and impartial regulation, credit-based regulation, and comprehensive regulation, and achieve strict, standardized, fair and civilized law enforcement.

**Article 52** The power lists compiled by relevant government departments shall specify, among others, the matters subject to regulation and law enforcement, the basis for regulation and law enforcement, the organs that exercise regulation and law enforcement, the regulation and law enforcement authority, contents, methods, and procedures, and punishment measures.

**Article 53** This Municipality shall implement a credit-based regulatory system by levels and categories. Relevant municipal government departments shall, based on public credit information evaluation results, formulate credit-based regulatory standards by levels and categories in their respective industries and fields. Market entities with good credit and low risks shall receive inspections of reduced proportion and frequency, while market entities with poor credit and high risks shall receive inspections of increased proportion and frequency.

**Article 54** The municipal government department for economy and information technology shall establish and improve the credit repair system for market entities, and make

交信用报告、参加公益慈善活动等方式开展信用修复；对于完成信用修复的市场主体，有关政府部门应当及时停止公示其失信信息。

**第五十五条** 有关政府部门应当按照鼓励创新和发展、确保质量和安全的原则，针对新技术、新产业、新业态、新模式的性质和特点，制定临时性、过渡性监管规则和措施，实行包容审慎监管，引导其健康规范发展。

**第五十六条** 本市在除直接涉及国家安全、公共安全和人民群众生命健康等以外的行业、领域，实行“双随机、一公开”监管，随机抽取检查对象、随机选派执法检查人员、抽查事项及查处结果及时向社会公开。

有关政府部门应当确定本行业或者本领域实行“双随机、一公开”监管的范围，健全随机抽查系统，完善相关细则，确保公平监管。

**第五十七条** 本市健全违法违规行为举报投诉制度，畅通公众监督渠道。有关政府部门接到举报投诉的，应当及时调查处理。

本市推进在特定行业、领域建立内部举报人等制度，鼓励行业、领域内部人员举报市场主体涉嫌严重违法违规行为和重大风险隐患，提高监管执法的针对性、有效性。查证属实的，有关政府部门加大对内部举报人的奖励力度，并对其实行严格保护。

**第五十八条** 有关政府部门应当制定本部门年度执法检查计划，并于每年三月底前向社会公布。

年度执法检查计划应当包括检查主体、检查对象范围、检查方式、检查项目和检查比例等内容。

**第五十九条** 本市在现场检查中推行行政检查单制度。市有关政府部门应当依法制定本行业、本领域行政检查单，明确检查内容、检查方式和检查标准等。

有关政府部门应当按照行政检查单实施现场检查，不得擅自改变检查内容、检查方式、检查标准等，不得要求监管对象准备书面汇报材料或者要求负责人陪同，减少对市场主体的影响。

**第六十条** 需要在特定区域或者时段，对监管对象实施不同监管部门多项监管内容检查的，应当采用联合检查的方式，由牵头部门组织、多部门参加，按照同一时间、



clear that a market entity with poor credit may repair credit by making a credit commitment, completing credit rectification, passing credit check, receiving special training, submitting a credit report, participating in public welfare and charitable activities, etc. For a market entity that has completed credit repair, relevant government departments shall promptly stop publicizing the information on its poor credit.

**Article 55** Relevant government departments shall, in accordance with the principles of encouraging innovation and development and ensuring quality and safety, formulate interim and transitional regulatory rules and measures in light of the nature and characteristics of new technologies, industries, forms of business and models, implement inclusive and prudential regulation, and guide its sound and standardized development.

**Article 56** In industries and fields other than those directly related to national security, public security, and the people's lives and health, this Municipality shall select inspection targets and appoint law enforcement and inspection personnel at random, and shall disclose the matters subject to random inspection and the results of investigation and punishment to the public in a timely manner.

Relevant government departments shall determine the scope of regulation implemented in the way as specified in the preceding paragraph in their respective industries or fields, improve the random inspection system, refine relevant rules, and ensure fair regulation.

**Article 57** This Municipality shall improve the system for reporting and complaining about violations of laws and regulations and keep public supervision channels unimpeded. Relevant government departments shall promptly investigate and handle the reports and complaints they have received.

This Municipality shall advance the establishment of an internal informer system and other systems in specific industries and fields, encourage internal personnel in specific industries and fields to report suspected serious violations of laws and regulations by market entities and major potential risks, and implement targeted and effective regulation and law enforcement. Relevant government departments shall, upon verification, increase rewards for internal informers and provide them with strict protection.

**Article 58** Relevant government departments shall formulate their annual law enforcement inspection plans and make them public before the end of March every year.

An annual law enforcement inspection plan shall include, among others, the organ that exercises inspection, the scope of inspection targets, the mode of inspection, the matters subject to inspection, and the proportion of inspection.

**Article 59** This Municipality shall implement an administrative inspection list system for on-site inspections. Relevant municipal government departments shall formulate administrative inspection lists for their respective industries and fields according to law, and make clear the contents, methods and standards of inspections.

Relevant government departments shall conduct on-site inspections in accordance with the administrative inspection lists, and may neither change the contents, methods and standards of inspections without authorization nor require regulatory targets to prepare written reporting materials or require the persons in charge to provide company, so as to reduce the impact on market entities.

**Article 60** Where it is necessary to conduct inspection of multiple regulatory contents against a regulatory target by different regulatory departments in a specific area or during



针对同一对象，实施一次检查，完成所有检查内容。

**第六十一条** 本市推行综合执法，减少执法主体和执法层级，分别在农业农村、文化旅游、生态环境、交通运输、市场监督管理领域组建综合执法队伍，在街乡层面整合执法力量，按照有关法律规定相对集中行使行政处罚权。

**第六十二条** 市有关政府部门应当根据违法行为的事实、性质、情节以及社会危害程度、危害后果消除情况、违法行为人的主观过错，建立健全本行业、本领域行政处罚裁量基准制度，依法明确从轻、减轻或者不予行政处罚的具体情形。市、区有关政府部门和街道办事处、乡镇人民政府应当严格执行裁量基准，不得擅自突破裁量基准实施行政处罚。

**第六十三条** 市有关政府部门应当根据市场主体违法行为造成后果的严重程度，将本部门应当实施行政处罚的行为区分为一般违法行为和严重违法行为，制定相应目录及其公示期限，并向社会公布。

对于一般违法行为，行政处罚信息的最短公示期为三个月，最长为一年；对于严重违法行为，行政处罚信息的最短公示期为一年，最长为三年。公示期届满的行政处罚信息不再公示，未履行行政处罚决定的除外；市场主体发现行政处罚信息不应当公示的，有权要求相关公示主体更正。

在规定期限内履行行政处罚决定、主动消除或者减轻违法行为危害后果的，经市场主体申请，有关政府部门可以视情将公示期相应缩短三至十二个月。

## 第五章 法治保障

**第六十四条** 政府及有关部门制定市场准入、产业发展、招商引资、招标投标、政府采购、经营行为规范、资质标准等与市场主体生产经营活动密切相关的政策措施，应当进行公平竞争审查。

市场主体认为政策措施影响公平竞争的，有权向市场监督管理部门举报；市场监督管理部门应当及时处理，并反馈结果。

a specific period, a joint inspection which is organized by the initiating department and participated by multiple departments shall be conducted for all inspection contents against the same target at the same time.

**Article 61** This Municipality shall implement comprehensive law enforcement, reduce law enforcement agencies and levels, establish comprehensive law enforcement teams in the fields of agriculture and rural affairs, culture and tourism, ecology and environment, transportation, and market supervision and administration, integrate law enforcement forces at the sub-district and township levels, and exercise administrative punishment power in a relatively concentrated manner in accordance with relevant laws.

**Article 62** Relevant municipal government departments shall, in light of the facts, nature, circumstances and degree of social harm of illegal acts, the elimination of harmful consequences, and the subjective fault of violators, establish and improve the discretion benchmark system for administrative punishments in their respective industries and fields, and specify the specific circumstances in which a lesser administrative punishment, a heavier administrative punished or no administrative punishment shall be given in accordance with the law. Relevant municipal and district government departments, sub-district offices, and township or town people's governments shall strictly execute the discretion benchmark and shall not impose administrative punishments beyond the discretion benchmark without authorization.

**Article 63** Relevant municipal government departments shall, in light of the severity of the consequences caused by the illegal acts of market entities, divide the acts on which they shall impose administrative punishments into general illegal acts and serious illegal acts, and shall formulate and make public corresponding catalogs and publicity periods.

For general illegal acts, the publicity period of administrative punishment information shall be three months at the minimum and one year at the maximum; and for serious illegal acts, the publicity period of administrative punishment information shall be one year at the minimum and three years at the maximum. When the publicity period expires, administrative punishment information shall no longer be publicized, unless the administrative punishment decision fails to be performed. Where a market entity finds that the administrative punishment information shall not be publicized, it shall have the right to require the relevant publicity agency to make corrections.

Where a market entity fulfills the administrative punishment decision within the prescribed time limit and takes the initiative to remove or mitigate the harmful consequences of its illegal act, the relevant government department may, on the application of the market entity, reduce the publicity period by three to twelve months as appropriate.

## Chapter V Legal Guarantee

**Article 64** The government and relevant departments shall conduct fair competition review when formulating policies and measures closely related to the production and operation activities of market entities in terms of market access, industry development, investment promotion, tendering and bidding, government procurement, operation standards, qualification standards, etc.

Where a market entity considers that a policy or measure affects fair competition, it shall be entitled to report to the government department for market supervision, and the

**第六十五条** 政府及有关部门制定与市场主体生产经营活动密切相关的政策措施，应当充分听取市场主体、行业协会商会的意见，除依法保密外，应当通过报纸、网络等向社会公开征求意见，并建立健全意见采纳情况反馈机制。向社会公开征求意见的期限一般不少于三十日。

**第六十六条** 政府及有关部门制定与市场主体生产经营活动密切相关的政策措施，应当为市场主体留出一般不少于三十日的适应调整期，涉及国家安全和公布后不立即施行将有碍施行的除外。

**第六十七条** 有关政府部门应当根据全面深化改革、全面依法治国、经济社会发展需要，以及上位法制定、修改、废止情况，及时清理有关行政规范性文件。清理结果应当向社会公布。

**第六十八条** 政府及有关部门制定与市场主体生产经营活动密切相关的政策措施，应当进行合法性审查。

市场主体认为政府规章或者市人民政府行政规范性文件同法律、法规相抵触的，可以向市人大常委会书面提出审查建议；认为市人民政府工作部门或者区人民政府行政规范性文件同法律、法规、规章相抵触的，可以向市人民政府或者市人大常委会书面提出审查建议；认为区人民政府工作部门或者乡镇人民政府行政规范性文件同法律、法规、规章相抵触的，可以向区人民政府书面提出审查建议。有关机关应当按照规定程序处理。

**第六十九条** 本市支持在京商事仲裁机构和商事调解机构发展，支持其加入一站式国际商事纠纷多元化解平台。

鼓励市场主体选择在京商事仲裁机构或者商事调解机构解决纠纷。

**第七十条** 相关部门应当健全司法鉴定、资产评估、审计审价等行业管理制度，督促相关机构优化工作流程、压缩工作时限、提高工作质量，配合有关方面查明事实。

市高级人民法院应当建立健全司法鉴定、资产评估、审计审价等委托机构的遴选、评价、考核的规则和标准，向社会公布，并定期向相关部门通报对委托机构的考核结果。

latter shall handle the matter in a timely manner and give feedback on the results.

**Article 65** The government and relevant departments shall, when formulating policies and measures closely related to the production and operation activities of market entities, fully listen to the opinions of market entities, industry associations and chambers of commerce, seek for comments from the public through newspapers and the Internet, except for those that shall be kept secret in accordance with the law, and establish and improve the mechanism for feedback on the adoption of comments. The period for seeking for public comments shall generally be not less than 30 days.

**Article 66** The government and relevant departments shall, when formulating policies and measures closely related to the production and operation activities of market entities, allow market entities an adaptation and adjustment period of not less than 30 days, except for those that involve national security and those that will not come into force if not implemented immediately after issuance.

**Article 67** Relevant government departments shall, as required by the comprehensive deepening of reform, comprehensive law-based governance, and economic and social development, promptly review relevant administrative normative documents in light of the formulation, revision and repeal of the superordinate law. The results of the review shall be made public.

**Article 68** The government and relevant departments shall conduct legality review when formulating policies and measures closely related to the production and operation activities of market entities.

Where a market entity considers that a government rule or an administrative normative document of the Municipal People's Government contravenes any law or regulation, it may submit a written proposal for review to the Standing Committee of the Municipal People's Congress; where an administrative normative document of a department of the Municipal People's Government or a district people's government is considered to contravene any law, regulation or government rule, a written proposal for review may be submitted to the Municipal People's Government or the standing committee of the district people's congress; where an administrative normative document of a department of a district people's government or a township or town people's government is considered to contravene any law, regulation or rule, a written proposal for review may be submitted to the district people's government. Relevant agencies shall handle the proposal in accordance with the prescribed procedures.

**Article 69** This Municipality shall support the development of commercial arbitration institutions and commercial mediation institutions in Beijing, and shall support them in joining one-stop diversified resolution platforms for international commercial disputes.

Market entities shall be encouraged to choose commercial arbitration institutions or commercial mediation institutions in Beijing to resolve disputes.

**Article 70** Relevant departments shall improve the industrial management systems for judicial authentication, asset appraisal, auditing, price appraisal, etc., urge relevant institutions to optimize the work processes, reduce the time limit of work, and improve the work quality, and cooperate with relevant parties in ascertaining facts.

The Municipal High People's Court shall establish and improve the rules and standards for the selection, assessment and evaluation of entrusted institutions of judicial authentication, asset appraisal, auditing, price appraisal, etc., make public such rules and standards, and regularly notify relevant departments of the results of evaluation of the entrusted institutions.

**第七十一条** 人民法院依法通过下列措施，提高知识产权案件的审理效率和质量：

- （一）推进繁简分流快速审理机制；
- （二）依法扩大独任制审理案件范围；
- （三）指派技术调查官参与专业技术性较强的知识产权案件诉讼活动。

**第七十二条** 有关政府部门应当与人民法院建立企业破产工作协调机制，支持符合破产条件的企业进行破产清算或者重整，协调解决破产企业信用修复、企业注销、社会稳定等问题。

**第七十三条** 人民法院探索建立重整识别、预重整等破产拯救机制，完善破产案件繁简分流审理机制，提高办理破产案件效率。

**第七十四条** 市高级人民法院应当与市规划和自然资源、公安机关交通管理部门等有关政府部门建立破产案件财产处置联动机制，统一破产企业土地、房产、车辆等处置规则，提高破产财产处置效率。

**第七十五条** 人力资源和社会保障部门应当加大对破产企业职工权益的保障力度，协调解决职工社会保险关系转移、退休人员社会化管理、档案接转等事项，保障职工合法权益。

**第七十六条** 企业因重整取得的债务重组收入，依照国家有关规定适用企业所得税相关政策。对于破产企业涉及的房产税、城镇土地使用税等，税务机关应当依法予以减免。

破产企业重整期间，税务机关按照有关规定自动解除或者经破产管理人申请解除破产企业非正常户认定状态。

**第七十七条** 破产管理人有权查询破产企业注册登记材料、社会保险费用缴纳情况、银行开户信息及存款状况，以及不动产、车辆、知识产权等信息，有关政府部门、金融机构应当予以配合。

**第七十八条** 人民法院应当健全破产案件债权人权益保障机制，保障债权人会议对破产企业财产分配、处置的决策权，保障债权人的知情权、参与权和监督权。

**第七十九条** 市高级人民法院与市公安局等有关政府部门建立被执行人及其车

**Article 71** The people's courts shall improve the efficiency and quality of the trial of intellectual property cases by adopting the following measures in accordance with the law:

(1) advancing the speedy trial mechanism by division between complicated cases and simple ones;

(2) expanding the scope of cases to be tried under the sole-judge trial system in accordance with the law; and

(3) appointing technical investigators to participate in litigation activities in professionally and technically demanding intellectual property cases.

**Article 72** Relevant government departments shall establish a coordination mechanism for enterprise bankruptcy practices with the people's courts, support the bankruptcy liquidation or reorganization of enterprises that meet the bankruptcy conditions, and coordinate resolution of the problems in credit repair of bankrupt enterprises, enterprise deregistration, and social stability.

**Article 73** The people's courts shall explore establishment of bankruptcy rescue mechanisms in terms of reorganization identification and pre-reorganization, improve the trial mechanism for bankruptcy cases based on division between complicated cases and simple ones, and improve the efficiency of handling bankruptcy cases.

**Article 74** The Municipal High People's Court shall, together with the municipal government departments for planning and natural resources, traffic management, etc., establish a joint mechanism for property disposal in bankruptcy cases, apply unified rules for the disposal of land, house property and vehicles of bankrupt enterprises, and improve the efficiency of the disposal of bankruptcy property.

**Article 75** The government departments for human resources and social security shall increase efforts to protect the rights and interests of the employees of bankrupt enterprises, and coordinate resolution of such matters as the transfer of social insurance relations of employees, socialized management of retirees and transfer of files, so as to protect the lawful rights and interests of employees.

**Article 76** The debt restructuring income received by an enterprise from reorganization shall be governed by relevant policies on enterprise income tax in accordance with relevant provisions of the State. Tax authorities shall exempt or relieve bankrupt enterprises from the property tax, urban land use tax, etc. according to law.

During the reorganization of a bankrupt enterprise, tax authorities shall lift, on their own initiative or upon application of the bankruptcy administrator, the identified abnormal business status of the bankrupt enterprise in accordance with relevant provisions.

**Article 77** A bankruptcy administrator shall have the right to inquire about the registration materials, information regarding payment of social insurance premiums, bank accounts and deposits, and information on the real property, vehicles and intellectual property rights of the bankrupt enterprise, and relevant government departments and financial institutions shall render cooperation.

**Article 78** The people's courts shall improve the mechanism for protection of the rights and interests of creditors in bankruptcy cases, guarantee the right of creditors' meetings to decide the distribution and disposal of the property of bankrupt enterprises, and safeguard creditors' rights to know, rights of participation and rights of supervision.

**Article 79** The Municipal High People's Court shall, together with the municipal

辆查询机制。人民法院执行案件需要查找被执行人或者被执行人的法定代表人、主要负责人、影响债务履行的直接责任人员、实际控制人等人员，或者被执行人车辆的，可以向公安机关提出协助查找需求，公安机关应当予以配合。

**第八十条** 破产管理人协会应当加强行业自律，加大对破产管理人的培训力度，提高破产管理人的履职能力和水平。

**第八十一条** 政府和有关部门及其工作人员未按照本条例的规定依法履行职责或者侵犯企业合法权益的，依法依规追究责任。

## 第六章 附 则

**第八十二条** 政府及有关部门可以依据本条例制定有关实施办法或者实施细则。

**第八十三条** 本条例自 2020 年 4 月 28 日起施行。

public security authority and other relevant government departments, establish a search mechanism for persons subject to enforcement and their vehicles. Where a people's court needs to search for a person subject to enforcement, or its legal representative, main person in charge, person directly responsible for debt performance, actual controller, or vehicles in an enforcement case, the people's court may request the public security authority to assist in the search, and the public security authority shall render cooperation.

**Article 80** The association of bankruptcy administrators shall strengthen industrial self-regulation, increase efforts to train bankruptcy administrators, and improve the duty performance ability and level of bankruptcy administrators.

**Article 81** The government, any relevant department, or any of their staff members that fails to perform duties in accordance with the provisions of the Regulations, or infringes upon the lawful rights and interests of any enterprise shall be held accountable in accordance with laws and regulations.

## Chapter VI Supplementary Provisions

**Article 82** The government and relevant departments may formulate relevant implementing measures or detailed implementing rules in accordance with the Regulations.

**Article 83** The Regulations shall come into force as of April 28, 2020.



# 北京市盐业管理若干规定

(1995 年 11 月 24 日北京市人民政府第 31 号令发布 根据  
1997 年 12 月 31 日北京市人民政府第 12 号令第一次修改 根据  
2002 年 2 月 11 日北京市人民政府第 92 号令第二次修改 根据  
2014 年 7 月 9 日北京市人民政府第 259 号令第三次修改)

**第一条** 为加强本市盐业管理，维护盐业市场秩序，保证经济建设和人民生活需要，保障人民生命安全和身体健康，根据国务院颁布的《盐业管理条例》（以下简称《条例》）和国家有关规定，结合本市实际情况，制定本规定。

**第二条** 凡在本市行政区域内从事盐的生产加工、经营、储备及使用，均须遵守《条例》和本规定。

**第三条** 市和区、县商务行政部门负责本行政区域内的盐业管理工作。  
工商行政管理、卫生、技术监督、公安、价格等部门按照各自的职责，依法加强对盐业的监督管理。

**第四条** 本市对工业用盐实行计划管理，对食用盐实行专营。

**第五条** 凡在本市行政区域内从事盐的生产加工、批发经营，必须经市商务行政部门批准，领取许可证并到工商行政管理部门登记注册。

**第六条** 北京市盐业公司依照国家计划，负责本市盐的统一购进、调运和批发业务，并按照国家有关规定负责储备盐的日常管理。

**第七条** 工业用盐和其他各类非食用盐由市商务行政部门指定的批发单位负责供应。市商务行政部门指定的批发单位必须按照规定组织进货；用盐单位必须根据实际需要，从市商务行政部门指定的批发单位进货。

**第八条** 食盐由市商务行政部门指定的取得食盐批发许可证的批发单位负责供

# Several Provisions of Beijing Municipality on Administration of Salt Industry

(Promulgated by Decree No. 31 of the People's Government of Beijing Municipality on November 24, 1995, revised for the first time in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997, revised for the second time in accordance with Decree No. 92 of the People's Government of Beijing Municipality on February 11, 2002, and revised for the third time in accordance with Decree No. 259 of the People's Government of Beijing Municipality on July 9, 2014)

**Article 1** These Provisions are formulated for the purposes of strengthening the administration of salt industry in this Municipality, maintaining the market order of salt industry, ensuring the demands of economic construction and people's living, and safeguarding the people's life safety and physical healthy in accordance with the Regulations on Administration of Salt Industry (hereinafter referred to as the Regulations) promulgated by the State Council and relevant provisions of the State and in light of the actual circumstances of this Municipality.

**Article 2** Those who engage in the production, processing, operation, reserve and use of salt within the administrative area of this Municipality must abide by the Regulations and these Provisions.

**Article 3** The administrative departments for commerce at the municipal and the district or county level shall be responsible for the administration of salt industry within their respective administrative areas.

The departments for industrial and commercial administration, public health, technical supervision, public security, price, etc. shall, according to their respective functions and duties, strengthen the supervision and administration of salt industry in accordance with the law.

**Article 4** This Municipality adopts planned management to industrial salt and monopoly to edible salt.

**Article 5** Those engaging in the production, processing and wholesale operation of salt within the administrative area of this Municipality must be approved by the administrative department for commerce at the municipal level, obtain the licenses and be registered at the departments for industrial and commercial administration.

**Article 6** Beijing Salt Industry Company shall, according to the national plans, be responsible for the uniform purchase, allocation, transportation and wholesale of salt in this Municipality, as well as the daily administration of reserve salt in accordance with relevant provisions of the State.

**Article 7** The wholesale units designated by the administrative department for commerce at the municipal level shall be responsible for the supply of industrial salt and other kinds of non-edible salt. The wholesale units designated by the administrative department for commerce at the municipal level must organize the purchases as stipulated; salt-using units must purchase from the wholesale units designated by the administrative department for commerce at the municipal level according to their actual demand.

**Article 8** The wholesale units with the wholesale licenses for edible salt designated

应。市商务行政部门指定的批发单位必须按照规定购进食盐，并按照规定的销售范围销售食盐。

食盐零售单位、食品加工用盐单位和个人，必须根据需要从市商务行政部门指定的取得食盐批发许可证的单位购进食盐。

**第九条** 生产加工食用盐及其制品必须符合国家卫生标准，加碘食用盐应当有小包装，碘含量必须符合国家规定标准。

在食用盐中添加任何营养强化剂或药物，必须经市卫生行政部门和市商务行政部门批准。

**第十条** 本市禁止下列行为：

- （一）生产加工或者在食用盐市场上销售土盐、硝盐和工业废渣、废液制盐；
- （二）生产加工或者销售不符合国家卫生标准的食用盐；
- （三）以工业用盐充当食用盐。

**第十一条** 违反本规定第五条规定的，由市商务行政部门责令其停止违法行为，没收其非法所得，并可处以不超过非法所得额 5 倍的罚款。

违反本规定第八条第二款的，由市商务行政部门责令改正，没收违法购进的食盐，并可处以违法购进食盐价值 3 倍以下的罚款。

**第十二条** 违反本规定第九条第二款和第十条第（一）项规定的，市商务行政部门和卫生行政部门按照职责分工责令其停止违法行为，没收其非法所得，并可处以不超过非法所得额 5 倍的罚款。

**第十三条** 违反本规定第九条第一款和第十条第（二）、（三）项规定的，市商务行政部门和卫生行政部门按照职责分工责令其停止违法行为，没收其盐产品和非法所得，可以并处该盐产品价值 3 倍以下的罚款。

**第十四条** 本规定自发布之日起施行。

by the administrative department for commerce at the municipal level shall be responsible for the supply of edible salt. The wholesale units designated by the administrative department for commerce at the municipal level must purchase edible salt as stipulated, and sell edible salt according to the stipulated scope of sale.

Retail units of edible salt, salt-using units for food processing and individuals must purchase edible salt from the units with the wholesale licenses for edible salt designated by the administrative department for commerce at the municipal level according to their demand.

**Article 9** The production and processing of edible salt and its products must conform to the national standards of health; iodized edible salt shall use pouch packs, and the content of iodize must conform to the standards stipulated by the State.

The adding of any nutrient supplement or drug in edible salt must be approved by the administrative departments for public health and commerce at the municipal level.

**Article 10** The following behaviors are prohibited in this Municipality:

(1)producing, processing or selling in the edible salt market local salt, earth salt or salt made from industrial residue or waste liquor;

(2)producing, processing or selling edible salt not conforming to the national standards of health; or

(3)making industrial salt serve as edible salt.

**Article 11** Those violating the provisions of Article 5 of these Provisions shall be ordered to stop illegal behaviors, confiscated the illegal gains, and may be imposed upon a fine of not more than five times the illegal gains by the administrative department for commerce at the municipal level.

Those violating Paragraph 2, Article 8 of these Provisions shall be ordered to make corrections, confiscated the edible salt illegally purchased, and may be imposed upon a fine of not more than three times the value of such edible salt illegally purchased by the administrative department for commerce at the municipal level.

**Article 12** Those violating the provisions of Paragraph 2, Article 9 or Subparagraph (1), Article 10 of these Provisions shall be ordered to stop illegal behaviors, confiscated the illegal gains, and may be imposed upon a fine of not more than five times the illegal gains by the administrative department for commerce or public health at the municipal level according to their functions and duties.

**Article 13** Those violating the provisions of Paragraph 1, Article 9 or Subparagraph (2) or (3), Article 10 of these Provisions shall be ordered to stop illegal behaviors, confiscated the salt products and illegal gains, and may be imposed upon a fine of not more than three times the value of such salt products by the administrative department for commerce or public health at the municipal level according to their functions and duties.

**Article 14** These Provisions shall be effective as of the date of promulgation.

# 北京市洗浴和美容美发经营场所管理若干规定

(2000年11月24日北京市人民政府第65号令发布)

**第一条** 为加强对本市洗浴和美容美发经营场所的管理，促进洗浴和美容美发业的健康有序发展，根据有关法律、法规，结合本市实际情况，制定本规定。

**第二条** 凡在本市行政区域内从事洗浴或者美容美发经营活动的，均须遵守本规定。

**第三条** 除宾馆、饭店、写字楼、体育运动场所等附属的洗浴设施和社区便民服务设施外，洗浴经营场所的营业面积不得小于500平方米。

**第四条** 在洗浴和美容美发经营场所工作的外地务工人员，必须具有合法有效的身份证明、暂住证明和务工证明。

洗浴和美容美发经营场所的经营者使用外地务工人员的，应当持相关证明到区、县劳动和社会保障部门办理用工申请。

美容师、美发师、按摩师等专业人员应当取得《职业资格证书》，并持证上岗。

**第五条** 严禁洗浴和美容美发经营场所的经营者及其从业人员组织、强迫、引诱、容留、介绍他人卖淫；严禁提供色情服务；严禁开设赌场、赌局；严禁吸毒、贩毒和传播淫秽书刊、录音录像制品、图片等物品。

洗浴和美容美发经营场所的经营者及其从业人员发现在洗浴和美容美发经营场所内从事卖淫、嫖娼、赌博、吸毒、贩毒和其他犯罪或者违反治安管理行为的，应当予以制止，并立即向公安机关报告。

**第六条** 洗浴和美容美发经营场所的经营者必须遵守下列规定：

(一) 不得提供有偿陪侍、异性按摩(头部、足底按摩以及市残联批准的盲人按摩除外)。

# Several Provisions of Beijing Municipality on the Administration of Business Places for Bathing and Beauty Treatment and Hairdressing

(Promulgated by Decree No. 65 of the People's Government of Beijing Municipality on November 24, 2000)

**Article 1** The Provisions are formulated for the purposes of strengthening administration of business places for bathing as well as beauty treatment and hairdressing in this Municipality, and promoting the healthy and orderly development of the bathing as well as beauty treatment and hairdressing industry in accordance with relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** Whoever engages in business activities of bathing or beauty treatment and hairdressing within the administrative area of this Municipality shall abide by the Provisions.

**Article 3** Except for bathing facilities attached to hotels, office buildings, sports venues, etc. and community service facilities, the area of business places for bathing shall not be less than 500 square meters.

**Article 4** Migrant workers working in business places for bathing as well as beauty treatment and hairdressing must have legal and effective proof of identity, temporary residence certificates and proof of employment.

Operators of business places for bathing as well as beauty treatment and hairdressing that are to employ migrant workers shall apply to the district or county labor and social security departments with relevant supporting documents.

Beauticians, hairdressers, masseurs and other professionals shall be licensed with Professional Certificate before taking the job.

**Article 5** It is strictly prohibited for operators of business places for bathing as well as beauty treatment and hairdressing and their employees to organize, force, lure, shelter or procure other persons to engage in prostitution, provide erotic services, organize casinos or gambling parties, take drugs or traffic in narcotics, or disseminate pornographic books and magazines, video and audio recordings, pictures, etc.

If operators of business places for bathing as well as beauty treatment and hairdressing and their employees find prostitution, whoring, gambling, drug abuse, drug trafficking and other crimes or violations of administration of public security in their business places, they shall stop such activities and report to public security organs immediately.

**Article 6** Operators of business places for bathing as well as beauty treatment and hairdressing must abide by the following provisions:

(1) It is prohibited to provide paid companionship or massage by the opposite sex (except for head and foot massage and blind massage approved by Beijing Disabled Persons' Federation);

（二）不得张贴、悬挂或者设置格调低下、有悖社会主义道德的图片或者装饰物。

（三）沐浴、按摩场所不得设置完全封闭的包间；美容美发场所只能设置开放式隔断。

（四）从业人员统一着装或者佩戴统一的服务标志。

（五）专营或者主营洗浴的，其营业时间不得超过凌晨 2 时；除依法办理旅店业登记手续的外，不得为顾客提供留宿服务。

（六）其他工商、消防、卫生、环保、旅游、劳动和社会保障等有关管理规定，以及国家和本市制定的行业规范和行业标准。

**第七条** 向洗浴和美容美发经营场所的经营者出租场地的单位和个人必须遵守下列规定：

（一）向承租人进行遵纪守法的宣传教育，积极协助公安机关做好防火、防盗和防止发生治安案件的工作。

（二）发现承租人有违法犯罪活动或者嫌疑的，予以制止，并及时报告公安机关，不得包庇、纵容。

**第八条** 洗浴和美容美发经营场所的经营者及其从业人员违反本规定的，按照下列规定给予处罚：

（一）违反本规定第六条第（一）、（二）项规定的，由公安机关责令限期改正，对违反第（一）项规定的可处以 4000 元以上 2 万元以下罚款；对单位直接负责的主管人员和其他直接责任人员处以 1000 元以下罚款。

（二）违反本规定第六条第（三）、（四）、（五）项规定的，由商品流通部门责令限期改正，并可处以 1000 元以上 1 万元以下罚款。

（三）违反本规定第三条、第四条、第五条、第六条第（六）项规定的，分别由公安、工商行政管理、卫生、商品流通、环保、劳动和社会保障等部门依法处理。

**第九条** 向洗浴和美容美发经营场所的经营者出租场地的单位和个人违反本规定第七条规定的，由公安机关责令限期改正，并可处以 1000 元以上 1 万元以下罚款。

(2) It is prohibited to post, hang or place pictures or decorations low in style and against socialist morality;

(3) Completely enclosed private rooms are prohibited in bathing and massage places; only open separate spaces may be set up in beauty treatment and hairdressing places;

(4) Employees shall wear uniforms or uniform service marks;

(5) For those exclusively or mainly engaged in bathing business, their business hours shall not exceed 2:00 a.m.; accommodation services shall not be provided to customers, unless hotel registration formalities have been completed according to law;

(6) Relevant administrative provisions on industry and commerce, fire control, health, environmental protection, tourism, labor and social security, etc., as well as the industry norms and industry standards formulated by the State and this Municipality shall be observed.

**Article 7** Units and individuals that lease places to operators of business places for bathing as well as beauty treatment and hairdressing must abide by the following provisions:

(1) to carry out publicity and education on the lessee about observing disciplines and laws, and actively assist public security organs in the work of prevention of fire, burglary and public security cases; and

(2) to stop any illegal and criminal activity or suspicion of the lessee, and report to public security organs in a timely manner, and not to harbor or connive in such activities.

**Article 8** Operators of business places for bathing as well as beauty treatment and hairdressing and their employees that violate the Provisions shall be punished in accordance with the following provisions:

(1) Whoever violates the provisions of Item (1) or (2) of Article 6 of the Provisions shall be ordered by public security organs to make corrections within a specified time limit, and a fine of not less than 4,000 yuan but not more than 20,000 yuan may be imposed on those that violate the provisions of Item (1); a fine of not more than 1,000 yuan shall be imposed on the persons directly in charge and other persons directly responsible;

(2) Whoever violates the provisions of Item (3), (4) or (5) of Article 6 of the Provisions shall be ordered by the commodity circulation departments to make corrections within a specified time limit, and may be fined not less than 1,000 yuan but not more than 10,000 yuan;

(3) Whoever violates the provisions of Article 3, Article 4, Article 5 or Item (6) of Article 6 of the Provisions shall be dealt with respectively by the departments of public security, industrial and commercial administration, health, commodity circulation, environmental protection, labor and social security, etc. according to law.

**Article 9** Where units or individuals that lease places to operators of business places for bathing as well as beauty treatment and hairdressing violate the provisions of Article 7 of the Provisions, they shall be ordered by public security organs to make corrections within a specified time limit and may be fined not less than 1,000 yuan but not more than 10,000 yuan.



**第十条** 各级行政主管部门及其工作人员参与洗浴或者美容美发经营活动，或者为违法行为者通风报信、提供保护、包庇违法行为的，由有关部门依法追究其行政责任；属违反治安管理规定行为的，由公安机关依法给予治安管理处罚；构成犯罪的，由司法机关依法追究刑事责任。

**第十一条** 本规定自 2001 年 1 月 1 日起施行。

**Article 10** Where administrative departments at various levels and their staff participate in the business activities of bathing or beauty treatment and hairdressing, or provide information, protection or cover-up for those committing illegal acts, they shall be held accountable for administrative responsibilities by relevant departments according to law; if the provisions on administration of public security are violated, public security organs shall impose public security punishments according to law; if a crime is constituted, criminal responsibility shall be investigated for by judicial organs according to law.

**Article 11** The Provisions shall come into force as of January 1, 2001.

# 北京市储备粮管理办法

(2010年6月13日北京市人民政府第221号令公布)

**第一条** 为了加强对市储备粮的管理,保证市储备粮安全,保护农民利益,维护粮食市场稳定,有效发挥市储备粮在政府宏观调控中的作用,根据国家有关规定,结合本市实际情况,制定本办法。

**第二条** 从事和参与市储备粮储存、轮换、动用以及相关管理活动的单位和个人,应当遵守本办法。

本办法所称市储备粮,是指市政府储备的用于调节本市粮食供求总量,稳定粮食市场,以及应对重大自然灾害或者其他突发事件等情况的粮食和食用油(含成品粮油)。

**第三条** 市储备粮的管理,应当严格制度、严格管理和严格责任,确保市储备粮数量真实、质量良好和储存安全,确保市储备粮储得实、管得好、调得动、用得上。

有关区、县人民政府应当支持本行政区域内的承储企业做好市储备粮的安全管理工作。

**第四条** 市粮食行政管理部门负责市储备粮的日常管理工作,负责拟订规模总量、品种结构、储存布局、购销及轮换计划和动用方案并组织实施;参与市储备粮相关财政资金的使用和管理;按照标准向承储企业拨付市储备粮补贴,对市储备粮的数量、质量、储存安全、补贴使用等情况实施监督检查。

**第五条** 市财政部门按照市储备粮总规模,负责将市储备粮所需补贴纳入地方财政预算;及时、足额向市粮食行政管理部门拨付市储备粮补贴;对市储备粮的有关财政资金拨付和使用情况实施监督检查。补贴的标准应当根据实际费用水平确定,并适时进行调整。

# Measures of Beijing Municipality for Administration of Grain Reverses

(Promulgated by Decree No. 221 of the People's Government of Beijing Municipality on June 13, 2010)

**Article 1** These Measures are formulated for the purpose of strengthening the administration of municipal grain reserves, ensuring the safety of municipal grain reserves, safeguarding the interests of farmers, maintaining the stability of the grain market and bringing the role of municipal grain reserves into effective play in the government's macro-control in accordance with relevant provisions of the State and in light of the actual circumstances of this Municipality.

**Article 2** All units and individuals engaged or participating in the storage, rotation and use of municipal grain reserves as well as related administration activities shall abide by these Measures.

The term "municipal grain reserves" in these Measures means the grains and edible oils (including finished grain or oil products) reserved by the Municipal Government for adjusting the total grain supply and demand around this Municipality, stabilizing the grain market and responding to such situations as major natural calamities or other emergencies.

**Article 3** The administration of municipal grain reserves shall be subject to strict rules, management and responsibility in order to ensure the authentic quantity, high quality and safe storage of municipal grain reserves, to ensure true storage, excellent management, smooth transfer and seasonable use.

Relevant people's governments at the district or county level shall support the storing enterprises within their respective administrative areas to do well in safety management of municipal grain reserves.

**Article 4** The municipal administrative department for grains shall be responsible for the routine administration of municipal grain reserves, drafting and organizing the implementation of the plans for the total size, variety structures, reserve layout, procurement and sale as well as rotation, and the schemes for use; participate in the use and administration of relevant financial funds for municipal grain reserves; appropriate the subsidies for municipal grain reserves to the storing enterprises in accordance with standards, and carry out supervision and inspection of the matters including the quantity, quality, safe storage and subsidy use of municipal grain reserves.

**Article 5** The municipal finance department shall be responsible for incorporating the required subsidies for municipal grain reserves into the local fiscal budgets in accordance with the total size of municipal grain reserves; appropriating the subsidies for municipal grain reserves to the municipal administrative department for grains in time and in full amount; and supervising and inspecting the appropriation and use of financial funds related

市储备粮所需贷款由中国农业发展银行北京市分行负责安排。

**第六条** 市储备粮的储存，应当遵循布局合理、规模存放、结构优化、安全规范的原则。市粮食行政管理部门应当选择符合条件的企业承储市储备粮。具体办法由市粮食行政管理部门制定。

经市粮食行政管理部门同意，承储企业可以在外埠储存市储备粮。

**第七条** 市粮食行政管理部门应当与承储企业签订合同，明确承储企业的储存责任、储存要求以及违约责任等事项。

**第八条** 承储企业应当遵守下列规定：

（一）执行有关储备粮的法规、规章、标准和技术规范以及本市储备粮管理的相关制度；

（二）对市储备粮实行分品种、分年限、分地点、分货位储存和管理。未经市粮食行政管理部门同意，不得擅自变更市储备粮储存地点或者货位；

（三）确保承储的市储备粮库存账实相符、储存安全、管理规范；

（四）执行市粮食行政管理部门的出入库要求；

（五）建立健全市储备粮的安全生产、防火、防盗、防汛等管理制度，并配备必要的安全防护设施。

承储企业违反前款规定情节严重的，市粮食行政管理部门有权解除承储合同。

**第九条** 本市建立市储备粮损失、损耗处理制度，及时处理所发生的损失、损耗。具体办法由市财政部门会同市粮食行政管理部门制定。

**第十条** 本市加强市储备粮基础设施建设。政府投资建设的粮油仓库、质量检验设施和设备等市储备粮相关设施，任何单位和个人不得擅自变更使用权和使用性质；确需变更的，按照本市有关规定执行。

**第十一条** 市粮食行政管理部门负责会同有关部门制定市储备粮年度轮换计划，按照市储备粮实际库存数量的 20% 至 30% 的比例安排分批轮换。轮换期间，市储备

to municipal grain reserves. The standards of subsidy shall be determined based on the level of actual expenditures and adjusted in proper time.

The loans needed for municipal grain reserves shall be arranged by the Beijing Branch of Agricultural Development Bank of China.

**Article 6** The storage of municipal grain reserves shall follow the principle of rational layout, massive storage, optimized structure, safety and standardization. The municipal administrative department for grains shall choose the qualified enterprises to store municipal grain reserves. The specific measures shall be formulated by the municipal administrative department for grains.

The storing enterprises may, upon approval by the municipal administrative department for grains, store municipal grain reserves in other places than this Municipality.

**Article 7** The municipal administrative department for grains shall sign contracts with the storing enterprises to clarify the responsibility for storage, the storage requirements, the liability for breach of contracts, etc., of the storing enterprises.

**Article 8** The storing enterprises shall abide by the following provisions:

(1) to implement the regulations, rules, standards and technical norms related to grain reserves, and relevant systems on grain reserves of this Municipality;

(2) to store and manage municipal grain reserves according to different varieties, years, places and goods locations. No alteration of the storage place or the goods locations is allowed without approval of the municipal administrative department for grains;

(3) to ensure the consistency between account books and actual storages, safe storage and standardized administration of the stored municipal grain reserves;

(4) to implement the requirements concerning entry or exit of warehouses by the municipal administrative department for grains; and

(5) to establish and improve the systems for management of municipal grain reserves concerning safe production, fire prevention, guard against theft and flood, and be equipped with necessary safety protection facilities.

Where a storing enterprise seriously violates the provisions stipulated in the preceding paragraph, the municipal administrative department for grains is entitled to terminate the storage contract concerned.

**Article 9** This Municipality shall establish the system for the disposition and wastage of municipal grain reserves to dispose the loss and wastage of municipal grain reserves in time. The specific measures therefor shall be formulated by the municipal finance department jointly with the municipal administrative department for grains.

**Article 10** This Municipality shall strengthen the infrastructure construction of municipal grain reserves. No units or individuals may, without authorization, alter the use right and the nature of use of the facilities related to municipal grain reserves, such as grain and oil warehouses and quality inspection facilities and equipment constructed by government investment; where an alteration is necessary, the alteration shall be made in accordance with relevant provisions of this Municipality.

**Articles 11** The municipal administrative department for grains shall be responsible for formulating the annual plan for rotation of municipal grain reserves jointly with relevant

粮的实际库存数量不得低于总规模的 80%。

**第十二条** 市储备粮的轮换，应当按照入库的时间实行先进先出或者根据粮食的质量状况进行。

**第十三条** 市储备粮的轮换采购，可以通过竞价交易、国内（外）定向采购或者市政府批准的其他方式进行。

市储备粮的轮换销售，可以通过竞价交易、国内定向销售或者市政府批准的其他方式进行。

**第十四条** 市粮食行政管理部门应当建立粮油市场信息监测预警机制，制定动用市储备粮的工作流程，适时提出动用市储备粮的建议。

**第十五条** 出现下列情形之一的，可以动用市储备粮：

- （一）全市或者部分地区粮食明显供不应求或者市场价格异常波动；
- （二）发生重大自然灾害或者其他突发事件需要动用市储备粮；
- （三）其他需要动用市储备粮的情形。

**第十六条** 动用市储备粮，由市粮食行政管理部门提出动用方案，报市政府批准。动用方案应当包括动用市储备粮的品种、数量、价格、使用安排、运输保障等内容。

未经市政府批准，任何单位和个人不得擅自动用市储备粮。

**第十七条** 市粮食行政管理部门依法对承储企业进行监督检查，可以行使下列职权：

- （一）进入承储企业或者储粮地点检查市储备粮的数量、质量和储存情况；
- （二）向有关单位和人员了解市储备粮采购、销售、轮换计划及动用命令的执行情况；
- （三）调阅市储备粮的有关资料、凭证；
- （四）对发现市储备粮存在的数量、质量、储存安全等方面的问题，责令承储企业限期改正。

departments to arrange the rotation of municipal grain reserves in different batches in accordance with a proportion of 20 percent to 30 percent of the actual inventory quantity. In the course of rotation, the actual inventory quantity of municipal grain reserves shall not be lower than 80 percent of the total size.

**Article 12** The rotation of municipal grain reserves shall, in light of the years of storage, be arranged under the guidance of first-in first-out, or according to the quality conditions of municipal grain reserves.

**Article 13** The purchase of municipal grain reserves for rotation shall be conducted by means of competitive bidding, domestic or overseas directional purchase or other means approved by the Municipal Government.

The sale of municipal grain reserves for rotation shall be conducted by means of competitive bidding, domestic or overseas directional sale or other means approved by the Municipal Government.

**Article 14** The municipal administrative department for grains shall establish the precaution system for information monitoring of the grain and oil market, develop the working procedures for use of municipal grain reserves, and make proposals at proper time to use municipal grain reserves.

**Article 15** Municipal grain reserves may be used where any of the following situations occurs:

- (1) the grain supply significantly falls short of demand across the whole municipality or in some areas, or the market price fluctuates abnormally;
- (2) the municipal grain reserves need to be used as a result of the occurrence of major natural calamities or other emergencies; or
- (3) other situations where it is necessary to use municipal grain reserves.

**Article 16** Where municipal grain reserves are to be used, the municipal administrative department for grains shall prepare a program for the use, and then submit the program to the Municipal Government for approval. The program shall include such contents as the variety, quantity, price of the municipal grain reserves to be used, the arrangements for their use and the support of transportation.

No units or individuals may use municipal grain reserves without approval of the Municipal Government.

**Article 17** The municipal administrative department for grains shall carry out supervision and inspection of the storing enterprises according to law and may exercise the following powers:

- (1) entering storing enterprises or places for storage of grains to inspect the quantity, quality and storage of municipal grain reserves;
- (2) collecting information from relevant units and persons about the implementation of the plan for purchase, sale and rotation of municipal grain reserves, and about the implementation of the order to use municipal grain reserves;
- (3) requiring submission of data and vouches related to municipal grain reserves; or
- (4) instructing the storing enterprises to make corrections within a prescribed time limit if finding any problems existing in the quantity, quality and storage safety of municipal



**第十八条** 市粮食行政管理部门监督检查人员应当将监督检查情况做出书面记录，并由监督检查人员和被检查单位的负责人签字。被检查单位的负责人拒绝签字的，监督检查人员应当记录有关情况。

**第十九条** 承储企业对市粮食行政管理部门的监督检查人员依法履行职责应当予以配合，如实反映情况，提供必要的资料，不得拒绝、阻挠或者干涉。

**第二十条** 违反本办法第八条第一款第四项规定，不执行市粮食行政管理部门出入库要求的，由市粮食行政管理部门处 3 万元以下罚款。

**第二十一条** 违反本办法第十六条第二款规定，擅自动用市储备粮的，由市粮食行政管理部门责令限期改正，并可以处 10 万元以下罚款；造成损失的，由市粮食行政管理部门责令赔偿；构成犯罪的，依法追究刑事责任。

**第二十二条** 违反本办法第十九条规定，承储企业拒绝、阻挠或者干涉监督检查人员依法履行监督检查职责的，由市粮食行政管理部门处 3 万元以下罚款。

**第二十三条** 在市储备粮管理工作中，市粮食行政管理部门及其他行政机关工作人员滥用职权、玩忽职守、徇私舞弊的，由其所在单位给予行政处分；构成犯罪的，依法追究刑事责任。

**第二十四条** 设立储备粮的区、县人民政府，可以参照本办法管理本区、县的储备粮。

**第二十五条** 本办法自 2010 年 8 月 1 日起施行。2002 年 6 月 20 日北京市人民政府第 98 号令发布的《北京市储备粮管理办法》同时废止。

grain reserves.

**Article 18** Supervisors and inspectors from the municipal administrative department for grains shall make written records on supervision and inspection, which shall be signed by the supervisors and inspectors as well as the responsible person of the inspected unit. Where the responsible person of the inspected unit refuses to sign, the supervisors and inspectors shall keep the fact of refusal on file.

**Article 19** The storing enterprises shall render cooperation, truthfully report the situation and provide necessary materials when supervisors and inspectors from the municipal administrative department for grains are performing their duties in accordance with law, and shall not refuse, obstruct or interfere with such supervision and inspection.

**Article 20** Any storing enterprise that, in violation of the provisions of Item 4 of Paragraph 1 of Article 8 of these Measures, fails to implement the requirements concerning entry or exit of warehouses of the municipal administrative department for grains shall be fined not more than 30,000 Yuan by the municipal administrative department for grains.

**Article 21** Anyone that, in violation of the provisions of Paragraph 2 of Article 16 of these Measures, uses municipal grain reserves without authorization shall be ordered to make corrections within a prescribed time limit and may be fined not more than 100,000 Yuan simultaneously by the municipal administrative department for grains; where any loss is caused, the municipal administrative department for grains shall order it to make compensation; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 22** Any storing enterprise that, in violation of the provisions of Article 19 of these Measures, refuses, obstructs or interferes with the supervisors and inspectors when they are performing their duties of supervision and inspection in accordance with law shall be fined not more than 30,000 Yuan by the municipal administrative department for grains.

**Article 23** Any working staff of the municipal administrative department for grains or other administrative organs who abuses his power, commits illegalities for personal gains or by fraudulent means, or neglects his duty in management of municipal grain reserves shall be given an administrative sanction by the unit where he works for; where a crime is constituted, criminal liability shall be investigated for in accordance with law.

**Article 24** The People's governments at the district or county level that have set up grain reserves shall manage the grain reserves of their respective district or county with reference to these Measures.

**Article 25** These Measures shall be effective as of August 1, 2010. The Measures of Beijing Municipality on Administration of Grain Reserves promulgated by Decree No. 98 of the People's Government of Beijing Municipality on June 20, 2002 shall be repealed simultaneously.

# 北京市蔬菜零售网点建设管理办法

(2013年10月8日北京市人民政府令第249号公布)

**第一条** 为了进一步加强本市“菜篮子”工程建设,方便市民生活,根据有关法律、法规和国家有关规定,结合本市实际情况,制定本办法。

**第二条** 本办法适用于本市行政区域内城镇地区蔬菜零售网点的规划、建设及其相关管理活动。其他地区蔬菜零售网点的规划、建设及其相关管理活动,参照本办法执行。

本办法所称蔬菜零售网点,是指以摊位、专间等零售形式销售蔬菜、水果、肉禽蛋等农副产品的经营场所,包括社区菜市场、社区菜店、农贸市场、超市等。

**第三条** 市人民政府统筹蔬菜零售网点规划和建设,监督、指导区、县人民政府组织实施蔬菜零售网点的规划、建设及其相关管理,并对区、县人民政府的任务落实情况考核;区、县人民政府具体负责本行政区域内蔬菜零售网点规划、建设及其相关管理的组织实施。

市和区、县人民政府按照各自职责做好本条前款规定工作所需经费的保障。

街道办事处、乡镇人民政府协助做好辖区内蔬菜零售网点管理工作;发现违反本办法规定行为的,应当及时向区、县商务行政主管部门通报。

**第四条** 市商务行政主管部门负责全市蔬菜零售网点规划和建设的组织推动、协调指导和督促检查。区、县商务行政主管部门按照本办法规定,负责本辖区内蔬菜零售网点的管理工作。

规划、国土资源、建设、发展改革、财政等政府有关部门按照各自职责做好蔬菜零售网点规划、建设及其相关管理工作。

# Measures of Beijing Municipality on the Planning and Construction of Vegetable Retail Networks

(Promulgated by Decree No. 249 of the Beijing Municipal People's Government on October 8, 2013)

**Article 1** These Measures are formulated for the purposes of further enhancing the vegetable basket project in this Municipality and facilitating the life of citizens in accordance with relevant laws and regulations as well as relevant provisions of the State and in light of the actual circumstances of this Municipality.

**Article 2** These Measures shall apply to the planning and construction as well as relevant administration activities of vegetable retail networks in urban areas within the administrative area of this Municipality. The planning and construction of vegetable retail networks as well as relevant administration activities in other areas shall be carried out with reference to these Measures.

As used in these Measures, the vegetable retail networks refer to the business places for the sale of such agricultural and sideline products as vegetables, fruits, meats, poultry and eggs in such retail forms as booths and special stores, including community vegetable markets, community vegetable stores, markets for farm produce, supermarkets, etc..

**Article 3** The Municipal People's Government shall take overall consideration of the planning and construction of vegetable retail networks, supervise and guide the people's governments at the district or county level to organize the implementation of the planning and construction of vegetable retail networks as well as relevant administration, and examine the implementation of relevant tasks by the people's governments at the district or county level; the people's governments at the district or county level shall be responsible for organizing the implementation of the planning and construction of vegetable retail networks as well as relevant administration within their respective administrative areas.

The people's governments at the municipal and the district or county level shall according to their respective functions and duties, bring success to securing the funds needed for the work stipulated in the preceding paragraph.

The sub-district offices as well as the people's governments at the township or town level shall provide assistance to bringing success to administration of vegetable retail networks within the areas under their jurisdiction; where they discover any violations of these Measures, they shall timely report to the administrative departments for commerce at the district or county level.

**Article 4** The administrative department for commerce at the municipal level shall be responsible for organizing, promoting, coordinating, guiding, supervising and inspecting the planning and construction of vegetable retail networks in the whole city. The administrative departments for commerce at the district or county level shall be responsible for administration of vegetable retail networks within the areas under their jurisdiction in accordance with the provisions of these Measures.

Relevant government departments for planning, State-land and resources, construction, development and reform and finance shall, according to their respective functions and duties, bring success to the planning and construction of vegetable retail networks as well as relevant administration.

**第五条** 蔬菜零售网点的设置，应当遵循总量合理、布局科学和方便市民的原则。

**第六条** 新建居民区应当配建社区菜市场或者社区菜店。

新建居民区配建社区菜市场或者社区菜店的建筑规模，按照本市居住公共服务设施规划设计指标确定。

社区菜市场或者社区菜店用于经营蔬菜的面积不得少于总经营面积的 1/3。

**第七条** 社区菜市场或者社区菜店可以与居民区其他配套公共服务设施集中、统筹建设。

社区菜市场或者社区菜店是居民区配套公共服务设施，任何单位和个人不得擅自拆除、迁移、改建，或者挪作他用；配建的社区菜市场或者社区菜店被挪作他用的，工商行政管理部门不予注册登记。

社区菜市场或者社区菜店的所有权人在转让社区菜市场或者社区菜店的所有权时，应当书面告知受让人社区菜市场或者社区菜店属于居民区配套公共服务设施，不得改变其功能用途；改变社区菜市场或者社区菜店功能的，区、县商务行政主管部门报经区、县人民政府同意后有权回购社区菜市场或者社区菜店。

**第八条** 新建居民区配建社区菜市场或者社区菜店，应当按照本市有关住宅与公共服务设施同步交付使用管理规定执行，并遵守下列规定：

（一）开发建设单位在项目建设方案中明确配建的社区菜市场或者社区菜店的位置、建筑规模等内容；

（二）规划行政主管部门在建设工程规划许可证附图上注明配建的社区菜市场或者社区菜店及其位置、建筑规模和用途；

（三）开发建设单位在预（销）售住宅时，在住宅买卖合同中约定配建的社区菜市场或者社区菜店的交付条件；

（四）房屋权属登记部门在配建的社区菜市场或者社区菜店的产权证上注明位置、建筑规模和用途。

**Article 5** The setup of vegetable retail networks shall follow the principles of rational aggregate quantity, scientific layout and convenience for citizens.

**Article 6** Supporting community vegetable markets or community vegetable stores shall be constructed in newly constructed residential quarters.

The architectural scale of Supporting community vegetable markets or community vegetable stores in newly constructed residential quarters shall be determined according to the planning design index of public service facilities for residence in this Municipality.

The area for vegetable business in a community vegetable market or community vegetable store shall not be less than one third of its total business area.

**Article 7** Community vegetable markets or community vegetable stores may be constructed together or in an overall planned way with other supporting public service facilities in the residential quarters.

Community vegetable markets or community vegetable stores are supporting public service facilities in the residential quarters, and no unit or individual may dismantle, remove or reconstruct them without authorization, or use them for other purposes; where any supporting community vegetable market or community vegetable store is used for other purposes, the administrative department for industry and commerce shall not approve the registration.

When the owner of any community vegetable market or community vegetable store transfers its ownership, he shall notify the transferee in writing that the community vegetable market or community vegetable store belongs to supporting public service facilities in the residential quarter and its functions and purposes shall not be changed; where the functions of any community vegetable market or community vegetable store are changed, the administrative department for commerce at the district or county level shall have the right to repurchase the community vegetable market or community vegetable store after reporting to and obtaining consent from the people's government at the district or county level.

**Article 8** Supporting community vegetable markets or community vegetable stores in newly constructed residential quarters shall be subject to relevant provisions of this Municipality on administration of simultaneous delivery for use of residence and public service facilities, and subject to the following provisions:

(1) the development and construction units shall make clear such contents as the locations and architectural scales of supporting community vegetable markets or community vegetable stores in the project construction plans;

(2) the administrative departments for planning shall indicate the supporting community vegetable markets or community vegetable stores as well as their locations, architectural scales and purposes on the attached maps of planning permits of construction engineering;

(3) upon the pre-sale or sale of residence, the development and construction units shall make agreements on the delivery conditions of supporting community vegetable markets or community vegetable stores in the residence purchase and sale contracts;

(4) the house ownership registration departments shall indicate the locations, architectural scales and purposes on the ownership certificates of supporting community vegetable markets or community vegetable stores.

**Article 9** After the completion of any construction project is filed for the record, the development and construction unit shall notify the location and architectural scale of the

**第九条** 建设工程竣工备案后，开发建设单位应当将配建社区菜市场或者社区菜店的位置及建筑规模书面告知区、县商务行政主管部门；区、县商务行政主管部门应当为开发建设单位投入运营社区菜市场或者社区菜店提供帮助、指导和服务。

**第十条** 在居民区物业管理区域内已交付业主的专有部分达到建筑物总面积 50% 以上时，开发建设单位或者社区菜市场、社区菜店的其他产权人应当将社区菜市场或者社区菜店投入运营；有特殊原因的，应当向区、县商务行政主管部门报告并说明情况，最迟应当在 1 年内投入运营。

居民区所在地街道办事处、乡镇人民政府应当将其掌握的有关居民区物业管理区域内已交付业主的专有部分达到建筑物总面积 50% 的情况通报所在地区、县商务行政主管部门。

**第十一条** 已建成居民区蔬菜零售网点不足的，区、县人民政府根据需要，可以采取下列措施：

- （一）调整其他商业设施功能；
- （二）恢复挪作他用的原配套社区菜市场或者社区菜店；
- （三）改造废弃的原配套设施；
- （四）购买、租赁有关设施。

因客观条件无法采取本条前款规定措施的，可以采取在特定区域设立周末菜市或者早晚市、设置流动售菜车等方式弥补蔬菜零售网点的不足。

**第十二条** 鼓励和支持公民、法人和其他组织投资建设、经营蔬菜零售网点；鼓励和支持有条件的蔬菜生产经营企业或者农民专业合作社经济组织参与蔬菜零售网点经营，实行统一采购、统一配送和统一标准，实现规模化、连锁化、品牌化发展。

**第十三条** 鼓励社区菜市场、社区菜店、超市等蔬菜零售经营业态多元化发展，不断扩大蔬菜经营面积；鼓励发展蔬菜直营直供、网络销售等蔬菜零售新模式。

**第十四条** 鼓励和支持现有蔬菜零售网点改造营业设施，改善服务条件，符合条件的，区、县人民政府按照规定给予一定资金支持。



supporting community vegetable market or community vegetable store to the administrative department for commerce at the district or county level; the administrative department for commerce at the district or county level shall provide help, guidance and services for the development and construction unit in putting the community vegetable market or community vegetable store into operation.

**Article 10** Where the exclusive part in the property management area of a residential quarter already delivered to the owners reaches more than 50 percent of the gross floor area, the development and construction unit or other property owner of the community vegetable market or community vegetable store shall put the community vegetable market or community vegetable store into operation; where there are special reasons, explanations shall be made to the administrative department for commerce at the district or county level, and it shall be put into operation within one year at the latest.

The sub-district office or the people's government at the township or town level of the place where the residential quarter is located shall notify the information it has known that the exclusive part in the property management area of the residential quarter already delivered to the owners reaches more than 50 percent of the gross floor area to the local administrative department for commerce at the district or county level.

**Article 11** Where the vegetable retail networks in a constructed residential quarter are insufficient, the people's government at the district or county level may take the following measures according to the needs:

- (1) to adjust the functions of other commercial facilities;
- (2) to restore the original supporting community vegetable markets or community vegetable stores that have been used for other purposes;
- (3) to transform the original supporting facilities that have been discarded;
- (4) to purchase or lease relevant facilities.

Where it is impossible to take the measures stipulated in the preceding paragraph due to objective conditions, such manners as setting up a weekend, morning or evening vegetable market at a specific location or setting up mobile vegetable selling vehicles may be adopted to make up the deficiency of the vegetable retail networks.

**Article 12** Citizens, legal persons and other organizations are encouraged and supported to invest in the construction and operation of vegetable retail networks; vegetable production and operation enterprises or professional cooperative economic organizations of farmers with the conditions are encouraged and supported to participate in the operation of vegetable retail networks with uniform procurement, uniform distribution and uniform standards so as to realize the scale, chain and brand development.

**Article 13** Such vegetable retail formats as community vegetable markets, community vegetable stores and supermarkets are encouraged to realize diversified development and continuously expand the business area for vegetables; the development of such new vegetable retail modes as direct sale, direct supply and online sale are encouraged.

**Article 14** The existing vegetable retail networks are encouraged and supported to transform business facilities and improve service conditions, and for those qualified, the people's government at the district or county level shall give certain financial support in accordance with provisions.

**Article 15** As to the vegetable retail networks whose property ownership belongs



**第十五条** 对于区、县人民政府或者政府部门享有产权的蔬菜零售网点，区、县人民政府或者政府部门应当通过招标等公平竞争的方式确定经营者。

**第十六条** 区、县人民政府应当综合运用补贴、奖励、减免费用等多种措施，降低蔬菜经营成本，稳定蔬菜零售价格。

**第十七条** 蔬菜经营面积不少于总经营面积 1/3 的蔬菜零售网点的水、电、气价格，按照一般工业标准执行。

**第十八条** 商务行政主管部门应当会同交通、公安交管、发展改革、农业等部门建立联席会议制度，定期研究蔬菜等鲜活农产品运输通行相关政策。

交通部门对在国家规定的绿色通道上运输鲜活农产品的车辆，应当依法给予通行费优惠和优先通行保障。公安交管部门应当为进入城区的蔬菜等鲜活农产品运输车辆依法核发通行证件，提供通行便利。

**第十九条** 任何单位和个人发现违反本办法规定行为的，都有权向区、县商务行政主管部门举报；区、县商务行政主管部门应当公布举报电话，及时处理举报并公布处理结果。

**第二十条** 开发建设单位或者社区菜市场、社区菜店的其他产权人有下列情形之一的，区、县商务行政主管部门责令限期改正，可处 3000 元以上 30000 元以下罚款；享受政府给予的价格等优惠政策的，责令补缴减免的价款：

- （一）未在本办法规定的时限内将社区菜市场或者社区菜店投入运营的；
- （二）社区菜市场或者社区菜店经营蔬菜面积少于总经营面积 1/3 的；
- （三）擅自改变社区菜市场或者社区菜店功能的；
- （四）无正当理由擅自停止社区菜市场或者社区菜店经营 2 个月以上，严重影响居民生活的。

**第二十一条** 开发建设单位或者社区菜市场、社区菜店的其他产权人有本办法第二十条规定情形之一，经责令限期改正、整改期满仍不能达到要求的，区、县商务行政主管部门报经区、县人民政府同意后，应当以成本价为基础回购社区菜市场或者社

to the people's government at the district or county level or any government department, the people's government at the district or county level or the government department shall determine the operator by such means of fair competition as bid invitation.

**Article 16** The people's governments at the district or county level shall comprehensively take multiple measures including subsidy, reward and reduction or exemption of charges to reduce the cost of vegetable operation and stabilize the retail prices of vegetables.

**Article 17** The standards for general industries shall apply to the water, electricity and gas prices of the vegetable retail networks where the area for vegetable business is not less than one third of its total business area.

**Article 18** The administrative department for commerce shall establish the joint meeting system with the departments for transport, traffic management for public security, development and reform, agriculture, etc. and regularly discuss the policies related to the transport and transit of such fresh agricultural products as vegetables.

The departments for transport shall, in accordance with law, give preferential treatment in toll collection and guarantee of preferential transit to the vehicles transporting fresh agricultural products in the green channels stipulated by the State. The departments for traffic management for public security shall, in accordance with law, issue passes and provide convenience in transit to the vehicles entering the urban area and transporting such fresh agricultural products as vegetables.

**Article 19** Any unit or individual discovering any violation of these Measures shall have the right to report to the administrative department for commerce at the district or county level; the administrative department for commerce at the district or county level shall make public the telephone number for informants, timely deal with the reports and announce the disposition results.

**Article 20** Where the development and construction unit or any other proper owner of a community vegetable market or community vegetable store falls in any of the following circumstances, the administrative department for commerce at the district or county level shall order it to make corrections within a prescribed time limit, and may impose upon it a fine of not less than 3,000 Yuan but not more than 30,000 Yuan; where it enjoys such preferential policies of the government as those on price, it shall be ordered to supplement the reduced or exempted price:

(1) failing to put the community vegetable market or community vegetable store into operation within the time limit stipulated in these Measures;

(2) the area for vegetable business is less than one third of the total business area of the community vegetable market or community vegetable store;

(3) changing the functions of the community vegetable market or community vegetable store without authorization; and

(4) arbitrarily suspending the operation of the community vegetable market or community vegetable store for more than two months without justified reasons resulting in seriously influencing the life of residents.

**Article 21** Where the development and construction unit or any other proper owner of a community vegetable market or community vegetable store falls in any of the circumstances stipulated in Article 20 of these Measures and still fails to meet relevant requirements upon the expiration of the period for rectification and reform after being ordered to make corrections within a prescribed time limit, the administrative department for commerce at the district or county level shall repurchase the property ownership of the

区菜店的产权。

在本办法第二十条规定的第（一）种情形下，回购谈判期间，区、县商务行政主管部门有权采取措施将社区菜市场或者社区菜店投入运营。

在本办法第二十条规定的第（二）、（三）、（四）种情形下，回购谈判期间，开发建设单位或者社区菜市场、社区菜店的其他产权人应当恢复社区菜市场或者社区菜店的功能或者经营；无力恢复的，区、县商务行政主管部门有权采取措施恢复社区菜市场或者社区菜店的功能或者经营。

回购谈判原则上在 6 个月内完成。

**第二十二条** 本办法自 2014 年 1 月 1 日起施行。

community vegetable market or community vegetable store based on the cost price after reporting to and obtaining consent from the people's government at the district or county level.

During the period of negotiation on repurchase in circumstance (1) stipulated in Article 20 of these Measures, the administrative department for commerce at the district or county level shall have the right to take measures for putting the community vegetable market or community vegetable store into operation.

During the period of negotiation on repurchase in circumstances (2), (3) or (4) stipulated in Article 20 of these Measures, the development and construction unit or any other proper owner of a community vegetable market or community vegetable store shall restore the functions or resume the operation of the community vegetable market or community vegetable store; where it is unable to do so, the administrative department for commerce at the district or county level shall have the right to take measures for restoring the functions or resuming the operation of the community vegetable market or community vegetable store.

The negotiation on repurchase shall be completed in six months in principle.

**Article 22** These Measures shall be effective as of January 1, 2014.

## （十五）工商管理

### 北京市反不正当竞争条例

（1994年7月22日北京市第十届人民代表大会常务委员会第十一次会议通过 根据1997年9月4日北京市第十届人民代表大会常务委员会第三十九次会议《关于修改〈北京市反不正当竞争条例〉的决定》修正）

#### 第一章 总 则

**第一条** 为保障社会主义市场经济健康发展，维护市场秩序，鼓励和保护公平竞争，制止不正当竞争行为，保护经营者和消费者的合法权益，依据《中华人民共和国反不正当竞争法》和有关法律、法规的规定，结合本市实际情况，制定本条例。

**第二条** 凡在本市行政区域内从事商品经营或者营利性服务（以下所称商品包括服务）的经营者，必须遵守本条例。

**第三条** 经营者在市场交易中，应当遵循自愿、平等、公平、诚实信用的原则，遵守公认的商业道德。

**第四条** 市和区、县工商行政管理部门是不正当竞争行为的监督检查部门；法律、行政法规规定由其他部门监督检查的，依照其规定。

**第五条** 各级人民政府应当加强市场管理，采取措施，制止不正当竞争行为，为公平竞争创造良好的环境和条件。

公安机关、检察机关、人民法院在各自职权范围内，支持、配合、保障监督检查部门依法履行监督检查职责。

## xv. Business Administration

### Regulations of Beijing Municipality Against Unfair Competition

(Adopted at 11<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> Municipal People's Congress of Beijing on July 22, 1994, and amended in accordance with the Decision Regarding Amendment of the Regulations of Beijing Municipality Against Unfair Competition adopted by the 39<sup>th</sup> Meeting of the Standing Committee of the 10<sup>th</sup> Municipal People's Congress of Beijing on September 4, 1997)

#### Chapter I General Provisions

**Article 1** For safeguarding the healthy development of socialist market economy, maintaining market order, encouraging and protecting fair competition, repressing unfair competition acts, protecting the lawful rights and interests of business operators and consumers, these Regulations are formulated in accordance with the provisions of Law of the People's Republic of China Against Unfair Competition and other relevant laws and regulations and in light of the actual circumstances in this Municipality.

**Article 2** All business operators that are engaged in commodities marketing or profit-making services (commodities referred to hereinafter include such services) in the administrative area of this Municipality shall abide by these Regulations.

**Article 3** A business operator shall, in his market transactions, follow the principles of voluntariness, equality, fairness, and good faith and observe the generally recognized business ethics.

**Article 4** The administrative departments for industry and commerce at the municipality, district or county level are the departments of supervision over and inspection of unfair competition acts; where laws or administrative regulations provide that other departments shall exercise the supervision and inspection, those provisions shall apply.

**Article 5** The people's governments at various levels shall strengthen the market administration, take measures to repress unfair competition acts and create favorable environment and conditions for fair competition.

Public security organs, procuratorial organs and people's courts shall, within the scope of their respective duties and functions, support, cooperate with and safeguard the supervision and inspection departments in performing their duties and responsibilities according to law.

**第六条** 本市鼓励、支持和保护一切组织和个人对不正当竞争行为进行社会监督和舆论监督。

一切组织和个人都有权检举、揭发不正当竞争行为。对检举、揭发属实和协助查处不正当竞争行为有功的，给予适当奖励并为其保密。

各行业协会应当制定本行业公平交易公约，协助监督检查部门依法对不正当竞争行为进行查处。

**第七条** 国家机关工作人员不得支持、包庇不正当竞争行为。

## 第二章 不正当竞争行为

**第八条** 经营者不得假冒他人的注册商标：

（一）未经注册商标所有人的许可，在同一种商品或者类似商品上使用与其注册商标相同的商标；

（二）销售明知是假冒他人注册商标的商品；

（三）伪造、擅自制造他人注册商标标识或者销售伪造、擅自制造的注册商标标识。

**第九条** 经营者不得擅自使用知名商品特有的名称、包装、装潢，或者使用与知名商品近似的名称、包装、装潢，造成和他人的知名商品相混淆，使购买者误认为是该知名商品。

本条所称的知名商品，是指下列商品：

（一）在我国有关部门认可的国际评奖活动中获奖的商品；

（二）被省、部级以上政府部门、行业组织或者消费者协会认定为名优的商品；

（三）为消费者所公认，在相关市场内久负盛名的商品；

（四）其他经广泛宣传，在相关市场内有较高知名度的商品。

**第十条** 经营者不得擅自使用他人的企业名称或者姓名，引人误认为是他人的商品。

**Article 6** This Municipality shall encourage, support and protect all organizations and individuals to exercise social supervision and supervision of public opinions over unfair competition acts.

All organizations and individuals shall have the right to report or disclose unfair competition acts. Once their reports or disclosures are proved true, their acts will be rendered as great service in assisting investigation of unfair competition acts. The organizations or individuals shall be awarded appropriately and their information shall be kept secrets.

All industry associations shall formulate fair trade conventions in their respective industries to assist supervision and inspection departments in investigating and punishing unfair competition acts in accordance with the law.

**Article 7** No state functionary may support or cover up unfair competition acts.

## Chapter II Acts of Unfair Competition

**Article 8** A business operator shall not counterfeit a registered trademark of another person:

- (1) Using a trademark identical with the registered trademark on the same or similar commodity without permission from the owner of the registered trademark;
- (2) Knowingly selling commodities bearing a counterfeited registered trademark;
- (3) Forging or making without authorization representations of a registered trademark of another person or selling representations of a registered trademark which are forged or made without authorization.

**Article 9** A business operator shall not use for a commodity without authorization a unique name, package or decoration of a famous commodity, or similar to that of a famous commodity, thereby to confuse the commodity with that famous commodity and mislead the purchasers.

A Famous commodity mentioned in these Articles refers to the following commodities:

- (1) A commodity that has won a prize in the international awards activities recognized by the relevant agency of our country;
- (2) A commodity that has been recognized as famous and excellent by the governmental agency at or above the provincial or ministerial level, the association of trade and the association of consumers;
- (3) A commodity that is generally recognized by consumers and has a high reputation for a long time in the relevant market; or
- (4) Other commodity that has a relatively high popularity in the relevant market though broad publicity campaign.

**Article 10** A business operator shall not use without authorization the name of another enterprise or person, thereby leading people to mistake their commodities for those of the said enterprise or person.



**第十一条** 经营者不得采用伪造或者冒用的手段，对商品质量作引人误解的虚假的表示：

- （一）在商品上伪造或者冒用认证标志、名优标志等质量标志；
- （二）被取消认证标志或者名优标志后继续使用；
- （三）使用的认证标志或者名优标志与实际所获认证标志或者名优标志不符；
- （四）伪造或者冒用质量检验合格证明、许可证号或者监制单位；
- （五）伪造或者冒用他人厂名、厂址、商品加工地、制造地、生产地（包括农副产品的生长地或者养殖地）；
- （六）伪造商品规格、等级、制作成分及其名称和含量；
- （七）伪造生产日期和安全使用期或者失效日期等。

**第十二条** 公用企业或者其他依法具有独占地位的经营者，不得采取下列限制竞争的行为：

- （一）限定用户、消费者只能购买和使用其附带提供的或者其指定的经营者提供的相关商品，而不得购买和使用其他经营者提供的符合技术标准要求的同类商品；
- （二）强制用户、消费者购买其提供的或者其指定的经营者提供的不必要的商品及配件；
- （三）对抵制其限制竞争行为的用户、消费者采取拒绝、中断、削减供应相关商品或者滥收费用等手段进行刁难；
- （四）其他法律、法规定为限制竞争的行为。

**第十三条** 各级政府及其所属部门不得滥用行政权力，限定经营者销售商品的范围、方式、对象、数量、价格等；限定他人购买其指定的经营者的商品，限制其他经营者正当的经营活动。

各级政府及其所属部门不得滥用行政权力，采用建关设卡、提高检验标准、增加审批手续等手段，限制外地商品进入本地市场，或者本地商品流向外地市场。

**Article 11** A business operator shall not resort to forging or counterfeiting means to make false and misleading indications as to the quality of his commodities:

(1) Forging or counterfeiting an authentication mark, famous-and-excellent-product mark or other product quality mark on his commodities;

(2) Continuing using an authentication mark or famous-and-excellent-product mark that is revoked;

(3) Using an authentication mark or famous-and-excellent-product mark that does not conform to the authentication mark or famous-and-excellent-product mark which he actually obtains;

(4) Forging or counterfeiting a quality inspection certificate, a license number or the name of a supervising unit;

(5) Forging or counterfeiting another producer's name, address, place for processing of the commodity, place of manufacture and place of production (including the place where the agricultural and sideline products grow or are bred);

(6) Forging the specifications, grades, ingredients and their name and quantities contained of the commodities; or

(7) Forging date of production and safe period for use or date of invalidity, etc.

**Article 12** A public utility enterprise or any other business operator occupying monopoly status according to law shall not resort to the following acts to restrict competition:

(1) Restricting users or consumers to purchase and using relevant commodities which it provides incidentally or from a business operator designated by it and not to purchase or using the same kind of commodity provided by other business operators which conform to the requirement of the technical standards;

(2) Forcing users or consumers to purchase unnecessary commodities and accessories, which are provided by it or a business operator it designated;

(3) Resorting to such means as refusing, intermitting or decreasing the supply of relevant commodities or arbitrarily charging fees to create difficulties for the users or consumers who resist its acts of restricting competition; or

(4) Any other acts stipulated as restricting competition by laws or regulations.

**Article 13** Governments at various levels and their subordinate departments shall not abuse administrative powers to impose limitations on the scope, methods, objects, quantity and prices of the commodities sold by the business operators and to restrict people to purchase commodities from the business operators designated by them and impose limitations on the rightful operation activities of other business operators.

Governments at various levels and their subordinate departments shall not abuse administrative powers to restrict commodities originated in other places from entering the local markets or the local commodities from flowing into markets of other places by means of setting up barriers, raising standards for test and adding approval formalities, etc.

**第十四条** 经营者不得采用给予财物、提供公用住房、免费旅游度假及其他使对方直接或者间接受益的手段进行贿赂以销售或者购买商品。在账外暗中给予对方单位或者个人回扣的，以行贿论处；对方单位或者个人在账外暗中收受回扣的，以受贿论处。

经营者销售或者购买商品，可以以明示方式给对方折扣，可以给中间人佣金。经营者给对方折扣、给中间人佣金，必须如实入账。接受折扣、佣金的经营者必须如实入账。

**第十五条** 经营者不得利用广告或者其他方法，对商品的价格、质量、性能、用途、数量、规格、等级、制作成分及其含量和名称、制造方法、制造日期、有效期限、使用方法、产地、制造者、制造地、加工者、加工地等作引人误解的虚假的宣传。

本条所称的其他方法，是指下列行为：

- （一）雇用他人进行欺骗性的销售诱导；
- （二）作引人误解的虚假的现场演示和说明；
- （三）张贴、散发、邮寄引人误解的虚假的产品说明书和其他宣传材料；
- （四）在经营场所内对商品作引人误解的虚假的文字标注、说明或者解释；
- （五）利用新闻媒介作引人误解的虚假的宣传报道。

广告的经营者不得在明知或者应知的情况下，代理、设计、制作、发布虚假广告或者违法有奖销售广告。

**第十六条** 经营者不得采用下列手段侵犯商业秘密：

- （一）以盗窃、利诱、胁迫或者其他不正当手段获取权利人的商业秘密；
- （二）披露、使用或者允许他人使用以前项手段获取的权利人的商业秘密；
- （三）违反约定或者违反权利人有关保守商业秘密的要求，披露、使用或者允许他人使用其所掌握的商业秘密；
- （四）以高薪或者其他优厚条件聘用掌握或者了解权利人商业秘密的人员，以获取、使用、披露权利人的商业秘密。

**Article 14** A business operator shall not resort to bribery, by offering money or goods, providing public use houses and free tours for holidays and other means which benefit the counterpart directly or indirectly, in selling or purchasing commodities. A business operator who offers off-the-book rebate in secret to the other party, a unit or an individual, shall be deemed and punished as offering bribes; and any unit or individual that accepts off-the-book rebate in secret shall be deemed and punished as taking bribes.

A business operator may, in selling or purchasing commodities, expressly allow a discount to the other party and pay a commission to the middleman. The business operator who gives a discount to the other party or pays a commission to the middleman must truthfully enter it in the account. The business operator who accepts the discount or the commission must also truthfully enter it in the account.

**Article 15** A business operator shall not, by advertisement or any other means, make false or misleading publicity of his commodities as to the price, quality, functions, usage, quantity, specifications, grades, ingredients and quantities contained and name thereof, methods of manufacture, date of manufacture, duration of validity, using methods, place of origin, manufacturer, place of manufacture, processor, place of processing, etc.

Other means mentioned in this Article refer to the following acts:

- (1) Employing others to make deceptive inducements to promote sales;
- (2) Making false and misleading demonstrations and explanations on the spot;
- (3) Posting, distributing or mailing misleading and false product descriptions and other advertising materials;
- (4) Making misleading and false literal indications or interpretations as to the commodities in the place of operations; or
- (5) Making misleading and false advertisement through news media.

An advertisement agent may not act as agent for, or design, produce or release a false advertisement or an advertisement for illegal lottery-attached sale while he clearly knows or ought to know its falsehood or illegality,

**Article 16** A business operator shall not use any of the following means to infringe upon trade secrets:

- (1) Obtaining an obligee's trade secrets by stealing, luring, intimidating or any other unfair means;
- (2) Disclosing, using or allowing another person to use the trade secrets obtained from the obligee by the means mentioned in the preceding paragraph;
- (3) In violation of the agreement or against the obligee's demand for keeping trade secrets, disclosing, using or allowing another person to use the trade secrets he possesses; or
- (4) Engaging, with high-remunerated salary or other favorable conditions, the person who grasps or knows an obligee's trade secrets in order to obtain, use or disclose those trade secrets.

第三人明知或者应知前款所列违法行为，获取、使用或者披露他人的商业秘密，视为侵犯商业秘密。

本条所称的商业秘密，是指不为公众所知悉，能为权利人带来经济利益、具有实用性并经权利人采取保密措施的技术秘密、技术信息和经营信息。

**第十七条** 经营者不得以排挤竞争对手为目的，以低于成本的价格销售商品，进行不正当竞争。

有下列情形之一的，不属于不正当竞争行为：

- （一）销售鲜活商品；
- （二）处理有效期限即将到期的商品或者其他积压的商品；
- （三）季节性降价；
- （四）因清偿债务、转产、歇业降价销售商品。

**第十八条** 经营者销售商品，不得违背购买者的意愿搭售商品或者附加其他不合理的条件。

**第十九条** 经营者不得从事下列欺骗性有奖销售：

- （一）谎称有奖或者故意让内定人员中奖；
- （二）对所设奖的种类、中奖概率、最高奖金额、总金额和奖品种类、数量、质量、提供方法等作虚假的表示；
- （三）故意将设有中奖标志的商品、奖券不投放市场或者不同时投放市场；故意将带有不同奖金金额或者奖品标志的商品、奖券按不同时间投放市场；
- （四）其他法律、法规规定为欺骗性有奖销售的行为。

**第二十条** 抽奖式的有奖销售，最高奖的金额不得超过 5000 元。以物品或者其他方式作为奖励的，按照同期市场同类商品的价格折算，其金额不得超过 5000 元。

**第二十一条** 经营者不得利用有奖销售手段推销质次价高的商品。

**第二十二条** 经营者不得捏造、散布虚伪事实，损害竞争对手的商业信誉、商品

Obtaining, using or disclosing another's trade secrets by a third party who clearly knows or ought to know that the case falls under the unlawful acts listed in the preceding paragraph shall be deemed as infringement upon trade secrets.

Trade secrets mentioned in this Article refer to any technology information or business operation information which is unknown to the public, can bring about economic benefits to the obligee, has practical utility and about which the obligee has adopted secret-keeping measures.

**Article 17** A business operator shall not, for the purpose of pushing out their competitors, sell their commodities at prices lower than costs to engage in unfair competition.

Any of the following shall not be deemed as an unfair competition act:

- (1) Selling perishables or live commodities;
- (2) Disposing of commodities near expiration of their validity duration or those kept too long in stock;
- (3) Seasonal sales; or
- (4) Selling commodities at a reduced price for the purpose of clearing off debts, change of business or suspension of operations.

**Article 18** A business operator may not, against the will of purchasers, conduct tie-in sale of commodities or attach any other unreasonable conditions to the sale of his commodities.

**Article 19** A business operator shall not engage in any of the following deceptive lottery-attached sale activities:

- (1) Falsely declaring to have prize or intentionally making a designated insider win the prize;
- (2) Making false statement about the kinds of prizes, chance of winning, amount of the highest prize, total amount and kinds of the prize, quantity and quality of awards, methods of providing awards, etc;
- (3) Deliberately not putting commodities or lottery tickets with prize-winning marks on the market, or not putting them on the market at the same time with other commodities; and deliberately putting the commodities or lottery tickets with different amount of prize or different kinds of prize-winning marks on the market at different times; or
- (4) Any other deceptive lottery-attached sale activities as stipulated by laws and regulations.

**Article 20** In the lottery-attached sale in form of lottery-drawing, the highest prize shall not exceed 5,000 yuan. Where goods or other means are taken as prizes, the monetary value, as computed according to the price of the same kind commodity in the market at the same time, shall not exceed 5,000 yuan.

**Article 21** A business operator shall not employ the lottery-attached sale as a means to sell goods of low quality at a high price.

**Article 22** A business operator shall not fabricate or spread false information to injure his competitors' commercial credit or the reputation of his competitors' commodities.

声誉。

**第二十三条** 投标者不得采取下列串通投标的行为：

- （一）投标者之间相互约定，一致抬高或者压低投标报价的；
- （二）投标者之间相互约定，在类似招标项目中轮流以高价位或者低价位中标的；
- （三）投标者之间就标价之外其他事项进行串通，以排挤其他竞争对手的。

**第二十四条** 投标者和招标者不得相互勾结，以排挤其他竞争对手的公平竞争：

- （一）招标者在公开开标之前，私下开启标书，并告知尚未报送标书的其他投标者的；
- （二）招标者在要求投标者就其标书澄清事项时，故意作引导性提问，以促成该投标者中标的；
- （三）投标者与招标者商定，在公开投标时压低标价，中标后再给招标者部分额外补偿的；
- （四）招标者向投标者泄露招标底价的；
- （五）其他法律、法规规定为招标过程中的营私舞弊行为。

### 第三章 监督检查

**第二十五条** 对不正当竞争行为的查处，由违法行为发生地的监督检查部门管辖。

市级监督检查部门可以直接查处区、县监督检查部门管辖的案件。重大、疑难案件，区、县监督检查部门可以报请市级监督检查部门查处。

公用企业或者其他依法具有独占地位的经营者的不正当竞争行为，由市级监督检查部门查处。市级监督检查部门可以委托区、县监督检查部门调查案情。

**第二十六条** 监督检查部门在监督检查不正当竞争行为时，有权行使下列职权：

- （一）按照规定程序询问被检查的经营者、利害关系人、证明人，并要求提供证明材料或者与不正当竞争行为有关的其他资料；

**Article 23** Bidders shall not collude with each other by resorting to any of the following means:

- (1) Bidders make an agreement to force up or down the bidding prices unanimously;
- (2) Bidders make an agreement to win the bids at higher or lower prices in turn in the similar bidding projects; or
- (3) Bidders collude in items other than bidding price so as to push out their competitors from fair competition.

**Article 24** Bidders and tender-inviter shall not collude with each other so as to push out their competitors from fair competition:

- (1) Before public opening of the tenders, a tender-inviter open tender documents privately and tell other bidders who have not submitted their tender documents;
- (2) When asking a bidder to clarify certain items in his tender documents, a tender-inviter deliberately raises inducing questions so as to help this bidder win the tender;
- (3) A bidder and a tender-inviter make an agreement to force down the bidding price in public bidding, and after the bidder wins the tender, he will give partial compensation to the tender-inviter;
- (4) A tender-inviter discloses the base amount of the tender to bidders; or
- (5) Any other illegalities committed for private benefits or by fraudulent means in the process of tendering as stipulated by laws and regulations.

### Chapter III Supervision and Inspection

**Article 25** Investigation and punishment of unfair competition acts shall be subject to the jurisdiction of the supervision and inspection department at the locality where the acts occur.

Supervision and inspection departments at the municipal level may directly investigate and deal with the cases within the jurisdiction of the supervision and inspection departments at the district or county level. Serious and difficult cases may be reported to the supervision and inspection departments at the municipal level for investigation and punishment by the supervision and inspection departments at the district or county level.

Unfair competition acts committed by public utility enterprises or other business operators occupying monopoly status according to law shall be investigated and punished by the supervision and inspection departments at the municipal level. The supervision and inspection departments at the municipal level may entrust the supervision and inspection departments at the district or county level to investigate the cases.

**Article 26** Supervision and inspection departments shall, in supervising and inspecting unfair competition acts, have the right to exercise the following functions and powers:

- (1) To interrogate the business operators under inspection, interested persons, or witnesses in accordance with the prescribed procedures, and require them to provide testimonial materials or other materials relating to the unfair competition acts;



（二）查询、复制与不正当竞争行为有关的协议、账册、单据、文件、记录、业务函电和其他资料；

（三）检查与本条例第八条至第十一条规定的不正当竞争行为有关的财物，必要时可以责令被检查的经营者说明该商品的来源和数量，并可以以书面形式责令其暂停销售，听候检查，不得转移、隐匿、销毁该财物；发现被检查的经营者有明显转移、隐匿、销毁该财物意图的，区、县级以上监督检查部门可以对该财物予以封存、暂扣，并在规定的时限内作出处理。

实施前款第（三）项行政强制措施，应当经区、县级以上监督检查部门负责人批准。

**第二十七条** 监督检查部门工作人员监督检查不正当竞争行为时，应当出示检查证件。对不出示检查证件的，被检查的经营者有权拒绝检查。

**第二十八条** 监督检查部门在监督检查不正当竞争行为时，被检查的经营者、利害关系人和证明人应当在规定的时限内，如实提供有关资料或者情况，不得拒绝、拖延或者谎报。

**第二十九条** 监督检查部门在监督检查不正当竞争行为时，可以请公安机关予以协助；经初步调查被检查的经营者有经济犯罪行为的，可以依照法定程序提请检察机关介入检察。公安、检察机关应当予以配合。

**第三十条** 本市设立公平竞争专家咨询委员会，其职责是按照监督检查部门的要求，对难以认定是否为不正当竞争的行为，提出咨询意见。

专家咨询委员会的组成和议事规则由市人民政府另行规定。

## 第四章 法律责任

**第三十一条** 经营者违反本条例规定，给被侵害的经营者造成损害的，应当承担赔偿责任，被侵害的经营者的损失难以计算的，赔偿额为侵权人在侵权期间因侵

(2) To inquire about and duplicate the agreements, account books, invoices, documents, records, business letters and telegrams or other materials relating to the unfair competition acts; and

(3) To inspect the property involved in the unfair competition acts under Article 8 to Article 11 of these Regulations, and, when necessary, to order in writing the business operators under inspection to explain the source and quantity of the commodities, suspend the sale, and await the inspection thereof, and the property involved shall not be transferred, concealed or destroyed; and, where the business operators under inspection are found to have obvious intention to transfer, conceal or destroy the property involved, the supervision and inspection departments above the district or county level may seal up this property or hold it temporarily in custody and deal with the case within a prescribed time limit.

Implementing the administrative compulsory measures stipulated in Item 3 in the preceding paragraph shall be approved by the person responsible for the supervision and inspection departments above the district or county level.

**Article 27** Functionaries of supervision and inspection departments shall, when supervising and inspecting unfair competition acts, produce their inspection certificates. Where the functionaries do not produce their inspection certificates, the business operators under inspection shall have the right to refuse the inspection.

**Article 28** When the supervision and inspection departments supervise and inspect unfair competition acts, business operators under inspection, interested persons and witnesses shall truthfully provide relevant materials or particulars within a prescribed time limit and shall not refuse, delay or provide false statements.

**Article 29** In supervising and inspecting unfair competition acts, supervision and inspection departments may ask the public security organs to assist; where the business operator, upon preliminary inspection, is found to commit an economic crime, the supervision and inspection departments may request procuratorial organs to intervene in the procuratorial investigation according to legal procedures. The public security organs and the procuratorial organs shall give their coordination.

**Article 30** This Municipality shall set up an expert advisory commission of fair competition whose duties and responsibilities are to provide expert opinions, according to the requirements of the supervision and inspection departments, about acts which are difficult to ascertain whether unfair competition or not.

The composition of the expert advisory commission of fair competition and its rules of procedures shall be formulated separately by the Municipal People's Government.

## Chapter IV Legal Liability

**Article 31** A business operator who violates the provisions of these Regulations and thus causes damage to the infringed business operator, shall bear the liability of compensation for the damage. If the losses of the infringed business operator are difficult to estimate, the damages shall be the profits derived from the infringement by the infringer during that period. And the infringer shall also bear the reasonable expense paid by the infringed business operator for investigating the infringer's unfair competition acts violating

权所获得的利润；并应当承担被侵害的经营者因调查该经营者侵害其合法权益的不正当竞争行为所支付的合理费用。

被侵害的经营者要求侵权人赔偿经济损失的，经双方当事人协议，可以请求监督检查部门予以调解，调解不成的，可以向人民法院提起诉讼；被侵害的经营者也可以直接向人民法院提起诉讼。

**第三十二条** 经营者违反本条例第八条的规定，假冒他人注册商标的，依照《中华人民共和国商标法》处罚；构成犯罪的，依法追究刑事责任。

**第三十三条** 经营者违反本条例第九条规定的，监督检查部门应当责令停止违法行为，没收违法所得，并监督销毁其擅自使用的知名商品特有的包装、装潢，可以根据情节处以违法所得1倍以上3倍以下的罚款；情节严重的，可以吊销营业执照；销售伪劣商品，构成犯罪的，依法追究刑事责任。

**第三十四条** 经营者违反本条例第十条和第十一条规定的，由监督检查部门依照《中华人民共和国产品质量法》处罚。有违法所得的，没收违法所得，可以并处违法所得1倍以上3倍以下的罚款。

**第三十五条** 公用企业或者其他依法具有独占地位的经营者违反本条例第十二条规定的，市级监督检查部门应当责令停止违法行为，可以根据情节处以5万元以上20万元以下的罚款。被指定的经营者借此销售质次价高商品或者滥收费用的，监督检查部门应当没收违法所得，可以根据情节处以违法所得1倍以上3倍以下的罚款。

**第三十六条** 政府及其所属部门违反本条例第十三条规定的，由上级机关责令其改正；情节严重的，由同级或者上级机关对直接责任人员给予行政处分。被指定的经营者借此销售质次价高商品或者滥收费用的，监督检查部门应当没收违法所得，可以根据情节处以违法所得1倍以上3倍以下的罚款。

**第三十七条** 经营者违反本条例第十四条的规定，采用财物或者其他手段进行贿赂以销售或者购买商品，构成犯罪的，依法追究刑事责任；不构成犯罪的，监督检查

his lawful rights and interests.

Where the infringed business operator requires the infringer to compensate for the economic losses, the two parties may make an agreement to ask the supervision and inspection department to mediate, and where the mediation fails, they may bring a lawsuit in a people's court; and the infringed business operator may also directly bring a lawsuit in a people's court.

**Article 32** A business operator who, in violation of the provisions of Article 8 of these Regulations, counterfeits another's registered trademark shall be punished in accordance with Trademark Law of the People's Republic of China; where a crime is constituted, criminal liability shall be investigated according to law.

**Article 33** Where a business operator violates the provisions of Article 9 of these Regulations, the supervision and inspection department shall order the business operator to stop the illegal act, confiscate the illegal earnings and supervise the destruction of the unique name, package or decoration of the famous commodity the operator uses without authorization, and may, in light of the circumstances, impose a fine of not less than one time but not more than three times the illegal earnings; where the circumstances are serious, the business operator's business license may be revoked; and where the commodities sold are fake and inferior, and the case constitutes a crime, the business operator shall be investigated for criminal liability according to law.

**Article 34** A business operator in violation of the provisions of Article 10 and 11 of these Regulations shall be punished by the supervision and inspection department in accordance with Product Quality Law of the People's Republic of China. And the illegal earnings shall be confiscated if any, and a fine of not less than one time but not more than three times the illegal earnings may be imposed simultaneously.

**Article 35** Where a public utility enterprise or any other business operator occupying monopoly status according to law violates the provisions of Article 12 of these Regulations, the supervision and inspection department at the municipal level shall order the ceasing of the illegal acts and may impose a fine of not less than 50,000 yuan but not more than 200,000 yuan in light of the circumstances. Where such designated business operator takes advantage of his monopoly status to sell goods of low quality at high prices or arbitrarily charges fees, the inspection and supervision department shall confiscate the illegal earnings and may impose a fine of not less than one time but not more than three times the illegal earnings in light of the circumstances.

**Article 36** Where a government or its subordinate departments violate the provisions of Article 13 of these Regulations, the organ at a higher level shall order them to make corrections; and where the circumstances are serious, the persons held directly responsible shall be given administrative sanctions by the relevant department at the same or higher level. Where such designated business operator takes advantage of his monopoly status to sell goods of low quality at high prices or arbitrarily charges fees, the inspection and supervision department shall confiscate the illegal earnings and may impose a fine of not less than one time but not more than three times the illegal earnings in light of the circumstances.

**Article 37** Where a business operator, in violation of the provisions of Article 14 of these Regulations, resorts to bribery by offering money or goods or by any other means, in selling or purchasing commodities and a crime is constituted, criminal liability shall

部门可以根据情节处以1万元以上20万元以下的罚款，有违法所得的，予以没收。

**第三十八条** 经营者违反本条例第十五条的规定，利用广告或者其他方法，对商品作引人误解的虚假宣传的，监督检查部门应当责令停止违法行为，消除影响，可以根据情节处以1万元以上20万元以下的罚款。其中，利用广告及新闻报道对商品作引人误解的虚假的宣传，造成影响的，处以1万元以上5万元以下的罚款；造成重大影响的，处以5万元以上10万元以下的罚款；造成严重后果，影响特别恶劣的，处以10万元以上20万元以下的罚款。

广告的经营者，在明知或者应知的情况下，代理、设计、制作、发布虚假广告和违法有奖销售广告的，监督检查部门应当责令停止违法行为，没收广告费用，并根据情节处以广告费用1倍以上5倍以下的罚款。情节严重的，依法停止其广告业务。构成犯罪的，依法追究刑事责任。

**第三十九条** 经营者违反本条例第十六条的规定侵犯商业秘密的，监督检查部门应当责令停止违法行为，可以根据情节处以1万元以上20万元以下的罚款。

**第四十条** 经营者违反本条例第十九条、第二十条、第二十一条的规定，进行有奖销售的，监督检查部门应当责令停止违法行为，可以根据情节处以1万元以上10万元以下的罚款。

**第四十一条** 投标者和招标者违反本条例第二十三条、第二十四条规定的，其中标无效。监督检查部门可以根据情节处以1万元以上20万元以下的罚款。

**第四十二条** 监督检查部门在监督检查不正当竞争行为时，被检查的经营者故意拖延或者不如实提供有关资料和情况的，责令改正。

**第四十三条** 经营者有违反被责令暂停销售，不得转移、隐匿、销毁与不正当竞争行为有关的财物的行为的，监督检查部门可以根据情节处以被销售、转移、隐匿、销毁财物价款的1倍以上3倍以下的罚款。

**第四十四条** 经营者使用非暴力手段拒绝、阻碍监督检查部门依法监督检查不正

be investigated according to law; where a crime is not constituted, the supervision and inspection department may impose a fine of not less than 10,000 yuan but not more than 200,000 yuan in light of the circumstances and confiscate the illegal earnings, if any.

**Article 38** Where a business operator, in violation of the provisions of Article 15 of these Regulations, makes false or misleading publicity of his commodities by advertisement or any other means, the supervision and inspection department shall order the said business operator to stop his illegal acts and eliminate the bad effects, and may impose a fine of not less than 10,000 yuan but not more than 200,000 yuan in light of the circumstances. Where the business operator makes false or misleading publicity of his commodities by advertisement or news media thus resulting in some bad effects, a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed; where the bad effects are serious, a fine of not less than 50,000 yuan but not more than 100,000 yuan shall be imposed; where the serious results are caused and the effects are extremely bad, a fine of not less than 100,000 yuan but not more than 200,000 yuan shall be imposed.

Where an advertisement agent acts as agent for, designs, produces or releases a false advertisement or illegal advertisement for lottery-attached sale though the agent clearly knows or ought to know the falsehood or illegality, the supervision and inspection department shall order the ceasing of the illegal acts, confiscate the advertisement fees and may impose a fine of not less than one time but not more than five times the advertisement fees in light of the circumstances. Where the circumstances are serious, the advertising business of the agent shall be stopped according to law. Where a crime is constituted, criminal liability shall be investigated according to law.

**Article 39** Where a business operator violates the provisions of Article 16 of these Regulations and infringes upon trade secrets, the supervision and inspection department shall order the ceasing of the illegal acts and may impose a fine of not less than 10,000 yuan but not more than 200,000 yuan in light of the circumstances.

**Article 40** Where a business operator engages in lottery-attached sale in violation of the provisions of Article 19, 20 and 21 of these Regulations, the supervision and inspection department shall order the ceasing of the illegal acts and may impose a fine of not less than 10,000 yuan but not more than 100,000 yuan in light of the circumstances.

**Article 41** Where a bidder and a tender-inviter violate the provisions of Article 23 and 24 of these Regulations, the successful bid shall be invalid. The supervision and inspection department may impose a fine of not less than 10,000 yuan but not more than 200,000 yuan in light of the circumstances.

**Article 42** While supervision and inspection departments supervise and inspect unfair competition acts, the business operator under inspection who deliberately delays providing or does not truthfully provide relevant materials and particulars shall be ordered to make corrections.

**Article 43** Where a business operator violates the order of stopping the sale or forbidding the transfer, concealment or destruction of the property involved in the unfair competition acts, the supervision and inspection department may impose a fine of not less than one time but not more than three times the price of the property sold, transferred, concealed or destroyed.

**Article 44** A business operator who refuses or obstructs the supervision and inspection department in supervising and inspecting unfair competition acts according to law by nonviolence shall be punished by the public security organ in accordance with the provisions of Regulations of the People's Republic of China on Administrative Penalties for

当竞争行为的，由公安机关依照《中华人民共和国治安管理处罚条例》的规定处罚；经营者以暴力、威胁等方法阻碍监督检查构成犯罪的，依法追究刑事责任。

**第四十五条** 当事人对监督检查部门作出的处罚决定不服的，可以自收到处罚决定之日起 15 日内向上一级主管机关申请复议；对复议决定不服的，可以自收到复议决定书之日起 15 日内向人民法院提起诉讼；也可以直接向人民法院提起诉讼。

当事人逾期不申请行政复议，也不向人民法院起诉，又不执行处罚决定的，监督检查部门可以申请人民法院强制执行。

**第四十六条** 监督检查部门在行使行政职权时，给经营者合法财产造成损害的，依法承担行政赔偿责任。

监督检查不正当竞争行为的国家机关工作人员滥用职权、玩忽职守，构成犯罪的，依法追究刑事责任；不构成犯罪的，给予行政处分。

**第四十七条** 监督检查不正当竞争行为的国家机关工作人员徇私舞弊，对明知有违反本条例规定构成犯罪的经营者故意包庇不使他受追诉的，依法追究刑事责任。

## 第五章 附 则

**第四十八条** 本条例具体应用中的问题由市人民政府解释。

**第四十九条** 本条例自 1994 年 9 月 1 日起施行。



Public Security. A business operator who obstructs supervision and inspection by violence or threats thus constituting a crime shall be investigated for criminal liability according to law.

**Article 45** Where a party is not satisfied with the punishment decision made by the supervision and inspection department, it may apply for reconsideration to the competent department at the next higher level within 15 days of receipt of the decision; and where the party is still not satisfied with the reconsideration decision, it may bring a lawsuit in a people's court within 15 days of receipt of the decision; and the party may also directly bring a lawsuit in a people's court.

Where the party does not apply for administrative reconsideration nor bring a suit in a people's court, nor implement the punishment decision within the prescribed time limit, the supervision and inspection department may apply to a people's court for compulsory enforcement.

**Article 46** Supervision and inspection departments that cause damage to business operators while performing their duties shall assume the administrative liability for compensation according to law.

Where a State functionary engaged in supervision over and inspection of unfair competition acts abuses his power or neglects his duty, and where the case constitutes a crime, he shall be investigated for criminal liability according to law; where the case does not constitute a crime, he shall be given an administrative sanction.

**Article 47** Where a state functionary engaged in supervision over and inspection of unfair competition acts practices favoritism or irregularities and intentionally harbors a business operator whom he clearly knows to be guilty of a crime by violating the provisions of these Regulations and attempts to shield him from prosecution, he shall be investigated for criminal liability according to law.

## Chapter V Supplemental Provisions

**Article 48** The Municipal People's Government shall be responsible for interpreting the problems occurring in the specific application of these Regulations.

**Article 49** These Regulations shall be implemented as of September 1, 1994.



# 北京市机动车市场管理暂行规定

(1990年5月28日北京市人民政府第9号令发布 根据1997年12月31日北京市人民政府第12号令第一次修改 根据2007年11月23日北京市人民政府第200号令第二次修改 根据2014年7月9日北京市人民政府第259号令第三次修改)

**第一条** 为加强对本市机动车市场的监督管理,保护合法经营,制裁非法活动,根据国家对机动车交易和工商行政管理的有关规定,结合本市具体情况,制定本规定。

**第二条** 凡在本市行政区域内进行机动车交易,均依照本规定管理。

**第三条** 市和区、县工商行政管理机关负责对本市机动车市场进行监督检查,依照工商行政管理法规的有关规定,保护合法经营,查处违法活动。

公安交通、价格、税务等行政管理机关,按照各自职责,依法对机动车市场进行监督管理。

**第四条** 从事机动车经营业务,应当向经营场所所在地的工商行政管理机关申请登记,经核准领取营业执照后,方可经营。

国家对经营机动车业务另有规定的,依照规定执行。

**第五条** 机动车经营单位必须按照工商行政管理机关核准的经营范围经营。

**第六条** 旧机动车交易应当签订书面合同,成交后,应当按照国家规定办理转移登记手续。

交易的旧机动车应当在安全检验合格有效期内。

**第七条** 报废的机动车,由本市汽车解体厂收购解体,不得作为旧机动车出售。

**第八条** 购买或出售机动车者,必须出具凭证。单位购买或出售,凭单位介绍信;

# Interim Provisions of Beijing Municipality on Administration of Automobile Markets

(Promulgated by Decree No. 9 of the People's Government of Beijing Municipality on May 28, 1990, revised for the first time in accordance with Decree No. 12 of the People's Government of Beijing Municipality on December 31, 1997, revised for the second time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007, and revised for the third time in accordance with Decree No. 259 of the People's Government of Beijing Municipality on July 9, 2014)

**Article 1** These Provisions are formulated for the purposes of strengthening supervision and administration of automobile markets in this Municipality, protecting lawful operation and crack down on illegal activities in accordance with relevant provisions of the State on transaction of automobiles and industrial and commercial administration and in light of the particular circumstances of this Municipality.

**Article 2** The transaction of automobiles within the administrative area of this Municipality is subject to the administration in accordance with these Provisions.

**Article 3** The organs for industrial and commercial administration at the municipal and the district or county level shall be responsible for carrying out supervision and inspection of automobile markets in this Municipality, and for protecting lawful operation as well as investigating and handling illegal activities in accordance with relevant provisions of the regulations on industrial and commercial administration.

The administrative organs for traffic management for public security, price and taxation shall, according to their respective functions and duties, carry out supervision and administration of automobile markets in accordance with law.

**Article 4** Anyone who intends to engage in the operation of automobile business shall make an application for registration to the organ for industrial and commercial administration at the place where the business premise is located, and may start operation only after the Business License is obtained upon approval.

Where there are otherwise provisions of the State on the operation of automobile business, such provisions shall apply.

**Article 5** Automobile business operating units must carry out their operation according to the business scopes approved by the organs for industrial and commercial administration.

**Article 6** Written contracts shall be signed for the transactions of used automobiles and the registration procedures for transfer shall be handled in accordance with the provisions of the State after the transactions are concluded.

The used automobiles transacted shall be within the valid period of safety inspection.

**Article 7** The scrapped automobiles shall be purchased and disassembled by the automobile disassembly factories in this Municipality, and shall not be sold as used automobiles.

**Article 8** Relevant certificates shall be provided for the purchase or sale of

个人购买或出售，凭本人身份证件；购买属于国家专项控制的机动车，凭省、自治区、直辖市控制社会集团购买力办公室出具的购车批件。

**第九条** 机动车销售发票（新拖拉机和旧两轮摩托车发票除外）须经工商行政管理机关验证盖章。

**第十条** 禁止交易下列机动车：

- （一）无产品检验合格证的；
- （二）私自拼装的；
- （三）已经报废的；
- （四）走私进口的；
- （五）本市规定禁止在道路上行使的其他车辆。

**第十一条** 机动车经营单位不得倒卖机动车购销合同、票证和提货凭证；不得为违法买卖机动车提供货源、销售发票、支票、现金、银行帐号、营业执照及其他从事违法经营活动的便利条件。

**第十二条** 对违反本规定的下列行为，由工商行政管理机关依法予以处罚：

- （一）无营业执照经营机动车的，依照工商行政管理的有关规定予以处罚。
- （二）机动车交易成交后，销售发票未到工商行政管理机关验证盖章的，视情况可以对交易双方分别处以 500 元以下罚款。
- （三）买卖报废机动车的，责令将报废的机动车交由本市汽车解体厂收购，并视情节轻重，对买卖双方分别处以 3 万元以下罚款。
- （四）违反本规定第十条第（一）、（二）、（五）项规定的，予以警告，并视情节轻重，对交易双方分别处以 3 万元以下罚款。

**第十三条** 从事机动车交易的单位和个人的其他违法行为，属于违反工商、公安交通、价格、税务、海关等管理方面法律、法规和规章的，由有关行政管理机关依法处理。

**第十四条** 本规定自 1990 年 7 月 1 日起施行。

automobiles. Units shall purchase or sell automobiles with their letters of introduction; individuals shall purchase or sell automobiles with their own identification certificates; the approval documents for purchase of automobiles issued by the Office for Control of Purchase by Social Groups of provinces, autonomous regions or municipalities directly under the Central Government shall be provided for the purchase of automobiles under the special control of the State.

**Article 9** The invoices for the sale of automobiles (except for the invoices for new tractors and new or used two-wheeled motorcycles) must be verified and sealed by the organs for industrial and commercial administration.

**Article 10** The transaction of the following automobiles are prohibited:

- (1) those without the qualification certificates of product inspection;
- (2) those assembled without authorization;
- (3) those scrapped;
- (4) those smuggled; and
- (5) other automobiles prohibited to drive on roads by this Municipality.

**Article 11** The automobile business operating units shall not resell purchase and sale contracts, invoices and certificates as well as delivery documents for automobiles; shall not provide the sources of supply, sale invoices, checks, cash, bank accounts or business licenses for illegal purchase and sale of automobiles, or provide other convenience for illegal business activities.

**Article 12** With respect to the following behaviors in violation of these Provisions, the organs for industrial and commercial administration shall impose punishments according to law:

(1) whoever engages in operation of automobile business without a business license shall be punished in accordance with relevant provisions on industrial and commercial administration;

(2) where the sale invoice is not verified and sealed by the organ for industrial and commercial administration after the transaction of automobile is concluded, a fine of not more than 500 Yuan may be imposed upon both parties of the transaction according to the circumstances;

(3) where scrapped automobiles are sold or purchased, the scrapped automobiles shall be ordered to be purchased by automobile disassembly factories of this Municipality, and a fine of not more than 30,000 Yuan shall be imposed upon both parties of the transaction according to the circumstances; and

(4) whoever violates the provisions of Item (1), (2) or (5) in Article 10 of these Provisions, a warning shall be given and a fine of not more than 30,000 Yuan may be imposed upon both parties of the transaction according to the circumstances.

**Article 13** Where other illegal behaviors of the units or individuals engaged in transaction of automobiles belongs to violation of laws, regulations or rules on industrial and commercial administration, traffic management for public security, price, taxation and customs, such behaviors shall be handled by relevant administrative organs in accordance with the law.

**Article 14** These Provisions shall be effective as of July 1, 1990.

# 北京市户外广告设置管理办法

(2004年8月5日北京市人民政府第151号令发布 根据2007

年11月23日北京市人民政府第200号令修改)

**第一条** 为了加强本市户外广告的设置规划和管理,创造整洁、优美的市容环境,根据《北京市市容环境卫生条例》和有关法律、法规的规定,结合本市实际情况,制定本办法。

**第二条** 本办法适用于本市行政区域内户外广告的设置和管理活动。

本办法所称户外广告,是指在城市道路、公路、铁路两侧、城市轨道交通线路的地面部分、河湖管理范围和广场、建筑物、构筑物上,以灯箱、霓虹灯、电子显示装置、展示牌等为载体形式和在交通工具上设置的商业广告。

**第三条** 市市政管理行政主管部门负责本市户外广告的设置规划和监督管理工作。

区、县市政管理行政主管部门负责本行政区域内户外广告的设置规划和监督管理工作。

**第四条** 本市户外广告的登记、内容审查和监督管理,依照《中华人民共和国广告法》和有关法规、规章的规定执行。

规划、交通、园林、公安交通、建设、环保、质量技术监督、安全生产等有关行政主管部门按照各自的职责,依法对户外广告进行监督管理。

**第五条** 设置户外广告设施,应当根据城市的风貌、格局和区域功能、道路特点等统一规划,整体设计,分区控制,合理布局,保证城市容貌的整体美观。

户外广告设施的设计风格、造型、色调、数量、体量、形式、位置、朝向、高度、材质应当与周围环境相协调。

# Measures of Beijing Municipality for Administration of Outdoor Advertisement Installation

(Promulgated by Decree No.151 on August 5, 2004 of Beijing Municipal People's Government and revised in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November, 23, 2007)

**Article 1** In order to strengthen the planning and administration of outdoor billboards installation in Beijing and create a clean and beautiful landscape and environment of the city, these regulations are formulated in accordance with Regulations of Beijing on City Appearance, Environment, and Hygiene and relevant provisions in other laws and regulation while taking into consideration the real situation of the city.

**Article 2** These Measures shall be applicable to the installation and administration of outdoor advertisements within the administrative areas of this Municipality.

Outdoor billboards mentioned in the Regulations shall mean commercial advertisements in carrier forms of lamp box, neon light, electronic display device, exhibition board, and so on located on either side of roads, streets, and railroads in the city, on the ground part of urban track traffic system, within administration areas of rivers and lakes, and on squares, buildings, and structures, or shall mean commercial advertisements on vehicles.

**Article 3** Relevant administration departments of municipal planning and engineering at municipal level shall be responsible for planning, supervision, and management of outdoor billboards installation in the city.

Relevant administration departments of city planning and engineering at district or town level shall be responsible for planning, supervision, and management of outdoor billboards installation in their administrative areas.

**Article 4** The registration, contents examination, and supervision of outdoor billboards in Beijing shall be carried out in accordance with Advertisement Law of People's Republic of China and other relevant laws and regulations.

Relevant administration organs concerning urban planning, traffic, garden engineering, public security, construction, environmental protection, quality and technology supervision, labor safety and so on shall, according to respective responsibility, carry out supervision and administration of outdoor billboards in accordance with laws.

**Article 5** The installation of outdoor billboards shall have uniform planning in accordance with the city's appearance, layout of the city, functions of areas, and features of roads, shall be designed as a whole, and shall have district control and reasonable layout so as to ensure the overall aesthetic performance of the city's appearance.

The design genre, size, color, number, shape, form, location, direction, height, and material of outdoor billboards shall be harmonious with the surrounding environment.

**第六条** 市市政管理行政主管部门应当会同市规划行政主管部门组织编制本市户外广告设置专业规划；区、县市政管理行政主管部门应当会同同级规划行政主管部门根据本市户外广告设置专业规划组织编制本行政区域的户外广告设置规划。

市市政管理行政主管部门可以根据市人民政府的决定，组织编制本市主要大街和重点区域的户外广告设置规划。

**第七条** 编制本市户外广告设置专业规划和区、县户外广告设置规划应当符合《北京城市总体规划》和本办法第五条规定的要求。

**第八条** 编制本市户外广告设置专业规划和区、县户外广告设置规划应当征求有关部门和专家的意见。本市户外广告设置专业规划报市人民政府批准后公布实施；区、县户外广告设置规划报市市政管理行政主管部门按总体规划综合协调同意后，再报同级人民政府批准公布实施。

经市和区、县人民政府批准公布实施的户外广告设置规划，不得随意更改；确需调整的，必须按照规定的程序重新批准。对区、县户外广告设置规划违反本市户外广告设置专业规划的，市人民政府有权予以纠正或者撤销。

**第九条** 禁止在下列道路和区域设置户外广告设施：

（一）长安街（即东起建国门西至复兴门路段，下同）道路两侧 100 米范围内；

（二）天安门广场地区及广场东侧、西侧各 100 米范围内；

（三）中南海办公区周边北起文津街府右街路口，南至府右街长安街路段的沿街地区，西起文津街府右街路口，东至文津街北长街的沿街地区，北起文津街北长街路口，南至南长街长安街路段的沿街地区；

（四）钓鱼台国宾馆北起三里河路阜成路路口，南至钓鱼台国宾馆南侧院墙的沿街地区，东起三里河路阜成路路口，西至阜成路南一街路段南侧的沿街地区；

（五）国家机关、学校、风景名胜区和文物保护单位的建筑控制地带。

对其他不适合设置户外广告的道路和区域，由户外广告设置规划控制设置户外广

**Article 6** Municipal administration departments shall, together with municipal urban planning departments, formulate professional layout for outdoor advertisement device installation in the city; administration departments at district or town level shall, together with urban planning departments at the same level, formulate professional layout for outdoor advertisement device installation in respective administration regions in accordance with the outdoor advertisement device installation layout of the whole city.

Municipal administration departments shall, upon the decision of Beijing Municipal Government, formulate outdoor advertisement device installation layout for major streets and key areas of the city.

**Article 7** The formulation of professional layout of outdoor advertisement device installation in the city as well as such layout of respective districts and towns shall comply with General Urban Planning of Beijing and article V in the Regulations.

**Article 8** Ideas and opinions from relevant departments and experts shall be taken into consideration when formulating professional layout of outdoor advertisement device installation in the city as well as such layout of respective districts and towns. The professional layout of outdoor advertisement device installation at the municipal level shall, after the verification of Beijing Municipal Government, be promulgated and become effective; the professional layout of outdoor advertisement device installation at district or town level shall be submitted to competent municipal administration departments for examination and approval in accordance with the general urban planning, and such layout approved shall, after the verification of the People's Government at the same level, be promulgated and become effective.

Outdoor advertisement device installation layout which has been verified by People's Government at municipal, district, and town level and has been promulgated and become effective shall not be randomly modified; when modification is needed, such modification shall be examined and approved in accordance with set procedures. Beijing Municipal Government reserves the right to rectify or cancel the layout of advertisement device installation at district and town level when it conflicts with the professional layout of outdoor advertisement device installation at municipal level.

**Article 9** Outdoor advertisement device installation is forbidden in following roads and areas:

(1) 100 meters from both side of Chang'an Street (from Jianguomen (east) to Fuxingmen (west), the same stretch shall be noted as Chang'an Street hereinafter);

(2) Tian'anmen Square and 100 meters from east and west ends of the square;

(3) Surrounding areas of Zhongnanhai, north from crossing between Wenjin Street and Fuyou Avenue down south to crossing between Fuyou Avenue and Chang'an Street, west from crossing between Wenjin Street and Fuyou Avenue east to crossing between Wenjin Street and Beichang Avenue, north from crossing between Wenjin Street and Beichang Avenue down south to crossing between Nanchang Avenue and Chang'an Street;

(4) Surrounding areas of Diaoyutai State Guesthouse, north from crossing between Sanlihe Avenue and Fucheng Street down south to the south courtyard wall of Diaoyutai State Guesthouse, east from crossing between Sanlihe Avenue and Fucheng Street west to Nanyi Avenue of Fucheng Street;

(5) Architecture controlling belt of government branches, schools, areas of natural and historical interest, and protection units of cultural relics.

The outdoor advertisement device installation in other roads and areas inappropriate for such device shall be controlled by the layout plan of outdoor advertisement device



告。

**第十条** 长安街从王府井路口以西（不含王府井路口）至西单路口以东（不含西单路口）的路段和天安门广场地区禁止有车身广告的车辆通行。但是，因举行大型活动临时调用的车辆除外。

**第十一条** 在道路两侧和道路路口设置户外广告设施，不得妨碍安全视距、影响通行，并不得有下列情形：

- （一）遮挡路灯、交通标志、交通信号；
- （二）延伸扩展至道路上方或者跨越道路；
- （三）设置在立交桥、人行过街桥、铁路桥等桥梁上；
- （四）妨碍无障碍设施使用；
- （五）法律、法规禁止的其他情形。

在城市道路两侧以及三环路以内的其他地区，设置单柱式和落地式户外广告设施，不得超过规定的限制高度。

**第十二条** 在建筑物、构筑物上设置户外广告设施，不得破坏城市风貌、景观和影响市容环境，并不得有下列情形：

- （一）影响原建筑物、构筑物容貌；
- （二）超过城市规划中限定的建筑物、构筑物高度；
- （三）超过户外广告设施设置规定的限制高度；
- （四）法律、法规禁止的其他情形。

在居住建筑上设置户外广告设施，必须符合户外广告设置规划，并征得该建筑内居民的同意。

禁止在危险建筑物、构筑物上设置户外广告设施。

**第十三条** 禁止在城市绿地上设置户外广告设施。禁止在河湖、水库水面上设置户外广告设施。禁止在空中设置悬浮的户外广告设施。禁止在飞行的飞行器上悬挂户外广告。

**第十四条** 设置户外广告设施应当符合户外广告设施的安全技术标准、管理标准和规范，保证户外广告设施设置的安全和牢固。建设和维护户外广告设施，应当遵守

installation.

**Article 10** Vehicles with advertisements, except for those rallied temporarily for big events, are not allowed to pass areas east from crossing (the crossing not included) between Wangfujing Avenue and Chang'an Street west to crossing (crossing not included) between Xidan Avenue and Chang'an Street, and surrounding area of Tian'anmen Square.

**Article 11** Outdoor advertisement installed at either side of roads or road crossings shall not block safe sight distance, shall not affect smooth pass, and shall not have any of following situations:

- (1)Block street lamps, traffic signals, and traffic lights;
- (2)Extend over or across roads;
- (3)Be installed on bridge girder of fly-over bridge, pedestrians, fly-over, and railway bridge;
- (4)Obstruct proper use of facilities for the disable people;
- (5)Other situation prohibited by laws and regulations.

Installation of single column or foot-mounted advertisement device at either side of roads or in other areas within the Third Ring Roads shall not exceed the height limit prescribed.

**Article 12** Outdoor advertisement installed on buildings or constructions shall not impede the landscape of the city, shall not have negative affect on city environment, and shall not have any of following situations:

- (1)Chang the appearance of the original building or construction;
- (2)Exceed height limit of building and construction prescribed in urban planning files;
- (3)Exceed height limit of outdoor advertisement device installation;
- (4)Other situation prohibited by laws and regulations.

When outdoor advertisement device need to be installed on civilian buildings, the installation shall comply with layout plan of outdoor advertisement installation and shall have consent of residents in the buildings.

Outdoor advertisement device is forbidden to be installed on dangerous buildings or constructions.

**Article 13** Outdoor advertisement device is not allowed to be installed on afforested land, on surface of river, lake, and reservoir, drifting in the air, or on flying objects.

**Article 14** Installation of outdoor advertisement device shall comply with safe technological standards, management standards, and other criteria of outdoor advertisement device to ensure the safety and fastness of such devices. Construction and maintenance of

国家和本市有关安全生产的规定。

配置户外广告夜间照明设施的，应当保持照明设施功能完好；设置霓虹灯、电子显示装置、灯箱等设施的，应当保持画面显示完整。出现断亮、残损的，应当及时维护、更换，并在修复前停止使用。

**第十五条** 户外广告设施的经营者是户外广告设施维护、管理的责任人（以下简称管理责任人），应当定期巡视、维护，保持户外广告设施的安全、整洁、美观。户外广告设施存在安全隐患或者出现破损、污迹和严重褪色的，应当及时维修、更新。户外广告设施的版面不得出现空置。

对户外广告设施存在安全隐患可能危及人身、财产安全的，市政管理行政主管部门应当责令管理责任人立即排除安全隐患，不能立即排除隐患的，应当责令限期排除，并督促、落实安全隐患的排除工作。在限期排除期间，管理责任人应当在安全隐患现场的明显位置设置警示标志，必要时还应当派人值守，防止发生事故。

**第十六条** 在居住区及其周边设置户外广告设施，应当避免噪声污染、光污染和遮挡日照等对居民生活造成的不利影响。

**第十七条** 设置户外广告不得有下列情形：

- （一）利用交通安全设施、交通标志的；
- （二）影响市政公共设施、交通安全设施、交通标志使用的；
- （三）利用道路照明、电力、通信、邮政等设施的；
- （四）其他损害城市容貌和环境的。

利用公共交通的候车亭、停靠站牌、车站出入站口等公共交通设施设置广告的，应当符合户外广告设置规划要求，并不得影响识别和妨碍通行。

**第十八条** 在公共交通固定运营线路上设置的公共电、汽车车身广告，不得在车辆正面、前后风挡玻璃及两侧车窗上设置。设置车身广告不得对原车身颜色全部遮盖。设置的车身广告不得影响识别和乘坐。

outdoor advertisement device shall be done in accordance with relevant regulations on labor safety prescribed by the nation and the city.

If lighting equipment is installed for outdoor advertisement, such equipment shall function well; if neon light, electronic display device, or lamp box are installed, the display of such equipment must be intact. When the above equipment fails to function well, the device need to be fixed or changes in a timely manner, and shall be put to use until fixed.

**Article 15** Operator of outdoor advertisement device is the person in charge of maintenance and management of outdoor advertisement device (hereinafter referred to as "manager"); the responsibility of the manager is to ensure and maintain the safety, tidiness, and good appearance of outdoor advertisement device. Blank in outdoor advertisement device shall not be allowed.

When outdoor advertisement device has potential threat to the safety of lives or properties, competent municipal administration departments shall order the manger to eliminate such potential threat immediately; if immediate settlement is not feasible, a deadline shall be laid, down for proper handle of the threat, and the relevant departments shall be responsible for supervising the settlement work of threat elimination. During the period of threat settlement, manager shall signal obvious warning signs in the spot of potential safety threat and shall assign personnel to be on duty on the spot when necessary in case of any accidents.

**Article 16** When outdoor advertisement device is installed in residential areas or the surroundings, the installation shall avoid such inconvenience to residents as noise pollution, light pollution, block of sunlight, and so on.

**Article 17** The following situations are prohibited in outdoor advertisement installation:

- (1) Taking advantage of traffic safety equipment and traffic signs;
- (2) Impeding the use of public utilities, traffic safety equipment, and traffic signs;
- (3) Taking advantage of road lighting system, power grid, communication network, and postal facilities;
- (4) Other situation that may harm the appearance and environment of the city.

When advertisement is installed on public transport facilities such as covered bus stop, bus route display board, entrance and exit of bus stop and so on, the installation shall comply with the requirements of layout plan of outdoor advertisement device installation and shall not impede recognition and smooth pass.

**Article 18** When body-advertisement is on trolleybus or bus with fixed route in public transport system, such advertisement shall not on the front side, front and back windshield, and windows of vehicles. Advertisement shall not cover all the original color of the vehicle, and shall not obstruct recognition and use.

其他车辆（包括小公共汽车）禁止在车身设置广告。

市市政管理行政主管部门应当会同市有关行政主管部门制定公共电、汽车车身广告的设置标准和规范。允许设置车身广告的公共电、汽车运营线路和车辆，由市市政管理行政主管部门按照户外广告设置规划公布。

**第十九条** 本市鼓励建设单位或者施工单位粉饰建设施工工地围挡，美化市容环境，但是禁止利用施工工地围挡设置户外广告。

在本市举办大型商业性活动，不得在举办活动地的场所外或者举办活动的区域范围外设置户外广告设施。

**第二十条** 按照户外广告设施设置规划，可以在建筑物、构筑物及其使用范围内的土地上设置户外广告设施的，设置人应当与该建筑物、构筑物的所有权人签订协议，并在签订协议前到市政管理行政主管部门查阅在该建筑物、构筑物及其使用范围内的土地上设置户外广告的规划条件和设计要求。设置人设置的户外广告设施，必须符合规划条件和设计要求，并依法接受市政管理行政主管部门的监督检查。

**第二十一条** 本市对设置在城市道路两侧、公路两侧、广场等公共场所（以下简称公共场所）户外广告设施的使用权出让，实行特许经营制度。选择和确定户外广告设施特许经营者，可以依照本市有关特许经营的规定采取招标方式，也可以采取拍卖方式。

对公共场所户外广告设施的使用权采取招标方式出让的，应当按照《中华人民共和国招标投标法》的有关规定执行；采取拍卖方式出让的，应当按照《中华人民共和国拍卖法》的有关规定执行。

对高（快）速公路、长安街延长线（东起复兴门西至首钢总公司东门路段，西起建国门东至通州镇东关大桥路段）、二环路、三环路、四环路、五环路、六环路两侧和首都机场、市区内火车站周边地区、经济技术开发区的公共场所户外广告设施特许经营招标、拍卖工作，由市市政管理行政主管部门负责组织实施；其他公共场所的户

Other vehicles (minibus included) shall not have advertisement on outside body.

Competent municipal administration departments shall, together with relevant municipal departments, formulate standards and criteria of vehicle body advertisement on public trolleybus and bus. The routes and vehicles of public trolleybus and bus that are entitled to be installed with body advertisement shall be announced by competent municipal administration departments in accordance with the layout plan of outdoor advertisement device installation.

**Article 19** The city encourages units in charge of construction to simply decorate the enclosure of site of construction to beautify the appearance and environment of the city, however, installation of outdoor advertisement taking advantage of enclosure of site of construction is prohibited.

When big commercial events are held in the city, no outdoor advertisement device is allowed outside the location of the event.

**Article 20** When outdoor advertisement device installation is allowed on building, construction, or land of its scope of usage in accordance with the layout plan of outdoor advertisement device installation, the installer shall sign contract with owner of the building or construction, before which the installer shall go to the competent municipal administration departments to figure out the layout conditions and design requirements of outdoor advertisement installation on the building, construction or land of its scope of usage. The outdoor advertisement device installed by the installer shall comply with the layout conditions and design requirements, and shall receive examination and supervision of competent municipal administrative departments in accordance with laws.

**Article 21** The city practices a system of franchise business operation in transfer of right of use of outdoor advertisement devices installed on either side of streets, on squares, and in other public places (hereinafter referred to as “public places”). Selection of franchise operator of outdoor advertisement devices can be done either in form of bidding or auction in accordance with the regulations of franchise business operation of the city.

When the form of bidding is employed in the transfer of right of use of outdoor advertisement devices in public places, the selection shall be carried out in accordance with relevant provisions in Bidding Law of People's Republic of China; when the form of auction is employed in the transfer of right of use of outdoor advertisement devices in public places, the selection shall be carried out in accordance with relevant provisions in Auction Law of People's Republic of China.

Competent municipal administration departments shall be responsible for organizing and implementing the selection of franchise operator, through bidding or auction, of outdoor advertisement devices in the following public places, namely on other side of highways, expressways, extended line of Chang'an Street (east from Fuxingmen and west to East Gate of Capital Steel Corporation, west from Jianguomen and east to Dongguan. Bridge in Tongzhou Town), the Second Ring Roads, the Third Ring Roads, the Fourth Ring Roads, The Fifth Ring Roads, The Sixth Ring Roads, surrounding areas of capital airport and railway stations, and economic and technological development zones; competent administration

外广告设施特许经营的招标、拍卖工作由其所在地区、县市政管理行政主管部门负责组织实施。

**第二十二条** 户外广告设施使用权出让期限一般不超过 2 年；新建电子显示装置等户外广告设施造价较高的，可以适当延长，但是最长不超过 4 年。

**第二十三条** 公共场所户外广告设施使用权采取招标方式出让的，确定的中标人为特许经营者。特许经营者在规定的时间内签订特许协议、交纳特许权使用费用的，即获得户外广告设施经营的特许权。

公共场所户外广告设施使用权采取拍卖方式出让的，通过拍卖确定的买受人为特许经营者，在规定的时间内签订特许协议，即获得户外广告设施经营的特许权。

公共场所户外广告设施的特许权使用费纳入财政预算，专项用于城市管理工作。

**第二十四条** 获得公共场所户外广告设施使用权的特许经营者不得转让特许经营权。

因企业合并、分立，与他人合资、合作经营，或者因企业资产出售以及有其他变更企业资产产权的情形而需要变更特许经营主体的，经原授予特许经营权的市政管理行政主管部门批准，特许权可以转让。

**第二十五条** 户外广告设施特许经营期限届满，需要再次招标、拍卖的，原特许经营者在履行该户外广告设施特许协议期间，没有发现违法、违约行为的，在同等竞标条件下可以享有优先获得权。

**第二十六条** 违反本办法，属于市人民政府已经授权城市管理综合执法部门实施行政处罚的，城市管理综合执法部门应当依法实施行政处罚。

违反本办法，属于违反规划、交通、园林、公安交通、建设、环保、质量技术监督、工商行政管理、安全生产等法律、法规规定的，由规划、交通、园林、公安交通、建设、环保、质量技术监督、工商行政管理、安全生产等有关行政主管部门依法处罚。

**第二十七条** 违反本办法擅自设置户外广告设施，或者设置户外广告设施违反规

departments at district and town level shall be responsible for organizing and implementing the selection of franchise operator, through bidding or auction, of outdoor advertisement devices in other public places not mentioned above.

**Article 22** The transfer term of right of use of outdoor advertisement device shall generally be no more than two years; the term may be extended for those outdoor advertisement devices with higher costs such as newly-built electronic display devices, but the term shall be no more than four years.

**Article 23** When the form of bidding is employed in the transfer of right of use of outdoor advertisement devices in public places, the bid-winner shall become the franchise operator. The franchise operator will be granted the franchise business operation right after signing franchise contract and paying fee of franchise right within time limit.

When the form of auction is employed in the, transfer of right of use of outdoor advertisement devices in public places, the buyer selected shall become the franchise operator. The franchise operator will be granted the franchise business operation right after signing franchise contract and paying fee of franchise right: within time limit.

The fee of franchise right of outdoor advertisement devices in public places shall be included in the fiscal budget, and shall be solely used in city administration work.

**Article 24** The franchise operator of with right of use of outdoor advertisement devices in public places shall not transfer the franchise business operation right to others.

When the franchise operator needs to be changes due to merger or split of enterprises, new joint venture or cooperation, sell of enterprise equity, or other situations where the property rights of the enterprise capital are changed, the franchise right can be transferred after the verification of original municipal administration departments which authorized the franchise right.

**Article 25** When the term of franchise right of business operation of outdoor advertisement device is expired and new bidding or auction is needed, the original franchise operator shall have preemption right under same bidding conditions if no deed against laws and the contract is found during the implementation of the franchise contract of outdoor advertisement device.

**Article 26** When the Regulations is violated and such violation falls into the jurisdiction of departments for comprehensive law enforcement in urban administration authorized by Beijing Municipal Government, departments for comprehensive law enforcement in urban administration shall implement administrative punishment in accordance with laws.

When the Regulation is violated and such violation falls into the jurisdiction of urban planning, traffic, garden engineering, public security, construction, quality and technology supervision, industrial and commercial administration, and labor safety organs of the government, the responsible organs shall implement punishment in accordance with laws.

**Article 27** Those who, in violation of these Measures, install outdoor advertisement facilities without authorization or in violation of the planning, shall be ordered by the departments for comprehensive law enforcement in urban administration to dismantle them



划的，由城市管理综合执法部门责令限期拆除；逾期未拆除的，强制拆除，并可以处1万元以上10万元以下罚款。

无法确定其所有人和管理人的，城市管理综合执法部门应当在公共媒体以及户外广告的所在地发布公告，督促所有权人或者管理人改正违法行为。公告期间不得少于15日。公告期间届满，未改正违法行为的，由城市管理综合执法部门予以强制拆除。

对依法应当拆除的户外广告设施，责任人应当在城市管理综合执法部门规定的期限内自行拆除；逾期不拆除的，城市管理综合执法部门可以依法申请人民法院执行，或者依法委托专业企业代为拆除，拆除费用由责任人承担。

**第二十八条** 设置户外广告影响交通安全设施和交通标志使用以及妨碍安全视距、影响通行的，由公安交通管理部门依照《中华人民共和国道路交通安全法》的规定予以处罚。

设置户外广告不符合国家和本市安全技术标准的，出现空置、破损、污迹和严重褪色的，霓虹灯、电子显示装置、灯箱等出现断亮、残损的，由城市管理综合执法部门责令限期改正，并可处500元以上5000元以下罚款；霓虹灯、电子显示装置、灯箱等出现断亮、残损的，责令在修复前停止使用。

**第二十九条** 本办法施行前，已建成的户外广告设施不符合规划设置要求的，应当在批准的设置期限届满拆除。

**第三十条** 户外广告设施的经营者违反本办法规定，未履行维护管理责任，造成安全责任事故的，应当依法承担法律责任。

**第三十一条** 设置户外广告设施违反本办法规定，由市市政管理行政主管部门予以纠正或者撤销，使户外广告设施经营者受到损失，且损失是由有关行政机关过错造成的，该行政机关应当承担赔偿责任。

**第三十二条** 本市行政机关及其工作人员违反本办法规定，不履行法定职责或者玩忽职守、滥用职权、徇私舞弊的，由上级行政机关或者有关部门责令改正，对直接

within a prescribed time limit; in the case of failure to dismantled within the prescribed time limit, they shall be dismantled compulsorily and a fine of not less than 10, 000 Yuan but not more than 100, 000 Yuan may be imposed simultaneously.

Where there is no way to define the owners or managers, the departments for comprehensive law enforcement in urban administration shall make announcements in the public media and at the places where the outdoor advertisements are installed to urge the owners or managers to correct their illegal acts. The duration of the announcements shall not be less than 15 days. Where the illegal acts are not corrected when the duration of the announcements expires, the departments for comprehensive law enforcement in urban administration shall dismantle them compulsorily.

For the outdoor advertisement facilities that should be dismantled in accordance with law, the responsible persons shall dismantle them by themselves within the time limit prescribed by the departments for comprehensive law enforcement in urban administration; where there is failure to dismantle them within the prescribed time limit, the departments for comprehensive law enforcement in urban administration may apply to the people's courts for the enforcement in accordance with law, or entrust the professional enterprises to dismantle them in accordance with law, and the expenses for such dismantlement shall be borne by the responsible persons.

**Article 28** If outdoor advertisement device installation impedes the proper use of traffic safety equipment or traffic signs, blocks safe sight distance, and affect smooth pass, competent administration department of public security and traffic shall impose punishment in accordance with Law of People's Republic of China on Road and Transport Safety.

If outdoor advertisement device installation is not comply with national or municipal safety and technology standards, if advertisement device is blank, broken, blotched, or seriously faded, and if the display of neon light, electronic display device, and lamp box is incomplete or breached, the departments for comprehensive law enforcement in urban administration shall be responsible for laying down the deadline for correction and can impose a fine of no less than 500 yuan and no more than 5,000 yuan. When the display of neon light, electronic display device, and lamp box is incomplete or breached, such device shall not be allowed to put to use until fixed.

**Article 29** If outdoor advertisement device which is installed before the implementation of the Regulations is not comply with the requirements of installation prescribed in layout plan, such device shall be removed when authorized term of installation expires.

**Article 30** When manager of outdoor advertisement device violates the provisions in the Regulation, fails to carry out the duty of maintenance and administration, and causes accidents due to negligence of safety matters, the manager shall bear legal obligations in accordance with laws.

**Article 31** If outdoor advertisement device installation violates the provisions in the Regulations, competent municipal administration departments shall be responsible for correction or cancelations; and if the ruling leads to loss of operator of outdoor advertisement device and such loss is cost by mistakes of relevant administrative departments, the departments shall bear the responsibility of compensation.

**Article 32** Where any administrative agencies of this Municipality and their working staff, in violation of the provisions of these Measures, fail to perform their legal functions and duties, neglect their duties, abuses their powers, or commit illegalities for personal gains or by fraudulent means, they shall be ordered to make corrections by the superior

负责的主管人员和其他责任人员依法予以行政处分。

**第三十三条** 本办法自 2004 年 10 月 1 日起施行。1998 年 11 月 15 日市人民政府发布的《北京市户外广告管理规定》同时废止。

administrative agencies or relevant departments, and the persons in charge directly responsible and other responsible persons shall be given administrative sanctions in accordance with law.

**Article 33** The Regulation shall enter into force as of October 1, 2004. The Measures of Beijing Municipal Government on Administration of Outdoor Advertisement, promulgated by Beijing Municipal Government on November 15, 1998, shall be nullified simultaneously.

# 中关村国家自主创新示范区企业登记办法

(2011 年 6 月 24 日北京市人民政府第 234 号令公布 根据  
2018 年 2 月 12 日北京市人民政府第 277 号令修改)

**第一条** 为了规范中关村国家自主创新示范区内的企业登记行为,根据《国务院  
关于同意支持中关村科技园区建设国家自主创新示范区的批复》、《中关村国家自主  
创新示范区条例》(以下简称《条例》)和国家有关企业登记的规定,制定本办法。

**第二条** 中关村国家自主创新示范区(以下简称示范区)内的企业登记适用《条例》  
和本办法;《条例》和本办法没有规定的,适用有关法律法规规章的规定。

**第三条** 在示范区内设立企业,应当符合《条例》和示范区发展规划确定的产业  
发展方向。

**第四条** 市工商行政管理局设立的示范区工商分局(以下简称登记机关),负责  
示范区内企业登记工作。登记机关根据需要,可以委托示范区各园区所在地的区工商  
分局具体办理各园区内的企业登记。

**第五条** 示范区内企业获得国家驰名商标的,可以向登记机关申请在企业名称中  
予以保护;经登记机关批准获得保护的,未经商标所有人同意,其他企业在名称中不  
得使用该商标。

**第六条** 政府投资或者政府批准在示范区内设立的直接服务于示范区建设和发展  
的企业,可以在名称中使用“中关村”字样。

**第七条** 注册资本 5000 万元人民币以上、经济活动性质跨国民经济行业 3 个以上  
大类的示范区内企业,可以申请在企业名称中不使用国民经济行业类别用语标明企业  
所属行业或者经营特点。

# Measures for Enterprise Registration in Zhongguancun National Independent Innovation Demonstration Zone

(Promulgated by Decree No. 234 of the People's Government of Beijing on June 24, 2011; amended in accordance with Decree No. 277 of the People's Government of Beijing on February 12, 2018)

**Article 1** In order to regulate the registration of enterprises in the Zhongguancun National Independent Innovation Demonstration Zone, in accordance with the "Approval of the State Council on supporting Zhongguancun Science and Technology Park to build the National Independent Innovation Demonstration Zone" and the "Regulations on the Zhongguancun National Independent Innovation Demonstration Zone" (hereinafter referred to as the "Regulations") and the state regulations on enterprise registration, formulate these measures.

**Article 2** "Regulations" and these Measures shall apply to the registration of enterprises in the Zhongguancun National Independent Innovation Demonstration Zone (hereinafter referred to as the "Demonstration Zone"); if there is no provision in the Regulations and these Measures, the relevant laws, regulations and rules shall apply.

**Article 3** The establishment of an enterprise in the Demonstration Zone shall conform to the industrial development direction determined by the "Regulations" and the development plan of the Demonstration Zone.

**Article 4** The industrial and commercial branch of the Demonstration Zone established by the Municipal Administration for Industry and Commerce (hereinafter referred to as the registration authority) is responsible for the registration of enterprises in the Demonstration Zone. The registration authority may, according to needs, entrust the district industry and commerce sub-bureaus where the parks of the Demonstration Zone are located to specifically register enterprises in the parks.

**Article 5** If an enterprise in the Demonstration Zone obtains a well-known national trademark, it may apply to the registration authority for protection in the name of the enterprise; if protection is approved by the registration authority, other enterprises may not use the trademark in the name without the consent of the trademark owner.

**Article 6** Enterprises invested or approved by the government to directly serve the construction and development of the Demonstration Zone may use the word "Zhongguancun" in their name.

**Article 7** Enterprises in the demonstration zone with a registered capital of more than RMB 50 million and an activity cross over 3 national economic industries may apply for not using the terms of national economic industry categories in their names to indicate their industry or operating characteristics.

**第八条** 申请在示范区内设立企业的，登记机关对企业章程或者合伙协议中的名称、住所或者主要经营场所、出资人的姓名或者名称、注册资本或者出资数额、出资时间等内容进行审核。

**第九条** 申请在示范区内设立企业的，除经营范围中有属于法律、行政法规、国务院决定规定在登记前须经批准的项目（以下统称专项许可经营项目）外，可以申请以集中办公区中经过物理分割的独立区域作为住所，登记机关在营业执照中予以注明。

集中办公区由示范区管理机构会同有关区人民政府确定，并向社会公布。大学科技园、创业园、创业服务中心、企业孵化器等各类创业孵化服务机构可以成为集中办公区。

集中办公区的管理单位应当建立健全规章制度，加强对入驻企业的管理和服 务，并可以对入驻企业所从事的行业提出要求。

**第十条** 在示范区内设立企业或者增加注册资本，投资人以知识产权和其他可以用货币估价并可以依法转让的科技成果作价出资的，出资比例由投资方自行约定，其中，以国有资产出资的，应当符合国有资产管理的有关规定。

投资人以可以用货币估价并可以依法转让的债权出资的，登记机关依照有关规定予以登记。

**第十一条** 在示范区内设立创业投资机构，注册资本可以按照投资人的书面约定分期到位。

**第十二条** 依法经商务部门批准，中国公民以自然人身份与外国企业、其他经济组织或者自然人在示范区内投资设立中外合资、合作企业的，登记机关应当予以登记。

**第十三条** 对在示范区内设立的科技型企业，除经营范围中有专项许可经营项目外，登记机关按照国民经济行业大类核定企业经营范围；企业申请登记具体经营范围的，登记机关应当依法予以核定。

**第十四条** 对申请在示范区内从事国民经济行业分类以外、法律和行政法规未禁

**Article 8** For those applying to establish an enterprise in the Demonstration Zone, the registration authority shall review the name, domicile or main business place, the name of the investor, the registered capital or the amount of investment, and the time of investment in the articles of association or partnership agreement.

**Article 9** Those who apply for the establishment of an enterprise in the Demonstration Zone, except for the items in the business scope that are subject to laws, administrative regulations, and the decisions of the State Council that require approval before registration (hereinafter collectively referred to as special license business items), may apply for the physically divided and independent area in the centralized office area as the domicile, and the registration authority shall indicate it in the business license.

The centralized office area is determined by the management agency of the Demonstration Area together with the people's government of the relevant area and announced to the public. Various entrepreneurial incubation service institutions such as university science parks, entrepreneurial parks, entrepreneurial service centers, and business incubators can become centralized office areas.

The management unit of the centralized office area shall establish and improve the rules and regulations, strengthen the management of and service for the settled enterprises, and may put forward requirements for the industries in which the settled enterprises are engaged.

**Article 10** If an enterprise is established in the Demonstration Zone or the registered capital is increased, and the investor uses intellectual property rights and other scientific and technological achievements that can be valued in currency and can be transferred in accordance with the law, the investment ratio shall be agreed by the investors themselves. Among them, the capital contribution with state-owned assets shall comply with the relevant regulations of the management of state-owned assets.

If investors make capital contributions with credits that can be valued in currency and can be transferred according to law, the registration authority shall register them in accordance with relevant regulations.

**Article 11** For the establishment of a venture capital institution in the Demonstration Zone, the registered capital may be in place in installments in accordance with the investor's written agreement.

**Article 12** Where a Chinese citizen invests and establishes a Sino-foreign joint venture or contractual joint venture with a foreign enterprise, other economic organization or natural person in the Demonstration Zone as a natural person upon the approval of the commercial department in accordance with the law, the registration authority shall register it.

**Article 13** For technology-based enterprises established in the Demonstration Zone, in addition to the special licensed business items in the business scope, the registration authority shall verify the business scope of the enterprise in accordance with the broad categories of national economic industries; if the enterprise applies for registration of the specific business scope, the registration authority shall verify it according to law.

**Article 14** The registration authority shall register the application for engagement in emerging industries and business projects that are not prohibited by laws and administrative



止的新兴行业和经营项目、符合法律法规规定的其他条件的，登记机关应当予以登记。

**第十五条** 申请在示范区内设立企业，经营范围中有专项许可经营项目的，可以申请筹建登记。符合设立条件的，登记机关应当直接办理筹建登记，核发营业执照，并在营业执照中注明筹建项目。

筹建期限为一年，特殊情况下，经登记机关批准可以适当延长。筹建期内企业不得开展与筹建无关的生产经营活动。筹建申请人对企业筹建活动承担法律责任。

法律法规对筹建登记另有规定的，从其规定。

**第十六条** 筹建期内，专项许可经营项目获得批准的，企业应当及时申请变更登记；筹建期内未获得批准或者筹建期满的，企业应当申请注销或者变更登记，未申请的，登记机关可以注销其筹建登记。

**第十七条** 产业技术联盟申请登记为企业法人，符合条件的，登记机关应当依法予以登记。

**第十八条** 实施股权激励申请股权变动登记的，登记机关依照有关规定予以登记。

**第十九条** 企业根据发展需要可以向登记机关申请转换企业组织形式，登记机关依照有关规定予以登记。

**第二十条** 分支机构隶属关系发生变更的，变更后该分支机构名称中除原所属企业名称以外的其它部分可以保留；经营范围不得超出变更后所属企业的经营范围。

申请变更分支机构隶属关系的，应当提交变更前后所属企业同意变更的协议。

**第二十一条** 母公司注册资本 3000 万元人民币以上、母子公司注册资本总额 5000 万元人民币以上，申请登记为企业集团的，登记机关应当予以登记。

**第二十二条** 登记机关根据《条例》的规定，加强企业信用信息管理，逐步对企业实行分级分类监管，促进企业提升信用意识。

**第二十三条** 示范区内无不良信用记录企业的年报实行报备式。企业可以通过登记机关电子年报系统或者邮寄送达、直接送达等便捷方式提交年报材料。

regulations and meet other conditions stipulated by laws and regulations outside the classification of national economic industries in the demonstration zone.

**Article 15** Those who apply for the establishment of an enterprise with special licensed business projects in the business scope in the Demonstration Zone may apply for registration of preparation for establishment. If the establishment conditions are met, the registration authority shall directly register the preparations, issue a business license, and indicate the preparation projects in the business license.

The preparatory period is one year, and under special circumstances, it can be extended appropriately upon approval of the registration authority. During the preparatory period, the enterprise shall not carry out production and operation activities unrelated to the preparatory establishment. The applicant for establishment preparation shall bear legal responsibility for the preparation activities of the enterprise.

If laws and regulations have other provisions on the registration of preparatory establishment, those provisions shall prevail.

**Article 16** During the preparatory period, if the special license operation project is approved, the enterprise shall apply for registration modification in a timely manner; if the approval is not obtained during the preparatory period or the preparatory period expires, the enterprise shall apply for cancellation or registration modification. If the enterprise fails to apply, the registration authority may cancel the registration of its establishment.

**Article 17** Industrial technology alliance applies for registration as a corporate legal person, and if the conditions are met, the registration authority shall register it according to law.

**Article 18** Where an application for equity change registration is due to the implementation of equity incentives, the registration authority shall register it in accordance with relevant regulations.

**Article 19** Enterprises may apply to the registration authority for the organizational form change of the enterprise according to development needs, and the registration authority shall register it in accordance with relevant regulations.

**Article 20** If the affiliation of a branch is changed, the other part of the name of the branch except the original enterprise name may be retained after the change; the business scope shall not exceed the business scope of the enterprise after the change.

Anyone who applies for changing the affiliation of a branch shall submit an agreement that the affiliated enterprises agree to the change before and after the change.

**Article 21** Where the parent company has a registered capital of more than RMB 30 million, and the total registered capital of the parent company and subsidiary company is more than RMB 50 million, and an application for registration as an enterprise group, the registration authority shall make the registration.

**Article 22** In accordance with the "Regulations", the registration authority shall strengthen the management of enterprise credit information, gradually implement hierarchical and classified supervision of enterprises, and promote enterprises to enhance their credit awareness.

**Article 23** The annual reports of enterprises with no bad credit records in the Demonstration Zone shall be filed. Enterprises can submit annual report materials through the electronic annual report system of the registration authority, or by mail or direct service.

企业对年报材料的真实性、准确性负责。

**第二十四条** 登记机关应当依法履行职责，建立健全对企业的监督管理制度，采取巡查、回访、指导和服务等多种方式促进企业规范经营。企业违反有关工商行政管理法律法规的，由登记机关依照有关规定予以处理。

**第二十五条** 本办法自公布之日起施行。

The enterprise is responsible for the authenticity and accuracy of the annual report materials.

**Article 24** The registration authority shall perform its duties in accordance with the law, establish and improve the supervision and management system of enterprises, and adopt various methods such as inspections, return visits, guidance and services to promote standardized operation of enterprises. Enterprises that violate relevant laws and regulations on industrial and commercial administration shall be dealt with by the registration authority in accordance with relevant regulations.

**Article 25** These Measures shall come into force on the date of promulgation.

## （十六）企业发展

### 北京市农村股份合作企业暂行条例

（1996年9月6日北京市第十届人民代表大会常务委员会第三十次会议通过 根据2016年11月25日北京市第十四届人民代表大会常务委员会第三十一次会议通过的《关于修改部分地方性法规的决定》修正）

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#### 第一章 总 则

**第一条** 为了规范农村股份合作企业的组织和行为，保护企业、合作股东和债权人的合法权益，促进农村经济发展，根据国家有关法律、法规的规定，结合本市实际情况，制定本条例。

**第二条** 本条例适用于本市行政区域内乡、镇合作经济联合社或者村经济合作社及其社员共同投资，并可依法吸纳其他投资，按照本条例设立的农村股份合作企业。

**第三条** 农村股份合作企业是以合作制为基础，实行农民群众劳动合作和资金联合相结合的企业组织形式。

## xvi. Enterprise Development

### Interim Regulations of Beijing Municipality on Rural Joint-Stock Cooperative Enterprises

(Adopted at the 30<sup>th</sup> Meeting of the Standing Committee of the 10th People's Congress of Beijing Municipality on September 6, 1996, and revised in accordance with the Decisions on Revising Some Local Regulations adopted at the 31<sup>st</sup> Meeting of the Standing Committee of the 14th People's Congress of Beijing Municipality on November 25, 2016)

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#### Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of standardizing the organization and behaviors of rural joint-stock cooperative enterprises, protecting the legitimate rights and interests of enterprises, cooperative shareholders and creditors, and promoting the development of rural economy in accordance with relevant laws and regulations of the State and in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to the rural joint-stock cooperative enterprises established in accordance with the Regulations within the administrative area of this Municipality, which are jointly invested by the township or town cooperative economic associations or village economic cooperatives and their members, and may absorb other investments according to law.

**Article 3** A rural joint-stock cooperative enterprise is a form of enterprise organization based on the cooperative system, which combines labor cooperation with joint capital of mass peasants.

农村股份合作企业的投资者称合作股东。

**第四条** 农村股份合作企业实行以下原则：

- （一）劳动合作与资金联合相结合，按劳分配与按股分红相结合；
- （二）资金共筹、积累共有、利益共享、风险共担、同股同利；
- （三）自主经营、独立核算、自负盈亏、民主管理。

**第五条** 农村股份合作企业是依法享有民事权利，以其全部资产独立承担民事责任的企业法人。合作股东以其所持股份为限为企业债务承担责任。

**第六条** 农村股份合作企业享有合作股东投资形成的全部法人财产权，其合法权益受法律保护。政府和任何组织及个人不得干预农村股份合作企业的合法经营活动，不得平调、侵占企业财产，不得要求企业承担法律、法规规定以外的义务。

**第七条** 农村股份合作企业不得向负无限责任的经济组织投资。向其他经济组织投资的，其投资总额不得超过本企业净资产的百分之五十；在投资后，接受被投资经济组织以利润转增的资本，其增加额不包括在内。

农村股份合作企业向其他经济组织投资、为合作股东或者他人提供经济担保，必须由理事会决定。

**第八条** 农村股份合作企业享有和承担法律、法规对乡镇集体企业规定的权利和义务，享受国家对乡镇集体企业规定的待遇和优惠政策。

**第九条** 农村股份合作企业必须遵守国家法律、法规，接受政府依法进行的管理和监督。

**第十条** 农村股份合作企业经工商行政管理部门依法核准登记成立。

## 第二章 设 立

**第十一条** 设立农村股份合作企业必须坚持自愿原则。

**第十二条** 设立农村股份合作企业可以采取改建或者新建的方式：

Investors of rural joint-stock cooperative enterprises are called cooperative shareholders.

**Article 4** Rural joint-stock cooperative enterprises shall follow the following principles:

(1) combining labor cooperation with joint capital, and combining distribution according to work with dividends distributed in proportion to shares;

(2) co-financing, joint ownership of the accumulation, sharing of benefits and risks, and equal share for equal dividend; and

(3) independent operation, independent accounting, sole responsibility for their own profits or losses, and democratic management.

**Article 5** A rural joint-stock cooperative enterprise is a business entity that enjoys civil rights according to law and independently bears civil liabilities with all its assets. Cooperative shareholders shall be liable for the debts of the enterprise to the extent of their shares.

**Article 6** Rural joint-stock cooperative enterprises shall enjoy all corporate property rights formed by the investment of cooperative shareholders, and the legitimate rights and interests thereof shall be protected by law. The government, organizations or individuals shall not interfere in the lawful business activities of rural joint-stock cooperative enterprises, transfer or encroach on their property, or require them to undertake obligations other than those prescribed by laws and regulations.

**Article 7** Rural joint-stock cooperative enterprises shall not invest in economic organizations with unlimited responsibilities. Where they invest in other economic organizations, the total amount of investment shall not exceed 50% of their net assets; after the investment, the increased amount of capital converted from profits by the invested economic organizations shall not be included.

The investment of a rural joint-stock cooperative enterprise in other economic organizations or the provision of financial guarantees for cooperative shareholders or other persons must be decided by the board of directors thereof.

**Article 8** Rural joint-stock cooperative enterprises shall enjoy and undertake the rights and obligations prescribed by laws and regulations for township or town collective enterprises, and enjoy the treatment and preferential policies prescribed by the State for township or town collective enterprises.

**Article 9** Rural joint-stock cooperative enterprises must abide by the laws and regulations of the State and accept the management and supervision of the government according to law.

**Article 10** Rural joint-stock cooperative enterprises shall be established upon registration as approved by the administrative departments for industry and commerce according to law.

## Chapter II Establishment

**Article 11** The principle of voluntariness must be adhered to in establishment of rural joint-stock cooperative enterprises.

**Article 12** A rural joint-stock cooperative enterprise may be established by taking the form of conversion or new establishment:



(一) 改建方式是指：

1. 将乡、镇合作经济联合社或者村经济合作社（以下简称合作社）原有集体企业资产折成股份，并吸纳新的投资设立的股份合作企业；

2. 将合作社原有集体企业资产部分出售，按产权折成股份，并吸纳新的投资设立的股份合作企业；

3. 按照本条例规定的原则，采取其他方式将合作社原有集体企业改组设立的股份合作企业。

(二) 新建方式是指合作社及其社员共同投资，并可吸纳其他投资设立的股份合作企业。

**第十三条** 设立农村股份合作企业（以下简称企业），应当由合作社作为发起人。设立企业的方案，必须经合作社社员大会或者社员代表会议批准。

改建设立的，应当事先经企业职工大会或者职工代表大会讨论通过；有外部投资的，应当事先征得投资方同意；出售部分原有集体企业资产的，应当经合作社社员大会或者社员代表会议批准。

**第十四条** 合作股东可以用货币入股，也可以用实物、工业产权、非专利技术和土地使用权作价入股。在农业企业工作的合作社社员，可以用其劳动积累作价入股。

以工业产权、非专利技术作价入股的金额不得超过企业注册资本总额的百分之二十，国家另有规定的从其规定。以土地使用权作价入股的，必须是经依法批准的建设用地。

除货币外，以其他资产入股的，必须出具产权证明，并办理产权转移手续。

**第十五条** 集体资产的产权界定依照《北京市农村集体资产管理条例》的规定执行。

**第十六条** 以实物、工业产权、非专利技术和土地使用权作价入股的，必须由具有资产评估资格的机构进行资产评估。集体资产评估结果应当经社员大会或者社员代表会议确认。

禁止将集体资产低价折股、低价出售。

(I) Conversion:

1. to establish a joint-stock cooperative enterprise by converting the original collective enterprise assets of township or town cooperative economic associations or village economic cooperatives (hereinafter referred to as cooperatives) into shares, and absorbing new investment;

2. to establish a joint-stock cooperative enterprise by selling part of the original collective enterprise assets of cooperatives, converting them into shares according to the property rights, and absorbing new investment; or

3. to establish a joint-stock cooperative enterprise by reorganizing the original collective enterprises of cooperatives by other means in accordance with the principles stipulated in the Regulations.

(II) The term “new establishment” means to establish a joint-stock cooperative enterprise by joint investment of cooperatives and their members, which may absorb other investments.

**Article 13** The establishment of rural joint-stock cooperative enterprises (hereinafter referred to as enterprises) shall be initiated by cooperatives. Plans for establishment of enterprises must be approved by the members’ assembly or members’ congress of cooperatives.

In the case of establishment by conversion, it shall be discussed and approved by the employees’ assembly or employees’ congress of enterprises in advance; in the case of external investment, the consent of investors shall be obtained in advance; in the case of sale of part of original collective enterprise assets, it shall be approved by the members’ assembly or members’ congress of cooperatives.

**Article 14** Cooperative shareholders may contribute in cash or in kind, industrial property, non-patented technology and land use rights. Members of cooperatives working in agricultural enterprises may contribute by their accumulation of labor.

The amount of contribution by industrial property or non-patented technology shall not exceed 20% of the total registered capital of an enterprise, unless otherwise stipulated by the State. In the event of contribution by land use rights, it must be the construction land approved according to law.

In the event of contribution by assets other than cash, a certificate of property rights must be issued and the formalities for transfer of property rights shall be handled.

**Article 15** The property rights of collective assets shall be defined in accordance with the provisions of the Regulations of Beijing Municipality on the Administration of Rural Collective Assets.

**Article 16** In the event of contribution in kind, industrial property, non-patented technology and land use rights, asset appraisal must be conducted by institutions qualified for asset appraisal. The appraisal results of collective assets shall be confirmed by the members’ assembly or members’ congress.

It is prohibited to convert collective assets into shares at a low price or sell them at a low price.

农村合作经济管理部门要加强对集体资产评估工作的指导和监督。

**第十七条** 企业的注册资本为合作股东实际缴纳的股本总额。

企业的注册资本不得少于 3 万元人民币。

**第十八条** 企业应当制定章程。企业章程由合作股东大会讨论通过。

企业章程应当载明下列事项：

- （一）企业的名称和住所；
- （二）企业的宗旨和经营范围；
- （三）企业的设立方式；
- （四）合作股东的权利和义务；
- （五）企业注册资本、股份种类、各类股金总额、每股金额；
- （六）收益分配及亏损分担办法；
- （七）企业组织机构及其产生办法、职权、议事规则；
- （八）企业法定代表人；
- （九）企业终止的条件和程序；
- （十）企业章程修订程序；
- （十一）企业章程设立日期；
- （十二）法律、法规规定的其他事项。

**第十九条** 设立企业的筹备工作结束后，由合作股东大会指定的代表或者共同委托的代理人向当地工商行政管理部门申请注册登记，领取营业执照，并报乡镇企业主管机关备案。

### 第三章 股 份

**第二十条** 企业应当设置集体股、职工个人股。社员个人股、社会法人股和其他种类股份的设置由企业章程规定，但不得违反国家法律、法规的有关规定。

**第二十一条** 集体股是指合作社投资或者将集体资产折股后形成的由该合作社社员集体所有的股份，经社员大会或者社员代表会议同意，可以在本合作社内部转让，也可以向法人转让，但不得因转让股份而改变企业股份合作的性质。

The administrative departments of rural cooperative economy shall strengthen the guidance and supervision over collective asset appraisal.

**Article 17** The registered capital of an enterprise shall be the total paid-in capital of cooperative shareholders.

The registered capital of an enterprise shall not be less than 30,000 yuan.

**Article 18** An enterprise shall formulate its articles of association. The articles of association shall be discussed and adopted at the general meeting of cooperative shareholders.

The articles of association shall specify the following matters:

- (1) name and address of the enterprise;
- (2) purpose and business scope of the enterprise;
- (3) mode of establishment of the enterprise;
- (4) rights and obligations of cooperative shareholders;
- (5) registered capital, share class, total amount of various share classes, and amount of each share of the enterprise;
- (6) methods of income distribution and loss sharing;
- (7) organizational structure of the enterprise and its formation method, functions and powers, and rules of procedure;
- (8) legal representative of the enterprise;
- (9) conditions and procedures for dissolution of the enterprise;
- (10) procedures for amendment of the articles of association;
- (11) date of establishment of the articles of association; and
- (12) other matters stipulated by laws and regulations.

**Article 19** After the completion of the preparatory work for the establishment of an enterprise, the representative designated at the general meeting of cooperative shareholders or the agent entrusted jointly shall apply to the local administrative department for industry and commerce for registration, obtain the business license and report to the competent authority of township or town enterprises for the record.

### Chapter III Shares

**Article 20** An enterprise shall establish collective shares and non-institutional shares held by employees. The establishment of non-institutional shares held by members, social institutional shares and other share classes shall be stipulated in the articles of association of the enterprise, but shall not violate relevant provisions of national laws and regulations.

**Article 21** Collective shares refer to the shares formed after the investment of a cooperative or conversion of collective assets into shares and owned collectively by members of the cooperative, which, with the consent of the members' assembly or members' congress, may be transferred within the cooperative or to a legal person without changing the nature of joint-stock partnership of the enterprise.

**第二十二条** 职工个人股是指本企业职工投资购买或者投劳形成的股份，可以继承，可以在本合作社内部转让。

**第二十三条** 社员个人股是指在合作社内部募集的非本企业职工购买的股份，可以继承，可以在本合作社内部转让。

**第二十四条** 社会法人股是指法人向企业投资形成的股份，可以向其他法人或者合作股东转让。

**第二十五条** 企业办理工商登记手续后，所有合作股东都不得抽回出资，不得退股。

合作股东依法转让股份，须经理事会批准。

**第二十六条** 企业应当在登记注册后签发股权证书，作为合作股东享受权利和承担义务的书面凭证。

股权证书应当载明以下事项：

- （一）企业的名称、住所；
- （二）企业登记日期；
- （三）编号；
- （四）合作股东名称或者姓名、住所及其股份种类、数额；
- （五）合作股东缴纳的出资额和出资日期；
- （六）核发日期；
- （七）企业签章、理事长签名；
- （八）其他需要载明的事项。

**第二十七条** 企业应当置备合作股东名册。

合作股东名册应当载明以下事项：

- （一）合作股东姓名或者名称和住所；
- （二）合作股东的出资额、股份种类和股份数额；
- （三）股权证书编号；
- （四）取得股份的日期。

**第二十八条** 合作股东转让股份应当变更股权证书和合作股东名册。

**Article 22** Non-institutional shares held by employees refer to the shares purchased or formed by investment of labor by employees of the enterprise, which may be inherited and transferred within the cooperative.

**Article 23** Non-institutional shares held by members refer to the shares purchased by those other than the employees of the enterprise recruited in the cooperative, which may be inherited and transferred within the cooperative.

**Article 24** Social institutional shares refer to the shares formed by the investment of a legal person in the enterprise, which may be transferred to other legal persons or cooperative shareholders.

**Article 25** After the enterprise has gone through the formalities for industrial and commercial registration, no cooperative shareholder may withdraw capital contributions or withdraw from the enterprise.

The transfer of shares by cooperative shareholders according to law shall be approved by the board of directors.

**Article 26** An enterprise shall, after registration, issue a share certificate as a written certificate for cooperative shareholders to enjoy their rights and undertake their obligations.

The share certificate shall specify the following matters:

- (1) name and address of the enterprise;
- (2) date of enterprise registration;
- (3) serial number;
- (4) name, address, and class and amount of shares of the cooperative shareholder;
- (5) amount and date of capital contributions by the cooperative shareholder;
- (6) date of issuance;
- (7) official seal of the enterprise and signature of the chairman of board of directors;

and

- (8) other matters to be specified.

**Article 27** An enterprise shall maintain a register of cooperative shareholders.

The register of cooperative shareholders shall specify the following matters:

- (1) name and address of each cooperative shareholder;
- (2) amount of capital contributions, and class and amount of shares of each cooperative shareholder;
- (3) share certificate number; and
- (4) date of acquisition of shares.

**Article 28** In the event of transfer of shares by cooperative shareholders, modifications shall be made to the share certificate and register of cooperative shareholders.

## 第四章 组织机构

**第二十九条** 企业设立合作股东大会、理事会、经理和监事会。

**第三十条** 合作股东大会是企业权力机构，行使下列职权：

- （一）决定或者罢免理事会、监事会成员；
- （二）审议批准企业年度财务预算、决算方案；
- （三）审议批准企业利润分配和亏损弥补方案；
- （四）审议批准企业股份调整方案；
- （五）审议批准企业增减注册资本方案；
- （六）审议批准企业合并、分立、变更组织形式、解散和清算方案；
- （七）决定修改企业章程；
- （八）企业章程规定的其他职权。

**第三十一条** 合作股东大会实行一人一票制。

合作股东大会作出决议必须经全体合作股东半数以上通过。

**第三十二条** 企业成立理事会，组成人员一般不少于五人。理事会成员由各类合作股东代表理事组成，各类代表理事名额参照各自股份比例确定，代表理事人选分别由各类合作股东推荐。

理事任期由企业章程规定，任期届满可以连选连任。

**第三十三条** 理事会对合作股东大会负责，行使下列职权：

- （一）审定企业的发展规划、年度生产经营计划；
- （二）确定企业的经营方针和管理机构的设置；
- （三）批准企业的规章制度；
- （四）听取并审查经理的工作报告；
- （五）审查企业年度财务预算、决算方案和利润分配方案；
- （六）对企业增加或者减少注册资本，分立、合并或者清算等重大事项提出方案；
- （七）聘任或者解聘企业经理，根据经理提名，聘任或者解聘副经理和财务主管；
- （八）决定对企业经理、副经理和财务主管的奖惩；

## Chapter IV Organizational Structure

**Article 29** An enterprise shall establish a board of cooperative shareholders, a board of directors, managers and a board of supervisors.

**Article 30** The board of cooperative shareholders is the authority of the enterprise, which shall exercise the following functions and powers:

- (1) to decide or remove the members of the board of directors or the board of supervisors;
- (2) to deliberate on and approve the annual financial budget and final accounting plan of the enterprise;
- (3) to deliberate on and approve plans for profit distribution and loss recovery of the enterprise;
- (4) to deliberate on and approve the share adjustment plan of the enterprise;
- (5) to deliberate on and approve plans for increase and decrease of registered capital of the enterprise;
- (6) to deliberate on and approve plans for merger, division, change of organizational form, dissolution and liquidation of the enterprise;
- (7) to decide to amend the articles of association of the enterprise; and
- (8) other functions and powers stipulated in the articles of association of the enterprise.

**Article 31** Each cooperative shareholder shall have one vote at cooperative shareholders' meetings.

Resolutions at cooperative shareholders' meetings must be adopted by more than half of all the cooperative shareholders.

**Article 32** The board of directors of an enterprise shall generally comprise at least 5 members, who shall be representative members of all kinds of cooperative shareholders. The number of representative directors shall be determined in proportion to their respective shares. The candidates for representative directors shall be recommended by all kinds of cooperative shareholders.

The term of office of the directors shall be stipulated in the articles of association of the enterprise, and they may be re-elected upon expiration of their term of office.

**Article 33** The board of directors shall be accountable to the board of cooperative shareholders and shall exercise the following functions and powers:

- (1) to examine and approve the development plan and annual production and operation plan of the enterprise;
- (2) to determine the business policies and establishment of management offices of the enterprise;
- (3) to approve the rules and regulations of the enterprise;
- (4) to listen to and examine work reports of managers;
- (5) to examine the annual financial budget and final accounting plan and profit distribution plan of the enterprise;
- (6) to propose plans for major matters such as increase or decrease of the registered capital, division, merger or liquidation of the enterprise;
- (7) to appoint or dismiss managers of the enterprise, and to appoint or dismiss deputy managers and financial executives as nominated by managers;
- (8) to decide on the rewards and punishments to managers, deputy managers and financial executives of the enterprise; and



（九）本条例和企业章程规定的其他职权。

理事会的决议须经全体理事半数以上同意方可通过。

**第三十四条** 理事长是企业的法定代表人，由理事会选举或者罢免。

理事长行使下列职权：

- （一）召集和主持合作股东大会和理事会会议；
- （二）检查合作股东大会决议和理事会决议的实施情况；
- （三）企业章程规定的其他职权。

**第三十五条** 企业经理对理事会负责，行使下列职权：

- （一）根据企业章程和理事会授权负责企业的日常经营管理；
- （二）组织实施合作股东大会和理事会的决议；
- （三）拟定企业的发展规划和年度生产经营计划草案；
- （四）提出企业经营方针和管理机构设置及规章制度草案；
- （五）提出企业年度财务预算、决算方案和利润分配方案；
- （六）提请聘任或者解聘企业副经理及财务主管，任免企业其他管理人员；
- （七）决定对企业副经理（不含副经理和财务主管）以下员工的录用、辞退和奖惩；
- （八）列席理事会会议；
- （九）企业章程或者理事会授予的其他职权。

**第三十六条** 企业设立监事会，组成人员不得少于三人。其中，半数以上成员应当由职工股东出任。

企业的理事、经理及财务主管等高级管理人员不得兼任监事。

**第三十七条** 监事会行使下列职权：

- （一）列席理事会会议；
- （二）监督理事、经理的工作；
- （三）检查企业经营和财务状况；
- （四）必要时，建议召开临时合作股东大会；
- （五）企业章程规定的其他职权。

监事会的决议必须经全体监事半数以上同意方可通过。

(9) other functions and powers prescribed in the Regulations and the articles of association of the enterprise.

Resolutions of the board of directors shall be approved by more than half of all directors.

**Article 34** The chairman of the board of directors shall be the legal representative of the enterprise and shall be elected or removed by the board of directors.

The chairman shall exercise the following functions and powers:

(1) to convene and preside over the meetings of the board of cooperative shareholders and the board of directors;

(2) to check the implementation of resolutions of the board of cooperative shareholders and the board of directors; and

(3) other functions and powers stipulated in the articles of association.

**Article 35** Enterprise managers shall be accountable to the board of directors and shall exercise the following functions and powers:

(1) to be responsible for the daily operation and management of the enterprise in accordance with the articles of association and the authorization of the board of directors;

(2) to organize implementation of resolutions of the board of cooperative shareholders and the board of directors;

(3) to draft the development plan and annual production and operation plan of the enterprise;

(4) to propose business policies, establishment of management offices and draft rules and regulations of the enterprise;

(5) to propose the annual financial budget and final accounting plan and profit distribution plan of the enterprise;

(6) to propose the appointment or dismissal of deputy managers and financial executives of the enterprise, and the appointment or removal of other management personnel of the enterprise;

(7) to decide on the employment, dismissal, rewards and punishments of the employees below deputy managers (excluding deputy managers and financial executives);

(8) to attend the meetings of the board of directors as a nonvoting delegate; and

(9) other functions and powers granted by the articles of association or the board of directors.

**Article 36** The board of supervisors of an enterprise shall comprise at least 3 members. Among them, more than half of the members shall be employee shareholders.

The directors, managers, financial executives and other senior executives of an enterprise shall not concurrently serve as supervisors.

**Article 37** The board of supervisors shall exercise the following functions and powers:

(1) to attend the meetings of the board of directors as a nonvoting delegate;

(2) to supervise the work of directors and managers;

(3) to check the operation and financial status of the enterprise;

(4) to suggested convening an extraordinary general meeting of cooperative shareholders when necessary; and

(5) other functions and powers stipulated in the articles of association.

Resolutions of the board of supervisors must be approved by more than half of all supervisors.

**第三十八条** 企业的合作股东和理事、经理、监事等高级管理人员，不得从事与本企业竞争或者损害本企业利益的活动。

**第三十九条** 有下列情形之一的，不得担任企业的理事长、理事、监事、经理：

（一）无民事行为能力或者限制民事行为能力；

（二）因犯有贪污、贿赂、侵占财产、挪用财产罪或者破坏社会主义市场经济秩序罪，被判处刑罚，执行期满未逾五年，或者因犯罪被剥夺政治权利，执行期满未逾五年；

（三）担任因经营不善破产清算的公司、企业的董事或者厂长、经理，并对该公司、企业的破产负有个人责任的，自该公司、企业破产清算完结之日起未逾三年；

（四）担任因违法被吊销营业执照的公司、企业的法定代表人，并负有个人责任的，自该公司、企业被吊销营业执照之日起未逾三年；

（五）个人所负数额较大的债务到期尚未清偿。

企业违反前款规定选举、委派理事长、理事、监事或者聘任经理的，该选举、委派或者聘任无效。

## 第五章 财务会计与收益分配

**第四十条** 企业应当依照法律、法规和国家有关部门的规定，建立财务、会计制度，定期向合作股东公布账目。

**第四十一条** 企业的税后利润，应当按照下列顺序分配：

（一）弥补被依法没收财物损失，支付各项税收的滞纳金和罚款；

（二）弥补亏损；

（三）提取公积金；

（四）提取公益金；

（五）按照企业章程规定的比例，提取职工积累基金；

（六）向合作股东分配股利。

**第四十二条** 企业当年没有利润时不得分配股利和提取职工积累基金。

**Article 38** The cooperative shareholders, directors, managers, supervisors and other senior executives of an enterprise shall not engage in activities that compete with the enterprise or damage the interests of the enterprise.

**Article 39** Under any of the following circumstances, a person may not serve as the chairman, director, supervisor or manager of an enterprise:

- (1) He is a person without or with limited capacity for civil conduct;
- (2) He was sentenced to criminal punishment for crimes of corruption, bribery, misappropriation of property, or disrupting the order of the socialist market economy, and not more than 5 years have passed upon expiry of the period of execution, or was deprived of political rights for crimes, and not more than 5 years have passed upon expiry of the period of execution;
- (3) He was a director, factory director or manager of a company or enterprise which went bankrupt and went into liquidation due to poor management, and was personally responsible for the bankruptcy of the company or enterprise, and not more than 3 years have passed since the completion of the bankruptcy and liquidation of the company or enterprise;
- (4) He was the legal representative of a company or enterprise whose business license was revoked due to violation of the law, and was personally responsible therefor, and not more than 3 years have passed since the date of revocation of the business license of the company or enterprise; or
- (5) He has a relatively large amount of outstanding debts which have become due.

Where an enterprise elects or appoints a chairman, director or supervisor or recruits a manager in violation of the provisions of the preceding paragraph, such election, appointment or recruitment shall be invalid.

## Chapter V Financial Accounting and Profit Distribution

**Article 40** Enterprises shall, in accordance with the provisions of laws, regulations and relevant national departments, establish financial and accounting systems and regularly publish accounts to cooperative shareholders.

**Article 41** After-tax profits of an enterprise shall be distributed in the following order:

- (1) to make up for the loss of property confiscated according to law, and pay late fees and fines for various taxes;
- (2) to make up for losses;
- (3) to withdraw public accumulation funds;
- (4) to withdraw public welfare funds;
- (5) to withdraw staff accumulation funds in accordance with the proportion prescribed in the articles of association; and
- (6) to distribute dividends to cooperative shareholders.

**Article 42** In the absence of profit in the current year, enterprises shall not distribute dividends or withdraw staff accumulation funds.

**第四十三条** 公积金用于弥补亏损、增加股本、扩大生产经营和企业章程规定的其他用途。

**第四十四条** 公益金用于本企业职工的集体福利。

**第四十五条** 职工积累基金按照按劳分配原则，划归职工个人名下。

**第四十六条** 企业应当建立内部审计制度，加强对企业财务及其他经济活动的审计监督。

## 第六章 合并、分立与解散清算

**第四十七条** 企业合并或者分立，应当由理事会提出方案并编制资产负债表和财产清单。

企业合并或者分立的方案，应当由合作股东大会作出决议。

企业作出合并或者分立的决议后，应当通知债权人，签订清偿债务协议，达不成协议的，企业不得合并或者分立。

**第四十八条** 企业合并，应当由合并各方签订合并协议。企业合并时，合并各方的债权债务，应当由合并后的企业承继。

**第四十九条** 企业分立时，应当由分立各方签订分立协议，明确划分分立各方的财产、经营范围、债权债务。

**第五十条** 企业的合并或者分立，应当由工商行政管理部门办理注册登记。

**第五十一条** 企业被依法撤销或者因其他原因解散的，应当成立清算组织，进行清算。清算时，应当由具有资产评估资格的机构对企业资产进行评估。

**第五十二条** 清算组织在清理企业财产、编制资产负债表和财产清单后，应当制定清算方案，并报合作股东大会确认。用土地使用权抵偿债务，必须符合土地管理法律、法规的规定。

**第五十三条** 清算组织在支付清算费用后，按照下列顺序清偿债务：

（一）欠付职工的工资和劳动保险费用；

（二）欠缴国家的各项税款；

**Article 43** Public accumulation funds shall be used for making up for losses, increasing share capital, expanding production and operation and other purposes specified in the articles of association.

**Article 44** Public welfare funds shall be used for the collective welfare of enterprise staff.

**Article 45** Staff accumulation funds shall be put under personal management of the staff according to the principle of distribution according to work.

**Article 46** Enterprises shall establish internal audit systems and strengthen the supervision through auditing over their financial and other economic activities.

## Chapter VI Merger, Division, Dissolution and Liquidation

**Article 47** For merger or division of enterprises, the board of directors shall propose a plan and prepare a balance sheet and a list of property.

The plan for merger or division of enterprises shall be decided by a resolution at the general meeting of cooperative shareholders.

After adopting a resolution on merger or division, enterprises shall notify the creditors and enter into a debt settlement agreement. If no agreement can be reached, no merger or division of enterprises may be implemented.

**Article 48** For merger of enterprises, the parties to the merger shall enter into a merger agreement. After the merger, the claims and debts of all parties to the merger shall be assumed by the surviving enterprise.

**Article 49** In the event of a division, the parties to the division shall enter into a division agreement, which shall specify the property, business scope, claims and debts of the parties to the division.

**Article 50** The merger or division shall be registered at the administrative departments for industry and commerce.

**Article 51** Where an enterprise is cancelled according to law or dissolved for other reasons, a liquidation group shall be established to carry out liquidation. At the time of liquidation, the assets of the enterprise shall be appraised by an institution qualified for asset appraisal.

**Article 52** After liquidating the property of the enterprise and preparing the balance sheet and list of property, the liquidation group shall formulate a liquidation plan and submit it to the board of cooperative shareholders for confirmation. The use of land use rights to offset debts must conform to the provisions of the laws and regulations on land administration.

**Article 53** After paying the liquidation expenses, the liquidation group shall pay off debts in the following order:

- (1) wages and labor insurance premiums owed to employees;
- (2) all taxes owed to the State;

（三）企业其他债务。

企业清偿后的剩余财产，按照合作股东的股份分配。

企业财产不足以清偿债务的，经债权人协商一致，由清算组织按照债权数额比例分割企业财产。企业财产不足以清偿同一顺序债务的，按照同一顺序偿还率清偿。债权人达不成协议的，由债权人或者企业向人民法院申请破产还债，人民法院裁定企业破产后，原清算程序终止。

**第五十四条** 清算结束，清算组织应当提出清算报告，经合作股东大会确认后，报送工商行政管理部门申请注销登记，公告企业终止。

## 第七章 法律责任

**第五十五条** 违反本条例第六条规定的，由企业所在地乡、镇或者区人民政府责令改正和赔偿经济损失；企业也可以直接向人民法院起诉，要求侵权者承担法律责任；构成犯罪的，依法追究其刑事责任。

**第五十六条** 违反本条例第七条规定的，由企业所在地乡、镇或者区农村合作经济管理部门责令改正；给企业造成损失的，由法定代表人或者直接责任人承担赔偿责任。

**第五十七条** 违反本条例第十四条规定，合作股东未交付货币、实物或者未转移财产权、虚假出资，或者在企业成立后又抽逃出资的，由企业所在地乡、镇或者区农村合作经济管理部门责令改正；对拒不改正的，可以向人民法院起诉。

**第五十八条** 违反本条例第十六条规定，将集体财产低价折股、低价出售的，由企业所在地乡、镇或者区农村合作经济管理部门责令改正。

**第五十九条** 违反本条例第三十八条规定的，由企业所在地乡、镇或者区农村合作经济管理部门责令其将获得的非法利益交归企业所有，给企业造成损失的，应当承担赔偿责任。对拒不承担责任的，企业可以向人民法院起诉。

**第六十条** 违反本条例第四十一条、第四十二条规定的，由企业所在地乡、镇或者区人民政府予以纠正。

(3) other debts of the enterprise.

The remaining assets after liquidation shall be distributed in proportion to the shares of cooperative shareholders.

Where the property of an enterprise is not sufficient to pay off its debts, the liquidation group shall, upon consensus of the creditors, divide the property of the enterprise in proportion to the amount of claims. If the property of an enterprise is not sufficient to pay off the debts in the same order, the debts shall be paid off at the rate of repayment in the same order. If the creditors fail to reach an agreement, the creditors or the enterprise shall apply to the people's court for bankruptcy and debt repayment, and the original liquidation procedure shall be terminated after the enterprise is declared bankrupt in the people's court.

**Article 54** Upon completion of liquidation, the liquidation group shall issue a liquidation report, which, upon confirmation of the board of cooperative shareholders, shall be submitted to the administrative department for industry and commerce to apply for cancellation of registration and announce the termination of the enterprise.

## Chapter VII Legal Liability

**Article 55** Whoever violates the provisions of Article 6 of the Regulations shall be ordered by the people's government of the township, town or district where the enterprise is located to make corrections and compensate for economic losses; the enterprise may also directly bring a lawsuit in the people's court and require the infringer to bear the legal liability; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 56** Whoever violates the provisions of Article 7 of the Regulations shall be ordered by the administrative department of rural cooperative economy of the township, town or district where the enterprise is located to make corrections; where losses are caused to the enterprise, the legal representative or the person directly responsible shall bear the liability for compensation.

**Article 57** Where cooperative shareholders, in violation of the provisions of Article 14 of the Regulations, make false capital contributions by failing to deliver cash or material objects or transfer property rights, or withdraw capital contributions after the establishment of the enterprise, they shall be ordered by the administrative department of rural cooperative economy of the township, town or district where the enterprise is located to make corrections; if they refuse to make corrections, a lawsuit may be filed in the people's court.

**Article 58** Whoever, in violation of the provisions of Article 16 of the Regulations, converts collective property into shares at a low price or sells collective property at a low price shall be ordered by the administrative department of rural cooperative economy of the township, town or district where the enterprise is located to make corrections.

**Article 59** Whoever violates the provisions of Article 38 of the Regulations shall be ordered by the administrative department of rural cooperative economy of the township, town or district where the enterprise is located to turn over the illegal benefits obtained to the enterprise and shall be liable for compensation if losses are caused to the enterprise. In case of refusal to bear the responsibility, a lawsuit may be filed in the people's court.

**Article 60** Any violation of the provisions of Articles 41 and 42 of the Regulations shall be rectified by the people's government of the township, town or district where the



**第六十一条** 利用分立、合并和解散、清算抽逃资产、隐匿财产、逃避债务的，由工商行政管理部门依法处理。

## **第八章 附 则**

**第六十二条** 本条例自 1997 年 1 月 1 日起施行。

enterprise is located.

**Article 61** The utilization of division, merger, dissolution or liquidation to withdraw assets, conceal assets or evade debts shall be dealt with by the administrative departments for industry and commerce according to law.

## Chapter VIII Supplementary Provisions

**Article 62** The Regulations shall come into force as of January 1, 1997.

# 北京市促进私营个体经济发展条例

(2001年8月3日北京市第十一届人民代表大会常务委员会第二十八次会议通过 根据2016年11月25日北京市第十四届人民代表大会常务委员会第三十一次会议通过的《关于修改部分地方性法规的决定》修正)

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- 第三章 权利与义务
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- 第五章 法律责任
- 第六章 附 则

## 第一章 总 则

**第一条** 为了促进本市私营个体经济在社会主义市场经济体制下健康发展,保障私营企业和个体工商户的合法权益,根据有关法律、法规,结合本市实际情况,制定本条例。

**第二条** 在本市行政区域内依法登记注册的私营企业和个体工商户适用本条例。

本条例所称私营企业包括个人独资企业、合伙企业、公司制的私营企业以及其他组织形式的私营企业。

**第三条** 私营个体经济是社会主义市场经济的重要组成部分。本市的私营企业和个体工商户是发展首都经济的重要力量,与其他市场主体平等参与市场竞争,其合法权益受法律保护,任何组织和个人不得侵犯。

**第四条** 市和区人民政府应当把促进私营个体经济发展纳入本地区国民经济和社

# Regulations of Beijing Municipality on the Promotion of Development of Private and Individual Economy

(Adopted at the 28<sup>th</sup> Meeting of the Standing Committee of the 11<sup>th</sup> People's Congress of Beijing Municipality on August 3, 2001, and revised in accordance with the Decisions on Revising Some Local Regulations adopted at the 31<sup>st</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on November 25, 2016)

## Contents

Chapter I	General Provisions
Chapter II	Support and Encouragement
Chapter III	Rights and Obligations
Chapter IV	Association of Private and Individual Economy
Chapter V	Legal Liability
Chapter VI	Supplementary Provisions

## Chapter I General Provisions

**Article 1** The Regulations are formulated for the purposes of promoting the healthy development of private and individual economy under the socialist market economy system in this Municipality, and safeguarding the legitimate rights and interests of private enterprises and individual businesses in accordance with relevant laws and regulations and in light of actual circumstances of this Municipality.

**Article 2** The Regulations shall apply to the private enterprises and individual businesses registered according to law within the administrative area of this Municipality.

Private enterprises as mentioned in the Regulations shall include sole proprietorship enterprises, partnership enterprises, private enterprises of corporate system and private enterprises of other organizational structures.

**Article 3** Private and individual economy is an important part of socialist market economy. Private enterprises and individual businesses in this Municipality are important forces in the development of the capital's economy, which may equally participate in market competition with other market entities. Their legitimate rights and interests shall be protected by law and shall not be infringed by any organization or individual.

**Article 4** The municipal and district people's governments shall incorporate the promotion of development of private and individual economy into the plans for national

会发展计划，加强产业引导，创造平等的市场准入条件和公平的市场竞争环境。

**第五条** 私营企业和个体工商户应当遵守诚实守信的商业道德，守法经营、依法纳税、公平竞争，接受行政机关依法进行的监督管理。

**第六条** 各级人民政府和新闻媒体应当加强对私营个体经济的宣传，努力创造有利于私营个体经济发展的良好的社会舆论环境。

各级人民政府对在首都精神文明和物质文明建设中做出突出贡献的私营企业和个体工商户给予表彰和奖励。

## 第二章 支持与鼓励

**第七条** 市和区人民政府应当建立由有关部门参加的私营个体经济工作联席会议制度，统筹研究、协调解决私营个体经济发展中的重要问题。

**第八条** 鼓励私营企业和个体工商户投资发展高新技术产业、环保产业、现代农业和服务业以及其他符合首都经济发展规划的产业。

私营企业和个体工商户投资国家、本市鼓励发展的产业和技术项目的，享受相关优惠政策待遇。

**第九条** 各级人民政府及其有关部门应当公开办事制度，简化办事程序，提高办事效率，并为私营企业和个体工商户获取法律、法规、政策、城乡建设规划和行政事业性收费等信息提供方便。

**第十条** 各级人民政府及其有关部门不得在法律、法规规定之外设置针对私营企业和个体工商户登记注册的前置审批事项。

**第十一条** 各级人民政府在规划建设市场、商贸街和经济开发区时，应当统筹安排私营企业和个体工商户的生产经营场所。

**第十二条** 市人民政府应当协调有关部门，建立社会信用服务体系，为私营企业和个体工商户融资提供信用信息。

economic and social development within their respective administrative areas, strengthen industrial guidance, and create equal conditions for market access and fair market competition environment.

**Article 5** Private enterprises and individual businesses shall observe commercial ethics of honesty and good faith, operate and pay taxes according to law, compete on equal terms and accept the supervision and administration of administrative authorities according to law.

**Article 6** The people's governments at all levels and news media shall strengthen publicity of private and individual economy and endeavor to create favorable public opinion environment for the development of private and individual economy.

The people's governments at all levels shall commend and reward the private enterprises and individual businesses that have made outstanding contribution to the capital's spiritual and material civilization construction.

## Chapter II Support and Encouragement

**Article 7** The municipal and district people's governments shall establish a joint conference system for private and individual economy joined by relevant departments to conduct overall study on and coordinate the solution of important issues arising from the development of private and individual economy.

**Article 8** Private enterprises and individual businesses shall be encouraged to invest in new and high-tech industry, environmental protection industry, modern agriculture and service industry, as well as other industries in line with the capital's economic development program.

Private enterprises and individual businesses shall be entitled to relevant preferential treatment if they invest in the industries and technology projects that are encouraged by the State and this Municipality.

**Article 9** The people's governments at all levels and their relevant departments shall make public administrative systems, simplify procedures, enhance efficiency and facilitate the access of private enterprises and individual businesses to laws, regulations, policies, rural-urban development planning, administrative and institutional charges and other information.

**Article 10** The people's governments at all levels and their relevant departments shall not require pre-registration approval for the registration of private enterprises and individual businesses beyond the provisions of laws and regulations.

**Article 11** When making plans for the construction of markets, commercial streets and economic development zones, the people's governments at all levels shall make overall arrangements for production and business operation places for private enterprises and individual businesses.

**Article 12** The Municipal People's Government shall coordinate relevant departments to establish a social credit system, so as to provide credit information for the financing of

**第十三条** 鼓励金融机构支持私营个体经济发展，提供相应的服务。

**第十四条** 以本级财政预算编列的资金为主要担保资金来源的担保机构，应当为符合条件的私营企业提供担保服务。

私营个体经济协会可以组织设立向私营企业和个体工商户提供融资担保的服务机构，政府给予扶持。

私营企业、个体工商户和其他企业或者组织可以共同出资设立担保机构，对符合条件的私营企业和个体工商户提供担保服务。

**第十五条** 政府有关部门应当支持私营企业和个体工商户引进科技和管理人才，为其提供人才服务。

人力社保等行政部门应当按照国家有关规定，为在私营企业和个体工商户工作的专业技术人员进行专业技术职务资格认定和职业技能鉴定。

**第十六条** 鼓励国家机关、事业单位分流人员、军队转业干部、退伍军人和失业人员开办私营企业或者从事个体经营。经核准开办的，可以享受国家和本市规定的优惠政策。

**第十七条** 鼓励私营企业和个体工商户从事社区服务。

私营企业安置本市城镇失业人员达到国家规定比例的，享受劳动就业服务企业的优惠政策；安置残疾人达到规定比例的，享受福利企业优惠政策。

**第十八条** 鼓励私营企业生产出口创汇产品，从境外引进资金、先进技术和先进管理方法，开展国际交流与合作，或者境外开办企业，参与国际竞争。

对符合国家规定条件的私营企业，商务行政主管部门应当支持其申办自营进出口权。

**第十九条** 鼓励私营企业建立现代企业制度，有条件的私营企业可以实行股份制改造。

政府主管部门应当支持私营企业和个体工商户采用参股、控股、兼并、收购等多种形式参与国有、集体企业改制。

private enterprises and individual businesses.

**Article 13** Financial institutions shall be encouraged to support the development of private and individual economy and provide relevant services.

**Article 14** Guarantee institutions with funds in the fiscal budget at the corresponding level as the main source of guarantee funds shall provide guarantee services for eligible private enterprises.

The association of private and individual economy may organize the establishment of service institutions that provide financing guarantee to private enterprises and individual businesses, which shall be supported by the government.

Private enterprises, individual businesses and other enterprises or organizations may jointly contribute to establishing guarantee institutions to provide guarantee services to eligible private enterprises and individual businesses.

**Article 15** Relevant government departments shall support the recruitment of technology and management talents by private enterprises and individual businesses and provide talent services to them.

Administrative departments of human resources, social security, etc. shall, in accordance with relevant provisions of the State, provide recognition of professional and technical qualifications and verification of vocational skills for the professional and technical personnel working in private enterprises and individual businesses.

**Article 16** The relocated staff from state organs and public institutions, officers and civil cadres transferred to civilian work, veterans and unemployed people shall be encouraged to establish private enterprises or engage in individual businesses, and may be entitled to the preferential treatment of the State and this Municipality upon approval.

**Article 17** Private enterprises and individual businesses shall be encouraged to engage in community services.

Private enterprises which employ a certain proportion of urban unemployed people of this Municipality as stipulated by the State shall be entitled to preferential policies of employment service enterprises; those employing a certain proportion of disabled persons as stipulated shall be entitled to preferential policies of welfare enterprises.

**Article 18** Private enterprises shall be encouraged to produce export-oriented products to generate export revenues, to introduce capital, advanced technology and management measures from abroad, to carry out international exchanges and cooperation, or to establish overseas enterprises to participate in international competition.

The competent departments for commerce shall support private enterprises to apply for self-managed import/export right if they meet national conditions.

**Article 19** Private enterprises shall be encouraged to establish a modern enterprise system, and eligible private enterprises may carry out reform through the stock system.

Government authorities shall support private enterprises and individual businesses to participate in the restructuring of state-owned and collective enterprises by various forms such as equity participation, share right control, merger and acquisition.



私营企业和个体工商户参与国有、集体企业改制，享受本市相关优惠待遇，原国有、集体企业改制前已办理的各项专项审批手续和生产经营许可证不因所有制变更而取消。

**第二十条** 鼓励和扶持私营企业、个体工商户继承和发展具有北京特色的传统产品和服务，开发、培育名牌产品，争创驰名商标。

**第二十一条** 鼓励外地私营企业和公民在本市投资开办私营企业。

**第二十二条** 市和区统计行政主管部门应当建立和完善私营个体经济统计制度，及时、准确反映私营个体经济的发展状况。

**第二十三条** 各级人民政府及其有关部门应当依法行政，加强服务和监督管理，保护守法经营者，维护市场经济秩序，打击违法行为，支持私营个体经济健康发展。

政府有关部门及其执法人员在行政执法过程中，不得干扰私营企业和个体工商户正常的生产经营活动。

### 第三章 权利与义务

**第二十四条** 私营企业和个体工商户的合法财产，依法享有的名称专用权、专利、注册商标等知识产权和商业秘密，受法律保护。

**第二十五条** 私营企业在市场准入、土地使用、信贷、税收、上市融资、进出口、使用外汇、参与政府采购和招标投标、高新技术企业认定、申报政府计划项目、科技奖励、取得许可证和资质等级证书以及引进人才等方面，享受与国有、集体企业同等的待遇。

个体工商户在前款规定的范围内可以享受与私营企业同等的待遇，但法律、法规另有规定的，从其规定。

**第二十六条** 私营企业和个体工商户依法取得的生产经营场所受法律保护。

私营企业和个体工商户用于生产经营活动的房屋，因城市建设需要拆迁的，拆迁

Private enterprises and individual businesses shall be entitled to relevant preferential treatment of this Municipality when participating in the restructuring of state-owned and collective enterprises. The various special approval procedures and licenses for production and operation that have been completed and obtained before the restructuring shall not be cancelled on the ground of the change of ownership.

**Article 20** Private enterprises and individual businesses shall be encouraged and supported to inherit and develop traditional products and services with the characteristics of Beijing, develop and cultivate famous-brand products, and endeavor to create well-known trademarks.

**Article 21** Private enterprises and citizens outside this Municipality shall be encouraged to invest in private enterprises in this Municipality.

**Article 22** The municipal and district competent departments for statistics shall establish and improve the statistical system for private and individual economy to timely and accurately report the status of development of private and individual economy.

**Article 23** The people's governments at all levels and their relevant departments shall exercise administration in accordance with the law, strengthen service, supervision and management, protect law-abiding operators, maintain the market economy order, crack down on illegal activities, and support the healthy development of private and individual economy.

In the process of administrative law enforcement, relevant government departments and their law-enforcement staff shall not disturb the normal production and operation activities of private enterprises and individual businesses.

### Chapter III Rights and Obligations

**Article 24** The legal property of private enterprises and individual businesses, the exclusive right of name, patents, registered trademarks and other intellectual property rights enjoyed thereby according to law, as well as trade secrets thereof shall be protected by law.

**Article 25** Private enterprises shall be entitled to equal treatment with state-owned and collective enterprises in terms of market access, land use, credit, taxation, listing and financing, import/export, foreign exchange use, participation in government procurement and bidding, recognition of new and high-tech enterprises, application for government projects, scientific and technological awards, acquisition of licenses and qualification certificates, introduction of talents, etc.

Individual businesses shall be entitled to equal treatment with private enterprises for the items mentioned in the preceding paragraph, unless otherwise provided by laws and regulations.

**Article 26** The production and business places acquired by private enterprises and individual businesses according to law shall be protected by law.

In case of demolition of the housing used by private enterprises and individual businesses for production and operation activities due to urban construction, the demolition

人应当按照国家和本市的有关规定给予补偿与安置。

**第二十七条** 任何组织和个人不得违反法律、法规规定，向私营企业和个体工商户收费、罚款、摊派。

私营企业和个体工商户有权拒绝不合法的收费、罚款；有权拒绝任何单位和个人违法向其摊派人力、物力、财力；有权拒绝强行要求赞助、捐款、集资；有权拒绝非法有偿服务或者搭售商品、订购书籍报刊等侵权行为。

**第二十八条** 私营企业和个体工商户的合法权益受到行政机关侵害时，可以通过以下途径解决：

- （一）向私营个体经济协会反映；
- （二）向监察机关或者上级行政机关投诉；
- （三）依法申请行政复议；
- （四）依法提起行政诉讼。

**第二十九条** 政府有关部门对于私营企业、个体工商户提出的投诉事项，应当自接到投诉之日起 10 个工作日内作出处理。对不属于本部门职权范围内的投诉事项，应当自接到投诉之日起 5 个工作日内向负有责任的部门移送，并通知投诉人。政府有关部门对于私营个体经济协会反映的问题，应当在 10 个工作日内给予答复。

**第三十条** 私营企业应当尊重职工依法组建和参加工会组织、开展工会活动的权利，依法为本企业工会提供必要的工作条件。

**第三十一条** 私营企业和个体工商户应当遵守税收、质量、环境保护、安全生产等法律、法规，建立健全内部管理制度。

**第三十二条** 私营企业和个体工商户应当依法与职工签订劳动合同，保障职工法定的休息、休假权利，保障女工、未成年工受特殊保护的法定权利。不得雇佣童工。

私营企业和个体工商户应当加强劳动保护，保障生产安全。

对从事特种作业的职工，必须按照国家规定进行培训，合格后方能上岗作业。

私营企业和个体工商户支付职工工资不得低于本市最低工资标准。

**第三十三条** 私营企业应当按照国家和本市规定为职工办理养老、失业、医疗、工伤、生育等各项社会保险。

units shall provide compensation and resettlement in accordance with relevant provisions of the State and this Municipality.

**Article 27** No organization or individual may, in violation of the provisions of laws and regulations, make charges, impose fines or apportion expenses against private enterprises and individual businesses.

Private enterprises and individual businesses shall have the right to refuse illegal charges and fines, to refuse requirements by any unit or individual of providing human resources, material resources or financial resources, to refuse any requirement of sponsorship, donation or fund raising, and to refuse illegal paid services or infringing activities such as tie-in sale and publication subscription.

**Article 28** Private enterprises and individual businesses may seek the following remedies when their legitimate rights and interests are infringed by administrative organs:

- (1) reporting to the association of private and individual economy;
- (2) complaining to supervisory organs or the administrative organ at the next higher level;
- (3) applying for administrative reconsideration according to law; or
- (4) bringing an administrative lawsuit according to law.

**Article 29** Relevant government departments shall deal with the complaints of private enterprises and individual businesses within 10 working days from the date of receiving such complaints. The complaints not falling within their scope of authority shall be transferred to the responsible department within 5 working days from the date of receiving the complaints and those filing the complaints shall be notified. Relevant government departments shall make a reply to the issues reported by the association of private and individual economy within 10 working days.

**Article 30** Private enterprises shall respect the right of employees to organize and participate in labor unions and carry out activities of labor unions according to law, and shall provide necessary working conditions for their labor unions according to law.

**Article 31** Private enterprises and individual businesses shall comply with laws and regulations on taxation, quality, environmental protection, production safety, etc., and shall establish and improve internal management systems.

**Article 32** Private enterprises and individual businesses shall enter into employment contracts with employees, safeguard the employees' legal rights to rest and leave, and guarantee the statutory rights to special protection of female and underage workers. It is forbidden to employ child labor.

Private enterprises and individual businesses shall strengthen labor protection and guarantee production safety.

Employees engaged in special operations shall be trained according to national regulations and may take up a post of duty only after passing the examination.

Private enterprises and individual businesses shall not pay wages below the minimum wage standard of this Municipality.

**Article 33** Private enterprises shall take out pension, unemployment, medical, work-related injury, maternity, etc. insurance for employees in accordance with the provisions of the State and this Municipality.

## 第四章 私营个体经济协会

**第三十四条** 私营个体经济协会是依法登记的社会团体，应当依照章程开展活动，组织私营企业和个体工商户会员自我服务、自我教育、自我管理，引导、培育私营个体经济健康发展。

**第三十五条** 私营个体经济协会应当向私营企业和个体工商户会员宣传国家法律、法规，做好私营企业、个体工商户会员与人民政府的联系沟通工作，向政府和有关部门反映私营个体经济发展中存在的问题，提出建议，对政府及其有关部门的工作进行社会监督。

**第三十六条** 私营个体经济协会应当为私营企业和个体工商户会员的生产经营活动提供服务，维护其合法权益。私营企业和个体工商户在生产经营活动中，须由上级主管部门审批的事项，私营个体经济协会可以帮助办理有关手续。

## 第五章 法律责任

**第三十七条** 违反本条例应当追究法律责任的，法律、法规已有规定的，从其规定；法律、法规没有规定的，依照本条例的规定执行。

**第三十八条** 行政机关及其工作人员违反本条例第十条规定，在法律、法规之外设置针对私营企业和个体工商户登记注册前置审批事项的，其行政行为无效，由上级机关责令改正；情节严重的，由监察机关或者上级机关追究直接责任人和行政机关主要负责人的行政责任。

**第三十九条** 行政机关违反本条例第二十七条第一款规定，违法向私营企业和个体工商户收费、罚款、摊派的，由上级行政机关责令改正，退还已收取的款物；情节严重的，对行政机关的直接责任人和主要负责人给予行政处分。

## Chapter IV Association of Private and Individual Economy

**Article 34** The association of private and individual economy is a social organization registered according to law, which shall act according to the articles of association, organize private enterprises and individual businesses to serve, educate and manage themselves, and guide and cultivate the healthy development of private and individual economy.

**Article 35** The association of private and individual economy shall propagate national laws and regulations to private enterprises and individual businesses, do a good job in connecting private enterprises and individual businesses with the people's government, report issues arising in development of private and individual economy to the government and relevant departments, put forward suggestions, and offer social supervision over the work of the government and relevant departments.

**Article 36** The association of private and individual economy shall provide services for the production and operation activities of private enterprise and individual business members, and safeguard their legitimate rights and interests. For matters encountered by private enterprises and individual businesses in production and operation activities that shall be approved by superior authorities, the association of private and individual economy may help them go through relevant procedures.

## Chapter V Legal Liability

**Article 37** Whoever violates the Regulations shall be held accountable for legal liability. If there are provisions in laws and regulations, such provisions shall prevail; in the absence of provisions in laws and regulations, the Regulations shall apply.

**Article 38** Where administrative organs and their staff, in violation of the provisions of Article 10 of the Regulations, require pre-registration approval for the registration of private enterprises and individual businesses beyond the provisions of laws and regulations, such administrative act shall be invalid and they shall be ordered by the authority at the next higher level to make corrections; if the circumstances are serious, the person directly responsibility and the main person in charge shall be held accountable for administrative responsibility by supervisory organs or the authority at the next higher level.

**Article 39** Where administrative organs, in violation of the provisions of Paragraph 1, Article 27 of the Regulations, illegally make charges, impose fines or apportion expenses against private enterprises and individual businesses, they shall be ordered by the administrative organ at the next higher level to make corrections and return the collected funds and materials; if the circumstances are serious, the person directly responsible and the main person in charge shall be given administrative sanctions.

**第四十条** 行政机关及其工作人员违反本条例有关规定，不履行法定职责，使私营企业和个体工商户及其投资者、经营者、从业人员合法权益受到损害，或者应当享有的权益未能享有的，由上级机关责令改正；情节严重的，由监察机关或者上级机关追究直接责任人和行政机关主要负责人的行政责任。

**第四十一条** 行政机关及其工作人员违法行使行政职权，侵害私营企业和个体工商户的合法权益，造成损害的，依照《中华人民共和国国家赔偿法》的规定承担赔偿责任。

**第四十二条** 公民、法人或者其他组织侵犯私营企业和个体工商户合法权益的，依法承担民事责任；构成犯罪的，依法追究其刑事责任。

## **第六章 附 则**

**第四十三条** 实施本条例需要制定规章或者具体办法的，市人民政府或者主管部门应当及时制定。

**第四十四条** 本条例自 2001 年 10 月 1 日起施行。

**Article 40** Where administrative organs and their staff, in violation of relevant provisions of the Regulations, fail to perform their legal duties and make private enterprises and individual businesses, as well as the investors, operators and employees thereof, suffer damage in their legitimate rights and interests or unable to enjoy the rights and interests they are entitled to, they shall be ordered by the authority at the next higher level to make corrections; if the circumstances are serious, the person directly responsible and the main person in charge shall be held accountable for administrative responsibility by supervisory organs or the authority at the next higher level.

**Article 41** Where administrative organs and their staff exercise administrative authorities in violation of law, which infringes the legitimate rights and interests of private enterprises and individual businesses and causes damages, they shall be liable for compensation in accordance with the provisions of the Law of the People's Republic of China on State Compensation.

**Article 42** Citizens, legal persons or other organizations that infringe the legitimate rights and interests of private enterprises and individual businesses shall bear civil liability according to law; if a crime is constituted, criminal responsibility shall be investigated for according to law.

## Chapter VI Supplementary Provisions

**Article 43** Rules or specific measures for implementing the Regulations shall be promptly formulated by the Municipal People's Government or competent authorities.

**Article 44** The Regulations shall come into force as of October 1, 2001.



# 北京市促进中小企业发展条例

(2013年12月27日北京市第十四届人民代表大会常务委员会  
第八次会议通过)

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第五章 市场开拓
第六章 服务保障
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## 第一章 总 则

**第一条** 为了改善中小企业发展环境，维护中小企业合法权益，支持、引导和促进中小企业健康发展，根据《中华人民共和国中小企业促进法》等法律、法规，结合本市实际，制定本条例。

**第二条** 本条例所称中小企业，是指依法在本市行政区域内设立，并符合国家划型标准的中型企业、小型企业和微型企业。

**第三条** 本市根据经济社会发展的实际需要，对中小企业实行积极扶持、加强引导、完善服务、依法规范、保障权益的方针，为中小企业平等使用生产要素、公平参与市场竞争、同等受到法律保护创造条件。

**第四条** 市和区、县人民政府应当将促进中小企业发展纳入国民经济和社会发展规划及计划，制定扶持中小企业发展的政策，负责统筹规划、协调推进本行政区域内

# Regulations of Beijing Municipality on Promotion of Development of Small and Medium-sized Enterprises

(Adopted at the 8<sup>th</sup> Meeting of the Standing Committee of the 14<sup>th</sup> People's Congress of Beijing Municipality on December 27, 2013)

## Contents

Chapter I	General Provisions
Chapter II	Support for Establishment of Enterprises
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## Chapter I General Provisions

**Article 1** These Regulations are formulated for the purposes of improving the environment for development of small and medium-sized enterprises, protecting the lawful rights and interests of small and medium-sized enterprises, as well as supporting, guiding and promoting the healthy development of small and medium-sized enterprises in accordance with the Law of the People's Republic of China on Promotion of Small and Medium-sized Enterprises and other laws and regulations and in light of the actual circumstances of this Municipality.

**Article 2** As used in these Regulations, small and medium-sized enterprises refer to medium-sized enterprises, small enterprises and micro-enterprises established in accordance with law within the administrative area of this Municipality and measuring up to the standards of the State on the classification of enterprise types.

**Article 3** This Municipality, based on the actual needs of economic and social development, applies the principles of active support, strong guidance, perfect service, lawful standardization and guaranteed rights and interests to small and medium-sized enterprises in order to create conditions for small and medium-sized enterprises to equally utilize production factors, impartially participate in market competition and equally enjoy legal protection.

**Article 4** The people's governments at the municipal and the district or county level shall incorporate promoting the development of small and medium-sized enterprises in the national economic and social development planning and plans, formulate policies for supporting the development of small and medium-sized enterprises, take charge in comprehensively planning and coordinately promoting the work related to the development of small and medium-sized enterprises within their respective administrative areas, and

中小企业发展各项工作，监督有关部门落实促进中小企业发展的措施。

**第五条** 市和区、县中小企业工作主管部门负责组织实施本行政区域内促进中小企业发展的政策规划，对中小企业工作进行综合协调、督促、指导和服务，建立健全中小企业公共服务体系，指导行业协会、商会等社会组织参与促进中小企业发展工作。

发展改革、商务、财政、金融、科技、工商、人力资源与社会保障、税务、统计、规划、国土资源、知识产权等有关行政部门应当在各自职责范围内，制定并落实促进中小企业发展的措施，对中小企业工作进行指导和服务。

**第六条** 本市对中小企业发展实行分类指导，引导中小企业转型升级、调整结构，从事科技、文化创意以及战略性新兴产业等符合首都城市功能定位和资源禀赋条件的产业，严格限制中小企业从事高耗能、高耗水、高污染的产业，逐步淘汰落后产能。

市中小企业工作主管部门会同市发展改革等行政部门，根据本市实际情况，制定和发布中小企业产业分类发展指导目录，明确鼓励、限制和禁止中小企业从事的产业，引导中小企业健康发展。

中小企业从事符合本条第一款规定的产业的，按照相关规定享受政策扶持和资金支持。

**第七条** 中小企业的合法权益受法律保护，任何单位和个人不得侵犯。

中小企业应当依法经营，遵守社会公德和行业规范，恪守诚实信用原则，不得侵害职工合法权益，不得损害社会公共利益。

**第八条** 中小企业可以在自愿的基础上，依法发起、设立中小企业协会或者其他中小企业行业组织，加强自我管理，促进行业发展。

中小企业协会和其他中小企业行业组织根据章程承担为中小企业提供行业信息、宣传培训、合作交流等服务，维护中小企业合法权益，向政府及有关部门反映中小企业的诉求和建议，参与中小企业服务体系建设，协助政府公平、有效地实施相关扶持政策和措施。

supervise relevant departments to implement the measures for promoting the development of small and medium-sized enterprises.

**Article 5** The departments in charge of work in respect of small and medium-sized enterprises at the municipal and the district or county level shall arrange for the implementation of policy planning for promoting the development of small and medium-sized enterprises, comprehensively coordinate, urge, guide and serve the work in respect of small and guide such social organizations as trade associations and chambers of commerce to participate in the work of promoting the development of small and medium-sized enterprises.

The relevant administrative departments for development and reform, commerce, finance, financial affairs, science and technology, industry and commerce, human resources and social security, taxation, statistics, planning, State-land and resources, intellectual property shall, within their respective functions and duties, formulate and implement the measures for promoting the development of small and medium-sized enterprises, provide guidance and services in the work regard of small and medium-sized enterprises.

**Article 6** This Municipality adopts classified guidance to the development of small and medium-sized enterprises, guides the transformation, upgrading and structural adjustment of small and medium-sized enterprises, leads small and medium-sized enterprises to engage in industries in conformity with the capital's urban function orientations and resource endowment conditions like science and technology, cultural creativity and strategic emerging industries, strictly restrains small and medium-sized enterprises from industries with high energy consumption, high water consumption and high pollution and gradually eliminates outdated industrial capacity.

The departments in charge of work in respect of small and medium-sized enterprises at the municipal level shall, together with the administrative departments for development and reform at the municipal level and other administrative departments ,formulate and promulgate the guiding catalogue for classified industrial development of small and medium-sized enterprises to clearly specify the encouraged, restricted and prohibited industries for small and medium-sized enterprises and guide the healthy development of small and medium-sized enterprises according to the actual circumstances of this Municipality.

Small and medium-sized enterprises engaged in the industries stipulated in Paragraph 1 of this Article may enjoy policy and funding support in accordance with relevant provisions.

**Article 7** The lawful rights and interests of small and medium-sized enterprises are protected by law and shall not be infringed upon by any unit or individual.

Small and medium-sized enterprises shall carry out operations according to law, comply with social morality and industrial regulations, abide by the principle of good faith, and shall not infringe upon the lawful rights and interests of their employees or impair public interests.

**Article 8** Small and medium-sized enterprises may, on the basis of free will, initiate and set up associations or other industry organizations of small and medium-sized enterprises so as to strengthen self-management and promote industrial development.

Associations and other industrial organizations of small and medium-sized enterprises shall, in accordance with their bylaws, serve small and medium-sized enterprises by providing industry information, publicity and trainings as well as cooperation and exchange opportunities, safeguard the lawful rights and interests of small and medium-sized enterprises, convey the demands and suggestions of small and medium-sized enterprises to the governments and relevant departments, participate in the construction of service system

政府对中小企业的扶持政策和措施可以依托中小企业协会和其他中小企业行业组织予以落实。

**第九条** 本市建立中小企业统计监测制度。统计部门应当会同中小企业工作主管部门和政府其他有关部门加强对中小企业的运行监测、分析，定期发布中小企业发展数据和年度发展报告。

## 第二章 创业扶持

**第十条** 市和区、县人民政府及有关行政部门应当支持公民、法人或者其他组织依法投资创办中小企业，为中小企业创造公平的市场竞争环境和平等的市场准入条件。

**第十一条** 本市逐步完善市、区县、乡镇创业服务体系。市和区、县人力资源和社会保障行政部门应当会同中小企业工作主管部门定期发布创业信息，为创业者提供创业咨询、辅导、培训等服务。

**第十二条** 本市将中小企业发展空间纳入全市产业发展空间布局。市和区县规划、建设、国土资源等行政部门在制定和实施土地利用年度计划和城乡建设规划时，应当统筹考虑小企业创业基地建设用地需求，优先安排小企业创业基地用地指标，为小型微型企业预留发展空间。

重点产业集聚区和功能区配套建设小企业创业基地，以及利用存量国有建设用地、闲置商务楼宇和产业用房等建设小企业创业基地的，市中小企业工作主管部门按照有关规定给予政策和资金支持。

**第十三条** 本市小企业创业基地由市中小企业工作主管部门负责认定。经认定的小企业创业基地可以依据相关规定享受资金支持，并可以作为集中办公区登记为企业住所。

**第十四条** 农村集体经济组织在符合规划和用途管制的前提下，可以利用农村集

for small and medium-sized enterprises, and assist the governments in fairly and effectively implementing relevant supporting policies and measures.

The governments' supporting policies and measures for small and medium-sized enterprises may be implemented relying on the organizations of associations and other industry organizations of small and medium-sized enterprises.

**Article 9** This Municipality shall establish the statistical monitoring system for small and medium-sized enterprises. The statistical departments shall, together with the departments in charge of work in respect of small and medium-sized enterprises and other relevant government departments, strengthen the monitoring and analysis of operations of small and medium-sized enterprises and regularly release the data of and annual reports on the development of small and medium-sized enterprises.

## Chapter II Support for Establishment of Enterprises

**Article 10** The people's governments at the municipal and the district or county level and relevant administrative departments shall support citizens, legal persons or other organizations to invest in and establish small and medium-sized enterprises in accordance with law, and create fair market competition environment and equal market access conditions for small and medium-sized enterprises.

**Article 11** This Municipality shall gradually improve the service systems for establishment of enterprises at the municipal, the district or county, and township or town level. The administrative departments for human resources and social security at the municipal and the district or county level shall, together with the departments in charge of work in respect of small and medium-sized enterprises, regularly release the information about establishment of enterprises and provide entrepreneurs with such services as entrepreneurship consulting, tutoring and trainings.

**Article 12** This Municipality shall include the space for development of small and medium-sized enterprises in the spatial layout for industrial development of the whole city. The administrative departments for planning, construction, State-land and resources at the municipal and the district or county level shall, when formulating and implementing the annual plans for land utilization and the urban and rural construction plans, give overall consideration to the land demand by the construction of entrepreneurial bases for small enterprises, make preferential arrangement in the land use quota to entrepreneurial bases for small enterprises, and reserve space for the development of small enterprises and micro-enterprises.

Where supporting entrepreneurial bases for small enterprises are constructed in key industrial agglomeration areas and functional areas, or stock State-owned construction land or unused commercial buildings or houses for industrial purposes are used for the construction of entrepreneurial bases for small enterprises, the department in charge of work in respect of small and medium-sized enterprises at the municipal level shall give policy and funding support in accordance with relevant provisions.

**Article 13** The department in charge of work in respect of small and medium-sized enterprises at the municipal level shall be responsible for confirming entrepreneurial bases for small enterprises in this Municipality. A confirmed entrepreneurial base for small enterprises may enjoy funding in accordance with relevant provisions and may be registered as an enterprise's domicile as a concentrated office area.

**Article 14** Rural collective economic organizations may, under the premise of complying with the planning and controlled purposes, utilize rural collectives, operational

体经营性建设用地建设产业用房，出租给中小企业使用；也可以依法将集体经营性建设用地使用权入股，投资设立中小企业或者创建小企业创业基地。

### 第三章 技术创新

**第十五条** 鼓励中小企业加大技术创新投入，建设研发中心，提高技术研发、产品创新和科技成果转化的能力。科技行政部门、中小企业工作主管部门等有关行政部门对符合条件的中小企业，给予政策和资金支持。

**第十六条** 中小企业申报国家或者地方科技型中小企业技术创新基金或者资金项目，承担科技重大专项、科技基础设施建设、各类科技计划项目和高新技术产业化项目，科技行政部门、中小企业工作主管部门等有关行政部门对符合条件的给予政策和资金支持。

支持大企业联合中小企业承担科技重大专项、科技基础设施建设、各类科技计划项目和高新技术产业化项目。科技行政部门、中小企业工作主管部门等有关行政部门应当提供有针对性的指导和服务。

**第十七条** 市中小企业工作主管部门应当会同有关行政部门定期组织中小企业创新推荐会，向创业投资机构、金融机构推荐中小企业自主知识产权项目、产学研合作项目、科技成果转化项目等。

**第十八条** 市和区、县科技行政部门应当统筹规划面向中小企业的公共科技服务平台建设，为中小企业创新发展提供产品研制、技术开发、设计、咨询、检测等服务。

中小企业开发新技术、新产品、新工艺发生的研究开发费用，可以依法在计算应纳税所得额时加计扣除。

**第十九条** 高等院校、科研院所与中小企业开展产学研用合作，市和区、县中小企业工作主管部门会同同级科技、教育等行政部门按照规定对其给予资金支持。

construction land to construct houses for industrial purposes and lease them to construction land as stock shares in establishing small and medium-sized enterprises or entrepreneurial bases for small enterprises.

### Chapter III Technological Innovation

**Article 15** Small and medium-sized enterprises are encouraged to increase inputs in technological innovation and set up research and development centers to improve their capacity in technology research and development, product innovation and transformation of scientific and technological achievements. The administrative departments for science and technology, the departments in charge of work in respect of small and medium-sized enterprises and other relevant departments shall give policy and funding support to small and medium-sized enterprises satisfying relevant conditions.

**Article 16** Where small and medium-sized enterprises apply for national or local technology innovation foundation or fund projects for scientific technology-based small and medium-sized enterprises or undertake major special science and technology projects, science and technology infrastructure construction, all kinds of science and technology planning projects and high-tech industrialization projects, the administrative departments for science and technology, the departments in charge of work in respect of small and medium-sized enterprises and other relevant administrative departments shall give policy and funding support to those satisfying relevant conditions.

Large enterprises are supported to join hands with small and medium-sized enterprises in undertaking major special science and technology projects, science and technology infrastructure construction, all kinds of science and technology planning projects and high-tech industrialization projects. The administrative departments for science and technology, the departments in charge of work in respect of small and medium-sized enterprises and other relevant administrative departments shall give targeted guidance and services.

**Article 17** The department in charge of work in respect of small and medium-sized enterprises at the municipal level shall, together with other relevant administrative departments, regularly organize innovation presentation meetings to recommend the projects with proprietary intellectual property rights, projects for industry-university-research cooperation and projects for transformation of scientific and technological achievements of small and medium-sized enterprises to venture capital institutions and financial institutions.

**Article 18** The administrative departments for science and technology at the municipal and the district or county level shall make overall planning for the construction of public science and technology service platforms open to small and medium-sized enterprises to provide such services as product development, technology development, design, counseling and testing for the innovative development of small and medium-sized enterprises.

The research and development expenses of small and medium-sized enterprises for new technologies, new products and new techniques may be deducted in the calculation of taxable income in accordance with law.

**Article 19** Where higher education institutions and scientific research institutions carry out industry-university-research cooperation with small and medium-sized enterprises, the departments in charge of work in respect of small and medium-sized enterprises at the municipal and the district or county level shall, jointly with the administrative departments for science and technology and education at the same level, provide funding support in



**第二十条** 市和区、县知识产权行政部门应当为中小企业提供知识产权咨询辅导和服务，提高中小企业知识产权创造、运用、保护和管理水平，并通过补贴、托管、奖励等措施，支持中小企业获得相应的知识产权。

## 第四章 资金支持

**第二十一条** 本市支持中小企业发展的财政资金的使用应当加强统筹，重点用于中小企业公共服务体系、设立和补充中小企业发展基金、中小企业融资和中小企业创业基地建设。

**第二十二条** 本市设立中小企业发展基金，并引导社会资本投资中小企业。基金运作方式遵循政策性导向和市场化原则。

中小企业发展基金由下列资金组成：

- （一）市级财政预算安排的资金；
- （二）基金收益；
- （三）捐赠；
- （四）其他社会资金。

**第二十三条** 中小企业发展基金用于下列扶持中小企业的事项：

- （一）初创期、成长期小型微型企业的股权投资；
- （二）中小企业短期债权融资；
- （三）建立中小企业信用担保体系；
- （四）中小企业融资风险补偿；
- （五）基金管理办法确定的其他事项。

中小企业发展基金管理办法由市中小企业工作主管部门会同市财政部门制定，报市人民政府批准后公布实施。

accordance with relevant provisions.

**Article 20** The administrative departments for intellectual property at the municipal and the district or county shall provide small and medium-sized enterprises with counseling, tutoring and services related to intellectual property to improve the capacity of small and medium-sized enterprises in the creation, application, protection and management of intellectual property and support small and medium-sized enterprises in acquiring corresponding intellectual property through such measures as subsidies, trusteeship and rewards.

## Chapter IV Funding

**Article 21** This Municipality shall strengthen overall planning for the use of financial funds in support of the development of small and medium-sized enterprises, which shall be mainly used on the public service system for small and medium-sized enterprises, the establishment and supplement of the development fund for small and medium-sized enterprises, the financing for small and medium-sized enterprises, and the construction of entrepreneurial bases for small enterprises.

**Article 22** This Municipality shall establish the development fund for small and medium-sized enterprises and lead social capital to invest in small and medium-sized enterprises. The operating model of the fund shall follow the principles of policy-orientation and marketization.

The development fund for small and medium-sized enterprises is composed of the following funds:

- (1) the funds arranged in the municipal financial budget;
- (2) profits yielded by the fund;
- (3) donation; and
- (4) other social capital.

**Article 23** The development fund for small and medium-sized enterprises shall be used to support the following matters of small and medium-sized enterprises:

- (1) equity investment in small enterprises and micro-enterprises in the start-up or growing period;
- (2) short-term debt financing for small and medium-sized enterprises;
- (3) establishment of the credit guarantee system for small and medium-sized enterprises;
- (4) compensation for financing risks of small and medium-sized enterprises;
- (5) other matters determined in the measures for fund administration.

The measures for administration of the development fund for small and medium-sized enterprises shall be formulated by the department in charge of work in respect of small and medium-sized enterprises at the municipal level together with the department for finance at the municipal level, and promulgated and implemented after being reported to the Municipal People's Government for approval.

**第二十四条** 具备条件的中小企业可以在境内外上市或者运用集合债券、集合票据、集合信托、融资租赁、私募债券等方式筹集资金，市中小企业工作主管部门和金融等行政部门应当给予相应指导和服务。

**第二十五条** 市中小企业工作主管部门会同有关行政部门建立健全小型微型企业贷款风险补偿机制，支持金融企业扩大对小型微型企业信贷规模和比重。

鼓励社会资本投资村镇银行、小额贷款公司等金融企业，为小型微型企业提供服务。

**第二十六条** 本市建立健全中小企业融资担保体系，引导社会资本设立为中小企业服务的担保公司。

本市综合运用风险补偿和奖励等多种方式，支持符合条件的融资性担保机构为小型微型企业提供服务。

**第二十七条** 鼓励金融机构开发面向中小企业的知识产权质押融资、股权出质融资、信用融资等金融创新产品和服务。

## 第五章 市场开拓

**第二十八条** 市和区、县人民政府及其部门应当健全政府采购支持中小企业发展的相关制度，不得在政府采购中设置不利于中小企业的歧视性条件。

**第二十九条** 负有编制部门预算职责的行政部门应当按照市人民政府规定，在年度政府采购项目预算总额中安排一定的比例，面向中小企业采购。

**第三十条** 本市支持、引导中小企业与国内外大企业建立经济技术协作关系，促进中小企业产品进入国内外大企业的产业链或者采购系统。

**第三十一条** 中小企业服务机构、行业协会和其他中小企业行业组织可以有计划地组织中小企业参加国内外展览展销活动。拥有自主知识产权、自主品牌的中小企业

**Article 24** The small and medium-sized enterprises satisfying relevant conditions may be listed domestically or abroad, or raise funds by means of collective bonds, collective notes, collective trusts, financial leasing and private placement, and the department in charge of work in respect of small and medium-sized enterprises and the administrative departments for finance and other administrative departments at the municipal level shall give corresponding guidance and services.

**Article 25** The department in charge of work in respect of small and medium-sized enterprises at the municipal level shall, together with relevant administrative departments, establish and improve a compensation mechanism for the loan risks of small enterprises and micro-enterprises to support financial enterprises to expand the scale and proportion of loans to small enterprises and micro-enterprises.

Social capital is encouraged to invest in such financial enterprises as rural banks and small-credit companies to provide services for small enterprises and micro-enterprises.

**Article 26** This Municipality shall establish and improve a financing guarantee system for small and medium-sized enterprises to lead social capital to establish guarantee companies serving small and medium-sized enterprises.

This Municipality shall support the financing guarantee institutions satisfying relevant conditions to provide services for small enterprises and micro-enterprises by comprehensively using multiple manners including risk compensation and rewards.

**Article 27** Financial institutions are encouraged to provide small and medium-sized enterprises with such financial innovation products and services as intellectual property mortgage financing, equity mortgage financing and credit financing.

## Chapter V Market Development

**Article 28** The people's governments at the municipal and the district or county level and their departments shall improve relevant systems for government procurement in support of the development of small and medium-sized enterprises, and shall not set discriminatory conditions against small and medium-sized enterprises in government procurement.

**Article 29** The administrative departments with the duty to formulate department budgets shall, in accordance with the provisions of the Municipal People's Government, set aside a certain proportion of government procurement to small and medium-sized enterprises in the annual total budget.

**Article 30** This Municipality shall support and guide small and medium-sized enterprises to set up economic and technological cooperation relationships with large enterprises both domestically and abroad to promote the products of small and medium-sized enterprises entering the industrial chains or purchasing systems of large enterprises both domestically and abroad.

**Article 31** The service institutions for small and medium-sized enterprises as well as the associations and other industry organizations of small and medium-sized enterprises may organize small and medium-sized enterprises to participate in exhibitions and trade fairs both domestically and abroad in a planned manner. Where small and medium-sized

参加国内外相关展销会以及新产品和新技术推介活动的，市中小企业工作主管部门、商务、科技、文化等相关部门应当给予支持。

**第三十二条** 中小企业运用电子商务、连锁或者特许经营等方式创新经营模式，商务行政部门会同中小企业工作主管部门为中小企业提供有关信息咨询、技术指导等服务。

**第三十三条** 鼓励中小企业参与制定地方标准、行业标准、国家标准和国际标准，提高产品质量，增强应对技术性贸易壁垒的能力。

质量技术监督部门及其他有关行政部门应当跟踪研究国际标准、国家标准和行业标准以及国外有关技术性贸易措施，为中小企业参与标准制定、通过质量管理体系、环境管理体系等认证以及开拓市场提供支持、指导和服务。

## 第六章 服务保障

**第三十四条** 本市按照行政审批制度改革的原则减少对中小企业生产经营活动的行政许可和非行政许可审批事项。

市和区、县人民政府及有关部门对中小企业办理行政许可、审批、年检和其他服务、管理事项，应当简化程序、缩短期限、减少层级、优化流程，提高行政管理效率和服务水平。

**第三十五条** 市和区、县人民政府及有关部门应当通过多种方式，主动公开有关支持中小企业发展的政策措施及其适用范围、标准和条件、申请程序等信息，方便中小企业查询。

中小企业工作主管部门应当组织有关部门就国家和本市支持中小企业发展的政策措施及适用为中小企业提供咨询、说明及相关服务。

**第三十六条** 中小企业工作主管部门会同其他部门实施信息化技术应用推广，引

enterprises with proprietary intellectual property rights or brands participate in relevant trade fairs as well as presentation activities of new products and new technologies both domestically and abroad, the department in charge of work in respect of small and medium-sized enterprises and other relevant departments for commerce, science and technology, culture, etc. at the municipal level shall give support.

**Article 32** Where small and medium-sized enterprises innovate on their operating models by such means as e-commerce, chain management or franchise, the administrative departments for commerce shall, together with the departments in charge of work in respect of small and medium-sized enterprises, provide them with such services as information counseling and technological guidance.

**Article 33** Small and medium-sized enterprises are encouraged to participate in the formulation of local standards, industrial standards, national standards and international standards, raise product quality and enhance the capability of addressing technical trade barriers.

The administrative departments for quality and technical supervision and other relevant administrative departments shall track and study international standards, national standards and industrial standards as well as relevant technical measures to trade in foreign countries so as to provide support, guidance and services to small and medium-sized enterprises in their participation in standard formulation, acquisition of certifications in quality management system and environmental management system, as well as market development.

## Chapter VI Service Guarantee

**Article 34** This Municipality shall, according to the principles for the reform of administrative approval system, cut down the items for administrative licensing and non-administrative licensing in the production and operation activities of small and medium-sized enterprises.

The people's governments at the municipal and the district or county level and their relevant departments shall streamline the procedures, shorten the time limits, cut down the hierarchies and optimize the processes in the administrative licensing, examination and approval, and annual inspection of small and medium-sized enterprises as well as in other service and management issues so as to improve the efficiency and service level of administration.

**Article 35** The people's governments at the municipal and the district or county level and their relevant departments shall proactively publicize the policies and measures in support of the development of small and medium-sized enterprises as well as such information as their applicable scopes, standards and conditions, and application procedures in multiple manners so as to facilitate the inquiry of small and medium-sized enterprises.

The departments in charge of work in respect of small and medium-sized enterprises shall organize relevant departments to provide small and medium-sized enterprises with counseling, explanations and relevant services as to the policies and measures of the State and this Municipality in support the development of small and medium-sized enterprises as well as their application.

**Article 36** The departments in charge of work in respect of small and medium-sized enterprises shall, together with other departments, implement the application and promotion

导中小企业利用信息技术提高研发、管理、制造和服务水平。

**第三十七条** 本市设立市和区、县中小企业公共服务平台，为中小企业提供政策咨询、创业辅导、信息传递等公共服务；引导各类社会中介机构为中小企业提供市场营销、产权交易、技术支持、人才引进、财务指导、法律咨询等社会化专业服务。

**第三十八条** 本市建立政府资助引导、社会智力支持和企业自主需求相结合的培训机制，引导社会培训机构创新培训方式、完善培训内容，支持中小企业提升人员素质。

鼓励高等院校和中小企业共建实习实践基地，创新中小企业人才培养模式。

**第三十九条** 市和区、县人民政府及有关部门应当推动中小企业诚信建设，建立健全中小企业守信激励和失信惩戒机制，引导中小企业守法、诚信经营。

本市建立健全中小企业信用信息归集、共享和公开机制，为中小企业信用信息查询提供服务。

**第四十条** 律师事务所等各类法律服务机构和法学教育研究机构可以通过法律服务热线、法律咨询、志愿服务等方式，为小型微型企业提供法律服务。

**第四十一条** 行政机关及其工作人员有下列行为之一，情节轻微的，由上级机关或者监察机关责令改正；情节严重的，按照国家及本市有关规定给予行政处分和行政问责；构成犯罪的，依法追究刑事责任：

- （一）不履行本条例规定的职责；
- （二）违法向中小企业收取费用、摊派财物；
- （三）强制或者变相强制中小企业提供赞助或者捐赠；
- （四）强制或者变相强制中小企业参加社会团体、考核、评比、达标、培训等；
- （五）违法对中小企业实施监督检查；
- （六）违法使用支持中小企业发展的资金和基金；
- （七）其他侵害中小企业合法权益的行为。

**第四十二条** 中小企业对行政机关侵犯其合法权益的行为，有权向市和区、县中

of information technologies to lead small and medium-sized enterprises to improve their research and development, management, manufacture and service level by using information technologies.

**Article 37** This Municipality shall establish the public service platforms for small and medium-sized enterprises at the municipal and the district or county level so as to provide small and medium-sized enterprises with such public services as policy counseling, entrepreneurship tutoring and information transfer; and lead all kinds of social intermediary agencies to provide small and medium-sized enterprises with socialized professional services, such as marketing, equity transaction, technical support, talent recruitment, financial guidance and legal consulting.

**Article 38** This Municipality shall set up a training mechanism combining government funding and guidance, social intellectual support and enterprises' autonomic demands and lead social training agencies to innovate training methods and improve training contents to support small and medium-sized enterprises in improving staff quality.

Higher education institutions are encouraged to join hands with small and medium-sized enterprises in establishing internship and practice bases so as to innovate the personnel training modes of small and medium-sized enterprises.

**Article 39** The people's governments at the municipal and the district or county level and their relevant departments shall promote the integrity construction of small and medium-sized enterprises, establish and improve a mechanism of rewarding faithfulness and punishing incredibility of small and medium-sized enterprises so as to lead small and medium-sized enterprises to carry out businesses in accordance with law and in good faith.

This Municipality shall establish and improve a mechanism for collecting, sharing and publicizing the credit information of small and medium-sized enterprises so as to provide services to the inquiry on the credit information of small and medium-sized enterprises.

**Article 40** Various legal service agencies like law firms and institutions for legal education and research may provide small enterprises and micro-enterprises with legal services by such means as legal service hotlines, legal consulting and volunteer services.

**Article 41** Where any administrative organ or any of its functionaries commits one of the following behaviors and the circumstances are minor, the superior organ or the supervisory organ shall order it (him) to make corrections; where the circumstances are serious, the administrative sanctions and administrative accountability shall be applicable in accordance with relevant provisions of the State and this Municipality; where a crime is constituted, criminal liability shall be investigated for in accordance with law:

- (1) failing to perform the functions and duties stipulated in these Regulations;
- (2) illegally charging fees or collecting money or things of value from small and medium-sized enterprises;
- (3) forcing small and medium-sized enterprises to provide financial support or donations, or forcing them to do so in disguised forms;
- (4) forcing small and medium-sized enterprises to join social organizations, or participate in assessments, appraisals, standard achievement or trainings, or forcing them to do so in disguised forms;
- (5) illegally carrying out supervision and inspection of small and medium-sized enterprises;
- (6) illegally using the capital and funds in support of the development of small and medium-sized enterprises; and
- (7) other behaviors infringing upon the lawful rights and interests of small and medium-sized enterprises.

**Article 42** Small and medium-sized enterprises shall be entitled to complain or report the behaviors infringing upon their lawful rights and interests to the departments in charge



小企业工作主管部门投诉、举报。

中小企业工作主管部门应当建立健全投诉举报制度，公布投诉、举报电话和信箱；对属于职责范围内的投诉、举报事项，应当及时调查处理；对属于其他部门职责范围内的投诉、举报事项，应当移送有关部门及时处理。处理情况应当记录在案，供投诉举报人查询。

## 第七章 附 则

**第四十三条** 本条例自 2014 年 3 月 1 日起施行。

of work in respect of small and medium-sized enterprises at the municipal and the district or county level.

The departments in charge of work in respect of small and medium-sized enterprises shall establish and improve a complaining and reporting system, make public the telephones and mail boxes for accepting complaints and reports; timely investigate and dispose of the complained or reported matters within the scopes of their functions and duties; and transfer the complained or reported matters within the scopes of other departments' functions and duties to relevant departments for timely investigation and disposal. The disposal results shall be put on record for the inquiry of the complainants and informers.

## Chapter VII Supplementary Provisions

**Article 43** These Regulations shall be effective as of March 1, 2014.

# 北京市全民所有制工业企业转换经营机制实施办法

(1993 年 2 月 19 日北京市人民政府第 1 号令发布)

**第一条** 为了推动全民所有制工业企业(以下简称企业)进入市场,增强企业活力,提高企业经济效益,根据中共中央、国务院《关于认真贯彻执行〈全民所有制工业企业转换经营机制条例〉的通知》、国务院颁布的《全民所有制工业企业转换经营机制条例》和国家法律、法规、政策的有关规定,结合本市具体情况,制定本实施办法。

## **第二条** 企业资产经营形式

企业资产经营形式按市人民政府已经批准的八种形式继续试点。

凡未确定资产经营形式的企业,可向市主管委办提出申请,由市主管委办会同市人民政府有关部门审核批准后签订协议并组织实施;企业已和政府签订资产经营协议需要变更的,应向市主管委办提出申请,在确定新的资产经营形式后,重新签订协议。

## **第三条** 企业享有生产经营决策权

企业根据市场需求和国家宏观政策指导,自主确定经营范围和为社会提供服务。符合国家产业政策导向和首都发展规划的,不经主管部门或审批机关审批,企业可以开展多种经营,一业为主,兼营其他,自主决定在本行业内或跨行业开展经营活动,设立分支机构,并直接到工商行政管理部门办理变更或开业登记。国家法律另有规定的除外。

对国务院计划部门下达的指令性计划,企业有权要求在政府有关部门的组织下,与需方企业签订合同或与政府指定单位签订国家订货合同。确因执行指令性计划给企业造成损失的,由国家给予补贴。除国务院计划部门下达的指令性计划外,市计划主管部门原则上不下达指令性计划。

# Implementing Measures of Beijing Municipality for Transforming the Operating Mechanism of Industrial Enterprises Owned by the Whole People

(Promulgated by Decree No. 1 of the People's Government of Beijing Municipality on February 19, 1993)

**Article 1** The Implementing Measures are formulated for the purposes of promoting market access by industrial enterprises owned by the whole people (hereinafter referred to as enterprises), enhancing the vitality of enterprises, and improving the economic benefits of enterprises in accordance with the Circular on Conscientiously Implementing the "Regulations on Transforming the Operating Mechanism of Industrial Enterprises Owned by the Whole People" of the Central Committee of the Communist Party of China and the State Council, the Regulations on Transforming the Operating Mechanism of Industrial Enterprises Owned by the Whole People promulgated by the State Council, as well as relevant provisions of national laws, regulations and policies and in light of actual circumstances of this Municipality.

## **Article 2** Management Form of Enterprise Assets

Pilot management of enterprise assets shall be continued in accordance with the eight forms as approved by the Municipal People's Government.

Any enterprise that has not determined the asset management form may apply to the municipal competent commission or office, which shall enter into an agreement with the enterprise upon examination and approval together with relevant departments of the Municipal People's Government and organize the implementation thereof; in the event of necessary change to the asset management agreement between the enterprise and the government, an application shall be filed to the municipal competent commission or office, and a new agreement shall be concluded after the new asset management form has been determined.

## **Article 3** Enterprises' Right of Decision-Making on Production and Management

Enterprises shall, according to the market demand and guidance of national macro policies, independently determine the business scope and provide services for the general public. Enterprises in line with national industrial policies and the development planning of the capital may, without the examination and approval of the competent departments or approval authorities, carry out multiple operations, independently decide to carry out business activities in the industry or across industries, set up branches, and directly go to the administrative departments for industry and commerce for change or business registration, except where otherwise provided by national laws.

With regard to the mandatory plan issued by the planning department of the State Council, enterprises shall have the right to require, under the organization of relevant government departments, to enter into a contract with the purchasing enterprise or to enter into a state order contract with the government-designated unit. If losses are really caused to enterprises as a result of the implementation of the mandatory plan, the State shall give subsidies. Except for the mandatory plans issued by the planning department of the State

企业生产需由地方订货的重要物资，由市有关部门组织购销双方议定价格。

#### **第四条** 企业享有产品、劳务定价权

企业生产经营的商品和劳务价格，除国家和市人民政府物价部门颁布的价格分管理录所列的少数品种外，一律由企业自主定价。企业定价的商品不受经营差率（另有规定的从其规定）、经营环节和销售渠道限制。属于国家管理价格的新产品，试销期内由企业自主定价。允许企业自主定价的，不必向市物价部门和政府主管委办请示或备案。

除国务院物价部门和市物价部门外，任何单位和部门均不得截留、干预企业定价权，无权另行规定企业的产品和劳务价格。

物价部门执行物价检查时，按照目录内的商品价格执行检查。

#### **第五条** 企业享有产品销售权

企业销售本企业生产的指令性计划和地方定货任务以外的产品及指令性计划超产的产品，由企业自主确定销售范围、数量、渠道、对象和方式。任何部门不得强行干预企业的销售渠道，不准对其销售设置障碍。企业生产的指令性计划产品，需方企业或政府指定的收购单位必须按合同收购。

企业经工商行政管理机关登记，可以开办多种形式的市场或组织一次性的销售活动。

企业根据需要可以在社会上聘请中介经纪人、推销员。

#### **第六条** 企业享有物资采购权

企业生产所需物资可以在市场自由选购，自主调剂和串换，物资主管部门和企业主管部门不得干预，不得为企业指定供货单位和供货渠道。

任何部门不得规定企业只许使用本部门或与本部门有关单位的配套产品。

#### **第七条** 企业享有进出口权

企业可在全国范围内自行选择外贸企业委托代理从事进出口业务。并有权参与同

Council, the municipal competent department for planning shall not issue mandatory plans in principle.

Where enterprises produce important materials that require local ordering, the relevant municipal departments shall organize the buyer and seller to negotiate the price.

**Article 4** Enterprises' Right of Pricing for Products and Labor Services

For goods and labor services produced and operated by enterprises, except for a few varieties listed in the price control catalogue issued by the price administration departments of the State and the Municipal People's Government, enterprises shall have the independent right of pricing. The goods priced by enterprises shall not be subject to the restrictions of the operating differential rate (except where otherwise provided), business links and distribution channels. The new products under state control in terms of the price shall be priced independently by enterprises during the trial sale period. Where enterprises are allowed to fix the price independently, it is not necessary to ask for instructions from or file with the municipal price administration department and the competent commission or office of the government.

Except for the price administration department of the State Council and the municipal price administration department, no unit or department may reject or interfere with enterprises' right of pricing, or have the right to otherwise provide for the price of products and labor services of enterprises.

The price administration departments shall carry out price inspection based on the commodity prices in the catalog.

**Article 5** Enterprises' Right of Product Distribution

Where enterprises sell products produced thereby outside mandatory plans and local order tasks and products exceeding mandatory plans, they shall independently determine the scope, quantity, channel, target and mode of sales. No department may intervene in the sales channels of enterprises or place obstacles to the sales. For the products produced by enterprises under mandatory plans, the purchasing enterprise or the purchasing unit designated by the government must purchase them in accordance with the contract.

Enterprises, after being registered at the administrative department for industry and commerce, may open various forms of markets or organize one-off sales activities.

Enterprises may publicly employ intermediary brokers and salesmen as needed.

**Article 6** Enterprises' Right of Procurement of Materials

The materials required in the production of enterprises may be purchased freely in the market, adjusted and exchanged. The competent departments for materials and enterprises shall not intervene, and shall not designate suppliers and supply channels for enterprises.

No department may require that enterprises are only allowed to use the auxiliary products of the department or units affiliated with the department.

**Article 7** Enterprises' Right of Import and Export

Enterprises may independently choose foreign trade enterprises nationwide to engage in import and export business on their behalf, and shall have the right to participate in negotiations with foreign merchants and investigation of foreign markets. In order to help acquiring enterprises understand the international market, increase varieties and designs, and improve product quality, foreign trade enterprises shall actively engage production

外商的谈判和对国外市场的考察。为有利于实行收购制企业了解国际市场，增加花色品种，提高产品质量，外贸企业要主动吸收生产企业参与同外商的进出口产品价格的商定。

有贸易和非贸易外汇留成的企业，可以直接到外汇管理局申请开立外汇账户。外汇留成要直接分配到企业，进入企业外汇帐户；任何部门和单位不得平调和截留企业外汇留成；不得截留企业有偿上交外汇后应当返还的人民币。

无进出口经营权的各类生产、贸易型企业，可以在全国范围内选择并通过有对外经济合作权的企业在境外承揽工程，进行技术合作或者提供其他劳务。也可与有对外承包工程、劳务、技术出口经营权的企业达成协议，以联营、挂靠等多种形式开展对外经营活动。

企业用留成外汇、调剂外汇、国内现汇贷款进口不属国家限制进口的商品，可直接到外汇管理局拨付外汇，办理有关手续。

支持和鼓励外贸企业、自营进出口企业与其他企业联营、合作、参股、兼并、组建企业集团，带动其他企业扩大进出口业务。

国家分配给地方涉及工业的出口计划、配额、许可证，由市对外贸易主管部门会同市工业主管部门，根据企业产品净创汇以及换汇成本等指标，按“公开、平等竞争、择优与讲求效益相结合”的原则统一协调，合理分配。国家分配给地方涉及工业的进口配额和许可证，也按上述原则办理。

已获得经营进出口权的工业企业，其进出口机构的对外名称不变。新确定的，经工商行政管理部门登记核准，并报海关备案，可对外开展业务。

进出口公司应在结汇后及时拨付应当返还企业的人民币，过期不付的，按合同规定追究违约责任。

企业经批准可以在境外设立企业或者投资购股、参股从事生产经营活动。中方投资额在 1000 万美元以上项目报国家计委审批；1000 万美元以下项目由市经贸委会同

enterprises in participation of negotiations with foreign merchants on the price of import and export products.

Enterprises with retained trade and non-trade foreign exchange may directly apply to the administration of foreign exchange for opening foreign exchange accounts. The retained foreign exchange shall be directly distributed to enterprises and deposited in enterprises' foreign exchange accounts; no department or unit may transfer or withhold the foreign exchange retained by enterprises; nor may it withhold the RMB amount that shall be returned to enterprises after enterprises have handed over foreign exchange with compensation.

Various production and trade enterprises without the right to engage in import and export business may choose enterprises with the right to foreign economic cooperation nationwide to undertake projects, carry out technical cooperation or provide other labor services abroad on their behalf. They may also reach an agreement with enterprises that have the right to undertake projects, provide labor services or engage in technology export abroad, and carry out foreign business activities in various forms such as joint operation and affiliation.

Where enterprises use retained foreign exchange, adjusted foreign exchange or domestic spot exchange loans to import commodities not restricted by the State, they may directly go to the administration of foreign exchange to appropriate foreign exchange and go through relevant procedures.

Foreign trade enterprises and self-support import and export enterprises shall be supported and encouraged to engage in joint operation, cooperation, equity participation, merger and establishment of enterprise groups with other enterprises, so as to drive other enterprises to expand their import and export business.

The export plans, quotas and licenses allocated by the State to local industries shall be coordinated and reasonably allocated by the municipal foreign trade department together with the municipal industry department in accordance with the principles of "openness, equal competition, and equal stress on allocation on a selective basis and benefits" and other indicators such as foreign exchange earnings of enterprise products and cost of foreign exchange. Import quotas and licenses allocated by the State to local industries shall also be handled in accordance with such principles.

The foreign name of the import and export organization of an industrial enterprise that has obtained the right to engage in import and export business shall remain unchanged. For newly determined ones, they may carry out foreign business after being registered and approved by the administrative departments for industry and commerce and reported to the customs for the record.

Import and export companies shall timely allocate the RMB amount that shall be returned to enterprises after the settlement of foreign exchange, and shall be held accountable for liability for breach of contract in accordance with the provisions of the contract in case of overdue payment.

Enterprises may, upon approval, start a business or invest in production and business activities outside the territory of China. Projects with Chinese investment of more than US \$10 million shall be reported to the State Development Planning Commission for examination and approval; projects with Chinese investment of less than US \$10 million shall be examined and approved by the Municipal Economic and Trade Commission together with the Municipal Development Planning Commission. No examination or approval is required for the establishment of an enterprise with investment in kind, which



市计委审批。以实物投资办企业，可以不再审批，只报市经贸委备案。有关外汇事宜，依照国务院颁发的《境外投资外汇管理办法》执行。有关产权登记，按照国家国有资产管理局、财政部、国家外汇管理局颁发的《境外国有资产产权登记管理暂行办法》办理。

有进出口经营权的企业，高新技术企业和年供货额在 100 万美元以上的企业，可根据业务需要，确定本企业经常出入境的业务人员名额，报主管委办和经贸委审批。对企业经常出入境人员的出入境，实行一次性审批、一年内多次有效的办法。

#### **第八条 企业享有投资决策权**

企业依照法律和国务院有关决定，有权以留用资金、实物、土地使用权、工业产权和非专利技术向国内各地区、各行业的企业、事业单位投资，购买和持有其他企业的股份。企业在投资兴办企业，申报登记注册手续时，除提交国有资产管理部门的有关证明外，不再办理其他手续（中外合资、合作企业除外）。

企业以留用资金和自行筹措的资金从事固定资产投资，由企业自主决定，报市计委及主管委办备案并接受监督。涉及土地管理、城市规划、城市建设、环境保护等方面的项目，上述管理部门应在 7 日内予以答复，并依法尽快办理有关手续。

企业从事固定资产建设需要政府或其他部门投资、银行贷款和向社会发行债券的，其基本建设项目应报市计委审批或备案；工业技术改造项目报市经委审批或备案；贷款报银行审批；发行债券报市计委和人民银行审批；需要使用境外贷款的，报政府有关部门审批。

企业依照法律和国务院规定，以留用资金向国内各地区、各行业和企业、事业单位投资、购买和持有其他企业的股份，因留用资金不足，发生先用后提的资金需要，企业可以多方融资，包括向银行申请贷款，经银行批准，在当年提留的资金额度内，银行可发放贷款。

企业根据其经济效益和承受能力，可以增提新产品开发基金，报市财政部门备案。

shall only be reported to the Municipal Economic and Trade Commission for the record. Matters concerning foreign exchange shall be handled in accordance with the Measures for Administration of Foreign Exchange for Overseas Investment promulgated by the State Council. The registration of property rights shall be handled in accordance with the Interim Measures for Administration of the Registration of Property Rights of Overseas State-Owned Assets issued by the State Administration of State-owned Assets, the Ministry of Finance and the State Administration of Foreign Exchange.

Enterprises with the right to engage in import and export business, high-tech enterprises and enterprises with an annual supply of more than US \$1 million may, according to their business needs, determine the number of their business personnel who frequently travel abroad, which shall be reported to the competent commission or office and the economic and trade commission for approval. For the entry and exit administration of the frequent entry-exit business personnel of enterprises, one-off approval for multiple entries in a year shall be implemented.

**Article 8** Enterprises' Right of Decision-Making on Investment

According to laws and relevant decisions of the State Council, enterprises shall have the right to invest in domestic enterprises and institutions in various regions and industries and to purchase and hold shares of other enterprises by retained funds, physical objects, land use rights, industrial property rights and non-patented technologies. When enterprises invest in the establishment of an enterprise and apply for registration, they are not required to go through other procedures than submitting relevant certificates issued by the state-owned assets management departments, except for Sino-foreign joint ventures and cooperative enterprises.

Enterprises shall independently decide on fixed asset investment by retained funds and self-raised funds, report to the Municipal Development Planning Commission and the competent commission or office for the record and accept supervision. For projects involving land management, urban planning, urban construction, environmental protection, etc., such administrative departments shall give a reply within 7 days and handle relevant formalities as soon as possible according to law.

Where enterprises need investment from the government or other departments, bank loans and bonds issued to the public for its fixed asset construction, the capital construction projects thereof shall be reported to the Municipal Development Planning Commission for approval or for the record; industrial technology transformation projects shall be reported to the Municipal Economic and Trade Commission for approval or for the record; loans shall be reported to the bank for approval; the issuance of bonds shall be reported to the Municipal Development Planning Commission and the People's Bank for approval; overseas loans shall be reported to relevant government departments for approval.

Where enterprises, in accordance with laws and the regulations of the State Council, invest in various regions, industries, enterprises and institutions in China, or purchase and hold shares of other enterprises by retained funds, and demand funds due to the shortage of retained funds, they may carry out multi-channel financing, including applying to the bank for loans, and the bank may grant loans within the amount of funds set aside in the current year with the approval of the bank.

Enterprises may, based on their economic benefits and bearing capacity, increase new product development funds, which shall be reported to the municipal financial department for the record. New product development funds are exempt from construction funds for

新产品开发基金免征“两金”。列入市级新产品试制计划的产品投产后，按北京市颁发的《关于进一步搞好国营大中型工业企业的若干政策》执行。按照国家规定，企业有权选择具体的折旧办法，确定加速折旧的幅度。提取的折旧免征“两金”。

#### **第九条** 企业享有留用资金支配权

企业在保证实现企业财产保值、增殖的前提下，有权自主确定税后利润中各项基金的比例和用途，报市财政部门备案。

#### **第十条** 企业享有资产处置权

企业根据生产经营的需要，对一般固定资产，可以自主决定出租、抵押或者有偿转让；对关键设备、成套设备或者重要建筑物可以出租，经企业主管部门批准也可以抵押、有偿转让。法律和法规另有规定的除外。企业处置固定资产，应当按照《国有资产评估管理办法》进行资产评估。

#### **第十一条** 企业享有联营、兼并权

企业有权按照规定方式与其他企业、事业单位联营，不需报上级政府主管委办审批，经工商行政管理部门核准登记后，取得法人资格。

企业可以根据生产经营需要，与外商投资企业再联合设立经济实体，不受行业限制。

鼓励企业与大专院校、科研军工单位联办技术开发机构，以技术入股方式与企业合办经济实体和承包本市亏损企业，经市科委、经委认定，凡联办技术开发机构的，可享受独立科研院所的优惠政策；合办高新技术经济实体的，可享受高新技术企业的优惠政策；承包亏损企业的，可按协议确定双方的收益。

#### **第十二条** 企业享有劳动用工权

企业招工，由于城镇劳动力不能满足需要时，经市劳动局批准，允许企业从农村招用农民合同制工人。

在部分劳动力短缺的行业、工种范围内，招用的农民合同制工人，经市劳动局批准，

projects of energy and transportation and funds for budgetary adjustment (“Two Funds”). After the products listed in the pilot plan for new products at the municipal level are put into production, the Several Policies on Further Improving Large and Medium-sized State-owned Industrial Enterprises issued by Beijing Municipality shall be followed. According to state regulations, enterprises shall have the right to choose specific depreciation methods and determine the range of accelerated depreciation. The depreciation calculated shall be exempt from the “two funds”.

**Article 9** Enterprises’ Right of Disposal of Retained Funds

On the premise of ensuring the value preservation and appreciation of enterprises’ property, enterprises shall have the right to independently determine the proportion and purpose of use of various funds in after-tax profits, which shall be reported to the municipal financial department for the record.

**Article 10** Enterprises’ Right of Disposal of Assets

Enterprises may, based on the needs of production and operation, independently decide to lease out, mortgage or transfer general fixed assets with compensation; and may lease out key equipment, complete equipment or important buildings, which may also be mortgaged or transferred with compensation with the approval of the competent departments for enterprises, except where otherwise provided by laws and regulations. When enterprises dispose of fixed assets, asset valuation shall be carried out in accordance with the Administrative Measures for Valuation of State-owned Assets.

**Article 11** Enterprises’ Right of Joint Operation and Merger

Enterprises shall have the right to engage in joint operation with other enterprises and institutions in the prescribed manner, without reporting to the competent commission or office of the government at the next higher level for examination and approval, and the corporate capacity shall be obtained after being approved and registered by the administrative departments for industry and commerce.

Enterprises may, based on the needs of production and operation, establish another economic entity jointly with a foreign-invested enterprise, which shall not be subject to the restrictions of industries.

Enterprises shall be encouraged to jointly run technology development institutions with colleges and universities, scientific research and military units, jointly run economic entities by means of technology investment and contract for unprofitable enterprises in this Municipality. After being recognized by the Municipal Science and Technology Commission and the Municipal Economic and Trade Commission, the jointly run technology development institutions may enjoy the preferential policies of independent research institutes; the jointly run high-tech economic entities may enjoy the preferential policies of high-tech enterprises; and in the event of conclusion of a contract for unprofitable enterprises, the profits of both parties may be determined as agreed.

**Article 12** Enterprises’ Right to Employment

Where urban labor force cannot meet their demand, enterprises may employ rural contract workers with the approval of the Municipal Labor Bureau.

With the approval of the Municipal Labor Bureau, in certain industries and types of work with labor shortage, a small number of excellent rural contract workers who are

可在生产技术骨干中选择少数优秀人员转为城镇合同制工人。

工业技校可自行确定从本市郊区县农村招生的计划。在校期间和毕业参加工作后，不转城镇户口。

企业有权依照法律、法规、劳动合同和企业规章终止、解除劳动合同、辞退、除名、开除职工，不再经市、区、县劳动部门审查。对被终止解除劳动合同、辞退、除名和开除的职工，失业保险机构依法提供失业保险金，各级劳动部门应当提供再就业的机会，负责失业职工的就业指导，组织失业职工的转业训练，扶持、指导生产自救和自谋职业。对其中属于集体户口的人员，其居住地的公安、粮食部门应当准予办理户口和粮食供应关系迁移手续，城镇街道办事处应当予以接收。

按有关规定，对老弱病残职工应允许厂内离岗退养，对为安置富余人员开办的三产实行贷款贴息和减免税。

对企业确定的富余人员，允许离开企业自行调动工作或进入劳务市场交流。

### **第十三条** 企业享有人事管理权

经主管委办批准，企业可以招聘境外技术、管理人员。并依照《中华人民共和国外国人入境、出境管理办法》办理有关手续。

改变企业及管理人员套用行政级别的做法，企业一律不定级。

企业应打破干部、工人身份界限。对管理人员和技术人员实行聘任制和考核制，做到公平竞争，择优选拔，有上有下。

企业中层行政管理人员由厂长按照规定程序任免（聘任、解聘）。副厂级行政管理人员，经上级主管部门授权，由厂长按规定程序任免（聘任、解聘），报上级主管部门备案；或由厂长按照国家规定提请上级主管部门任免（聘任、解聘）。

企业党政主要领导可以一人兼或交叉兼职。

### **第十四条** 企业享有工资、奖金分配权

企业的工资总额依照市人民政府有关部门规定的工资总额与经济效益挂钩办法确

technical experts may be transferred to urban contract workers.

Industrial technical schools may determine by themselves plans for recruiting students from rural areas of suburban counties in this Municipality. While at school and after graduation, they will not obtain urban registered permanent residence.

Enterprises shall have the right to terminate or dissolve labor contracts or dismiss or remove employees in accordance with laws, regulations, labor contracts and enterprise rules and regulations, which will not be subject to examination by the municipal, district or county labor departments. For employees whose labor contracts have been terminated or dissolved or who have been dismissed or removed, the unemployment insurance agencies shall provide unemployment insurance benefits according to law, and labor departments at all levels shall provide reemployment opportunities, be responsible for the employment guidance of the unemployed, organize second career trainings for the unemployed, as well as support and guide the self-help production and self-employment. For those with collective registered residence, the public security and grain departments of the places of residence shall approve the formalities for residence migration and transfer of grain supply relations, which shall be accepted by urban sub-district offices.

According to relevant regulations, early retirement shall be allowed for the old, the weak, the sick and the disabled, and the tertiary industry companies established for the placement of redundant staff shall be provided with loans at discounted interest and tax reduction or exemption.

The redundant staff determined by enterprises shall be allowed to leave enterprises and transfer to another post or enter the labor market.

#### **Article 13** Enterprises' Right of Personnel Management

With the approval of the competent commission or office, enterprises may recruit overseas technical and management personnel, and shall go through the relevant formalities in accordance with the Regulations of the People's Republic of China on Administration of the Entry and Exit of Foreigners.

The practice of applying administrative levels to enterprises and management personnel shall be changed, and enterprises shall not be graded.

Enterprises shall break the status boundary between cadres and workers. The appointment system and assessment system shall be implemented for the management and technical personnel, so as to achieve fair competition, appointment on a selective basis as well as promotion and demotion.

The middle-level administrative personnel of enterprises shall be appointed or dismissed by the factory director in accordance with the prescribed procedures. The assistant factory director-level administrative personnel shall be appointed or dismissed by the factory director in accordance with the prescribed procedures with the authorization of the superior competent department, which shall be reported to the superior competent department for the record, or shall be appointed or dismissed by the superior competent department after being proposed by the factory director in accordance with national provisions.

The main party and government leaders of enterprises may be served by one person or by several persons who each hold several posts simultaneously.

#### **Article 14** Enterprises' Right of Distribution of Wages and Bonuses

The total amount of wages of enterprises shall be determined in accordance with the measures for linking the total amount of wages with economic benefits prescribed by the relevant departments of the Municipal People's Government. Within the total amount of

定。在按规定提取的工资总额内，企业有权确定工资、奖金的分配形式，自主确定职工晋级、增薪或降级、减薪的条件、时间和发放办法。对贡献突出的科技人员、管理人员和其他人员，企业有权予以重奖。

#### **第十五条** 企业享有内部机构设置权

企业自主确定内部机构的设立及其人员编制，任何部门和单位无权要求企业设置对口机构，规定人员编制和级别待遇。

法律和国务院有特殊规定的，企业配置专人负责。

#### **第十六条** 企业享有拒绝摊派权

企业有权拒绝任何部门和单位向企业摊派人力、物力、财力。企业可以向摊派单位所在地审计部门或者监察部门、政府行政复议机构控告、检举、揭发摊派行为，要求作出处理。上述机关通常在受理后 10 日内作出答复。

除法律和国务院另有规定，企业有权抵制任何部门和单位对企业进行检查、评比、评优、达标、升级、鉴定、考试、考核。严格限制社会组织到企业进行参观等活动。对企业进行安全、治安、卫生、环保、技术、工商、文化等检查，实行检查人员持证检查制度。

对于摊派不成，以各种借口对企业进行挟嫌报复，设置障碍的，一经查实，依法加重处罚。

#### **第十七条** 明确企业盈亏责任

企业是承担自负盈亏责任的主体，以国家授予其经营管理的财产，承担民事责任。

厂长作为企业的法定代表人，对企业盈亏负有直接经营责任。职工按企业内部经济责任制对企业盈亏负有相应的责任。

#### **第十八条** 完善工资分配的约束和监督机制

实行“两率控制”（即：工资总额增长幅度低于本企业以实现利税计算的经济效益增长幅度，职工实际平均工资增长幅度低于本企业依据净产值计算的劳动生产率增



wages withdrawn as stipulated, enterprises shall have the right to determine the form of distribution of wages and bonuses, and independently determine the conditions, time and distribution methods for the promotion, demotion, or increase or reduction of wages of employees. Enterprise shall have the right to amply reward the scientific and technological personnel, management personnel and other personnel who have made outstanding contributions.

**Article 15** Enterprises' Right of Establishment of Internal Organizations

Enterprises shall independently determine the establishment of internal organizations and their staffing. No department or unit shall have the right to require enterprises to set up counterpart organizations or stipulate staffing and treatment.

If there are special provisions in laws and by the State Council, enterprises shall assign special personnel to manage.

**Article 16** Enterprises' Right of Refusal of Apportionment

Enterprises shall have the right to refuse the apportionment of human, material and financial resources by any department or unit. Enterprises may charge against, report or expose the apportionment to the audit department or the supervisory department of the place where the apportionment unit is located or to the administrative reconsideration organ of the government, and request for handling. Such authorities shall usually give a reply within 10 days after acceptance.

Unless otherwise provided by laws and the State Council, enterprises shall have the right to reject the inspection, rating, evaluation, standard establishment, upgrading, appraisal, examination and assessment by any department or unit. Visits to enterprises and other activities by social organizations shall be strictly restricted. In the inspection of enterprises in terms of safety, public security, health, environmental protection, technology, industry and commerce, culture, etc., the inspectors shall produce certificates.

If any unit or person retaliates against enterprises and place obstacles under various pretexts due to failure of apportionment, once verified, heavier punishment shall be imposed according to law.

**Article 17** Responsibility for Enterprise Profits and Losses

Enterprises shall assume sole responsibility for their profits or losses, and shall bear civil liabilities with the property granted by the State for operation and management.

As the legal representative of an enterprise, the factory director shall be directly responsible for the profits and losses of the enterprise. According to the internal economic responsibility system of the enterprise, employees shall assume corresponding responsibilities for the profits and losses of the enterprise.

**Article 18** Improved Constraint and Supervision Mechanisms for Wage Distribution

For enterprises that implement "two rate control" (that is, the growth rate of total wages shall be lower than that of the economic benefits calculated by enterprises based on realized profits and taxes, and the growth rate of actual average wages of employees shall be lower than that of the labor productivity calculated by enterprises based on the net output value) and performance-linked wages, after the wage base and economic benefit base were determined by the municipal, district or county departments of labor and finance in 1992, enterprises shall independently determine the increase and decrease of the total wages



长幅度)和“工效挂钩”的企业,1992年工资基数和经济效益基数,由市、区、县劳动部门、财政部门一次核定后,今后每年由企业自行清算确定工资总额的增减幅度。对生产经营不正常的微利企业和亏损企业的工资总额基数,仍由市、区、县劳动、财政部门按年清算核定。

企业的工资分配,应接受劳动、财政、审计等部门的监督。也可以由市劳动、财政、审计部门委托由政府有关部门特别认可的会计师事务所、审计事务所等单位对企业工资分配进行审核。

企业多提的工资总额、企业职工多得的收入和企业用其他应用于生产性支出的资金发放的工资或增加的集体福利,一经发现,由劳动部门限期从企业工资总额中扣回。

企业制定的工资改革方案和分配办法,要经企业职工代表大会或职工大会讨论审议。

厂长的工资性收入,按照有关规定和干部管理权限,报企业主管部门审批。

#### **第十九条 建立企业盈亏奖惩办法**

企业连续三年全面完成上交任务,并实现企业财产增值的,或亏损企业的新任厂长在规定期限内实现扭亏增盈目标的,企业主管部门应对厂长给予相应奖励。奖金由决定奖励的部门拨付。

企业由于经营管理不善造成经营性亏损的,应由劳动部门核减企业工资总额。政府主管部门根据责任大小,减发厂长的工资收入并视情况给予其行政处分。

#### **第二十条 确保企业财产保值增值**

企业必须严格执行国家财政、税收和国有资产管理的法律、法规,定期对企业财产进行盘点,做到账实相符。正确核算成本,如实反映企业经营成果,不得造成利润虚盈或者虚盈实亏,也不得乱挤乱摊成本费用,截留应上交国家的财政收入。

企业应建立内部审计制度,对企业财务计划、与财务收支有关的经济活动和经济效益进行内部审计。

企业应依据《企业财务通则》、《企业会计准则》和行业会计制度建立企业资产负债和损益考核制度,编制年度财务会计报表,如实反映企业资产负债和损益情况。

every year afterwards. The total wage base of low-profit and unprofitable enterprises with abnormal production and operation shall still be determined by the municipal, district or county departments of labor and finance on an annual basis.

The distribution of wages in enterprises shall be subject to the supervision of the departments of labor, finance and auditing. The municipal departments of labor, finance and auditing may also entrust accounting firms, audit firms and other units specially accredited by relevant government departments to audit the wage distribution in enterprises.

Once it is found that enterprises withdraw excessive total wages, employees obtain excessive income, and enterprises use other funds that shall be used for productive outlays to pay wages or increase collective welfare, the labor departments shall make deduction from the total amount of wages of enterprises within a specified time limit.

The wage reform plan and distribution method formulated by enterprises shall be discussed and deliberated by the employees' assembly or employees' congress of enterprises.

The wage income of the factory director shall be reported to the competent department for enterprises for examination and approval in accordance with relevant provisions and cadre management authorities.

**Article 19** Measures for Rewards and Punishments to Enterprise Profits and Losses

Where enterprises have completed the task of turning over profits for three consecutive years and achieved appreciation of enterprise property, or the new factory director of an unprofitable enterprise has achieved the goal of reducing losses and increasing profits within the prescribed time limit, the competent department for enterprises shall give corresponding rewards to the factory director. The bonus shall be apportioned by the department that decides the rewards.

Where operational losses are caused to enterprises due to poor management, the total wages of enterprises shall be reduced by the labor departments. Government authorities shall, depending on the responsibilities, reduce the wage income of the factory director and impose administrative sanctions on him as appropriate.

**Article 20** Value Preservation and Appreciation of Enterprise Property

Enterprises must strictly implement national laws and regulations on finance, tax and state-owned asset management, and regularly check the assets of enterprises to ensure that the accounts are consistent with the facts. They shall correctly calculate the cost and truthfully reflect the operating results of enterprises. They shall not fraudulently inflate profits, make misrepresentation in profit and loss, arbitrarily apportion cost expenses, or withhold fiscal revenues that shall be turned over to the State.

Enterprises shall establish internal audit systems to conduct internal audit on their financial plans, economic activities related to financial revenues and expenditures, and economic benefits.

Enterprises shall, in accordance with the General Rules on Enterprise Finance, the Accounting Standards for Enterprises and the industrial accounting system, establish an assessment system for the assets, liabilities, profits and losses thereof, prepare annual financial statements, and truthfully report the assets, liabilities, profits and losses of enterprises.

企业以不提或少提折旧费或大修理费，少计成本或挂帐不摊，造成利润虚盈或虚盈实亏的，应由企业留利补足。

#### **第二十一条 企业变更终止的方式**

企业可以通过转产、停产整顿、承包、租赁、拍卖、合并、分立、解散、破产等方式，进行产品结构和组织结构调整，实现资源合理配置和企业的优胜劣汰。

涉及产权调整、转让经营权以及采取有偿转让方式进行组织结构调整的企业，按国务院《国有资产评估管理办法》、《土地使用权出让和转让暂行条例》的规定办理；企业组织结构发生变化时，应及时与原签订合同的部门办理承包协议的中止和变更手续；并按规定到工商行政管理部门依法办理注销、变更、开业、登记手续，到税务部门办理税务注销、变更、登记手续，到国有资产管理局办理国有资产注销、产权变更登记。

#### **第二十二条 企业转产**

转产由企业自主决定，政府积极支持企业实行转产。企业转产方向要符合国家产业政策和首都发展规划的要求，不得转产国家明令禁止生产和淘汰的产品。

#### **第二十三条 企业停产整顿**

企业经营性亏损严重的，可以自行申请停产整顿；政府主管部门也可以责令其停产整顿。停产整顿的企业应报工商行政管理局备案，停产整顿期限一般不超过1年。

停产整顿期间，根据企业申请，市有关部门暂停其上交承包利润；企业可向银行申请延期支付贷款利息，经银行审批，可对其贷款利息实行挂帐，不计复利；政府主管部门要协助企业实施整顿方案；企业自停产整顿之日起停发奖金。

#### **第二十四条 企业间承包**

企业法人可以通过承包获得其他企业的经营权。被承包企业需改变资产经营形式的，按本办法第二条第二款办理。承包企业与被承包企业间应根据平等、自愿和协商的原则，订立承包协议书，明确双方的权利、义务关系。

Where enterprises do not calculate or calculate less depreciation expenses or major repair expenses, calculate less cost or do not make apportionment, resulting in inflated profits or misrepresented profit and loss, enterprises shall retain profits to make up for it.

**Article 21** Mode of Change and Termination of Enterprises

Enterprises may adjust their product structure and organizational structure by means of switch to other production, suspension of production for rectification, contract, lease, auction, merger, division, dissolution and bankruptcy, so as to realize the rational allocation of resources and the survival of the fittest.

Where the adjustment of the organizational structure of enterprises involves adjustment of property rights, transfer of management rights and transfer with compensation, it shall be handled in accordance with the provisions of the Measures for Administration of State-owned Asset Valuation and the Interim Regulations on the Assignment and Transfer of Land Use Rights of the State Council; when the organizational structure of enterprises changes, the suspension and change formalities for the contract shall be handled in a timely manner with the department that originally signed the contract; and they shall go to the administrative departments for industry and commerce to go through the procedures of cancellation, change, opening and registration according to law as stipulated, to the tax departments to go through the tax cancellation, change and registration formalities, and to the administration of state-owned assets to go through state-owned asset cancellation and property right change registration.

**Article 22** Switch to Other Production

Enterprises shall independently decide to switch to other production, and the government shall actively provide support. The direction of switch shall meet the requirements of national industrial policies and the capital development planning, and it is not allowed to switch to production of products that are explicitly prohibited from production and eliminated by the State.

**Article 23** Suspension of Production for Rectification

If enterprises incur serious losses due to poor operation, they may apply for suspension of production for rectification; government authorities may also order them to suspend production for rectification. Enterprises that suspend production for rectification shall report to the administrative departments for industry and commerce for the record, and the period of suspension of production for rectification shall not exceed one year generally.

During the period of production suspension for rectification, relevant municipal departments shall, as requested by enterprises, suspend the payment of contract profits by enterprises; enterprises may apply to the bank for postponing the payment of loan interests, and upon approval of the bank, loan interests may be recorded without compound interest; government authorities shall assist enterprises in the implementation of the rectification plan; enterprises shall suspend payment of bonus from the date of production suspension for rectification.

**Article 24** Inter-enterprise Contract

Business entities may obtain the right of management of other enterprises by contract. If the contracted enterprise needs to change the form of asset operation, it shall be handled in accordance with Paragraph 2, Article 2 of the Measures. The contracting enterprise and

## **第二十五条 租赁经营**

全民所有制小型工业企业可以实行租赁经营。实行租赁经营，需按国务院《全民所有制小型工业企业租赁经营暂行条例》的规定办理。

## **第二十六条 企业拍卖**

国有资产管理局会同主管委办可以决定或者批准出售国有小型工业企业产权。政府主管委办出售国有小型企业产权可以委托市拍卖机构进行。企业拍卖需执行国家体改委、财政部、国有资产管理局《关于出售国有小型企业产权的暂行办法》。出售小型国有企业所得净收入（包括利息收入），上交市国有资产管理局，经市人民政府批准，可以部分或全部拨给政府主管委办，列入专项，用于企业再投入。

## **第二十七条 企业合并、兼并**

市人民政府主管委办可以决定或者批准企业的合并。全民所有制范围内的企业合并，可以采取资产无偿划转方式进行；涉及不同所有制间的合并，采取资产有偿划转的方式进行。

政府决定的合并，合并方案由政府主管委办提出，跨行业、跨部门的合并，由政府主管委办主持进行。对以承担一定债务或负担形式进行的企业合并，经政府主管委办会同财政或银行批准，可按本条第四、五款办理。

企业可以自主决定兼并其他企业。企业兼并是一种有偿的合并形式。企业可以实行跨行业、跨地区、跨部门的兼并和联营，任何部门和单位不得干涉和阻挠。

被兼并企业应向政府主管委办递交资产负债清册和近期会计报表。被兼并企业产权转让的收入，按本办法第二十六条中关于出售国有小型企业所得净收入的规定办理。

被兼并企业的债权债务由兼并企业承担；兼并企业与债权人经充分协商，可以订立分期偿还或者减免债务的协议；政府主管委办会同市财税部门可以酌情定期核减兼并企业的上交利润指标；经企业申请，银行审批，可酌情对被兼并企业原欠其的债务实行停减利息或利息挂帐，不计复利；市劳动部门对兼并企业的工资总额予以重新核

the contracted enterprise shall, in accordance with the principles of equality, voluntariness and consultation, conclude a contract to clarify the rights and obligations of both parties.

**Article 25** Operation under Lease

Small industrial enterprises owned by the whole people may operate under lease, which shall be handled in accordance with the provisions of the Interim Regulations of the State Council on Operation under Lease of Small Industrial Enterprises Owned by the Whole People.

**Article 26** Enterprise Auction

The Administration of State-owned Assets may, together with the competent commission or office, decide or approve the sale of the property rights of small state-owned industrial enterprises. The competent commission or office may entrust municipal auction institutions to sell the property rights of small state-owned enterprises. The auction of enterprises shall be carried out in accordance with the Interim Measures for the Sale of Property Rights of Small State-owned Enterprises promulgated by the State Commission for Economic Reform, the Ministry of Finance and the Administration of State-owned Assets. The net income from the sale of small state-owned enterprises, including interest income, shall be turned over to the Municipal Administration of State-owned Assets, and with the approval of the Municipal People's Government, may be allocated, in part or in whole, to the competent commission or office, which shall be earmarked for reinvestment in enterprises.

**Article 27** Merger and Acquisition

The competent commission or office of the Municipal People's Government may decide or approve the merger of enterprises. The merger of enterprises owned by the whole people may be carried out by asset transfer without compensation; the merger involving different ownership systems may be carried out by asset transfer with compensation.

For the merger decided by the government, the merger plan shall be proposed by the competent commission or office, and the merger involving different industries and sections shall be organized by the competent commission or office. The merger of enterprises in the form of undertaking certain debts or burdens may be handled in accordance with Paragraphs 4 and 5 of this Article with the approval of the competent commission or office together with the finance or bank.

Enterprises may independently decide to acquire other enterprises. The acquisition of enterprises is a paid form of merger. Enterprises may engage in acquisition and joint operation involving different industries, regions and sectors, and no department or unit may interfere or obstruct.

The acquired enterprise shall submit a detailed list of assets and liabilities and recent accounting statements to the competent commission or office. The income from the transfer of property rights of the acquired enterprise shall be handled in accordance with the provisions of Article 26 of the Measures on the net income from the sale of small state-owned enterprises.

The claims and debts of the acquired enterprise shall be undertaken by the acquiring enterprise; the acquiring enterprise and creditors may, upon full consultation, enter into an agreement on repayment of debts by installments or reduction of debts; the competent commission or office may, together with the municipal departments of finance and taxation,

定。

被兼并企业转入第三产业的，经银行批准，自开业之日起，对被兼并企业原有银行贷款实行两年停息、三年减半收息。但在享受减利停息期间所盈余的资金，必须转为企业自有流动资金用于周转，不得作为企业利润参与任何形式的分配和上缴。违者银行按有关规定追收利息。

## **第二十八条 企业分立**

市人民政府主管委办可以批准企业分立。企业分立时，应当由分立各方签订分立协议，明确划分和落实分立各方的财产和债权债务等。企业分立可由企业自行提出申请，也可由政府主管委办做出企业分立决定。

为了支持兴办第三产业，各单位可用一部分国有资产，开办集体企业或经营单位。对这部分国有资产，应实行有偿转让或有偿使用，并由国有资产管理部门核定转让价值或资金占用费。企业开办初期，如确有困难，可经过批准，在一定时期内减免资金占用费。

## **第二十九条 企业解散**

在保证清偿债务的前提下，由政府主管委办提出，经市人民政府批准后，企业可以依法予以解散。企业解散，由政府主管委办指定成立的清算组进行清算。企业的设备可进入产权市场出售；原材料及产品可委托市场拍卖；土地使用和地面建筑物应办理有关转让手续。

## **第三十条 企业破产**

企业不能清偿到期债务，达到法定破产条件的，应当依法破产。政府认为不宜破产的，应当给予资助或者采取其他措施，帮助企业清偿债务。

企业宣告破产后，其他企业可以与破产企业清算组订立接收破产企业的协议，按照协议承担法院裁定的债务，接受破产企业财产，安排破产企业职工，并可以享受《条例》第三十四条第二款规定的兼并企业的待遇。



regularly check and reduce the profit indicators of the acquiring enterprise at its discretion; upon application of the enterprise and approval of the bank, the bank may suspend or reduce the interest on the debts owed by the acquired enterprise or record the interest without compound interest at its discretion; the municipal labor department shall re-verify the total wages of the acquiring enterprise.

If the acquired enterprise is transferred to the tertiary industry, with the approval of the bank, the interest on original bank loans of the acquired enterprise shall be suspended for 2 years or reduced by half for 3 years from the date of establishment. However, during the period of interest reduction and suspension, the surplus funds must be converted into the enterprise's own working capital for turnover, and shall not be distributed and turned over in any form as the enterprise's profits; otherwise, the bank shall recover the interest as stipulated.

**Article 28** Division of Enterprises

The competent commission or office of the Municipal People's Government may approve the division of enterprises. The parties to the division shall enter into a division agreement to clearly divide and implement the property, claims and debts of the parties to the division. Enterprises may apply for a division by themselves, or the competent commission or office may decide on a division.

In order to support the development of the tertiary industry, each unit may set up a collective enterprise or business unit with some state-owned assets. These state-owned assets shall be transferred or used with compensation, and the transfer value or payment for the use shall be verified by the state-owned asset management departments. In the initial stage of business establishment, if there is any difficulty, the payment for the use may be reduced or exempted within a certain period of time upon approval.

**Article 29** Dissolution of Enterprises

On the premise of ensuring the repayment of debts, enterprises may be dissolved according to law after being proposed by the competent commission or office and approved by the Municipal People's Government. In the dissolution, a liquidation team designated by the competent commission or office shall carry out liquidation. The equipment of enterprises may be sold in the property right market; raw materials and products may be auctioned in the market; and relevant transfer formalities shall be handled for land use and above-ground buildings.

**Article 30** Bankruptcy

Where enterprises are unable to pay off their debts as they come due and meet the statutory conditions for bankruptcy, they shall go bankrupt in accordance with the law. If the government considers it inappropriate to go bankrupt, it shall give financial aid or take other measures to help enterprises pay off their debts.

After an enterprise declares bankruptcy, other enterprises may enter into an agreement with the liquidation team of the bankrupt enterprise to take over the bankrupt enterprise, which shall undertake the debts decided by the court, receive the property of the bankrupt enterprise, and make arrangements for placement of the employees of the bankrupt enterprise as agreed, and may enjoy the treatment of an acquiring enterprise as stipulated in Paragraph 2, of Article 34 of the Regulations.



### **第三十一条** 企业组织结构调整后的职工安置

政府决定解散的企业，职工由市劳动部门会同企业主管部门负责采取多种办法妥善安置。

具有法人资格实行独立经济核算、自负盈亏的原第三产业企业和劳动就业服务企业，当年安置主办企业富余职工达本企业从业人员总数 60%（含 60%）以上的，从达到月份起两年免征、三年减半征收所得税；当年安置主办企业富余职工达本企业从业人员总数 30%（含 30%）以上不足 60%的，从达到月份起，免征两年所得税。

### **第三十二条** 转变政府职能

各级政府和部门要围绕建立社会主义市场经济体制的目标，积极进行职能转变。按照政企职责分开的原则，依法对企业进行协调、监督和管理，为企业提供服务。

**第三十三条** 政府行使企业财产所有权职责国务院代表国家行使企业财产的所有权。

为确保企业财产所有权，政府及其有关部门分别行使下列职责：

（一）考核企业财产保值、增值指标，对企业资产负债和损益情况进行审查和审计监督；

（二）根据国务院的有关规定，决定国家与企业之间财产收益的分配方式、比例或者定额；

（三）根据国务院的有关规定，决定、批准企业固定资产投资项目，本办法第八条规定由企业自主决定的投资项目除外；

（四）决定或者批准企业的资产经营形式和企业的设立、合并（不含兼并）、分立、承包、租赁、终止、拍卖，批准企业提出的被兼并申请和破产申请；

（五）根据国务院的有关规定，审批企业财产的报损、冲减、核销及关键设备、成套设备或者重要建筑物的抵押、有偿转让，组织清算和收缴被撤销、解散企业的财产；

（六）依照法定条件和程序，决定或者批准企业厂长的任免（聘任、解聘）和奖惩；

**Article 31** Placement of Employees after Adjustment of Organizational Structure

For enterprises decided to be dissolved by the government, the municipal labor department shall, together with the competent department for enterprises, be responsible for the proper placement of employees by various means.

For the original tertiary industry enterprises and employment service enterprises with corporate capacity that implement independent economic accounting and undertake sole responsibility for their own profits or losses, if 60% or more of the total number of their employees are the redundant staff of the investment enterprise in the current year, the income tax shall be exempted for 2 years or reduced by half for 3 years from the month when this happens; if more than 30% (including 30%) and less than 60% of the total number of their employees are the redundant staff of the investment enterprise in the current year, the income tax shall be exempted for 2 years from the month when this happens.

**Article 32** Transformation of Government Functions

Governments and departments at all levels shall actively transform their functions around the goal of establishing the socialist market economic system, and shall, in accordance with the principle of separating the functions of government from those of enterprises, coordinate, supervise and manage enterprises according to law, as well as provide services for enterprises.

**Article 33** Functions of the Government to Exercise the Ownership of Enterprise Property

The State Council shall exercise the ownership of enterprise property on behalf of the State.

In order to ensure the ownership of enterprise property, the government and its relevant departments shall respectively perform the following functions and duties:

- (1) to assess the indexes for value preservation and appreciation of enterprise property, and to examine, audit and supervise the assets, liabilities, profits and losses of enterprises;
- (2) to decide, in accordance with relevant provisions of the State Council, the mode, proportion or quota of distribution of property income between the State and enterprises;
- (3) to decide on and approve fixed asset investment projects of enterprises in accordance with relevant provisions of the State Council, with the exception of investment projects independently decided by enterprises as stipulated in Article 8 of the Measures;
- (4) to decide or approve the form of asset management of enterprises and the establishment, merger (excluding acquisition), division, contract, lease, termination or auction of enterprises, and to approve the application for being acquired and bankruptcy application submitted by enterprises;
- (5) to examine and approve, in accordance with relevant provisions of the State Council, the loss declaration, write-down or write-off of enterprise property, and the mortgage or paid transfer of key equipment, complete sets of equipment or important buildings, and to organize the liquidation and collection of the property of enterprises that have been cancelled or dissolved;
- (6) to decide or approve the appointment or removal of factory directors as well as the rewards and punishments granted thereto in accordance with legal conditions and procedures;

（七）拟定企业财产管理法规、规章，并对执行情况进行监督、检查；

（八）维护企业依法行使经营权，保障企业的生产经营活动不受干预，协助企业解决实际困难；

（九）加强企业保卫工作，维护生产秩序，保护国家财产不受侵犯，保护企业经营者依法行使职权。

### **第三十四条 建立完善宏观调控体系**

（一）根据国家发展战略规划、方针和产业政策，制定本市发展战略，提出落实国家产业政策的实施办法，定期公布本市鼓励、允许、限制、禁止的行业、项目和产品目录，对企业进行宏观调控的导向；利用税率、利率和价格等经济杠杆，引导企业行为。

（二）加强行业管理，破除行政隶属关系的限制，发挥行业协会在行业发展中的作用。行业协会通过发布国内外行业发展动态的信息，引导企业的发展方向，减少企业生产和市场竞争的盲目性，也可根据政府的委托，提出行业发展方面的建议和咨询意见。

（三）引导企业进行组织结构的调整，鼓励企业形成跨行业、跨地区的企业集团，促进资源的合理配置，提高经济效益。根据生产力发展的需要，引导企业划小核算单位，提高企业市场竞争能力。

### **第三十五条 培育和完善市场体系**

（一）培育和完善市场体系的基本目标是打破地区、部门分割和封锁，建立和完善平等竞争、规划健全的全国统一市场。

（二）政府有关部门要研究和提出本市建立生产资料市场、劳务市场、金融市场、技术市场、信息市场、企业产权转让市场的规划性意见，逐步形成市场体系。对生产资料市场、劳务市场，要尽快发展和完善。积极发展工业劳务市场，开展富余职工余缺调剂，组织跨系统、跨行业、跨地区的劳务输出，组织富余人员从事劳务承包。按照企业的委托，代办招工，代存档案，招聘有关事宜，使之成为解决企业供需的主要场所和方式。

(7) to draw up laws and regulations on the administration of enterprise property, and to supervise and inspect the implementation thereof;

(8) to safeguard the exercise of the right of management by enterprises in accordance with the law, to ensure that the production and operation activities of enterprises are not interfered with, and to assist enterprises in solving practical difficulties; and

(9) to strengthen enterprise security, maintain production order, protect state property from infringement, and protect the exercise of functions and powers by business operators according to law.

**Article 34** Establishment and Improvement of the Macro-Control System

(1) According to the national development strategic planning, guidelines and industrial policies, the development strategy of this Municipality shall be formulated, the measures for implementation of national industrial policies shall be put forward, and the catalogue of industries, projects and products encouraged, permitted, restricted or prohibited in this Municipality shall be regularly published, so as to guide enterprises in macro-control; and economic levers such as tax rate, interest rate and price shall be used to guide enterprises in their behaviors.

(2) Industrial management shall be strengthened, the restrictions of administrative subordination shall be eliminated, and the role of industry associations in industry development shall be given full play. Industry associations shall release the information of industry development trends at home and abroad to guide the development direction of enterprises and reduce the blindness of enterprises' production and market competition, and may put forward suggestions and advisory opinions on industry development upon entrustment of the government.

(3) Enterprises shall be guided to adjust their organizational structure and encouraged to form multi-industry and trans-regional enterprise groups, so as to promote the rational allocation of resources and improve economic benefits. According to the needs of development of the productive force, enterprises shall be guided to set up small accounting units to improve their market competitiveness.

**Article 35** Development and Improvement of the Market System

(1) The basic objective of developing and improving the market system is to eliminate the division and barriers between regions and sectors, so as to establish and improve a single market nationwide featuring equal competition and sound planning.

(2) Relevant government departments shall study and put forward planning opinions on the establishment of markets for means of production, labor services, finance, technologies, information and transfer of enterprise property rights in this Municipality, so as to gradually form a market system. The markets for means of production and labor services shall be developed and improved as soon as possible. The industrial labor market shall be actively developed, which shall carry out the regulation of supply and demand for redundant workers, organize labor transfer involving different systems, industries and regions, and organize redundant workers to engage in labor contract. It shall, according to the entrustment of enterprises, recruit workers, keep files and handle relevant recruitment matters on behalf of enterprises, so as to become the main place and way to solve the supply and demand of enterprises.

（三）发布市场信息，制定市场管理的法规、规章、政策，加强市场管理，制止违法经营和不正当的竞争行为，保护企业进行平等竞争。

### **第三十六条 建立健全和完善社会保障体系**

（一）建立健全和完善养老保险制度。基本养老保险费用由国家、企业、职工个人三者共同合理负担。

要改变现行的通过企业所属区、县、局、总公司向企业缴、拨养老保险基金的管理体制，逐步过渡到由区、县社会保险统筹机构直接向辖区内的企业缴、拨养老保险基金的管理体制。企业退休人员从企业管理为主逐步向社会管理为主过渡。

（二）建立和完善职工失业保险制度，使职工在失业期间能够得到一定数量和一定期限的待业保险金，保证其基本生活。

（三）建立和完善医疗保险、工伤保险和生育保险等制度。

### **第三十七条 完善社会服务体系**

（一）建立和发展会计师事务所、审计事务所、税务事务所、职业介绍所、律师事务所、资产评估机构投资招商和劳动就业指导等多种信息、管理、咨询等服务机构，发挥其仲裁、公证、咨询等多方面作用，提倡多方位、全过程的服务，逐步形成社会服务网络。

（二）政府各部门要加强社会服务体系的指导、管理和监督，提高服务水平和服务质量。

### **第三十八条 政府部门应负的法律责任**

政府有关部门和企业主管部门违反《条例》和本办法的规定，企业可以向其上级机关或市人民政府投诉，由上级机关责令其改正；情节严重的，由同级机关或者有关上级机关对主管人员或直接责任人员给予行政处分，构成犯罪的，由司法机关依法追究刑事责任。

政府主管部门在接到企业投诉后，必须在 7 日内作出是否受理的决定；在 30 日内作出处理决定，并将处理结果告知投诉企业。

### **第三十九条 企业应负的法律责任**

(3) Market information shall be released, regulations, rules and policies on market management shall be formulated, and market management shall be strengthened, so as to stop illegal operation and unfair competition, and protect equal competition among enterprises.

**Article 36** Establishment and Improvement of the Social Security System

(1) The pension insurance system shall be established and improved. Basic pension insurance premiums shall be borne reasonably by the State, enterprises and employees jointly.

It is necessary to change the current management system of contributing or allocating pension insurance funds to enterprises through the districts, counties, bureaus or head offices to which enterprises are subordinate, which shall be gradually developed towards the management system of contributing or allocating pension insurance funds directly by the district or county social insurance coordination institutions to enterprises within areas under their administration. The gradual transition from enterprise management to social management is necessary for retirees of enterprises.

(2) The unemployment insurance system shall be established and improved for employees so that they may receive a certain amount of unemployment insurance benefits for a certain period of time during the period of unemployment to ensure their basic life.

(3) The systems for medical insurance, work-related injury insurance, maternity insurance, etc. shall be established and improved.

**Article 37** Improvement of the Social Service System

(1) Institutions that provide various services in terms of information, management and consultation related to investment and employment guidance, such as accounting firms, audit firms, tax firms, employment agencies, law firms and asset appraisal institutions, shall be established and developed, so as to play their role in arbitration, notarization, consultation and other aspects, advocate diversified and whole process services, and gradually form a social service network.

(2) Various government departments shall strengthen the guidance, management and supervision of the social service system and improve the service level and quality.

**Article 38** Legal Responsibilities of Government Departments

Where relevant government departments and the competent departments for enterprises violate the provisions of the Regulations and the Measures, enterprises may complain to the authority at the next higher level or the Municipal People's Government, and they shall be ordered by the authority at the next higher level to make corrections; if the circumstances are serious, the authorities at the corresponding level or the relevant superior authorities shall give administrative sanctions to the persons in charge or the persons directly responsible, and if a crime is constituted, criminal responsibility shall be investigated for by judicial organs according to law.

After receiving complaints from enterprises, government authorities must make a decision on whether to accept the complaints within 7 days, make a decision on handling within 30 days, and inform the enterprises that file the complaints of the handling results.

**Article 39** Legal Responsibilities of Enterprises

企业违反《条例》和本办法的规定，政府或者政府有关部门应当责令其改正；情节严重的，对厂长、其他厂级领导和直接责任人员，分别追究行政责任、给予经济处罚，并依照有关法律、法规，对企业给予相应的行政处罚；构成犯罪的，由司法机关依法追究刑事责任。

#### **第四十条 保护企业行使职权**

阻碍厂长和各级管理人员依法行使职权的，或者扰乱企业秩序，致使生产、营业、工作不能正常进行的行为，由企业所在地的公安机关依照《中华人民共和国治安管理处罚条例》予以处罚。

#### **第四十一条 企业申请行政复议与提起行政诉讼**

政府有关部门有下列行为之一的，企业可以依法申请复议，也可以直接向人民法院提起行政诉讼。

- （一）侵犯法律、法规、规章规定的经营自主权的；
- （二）拒绝或者逾期不予答复企业申请颁发许可证和执照的；
- （三）违法要求企业履行义务的；
- （四）对企业依法提出的申请或者投诉不予受理或逾期不予答复的。

**第四十二条** 《条例》与本办法一并执行本办法是《条例》的补充和具体化。《条例》有明确规定，本办法中未列入的，按照《条例》规定执行。

#### **第四十三条 办法适用范围**

本办法适用本市行政区或内市、区、县所属全民所有制工业企业，其原则适用于全民所有制交通运输、邮电、地质勘探、建筑安装、商业、外贸、物资、农林、水利、科技等企业。

#### **第四十四条 清理法规、文件**

本办法发布前的北京市规章和其他行政性文件的内容，与本办法相抵触的，以本办法为准。

#### **第四十五条 组织实施**

Where enterprises violate the provisions of the Regulations and the Measures, they shall be ordered by the government or relevant government departments to make corrections; if the circumstances are serious, the factory director, other leaders at the factory level and the persons directly responsible shall be held accountable for administrative responsibility and given economic punishment respectively, and enterprises shall be given corresponding administrative punishment in accordance with relevant laws and regulations; if a crime is constituted, criminal responsibility shall be investigated for by judicial organs according to law.

**Article 40** Protection of the Exercise of Functions and Powers by Enterprises

Whoever obstructs the exercise of functions and powers according to law by the factory director and administrative personnel at all levels, or disturbs the order of enterprises, thus making the production, business and work unable to proceed normally shall be punished by the public security organ in the place where enterprises are located in accordance with the Regulations of the People's Republic of China on Administration of Penalties for Public Security.

**Article 41** Application for Administrative Reconsideration and Administrative Litigation

Where relevant government departments commit any of the following acts, enterprises may apply for reconsideration according to law, or directly file an administrative lawsuit in the people's court:

- (1) infringing the right of autonomy in management as prescribed by laws, regulations and rules;
- (2) rejecting or failing to respond within the specified time limit to enterprises' applications for permits or licenses;
- (3) illegally demanding enterprises to perform obligations; or
- (4) rejecting or failing to respond within the specified time limit to enterprises' applications or complaints filed according to law.

**Article 42** Simultaneous Implementation of the Measures and the Regulations

The Measures are the supplement and embodiment of the Regulations. Where the Regulations have explicitly provided for matters not covered in the Measures, the Regulations shall prevail.

**Article 43** Scope of Application

The Measures shall apply to the industrial enterprises owned by the whole people at the municipal, district or county level within the administrative area of this Municipality, and the principles thereof are applicable to the enterprises owned by the whole people in transportation, post and telecommunications, geological exploration, construction and installation, commerce, foreign trade, materials, agriculture and forestry, water conservancy, science and technology, etc.

**Article 44** Review of Regulations and Documents

If the contents of the rules and other administrative documents of this Municipality before the promulgation of the Measures conflict with the Measures, the Measures shall prevail.

**Article 45** Organization of Implementation



本办法执行中的具体问题，由市经济体制改革委员会负责解释。市经济委员会会同市人民政府有关部门组织实施。市人民政府法制办公室对本办法的实施负责监督检查。

**第四十六条** 本办法自发布之日起施行。

The Municipal Commission for Economic Reform shall be responsible for the interpretation of specific issues during the implementation of the Measures. The Municipal Economic Committee shall organize the implementation together with relevant departments of the Municipal People's Government. The Legal Affairs Office of the Municipal People's Government shall be responsible for the supervision and inspection of the implementation of the Measures.

**Article 46** The Measures shall come into force as of the date of promulgation.

# 北京市劳动就业服务企业管理实施办法

(1993 年 8 月 25 日北京市人民政府第 11 号令发布 根据 2007 年 11 月 23 日北京市人民政府第 200 号令第一次修改 根据 2014 年 7 月 9 日北京市人民政府第 259 号令第二次修改)

**第一条** 根据国务院《劳动就业服务企业管理规定》(以下简称《规定》), 结合本市实际情况, 制定本办法。

**第二条** 本市行政区域内劳动就业服务企业的管理, 全面执行《规定》和本办法。

**第三条** 市和区、县劳动行政部门和各行业主管部门依照《规定》规定的职责, 负责对本地区、本部门的劳动就业服务企业进行规划、组织、指导、协调和监督管理。

**第四条** 劳动就业服务企业必须符合下列条件:

- (一) 企业开办时, 城镇待业人员占从业人员的 60% 以上 (含 60%);
- (二) 企业存续期间留存的城镇待业人员的比例不低于从业人员的 10% (含 10%)。

本条前款所称城镇待业人员, 是指本市城镇居民中持有劳动行政部门核发的《求职证》的人员。

**第五条** 劳动就业服务企业的合并、分立, 必须坚持自愿、平等的原则, 由有关各方签订协议, 处理好债权债务和其他财产关系, 妥善安置企业人员。

**第六条** 劳动就业服务企业终止, 应当依照国家有关规定清算企业财产, 清偿各种债务和费用, 并依法向工商行政管理部门办理注销登记, 向同级劳动行政部门缴销《劳动就业服务企业证书》。

**第七条** 本市保护劳动就业服务企业的合法权益, 任何部门、单位和个人不得以

# Implementing Measures of Beijing Municipality for Administration of Enterprises Offering Labor and Employment Services

(Promulgated by Decree No. 11 of the People's Government of Beijing Municipality on August 25, 1993, revised for the first time in accordance with Decree No. 200 of the People's Government of Beijing Municipality on November 23, 2007 and revised for the second time in accordance with Decree No. 259 of the People's Government of Beijing Municipality on July 9, 2014)

**Article 1** These Measures are formulated in accordance with the Provisions on Administration of Enterprises Offering Labor and Employment Services (hereinafter referred to as the Provisions) promulgated by the State Council and in light of the actual circumstances of this Municipality.

**Article 2** The administration of enterprises offering labor and employment services within the administrative area of this Municipality shall be completely subject to the Provisions and these Measures.

**Article 3** The administrative departments for labor and the competent departments for various industries at the municipal and the district or county level shall, according to the functions and duties stipulated by the Provisions, be responsible for the planning, organization, guidance, coordination, supervision and administration of enterprises offering labor and employment services within their respective administrative areas and industries.

**Article 4** An enterprise offering labor and employment services must meet the following conditions:

(1) unemployed urban residents amount to more than 60% (including 60%) of the employees when the enterprise offering labor and employment services is opened; and

(2) unemployed urban residents amount to not less than 10% (including 10%) of the employees during the existence of the enterprise offering labor and employment services.

As used in the preceding paragraph, the term "unemployed urban residents" refers to the urban residents of this Municipality holding Job-hunting Certificates issued by the administrative departments for labor.

**Article 5** The merge or spin-off of enterprises offering labor and employment services must follow the principles of free will and equality and all parties concerned shall enter into agreements, properly deal with the credit and debt as well as other property relationships, and make appropriate arrangements for the employees.

**Article 6** Where an enterprise offering labor and employment services is terminated, it shall liquidate its property in accordance with relevant provisions of the State, pay off all kinds of debts and fees, handle the cancellation registration at the department for industrial and commercial administration in accordance with the law, and hand in the Certificate of Enterprise Offering Labor and Employment Services to the administrative department for labor at the corresponding level for cancellation.

**Article 7** This Municipality protects the lawful rights and interests of enterprises offering labor and employment services, and no departments, units or individuals shall

任何方式或借口平调、挪用、侵吞劳动就业服务企业的财产，不得非法改变劳动就业服务企业的性质和隶属关系，不得向劳动就业服务企业收取国家和市政府规定以外的各种行政性收费，不得无偿调用劳动就业服务企业的劳动力，不得干预劳动就业服务企业的经营自主权。

劳动就业服务企业管理机构向劳动就业服务企业收取的管理服务费不得超过该企业经营收入总额的 3%。

**第八条** 劳动就业服务企业依法享受国家给予的各项税收优惠，具体办法按照国家和市税务主管机关的有关规定执行。

**第九条** 劳动就业服务企业安置主办单位优化劳动组合精减的富余人员，达到市政府规定比例的，经税务部门批准，按照市政府有关规定享受税收优惠。

**第十条** 金融机构对劳动就业服务企业正常生产经营所需的固定资产和流动资金贷款，在安排年度信贷计划时予以统筹安排。劳动就业服务企业贷款执行国家规定的利率。

**第十一条** 劳动就业服务企业的主办单位应当严格履行《规定》第十一条规定的各项职责，并负责办理劳动就业服务企业的生产经营用房和职工住房的基建指标以及劳动就业服务企业购买专控商品的控购指标。

**第十二条** 主办单位扶持劳动就业服务企业的资金，可以有偿使用收取资金占用费，每年还可以从劳动就业服务企业提取不超过 15% 的税后留利；采取投资形式的，可以参与劳动就业服务企业的利润分配，并承担亏损责任，但不得再从劳动就业服务企业提取税后留利。

主办单位支持劳动就业服务企业的设备、工具和厂房等生产资料，采取租赁形式的，可以收取相当于折旧率的租金，每年还可以从劳动就业服务企业提取不超过 15% 的税后留利；采取折价投资形式的，可以参与劳动就业服务企业的利润分配，并承担亏损责任，但不得再从劳动就业服务企业提取税后留利；采取折价转让形式的，不得

requisition, divert or embezzle the property of enterprises offering labor and employment services in any manner or with any excuse, illegally change the nature or relationship of subordination of enterprises offering labor and employment services, charge all kinds of administrative fees other than those stipulated by the State or the Municipal People's Government, appropriate the labor of enterprises offering labor and employment services without charge, or interfere with the autonomy of enterprises offering labor and employment services in management.

The management service fee charged against an enterprise offering labor and employment services by the organs for administration of enterprises offering labor and employment services shall not exceed 3% of the enterprise' total operating revenue.

**Article 8** Enterprises offering labor and employment services may enjoy all kinds of tax preferences offered by the State in accordance with the law, and the specific measures shall be subject to relevant provisions of the competent authorities for taxation of the State and this Municipality.

**Article 9** Any enterprise offering labor and employment services which offers placement for redundant staff reduced by the sponsoring units in their optimization of labor organization up to the proportion stipulated by the Municipal People's Government may, upon approval of the taxation authority, enjoy tax references in accordance with relevant provisions of the Municipal People's Government.

**Article 10** Financial institutions shall, when planning their annual credit programs, make overall arrangements for the fixed asset loans and working capital loans needed by enterprises offering labor and employment services in normal production and operation. The interest rates stipulated by the State shall apply to the loans for enterprises offering labor and employment services.

**Article 11** The sponsoring units of enterprises offering labor and employment services shall strictly perform the duties stipulated in Article 11 of the Provisions, and be responsible for handling the infrastructure quotas for premises for production and operation and for employees' residences as well as the purchase quotas for commodities under special control for enterprises offering labor and employment services.

**Article 12** A sponsoring unit may collect fund occupancy fee for the paid use of its fund to support an enterprise offering labor and employment services, and may draw not more than 15% of the enterprise' after-tax profit every year; if the form of investment is adopted, it may participate in the enterprise's profit distribution and shoulder the responsibility of loss, but shall not draw from the enterprise's after-tax profit.

As to the production materials including equipment, tools and workshops provided by a sponsoring unit to support an enterprise offering labor and employment services, if the form of leasing is adopted, the unit may collect a rent equivalent to the depreciation rate, and may draw not more than 15% of the enterprise's after-tax profit every year; if the form of investment is adopted by converting such materials into money, the unit may participate in the enterprise's profit distribution and shoulder the responsibility of loss, but shall not draw from the enterprise's after-tax profit; if the form of transfer is adopted by converting such materials into money, the unit shall not participate in the enterprise's profit distribution and

参与劳动就业服务企业利润分配，也不得从劳动就业服务企业提取税后留利。

**第十三条** 劳动就业服务企业的厂长（经理）实行任期制。在厂长（经理）任期内，无法定理由，主办单位和劳动就业服务企业均不得擅自对厂长（经理）予以罢免或调动。劳动就业服务企业的厂长（经理）离任时，应当进行离任审计。

**第十四条** 劳动就业服务企业实行民主监督和民主管理。劳动就业服务企业应当建立健全职工（代表）大会制度。

**第十五条** 劳动就业服务企业享有用工自主权，用工形式由企业自主确定。

劳动就业服务企业享有工资、奖金分配自主权。劳动就业服务企业应当根据本企业经济效益和生产经营特点，按照按劳分配的原则，自行确定分配形式。劳动就业服务企业经济效益好的，职工工资水平可以高于主办单位职工工资水平。

劳动就业服务企业职工的养老保险，按照国家和本市的有关规定执行。

**第十六条** 劳动就业服务企业应当积极开展职工岗位培训工作，不断提高职工的业务、文化素质和岗位技能水平。

**第十七条** 劳动就业服务企业应当认真贯彻国家和本市有关规定，加强财务管理，严肃财经纪律，完善会计、审计、统计制度，接受政府有关部门的指导和监督。

**第十八条** 对违反本办法的，依照《规定》的有关规定处理。

**第十九条** 本办法自发布之日起施行。

shall not draw from the enterprise's after-tax profit.

**Article 13** The tenure system shall apply to the director (manager) of an enterprise offering labor and employment services. During the tenure of the director (manager), the sponsoring unit or the enterprise offering labor and employment services shall not, without legal cause, recall or transfer the director (manager) arbitrarily. When the director (manager) of an enterprise offering labor and employment services leaves his post, the audit on the departure shall be carried out.

**Article 14** Enterprises offering labor and employment services shall adopt democratic supervision and democratic management. Enterprises offering labor and employment services shall set up and improve the systems of employees' (representatives') assembly.

**Article 15** Enterprises offering labor and employment services shall enjoy the autonomy in using labor, and the form of using labor shall be decided by enterprises on their own.

Enterprises offering labor and employment services enjoy the autonomy in salary and bonus distribution. Enterprises offering labor and employment services shall decide the form of distribution based on the principle of distribution according to work in line with their economic benefit and the characteristics of their production and operation. The salary level of employees in an enterprise offering labor and employment services with good economic benefit may be higher than that in its sponsoring unit.

Relevant provisions of the State and this Municipality shall apply to the endowment insurance of employees in enterprises offering labor and employment services.

**Article 16** Enterprises offering labor and employment services shall actively carry out on-the-job trainings for their employees so as to continuously improve their employees, professional and cultural quality as well as their post skill level.

**Article 17** Enterprises offering labor and employment services shall earnest implement relevant provisions of the State and this Municipality, strengthen the financial management, make strict financial and economic disciplines, perfect their accounting, audit and statistical systems, and accept the guidance and supervision of relevant government departments.

**Article 18** The violations of these Measures shall be dealt with in accordance with the Provisions.

**Article 19** These Measures shall be effective as of the date of promulgation.



# 北京市城镇集体所有制企业民主 选举厂长（经理）暂行办法

（1994 年 12 月 2 日北京市人民政府第 27 号令发布）

**第一条** 为加强本市城镇集体所有制企业的民主管理，保障城镇集体企业职工的合法权益，根据《中华人民共和国城镇集体所有制企业条例》（以下简称《条例》），结合本市具体情况，制定本办法。

**第二条** 凡本市行政区域内城镇集体所有制企业（以下简称集体企业）民主选举厂长（经理），均须遵守《条例》和本办法。

依照《条例》规定，集体企业的厂长（经理）实行任免的，不适用本办法。

**第三条** 集体企业民主选举厂长（经理），应当遵守下列规定：

（一）按照《条例》的规定，建立健全职工（代表）大会制度。

（二）成立选举领导小组，具体组织和领导选举工作。选举领导小组成员 5 至 7 人，可以由党组织、工会、有关主管部门和集体企业职工代表组成。选举领导小组成员名单必须经职工（代表）大会审议通过。

（三）选举领导小组主持制定民主选举实施方案。实施方案中应当包括：民主选举的具体方法、步骤、要求，厂长（经理）的条件等。实施方案必须经职工（代表）大会审议通过。

（四）依照厂长（经理）应当具备的条件，提出厂长（经理）候选人。厂长（经理）候选人采取职工民主推荐和有关主管部门推荐相结合的方法，由选举领导小组在充分征求意见的基础上，正式确定厂长（经理）候选人 1 至 3 人。

# Interim Measures of Beijing Municipality for the Democratic Election of Factory Directors (Managers) of Urban Enterprises under Collective Ownership

(Promulgated by Decree No. 27 of the People's Government of Beijing Municipality on December 2, 1994)

**Article 1** The Measures are formulated for the purposes of strengthening the democratic management of urban enterprises under collective ownership in this Municipality and protecting the legitimate rights and interests of the employees of urban enterprises under collective ownership in accordance with the Regulations of the People's Republic of China on Urban Enterprises under Collective Ownership (hereinafter referred to as the Regulations) and in light of actual circumstances of this Municipality.

**Article 2** The democratic election of factory directors (managers) in urban enterprises under collective ownership (hereinafter referred to as collective enterprises) within the administrative area of this Municipality shall follow the Regulations and the Measures.

According to the provisions of the Regulations, the Measures shall not apply to the appointment or removal of factory directors (managers) of collective enterprises.

**Article 3** In democratic election of factory directors (managers), collective enterprises shall abide by the following provisions:

(1) According to the provisions of the Regulations, the system of employees' assembly or employees' congress shall be established and improved;

(2) An election leading group shall be established to organize and lead the election, which shall comprise 5 to 7 members, and may be composed of representatives from Party organizations, trade unions, relevant competent departments and employees of collective enterprises. The list of members of the election leading group must be deliberated and approved by the employees' assembly or employees' congress;

(3) The election leading group shall organize the formulation of the implementation plan for democratic election. The implementation plan shall include: specific methods, steps and requirements of democratic election, conditions of factory directors (managers), etc. The implementation plan must be deliberated and approved by the employees' assembly or employees' congress;

(4) Candidates for factory directors (managers) shall be nominated based on the necessary conditions. The method of democratic recommendation by employees coupled with recommendation by relevant competent departments shall be adopted for the candidates for factory directors (managers). On the basis of fully soliciting opinions, the election leading

（五）召开职工（代表）大会选举厂长（经理）。选举采取无记名投票方式，实行差额选举。出席职工（代表）大会的职工（代表）人数应为全体职工（代表）人数的三分之二以上，候选人得票超过应到职工（代表）人数半数以上方可当选。

（六）选举结果报上级主管部门备案。

**第四条** 厂长（经理）选举产生后，新任厂长（经理）应当与职工（代表）大会订立任期目标责任书。

**第五条** 厂长（经理）在规定的任期内，应当按照《条例》的规定，保障职工合法权益，接受职工民主监督，履行任期目标责任书中的各项规定。职工（代表）大会每年对厂长（经理）工作进行一次评议和考核，厂长（经理）未完成任期目标责任书规定的主要考核指标或者由于其他原因不能履行职责的，职工（代表）大会依法罢免厂长（经理）。

**第六条** 厂长（经理）在任期内需要调动或者免职的，必须经职工（代表）大会同意，任何部门或者个人不得擅自决定。

**第七条** 本办法执行中的具体问题，由市经济体制改革委员会负责解释。

**第八条** 本办法自 1995 年 1 月 1 日起施行。

group shall formally determine 1 to 3 candidates for factory directors (managers);

(5) The employees' assembly or employees' congress shall be convened to elect factory directors (managers). The election shall be carried out by secret ballot and by competitive election. The number of employees (representatives) present at the employees' assembly or employees' congress shall be more than two-thirds of the total number of employees (representatives), and the candidates may be elected only after they obtain votes from more than half of the number of employees (representatives) supposed to be present;

(6) The election results shall be reported to the competent department at the next higher level for the record.

**Article 4** After factory directors (managers) are elected, the newly elected factory directors (managers) shall conclude letters of responsibility for goals set for their term of office with the employees' assembly or employees' congress.

**Article 5** Factory directors (managers) shall, within the prescribed term of office, protect the legitimate rights and interests of employees, accept the democratic supervision of employees, and fulfill the provisions of the letters of responsibility for the goals set for their term of office in accordance with the provisions of the Regulations. The employees' assembly or employees' congress shall evaluate and assess the work of factory directors (managers) once a year. Where factory directors (managers) fail to accomplish the key performance indicators specified in the letters of responsibility or fail to perform their duties for other reasons, the employees' assembly or employees' congress shall have the right to dismiss factory directors (managers) according to law.

**Article 6** Where it is necessary to transfer or remove factory directors (managers) during their term of office, it must be approved by the employees' assembly or employees' congress, and no department or individual may decide without authorization.

**Article 7** The Municipal Commission for Economic Reform shall be responsible for the interpretation of specific issues in the implementation of the Measures.

**Article 8** The Measures shall come into force as of January 1, 1995.

# 北京市城镇企业实行股份合作制办法

(1999 年 10 月 20 日北京市人民政府第 41 号令发布 根据 2001 年 8 月 27 日北京市人民政府第 82 号令修改)

## 第一章 总 则

**第一条** 为规范实行股份合作制企业的组织和行为，促进城镇股份合作企业的发展，结合本市实际情况，制定本办法。

**第二条** 本市城镇集体企业、中小国有企业实行股份合作制，均适用本办法。

**第三条** 本办法所称股份合作制，是指以合作制为基础，实行以企业职工劳动联合与资本联合为主的企业组织形式。

城镇企业依照本办法实行股份合作制而成立的企业，称为城镇股份合作企业。

**第四条** 城镇企业实行股份合作制应当遵循下列原则：

- (一) 自愿入股，同股同利；
- (二) 企业财产实行共同共有和按份共有，利益共享，风险共担；
- (三) 按劳分配与按股分红相结合；
- (四) 实行民主管理。

**第五条** 城镇股份合作企业依法取得法人资格，享有由股东出资形成的全部法人财产权，依法享有民事权利，独立承担民事责任。

城镇股份合作企业实行独立核算，自主经营，自负盈亏，并以其全部法人财产对企业的债务承担责任；股东以其出资额为限对企业承担责任。

**第六条** 城镇股份合作企业的财产、合法经营活动和合法权益受法律保护，任何单位和个人不得侵犯和干涉。

# Measures of Beijing Municipality for Implementing the Joint-Stock Cooperative System in Urban Enterprises

(Promulgated by Decree No. 41 of the People's Government of Beijing Municipality on October 20, 1999, and revised in accordance with Decree No. 82 of the People's Government of Beijing Municipality on August 27, 2001)

## Chapter I General Provisions

**Article 1** The Measures are formulated for the purposes of standardizing the organization and behavior of joint-stock cooperative enterprises and promoting the development of urban joint-stock cooperative enterprises in light of actual circumstances of this Municipality.

**Article 2** The Measures shall apply to the implementation of the joint-stock cooperative system in urban collective enterprises and small and medium-sized state-owned enterprises in this Municipality.

**Article 3** The joint-stock cooperative system as mentioned in the Measures refers to the form of enterprise organization based on the cooperative system, which features the joint labor and joint capital of enterprise employees.

The enterprises established by the implementation of the joint-stock cooperative system on the part of urban enterprises in accordance with the Measures are called urban joint-stock cooperative enterprises.

**Article 4** The following principles shall be followed in the implementation of the joint-stock cooperative system in urban enterprises:

- (1) voluntary equity participation and equal share for equal dividend;
- (2) joint ownership and several co-ownership of enterprise property, benefit sharing and risk sharing;
- (3) "To each according to his contribution", combined with dividends distributed in proportion to shares; and
- (4) democratic management.

**Article 5** Urban joint-stock cooperative enterprises shall, in accordance with the law, acquire corporate capacity, enjoy all corporate property rights formed by capital contributions of shareholders, enjoy civil rights, and independently bear civil liabilities.

Urban joint-stock cooperative enterprises shall conduct independent accounting, operate independently, assume sole responsibility for their own profits and losses, and be liable for the debts of enterprises with all their corporate property; the shareholders shall be liable to enterprises to the extent of their respective capital contributions.

**Article 6** The property, lawful business activities and legitimate rights and interests of urban joint-stock cooperative enterprise shall be protected by law and shall not be

## 第二章 企业的设立

**第七条** 城镇企业实行股份合作制，应当经企业出资主体同意，集体企业还应当经职工（代表）大会同意并作出决议。

实行股份合作制的城镇企业，必须对企业现有资产进行清产核资，并进行资产评估和产权界定。

**第八条** 产权界定应当由企业、出资主体、主管部门会同有关部门委托律师事务所依照国家规定进行。企业应当将产权界定结果，报同级人民政府国有资产管理部门或者授权部门确认，并按规定办理产权登记手续。

**第九条** 资产评估应当由具有资产评估资格的机构出具资产评估报告；企业应当将国有资产的评估结果，按照管理权限报国有资产管理部门确认。

对具有资格的资产评估机构出具的企业资产评估结果，任何单位和个人不得以不正当理由不予承认，法律另有规定的除外。

**第十条** 城镇企业实行股份合作制，原有国有资产可以作为借入资金，也可以由企业职工出资购买或者实行融资租赁。作为借入资金的，由企业按照规定向资产所有者缴纳资金占用费；实行融资租赁的，由企业按照租赁合同在规定年限内向出租方缴纳租金。企业根据实际情况，对集体资产的处置可以参照上述规定执行。

城镇企业实行股份合作制，原属于职工个人的奖金节余、工资储备基金，可以转入成立后的股份合作企业，继续用作支付职工奖金和工资，或者折成职工个人股份。

**第十一条** 城镇企业实行股份合作制，应当按照本办法的规定制定企业章程，并应当经股东和职工（代表）大会通过。

企业章程应当载明下列事项：

- （一）企业名称和住所；
- （二）企业的经济性质；

infringed upon or interfered with by any unit or individual.

## Chapter II Establishment of Enterprises

**Article 7** The implementation of the joint-stock cooperative system in urban enterprises shall be subject to the consent of enterprise investors, and in the case of collective enterprises, shall be subject to the approval and resolution of the employees' assembly or employees' congress.

In order to implement the joint-stock cooperative system in urban enterprises, it is necessary to check and verify the existing assets of enterprises, and to reappraise the assets and define the property rights.

**Article 8** The definition of property rights shall be entrusted to a law firm by enterprises, investors or competent departments together with relevant departments in accordance with the provisions of the State. Enterprises shall submit results of the definition of property rights to the state-owned asset management department or the authorized department of the people's government at the corresponding level for confirmation, and shall go through the formalities for property right registration as stipulated.

**Article 9** Institutions qualified for asset valuation shall issue asset valuation reports. Enterprises shall report the valuation results on state-owned assets to the corresponding state-owned asset management departments for confirmation within the scope of their functions and duties.

No unit or individual may refuse to recognize the enterprise asset valuation results issued by qualified asset valuation institutions without justifiable reasons, except as otherwise provided by laws.

**Article 10** To implement the joint-stock cooperative system in urban enterprises, the original state-owned assets may be used as borrowed funds, or purchased by enterprise employees, or managed under financial lease. When they are used as borrowed funds, enterprises shall make payment for the use to asset owners as stipulated; when they are managed under financial lease, enterprises shall pay rents to the lessor for the prescribed number of years in accordance with the lease contract. Enterprises may, according to the actual situation, dispose of collective assets by reference to the aforementioned provisions.

To implement the joint-stock cooperative system in urban enterprises, bonus surpluses and wage reserve funds that originally belonged to individual employees may be transferred to the joint-stock cooperative enterprises after their establishment to continue to be used to pay bonuses and wages to employees or be converted into individual shares of employees.

**Article 11** To implement the joint-stock cooperative system in urban enterprises, the articles of association shall be formulated in accordance with the provisions of the Measures, which shall be adopted at the general meeting of shareholders and employees (or employee representatives).

The articles of association shall specify the following matters:

- (1) name and address of the enterprise;
- (2) economic nature of the enterprise;



- (三) 企业的宗旨和经营范围;
- (四) 企业注册资本;
- (五) 股东的出资方式 and 出资限额;
- (六) 股东的姓名或者名称;
- (七) 股东和非股东在职职工的权利和义务;
- (八) 股份取得、转让的条件和程序;
- (九) 企业的组织机构及其产生的办法、职权、议事规则;
- (十) 企业法定代表人及其产生程序、任职期限和职权;
- (十一) 财务管理制度, 利益分配和亏损分担办法;
- (十二) 劳动管理、工资福利、社会保险等规定;
- (十三) 企业的解散事由和清算办法;
- (十四) 企业章程修订程序;
- (十五) 需要明确的其他事项。

**第十二条** 实行股份合作制的城镇企业, 在筹备工作结束后, 应当依法向工商行政管理机关申请办理变更登记或者注册登记, 并到有关部门办理其他相应变更手续。

**第十三条** 实行城镇股份合作制的企业, 其生产经营活动未发生重大变化的, 在实行股份合作制以前已经取得的生产许可证、经营许可证和行业资质、等级证继续有效; 企业成立后, 应当及时到有关主管部门办理备案手续。

**第十四条** 城镇股份合作企业可以根据企业发展的规模和需要设立分支机构, 或者对外投资成立其他经济组织。

### 第三章 股权设置

**第十五条** 城镇股份合作企业(以下简称企业)的股东可以用货币出资, 也可以用实物、工业产权、非专利技术和土地使用权作价出资。

鼓励企业、事业单位、其他经济组织和个人以高新技术成果作为投资入股。

**第十六条** 企业可以设置职工个人股、集体共有股以及社会法人股和社会个人股, 但不得违反国家法律、法规的规定。

企业应当根据实际情况设置股权, 并在企业章程中明确规定。

- (一) 职工个人股, 是指本企业职工以其合法财产或者专有技术等无形资产折价

- (3) purpose and business scope of the enterprise;
- (4) registered capital of the enterprise;
- (5) way and minimum amount of capital contributions of shareholders;
- (6) names of shareholders;
- (7) rights and obligations of shareholders and non-shareholder employees;
- (8) conditions and procedures for acquisition and transfer of shares;
- (9) organizational structure of the enterprise and its formation methods, authorities and rules of procedure;
- (10) legal representative of the enterprise, as well as the procedures for appointment, term of office and functions and powers thereof;
- (11) financial management systems, as well as profit distribution and loss sharing methods;
- (12) provisions on labor management, wages and benefits, social insurances, etc.
- (13) cause of dissolution of the enterprise and liquidation methods;
- (14) procedures for revision of the articles of association; and
- (15) other matters to be specified.

**Article 12** After completion of the preparatory work, urban enterprises to implement the joint-stock cooperative system shall apply to the administrative departments for industry and commerce for registration of change or business registration according to law, and shall go through other corresponding change procedures with relevant departments.

**Article 13** In the event of no significant change in the production and operation activities of enterprises to implement the urban joint-stock cooperative system, the production licenses, business licenses, industry qualifications and rating licenses that have been obtained before the implementation of the joint-stock cooperative system shall remain valid; after the establishment of enterprises, they shall go through the filing formalities with relevant competent departments in a timely manner.

**Article 14** Urban joint-stock cooperative enterprises may, according to the scale and needs of development, set up branches or invest in other economic organizations.

### Chapter III Establishment of Shares

**Article 15** The shareholders of urban joint-stock cooperative enterprises (hereinafter referred to as enterprises) may make capital contributions in cash, or in kind, industrial property rights, non-patented technology and land use rights.

Enterprises, institutions, other economic organizations and individuals shall be encouraged to invest with new and high-tech achievements.

**Article 16** Enterprises may establish individual shares of employees, collective shares, social institutional shares and social non-institutional shares, but shall not violate the provisions of the laws and regulations of the State.

Enterprises shall establish shares according to the actual situation, which shall be specified in the articles of association:

- (1) Individual shares of employees refer to the shares formed with the investment of the

投入形成的股份。职工个人股股权归职工个人所有。职工个人股股东称职工股东。

（二）集体共有股，是指城镇集体企业实行股份合作制时，划归企业劳动群众集体共同共有的资产折股形成的股份，其股权由股东和职工（代表）大会授权的机构持有。

（三）社会个人股，是指非本企业职工的个人以其合法财产或者专有技术等无形资产折价投入形成的股份，其股权归该个人所有。

（四）社会法人股，是指本企业以外的具有法人资格的企业、事业单位、社会团体以及其他经济组织，以其合法可支配的资产向企业投资形成的股份，其股权由该法人持有。

**第十七条** 企业职工有权按照企业章程的规定认购股份。企业应当在章程中规定每个职工认购股份数额的上限和下限，规定企业经营者和生产经营骨干认购的股份数额。

职工个人股和集体共有股的股本总额应当在企业总股本中占主体，所占比例不得低于企业总股本的 51%。特殊情况，经股东和职工（代表）大会三分之二以上股东同意，可以适当降低。

**第十八条** 企业不印制股票，由企业向股东出具股权证书，作为出资凭证和分红依据。

股权证书应当载明下列事项：

- （一）企业名称；
- （二）企业登记日期；
- （三）企业注册资本；
- （四）股东的姓名或者名称、缴纳的出资额和出资日期；
- （五）股权证书的编号和核发日期。

股权证书由企业加盖公章。

**第十九条** 社会法人股和社会个人股股东应当与职工股东同股同利，其具体权利和义务，由企业在章程中作出明确规定。

**第二十条** 企业中暂不入股的非股东职工，待企业增资扩股时可以再出资入股。

企业应当在章程中明确规定非股东职工的权利和义务。企业不得以职工未入股为

value of the legal property or proprietary technology and other intangible assets by enterprise employees, which shall be owned by employees themselves. The shareholders of individual shares of employees are called employee shareholders;

(2) Collective shares refer to the shares converted from the assets allocated to the working masses of enterprises in implementation of the joint-stock cooperative system in urban collective enterprises, which shall be held by the institutions authorized by the general meeting of shareholders and employees (or employee representatives);

(3) Social non-institutional shares refer to the shares formed with the investment of the value of the legal property or proprietary technology and other intangible assets by individuals other than enterprise employees, which shall be owned by the individuals themselves;

(4) Social institutional shares refer to the shares formed with the investment of legally disposable assets by enterprises, institutions, social organizations and other economic organizations with corporate capacity other than the enterprises in the Measures, which shall be held by such legal persons.

**Article 17** Enterprise employees shall have the right to subscribe for shares in accordance with the provisions of the articles of association. Enterprises shall specify in the articles of association the maximum and minimum number of shares to be subscribed by each employee, and the number of shares to be subscribed by enterprise operators and production and operation talents.

The total share capital of individual shares of employees and collective shares shall be the main part of the total share capital of enterprises, which shall account for no less than 51% of the total share capital of enterprises. Under special circumstances, the proportion may be reduced appropriately with the consent of more than two-thirds of the shareholders at the general meeting of shareholders and employees (or employee representatives).

**Article 18** Where an enterprise does not print shares, it shall issue a share certificate to its shareholders as the certificate of capital contribution and basis for dividend distribution.

The share certificate shall specify the following matters:

- (1) enterprise name;
- (2) date of registration of the enterprise;
- (3) registered capital of the enterprise;
- (4) name of the shareholder, as well as the amount and date of capital contributions;

and

- (5) serial number and issuing date of the share certificate.

Enterprises shall affix their seals on the share certificate.

**Article 19** The shareholders of social institutional shares and social non-institutional shares shall enjoy equal share for equal dividend with employee shareholders, and their specific rights and obligations shall be clearly stipulated in the articles of association by enterprises.

**Article 20** The current non-shareholder employees of enterprises may contribute in terms of shares at the time of increase in capital and share in enterprises afterwards.

Enterprises shall specify the rights and obligations of non-shareholder employees in the

由与其解除劳动合同。

**第二十一条** 企业登记成立后，股东不得抽回出资或者退股。

**第二十二条** 职工个人股只得在本企业职工之间转让。

社会法人股和社会个人股转让，必须经股东和职工（代表）大会半数以上的股东和职工同意，并办理过户手续；在同等条件下，企业职工有优先购买权。职工购买的经转让的社会法人股和社会个人股，转为职工个人股。

各类股份的转让一律以股权证书为依据。

**第二十三条** 企业职工股东退休、调出、辞职或者被辞退、除名以及死亡的，其所持股份可以转让给其他职工，企业也可以按照章程规定，用法定公积金或者未分配利润收购，并依照股权比例分配给其他股东。股份转让和收购的价格由双方协商确定。

企业的法定代表人在任职期间和离开本企业后的第一个会计年度内，其所持有的股份不得转让，期间的收益分配方案由企业章程规定。

## 第四章 组织机构

**第二十四条** 企业实行股东大会和职工（代表）大会合一的制度，股东和职工（代表）大会是企业的权力机构。

股东和职工（代表）大会行使下列职权：

- （一）决定企业经营方针和投资计划；
- （二）选举和更换董事，并决定其报酬事项；
- （三）选举和更换监事，并决定其报酬事项；
- （四）审议批准董事会报告；
- （五）审议批准监事会的报告；
- （六）审议批准企业的年度财务预算方案、决算方案；
- （七）审议批准企业的利润分配方案和弥补亏损方案；
- （八）对企业增加、减少注册资本，以及合并、分立、破产、解散和清算等事项作出决议；

articles of association, and shall not terminate the labor contract with them on the ground that they are not shareholders.

**Article 21** After the registration and establishment of an enterprise, no shareholder may withdraw capital contributions or withdraw from the enterprise.

**Article 22** The individual shares of employees may only be transferred among enterprise employees.

The transfer of social institutional shares and social non-institutional shares shall be subject to the consent of more than half of the shareholders and employees at the general meeting of shareholders and employees (or employee representatives), and the transfer formalities shall be handled; under the same conditions, enterprise employees shall have the right of preemption. The transferred social institutional shares and social non-institutional shares purchased by employees shall be converted into individual shares of employees.

All kinds of shares shall be transferred on the basis of share certificates.

**Article 23** In the event of retirement, transfer, resignation, dismissal, removal or death of an employee, the shares held thereby may be transferred to other employees, or may be purchased by the enterprise with legal accumulation funds or undistributed profits in accordance with the provisions of the articles of association to be allocated to other shareholders in proportion to their respective shares. The price of share transfer and purchase shall be determined by both parties through consultation.

During the term of office and within the first fiscal year after leaving the enterprise, the shares held by the legal representative of the enterprise shall not be transferred, and the income distribution plan for the period shall be stipulated in the articles of association of the enterprise.

## Chapter IV Organizational Structure

**Article 24** Enterprises shall implement the system of combining the general meeting of shareholders with the general meeting of employees (or employee representatives). The general meeting of shareholders and employees (or employee representatives) is the authority of an enterprise.

The general meeting of shareholders and employees (or employee representatives) shall exercise the following functions and powers:

- (1) to decide on the business policies and investment plans of the enterprise;
- (2) to elect and replace directors and to decide on their remuneration;
- (3) to elect and replace supervisors and decide on their remuneration;
- (4) to deliberate on and approve reports of the board of directors;
- (5) to deliberate on and approve reports of the board of supervisors;
- (6) to deliberate on and approve the annual financial budget plan and final accounting plan of the enterprise;
- (7) to deliberate on and approve the profit distribution plan and loss recovery plan of the enterprise;
- (8) to pass resolutions on the increase and decrease of registered capital, merger,

（九）修改企业章程；

（十）企业章程规定的其他职权。

**第二十五条** 股东和职工（代表）大会由企业的法定代表人召集。股东和职工（代表）大会分为定期会议和临时会议。定期会议应当按照企业章程的规定按时召开。有下列情形之一的，应当召开临时会议：

（一）25%以上的股东和职工请求时；

（二）持有 30%以上股份的股东请求时；

（三）三分之一以上的董事或者监事提议时。

**第二十六条** 股东和职工（代表）大会采取一人一票与一股一票相结合的表决方式。

对本办法第二十四条第（二）项、第（三）项中除选举和更换董事、监事外，以及第（四）项、第（五）项、第（七）项和第（十）项进行表决的，应当采用一人一票方式；作出的决议，必须经半数以上股东和职工通过。

对本办法第二十四条第（九）项进行表决的，应当采用一人一票方式；作出的决议，必须经三分之二以上的股东和职工通过。

对本办法第二十四条第（一）项、第（二）项和第（三）项中的选举和更换董事、监事以及第（六）项、第（八）项进行表决时，应当采用一股一票方式；作出的决议，必须经持有三分之二以上股份的股东通过。

股东和职工（代表）大会可以根据企业实际，对本办法第二十四条所列事项的表决方式作适当修改，并在企业章程中明确规定。

**第二十七条** 规模较大的企业应当设立董事会。董事会的人员组成、产生方式和职责范围等由股东和职工（代表）大会确定。董事会负责股东和职工（代表）大会闭会期间的工作，直接向股东和职工（代表）大会负责。

董事会行使下列职权：

（一）决定召开股东和职工（代表）大会并向大会报告工作；

（二）执行股东和职工（代表）大会的决议；

（三）审定企业发展规划、年度生产经营计划；

division, bankruptcy, dissolution and liquidation of the enterprise;

(9) to amend the articles of association; and

(10) other functions and powers as stipulated in the articles of association.

**Article 25** The general meeting of shareholders and employees (or employee representatives) shall be convened by the legal representative of the enterprise. The general meeting of shareholders and employees (or employee representatives) includes regular meeting and ad hoc meeting. Regular meetings shall be convened regularly in accordance with the provisions of the articles of association of the enterprise. An ad hoc meeting shall be convened if:

(1) requested by more than 25% of the shareholders and employees;

(2) requested by shareholders holding more than 30% of the shares; or

(3) proposed by more than one-third of the directors or supervisors.

**Article 26** The principle of one man one vote and one share one vote shall be followed at the general meeting of shareholders and employees (or employee representatives).

The principle of one man one vote shall be followed to vote on the matters other than the election and replacement of directors and supervisors in Items (2) and (3) as well as the matters in Items (4), (5), (7) and (10) of Article 24 of the Measures; resolutions made must be passed by more than half of the shareholders and employees.

The principle of one man one vote shall be followed to vote on the matters in Item (9) of Article 24 of the Measures; resolutions made must be passed by more than two-thirds of the shareholders and employees.

The principle of one share one vote shall be followed to vote on the matters in Item (1), the election and replacement of directors and supervisors in Items (2) and (3) as well as the matters in Items (6) and (8) of Article 24 of the Measures; resolutions made must be passed by the shareholders holding more than two-thirds of the shares.

The general meeting of shareholders and employees (or employee representatives) may, according to the actual situation of the enterprise, appropriately modify the way to vote on the matters listed in Article 24 of the Measures, which shall be specified in the articles of association of the enterprise.

**Article 27** Large enterprises shall have a board of directors. The composition, mode of formation and scope of duties of the board of directors shall be determined by the general meeting of shareholders and employees (or employee representatives). The board of directors shall be responsible for the work of the general meeting of shareholders and employees (or employee representatives) during the period when the latter is not in session, and shall be directly accountable to the general meeting of shareholders and employees (or employee representatives).

The board of directors shall exercise the following functions and powers:

(1) to decide to convene and report to the general meeting of shareholders and employees (or employee representatives);

(2) to implement the resolutions of the general meeting of shareholders and employees (or employee representatives);

(3) to examine and approve the development plan and annual production and operation



（四）审议企业的年度财务预、决算方案，利润分配方案和弥补亏损的方案；

（五）制定企业增、减注册资本方案；

（六）制定企业分立、合并、终止的方案；

（七）聘任和解聘包括经理、会计主管人员等管理人员，决定其报酬及支付办法；

（八）企业章程规定的其他职权。

前款第（七）项规定的职权，在未设董事会的企业，由股东和职工（代表）大会行使。

**第二十八条** 企业应当设立监事会或者监事，直接向股东和职工（代表）大会负责，对董事会及其成员以及企业经理等管理人员行使监督职责，并向股东和职工（代表）大会报告工作。

董事、经理和财务负责人不得兼任监事。

监事会或者监事行使下列职权：

（一）检查企业财务；

（二）对董事、经理执行职务时违反法律、法规或者企业章程的行为进行监督；

（三）要求董事、经理纠正其损害企业利益的行为；

（四）提议召开临时股东和职工（代表）大会；

（五）列席董事会会议；

（六）企业章程规定的其他职权。

**第二十九条** 企业设董事会的，董事长为企业的法定代表人；未设董事会的企业，可以设一名执行董事，执行董事为企业的法定代表人。执行董事可以兼任企业经理。

执行董事的职权，应当参照本办法第二十七条由企业在章程中规定。

**第三十条** 企业的经理（厂长）负责企业日常的经营管理工作，行使下列职权：

（一）主持企业的生产经营管理工作，组织实施董事会决议；

（二）组织实施企业年度经营计划和投资方案；

（三）拟定企业内部管理机构设置方案；

（四）拟定企业的基本管理制度；

（五）除应由董事会聘任或者解聘的人员以外，提请聘任或者解聘企业副经理等管理人员；

plan of the enterprise;

(4) to deliberate on the annual financial budget and final accounting plans, profit distribution plans and loss recovery plans of the enterprise;

(5) to formulate plans for the increase or decrease of registered capital of the enterprise;

(6) to formulate plans for the division, merger or termination of the enterprise;

(7) to appoint and dismiss management personnel, including managers and accounting executives, and determine their remuneration and payment methods; and

(8) other functions and powers as specified in the articles of association.

The functions and powers specified in Item (7) in the preceding paragraph shall be exercised by the general meeting of shareholders and employees (or employee representatives) in an enterprise without a board of directors.

**Article 28** The board of supervisors or supervisors of an enterprise shall be directly accountable to the general meeting of shareholders and employees (or employee representatives), exercise the duties of supervision over the board of directors and its members, as well as managers and other management personnel of the enterprise, and report to the general meeting of shareholders and employees (or employee representatives).

Directors, managers and financial executives shall not concurrently serve as supervisors.

The board of supervisors or supervisors shall exercise the following functions and powers:

(1) to inspect enterprise finance;

(2) to supervise the performance of duties by directors or managers in violation of laws, regulations or the articles of association;

(3) to require directors or managers who act against the interests of the enterprise to make corrections;

(4) to propose to convene an ad hoc general meeting of shareholders and employees (or employee representatives);

(5) to attend meetings of the board of directors as nonvoting delegates; and

(6) other functions and powers as stipulated in the articles of association.

**Article 29** The chairman of the board of directors of an enterprise shall be the legal representative of the enterprise; in an enterprise without a board of directors, an executive director may be appointed, who shall be the legal representative of the enterprise. The executive director may concurrently act as the manager of the enterprise.

The functions and powers of the executive director shall be stipulated by the enterprise in the articles of association by reference to Article 27 of the Measures.

**Article 30** The manager (factory director) of an enterprise shall be responsible for the daily operation and management of the enterprise and exercise the following functions and powers:

(1) to be in charge of the production, operation and management of the enterprise, and organize the implementation of the resolutions of the board of directors;

(2) to organize the implementation of the annual business plan and investment plan of the enterprise;

(3) to draw up plans for the establishment of internal management departments of the enterprise;

(4) to draw up the basic management system of the enterprise;

(5) to propose to appoint or dismiss the deputy manager and other management personnel of the enterprise, except for those to be appointed or dismissed by the board of

（六）企业章程和董事会赋予的其他职权。

经理（厂长）应当定期向董事会以及股东和职工（代表）大会报告工作，听取意见，接受监督。

**第三十一条** 董事、经理（厂长）、监事违反法律、法规、规章或者企业章程规定，应当承担相应的法律责任；给本企业或者股东造成损害的，应当承担赔偿责任。

## 第五章 收益分配

**第三十二条** 企业应当依法建立健全财务、会计、统计制度，按期报送财务会计报表，并定期向股东报告财务收支状况，接受监督。

依据企业会计准则，实行两则两制的企业，年度财务决算的报表，原则上应经中介机构审核，并附有注册会计师的审计报告。

企业应当在每一会计年度终了时制作财务会计报告，并于召开股东和职工（代表）大会的 20 日以前置备于企业，供股东查阅。

**第三十三条** 企业依法缴纳所得税后的利润，除国家另有规定外，按照下列程序分配：

（一）被没收的财物损失，支付各项税收的滞纳金和罚款。

（二）弥补企业以前年度亏损。

（三）按税后利润的 10% 提取法定公积金；当法定公积金达到注册资本 50% 时不再提取。

（四）按税后利润的 5% 至 10% 提取法定公益金。

（五）按照企业章程规定或者股东和职工（代表）大会决议，提取股东积累公积金。

（六）提取劳动分红基金。

（七）向股东支付股利或者配（送）股。

企业前一年度未分配的利润，可以并入下一年度分配。

**第三十四条** 集体共有股分得的股利，一般按照下列方式进行分配：

directors;

(6) other functions and powers granted in the articles of association and by the board of directors.

The manager (factory director) shall regularly report to the board of directors and the general meeting of shareholders and employees (or employee representatives), take their advice and accept supervision.

**Article 31** Directors, managers (factory directors) or supervisors who have violated laws, regulations, rules or the articles of association shall bear corresponding legal liabilities; if damages are caused to enterprises or shareholders, they shall be liable for compensation.

## Chapter V Income Distribution

**Article 32** Enterprises shall establish and improve the financial, accounting and statistical systems in accordance with the law, regularly submit financial and accounting statements, report financial revenues and expenditures to shareholders on a regular basis, and accept supervision.

According to the accounting standards for business enterprises, for enterprises that implement “two rules (Accounting Standards for Business Enterprises and General Rules on Financial Affairs of Enterprises) and two systems (accounting systems and financial systems)”, the annual final accounting statements shall, in principle, be audited by intermediary agencies and accompanied by audit reports of certified public accountants.

Enterprises shall prepare financial and accounting reports at the end of each fiscal year, which shall be kept in enterprises 20 days before the general meeting of shareholders and employees (or employee representatives) for inspection by shareholders.

**Article 33** Unless otherwise stipulated by the State, the profits of an enterprise after paying the income tax according to law shall be distributed according to the following procedures:

(1) to make up for the loss of property confiscated, and pay late fees and fines for various taxes;

(2) to make up for the losses of the enterprise in the previous years;

(3) to withdraw legal accumulation funds at 10% of after-tax profits, which may be suspended when legal accumulation funds account for 50% of the registered capital;

(4) to withdraw legal public welfare funds at 5% to 10% of after-tax profits;

(5) to withdraw shareholders' accumulation funds in accordance with the provisions of the articles of association or resolutions of the general meeting of shareholders and employees (or employee representatives);

(6) to withdraw labor dividend funds; and

(7) to pay dividends or allot shares to shareholders.

The undistributed profits of an enterprise in the previous year may be carried forward to the next year.

**Article 34** The dividends distributed to collective shares shall generally be distributed in the following ways:

- (一) 一部分分配给在职职工;
- (二) 一部分用作原企业离退休人员费用;
- (三) 一部分作为企业劳动分红。

具体分配办法由股东和职工（代表）大会决定。

**第三十五条** 企业当年无利润时，一般不得分配股利。企业无利润或者税后利润不足以支付股利时，不足部分由以后年度的税后利润弥补。经股东和职工（代表）大会通过，可以用往年结转的未分配利润或者法定公积金分配股利。

**第三十六条** 获得股金红利的个人应当依法缴纳个人所得税，并由企业代扣代缴。

**第三十七条** 企业的公积金主要用于弥补亏损、转增股本、发展生产等。

法定公积金转为企业资本时，所留存的该项公积金不得少于注册资本的 25%。

**第三十八条** 企业公益金用于本企业职工的集体福利。

**第三十九条** 企业发生年度亏损时，应当按照国家规定用以后年度利润弥补，不足的部分，依次以公积金、集体共有股金、职工个人股金、社会个人股金和法人股金进行补偿。

**第四十条** 企业应当按照规定参加职工失业、医疗、养老保险和住房公积金等社会保险，逐步扩大集体福利。

## 第六章 变更与清算

**第四十一条** 企业的合并与分立必须由股东和职工（代表）大会作出决议，并通知债权人。

**第四十二条** 企业合并与分立，应当按照有关规定由合并或者分立各方签订协议，明确划分资产，清理债权、债务。原企业的债权债务由合并或者分立后的企业承担。

**第四十三条** 企业发生合并与分立时，应当到工商行政管理部门办理设立、变更或者注销登记；涉及国有法人股发生变动的，应当先到国有资产管理部门办理国有资产产权登记或者变更手续。

(1) Part of them shall be distributed to the employees;  
(2) Part of them shall be used to cover the expenses of the retirees of the enterprise;  
and

(3) Part of them shall be distributed as labor dividends of the enterprise.

The specific distribution method shall be decided by the general meeting of shareholders and employees (employee representatives).

**Article 35** No dividend may be distributed generally in the year when an enterprise makes no profit. If the enterprise makes no profit or the after-tax profit is insufficient to pay dividends, the insufficient part shall be made up by the after-tax profit in subsequent years. The undistributed profits carried forward in previous years or legal accumulation funds may be used to distribute dividends after being approved by the general meeting of shareholders and employees (or employee representatives).

**Article 36** Individuals having received dividends shall pay the individual income tax according to law, which shall be withheld by enterprises.

**Article 37** The accumulation funds of an enterprise shall be mainly used for loss recovery, increase in share capital, production development, etc.

When legal accumulation funds are converted into enterprise capital, the retained accumulation funds shall not be less than 25% of the registered capital.

**Article 38** The public welfare funds of an enterprise shall be used for the collective welfare of employees of the enterprise.

**Article 39** When an enterprise incurs an annual loss, the profits in subsequent years shall be used to make up for it in accordance with the provisions of the State. The insufficient part shall be compensated successively with the accumulation funds and money paid for collective shares, individual shares of employees, social non-institutional shares and social institutional shares.

**Article 40** Enterprises shall participate in unemployment, medical, pension insurances and housing provident funds as stipulated to gradually expand collective welfare.

## Chapter VI Change and Liquidation

**Article 41** The merger and division of enterprises shall be decided by the general meeting of shareholders and employees (or employee representatives), and shall be notified to the creditors.

**Article 42** For the merger and division of enterprises, the parties to the merger or division shall, in accordance with relevant provisions, conclude an agreement, which shall clearly divide assets and settle claims and debts. The claims and debts of the original enterprise shall be undertaken by the surviving enterprise.

**Article 43** In the event of merger or division, enterprises shall go through the procedures for establishment, change or cancellation registration with the administrative departments for industry and commerce; in case of any change in the state-owned corporate shares, they shall first go through the procedures for registration or change of property rights of state-owned assets with the administrative departments of state-owned assets.

**第四十四条** 企业因解散、被依法撤销、宣告破产或者其他原因而终止的，应当按照国家有关规定成立清算组织，进行清算和债权债务的清偿工作。

清算结束后的剩余财产，按照股东所占股份的比例进行分配；其中集体共有股分得的财产，应当由政府授权的专门机构负责，用于原企业职工失业、养老保险等事项，专款专用。

**第四十五条** 企业终止清算结束后，清算组织应当提出清算报告，经批准登记注册的会计师事务所、审计事务所或者资产评估机构验证后，到原产权登记和注册登记机关办理注销登记手续，并予以公告。

## 第七章 附 则

**第四十六条** 事业单位实行股份合作制的，参照本办法执行。

**第四十七条** 本办法执行中的具体问题，由市经济体制改革委员会负责解释。

**第四十八条** 本办法自发布之日起施行。1994年7月25日市人民政府发布的《北京市股份合作制暂行办法》（1994年第14号令）同时废止。

**Article 44** Where an enterprise terminates due to dissolution, cancellation according to law, declaration of bankruptcy or other reasons, a liquidation group shall be established in accordance with relevant provisions of the State to carry out liquidation and settlement of claims and debts.

After the liquidation, the remaining property shall be distributed in proportion to the shares held by shareholders. The property distributed to collective shares shall, under the organization of a special agency authorized by the government, be earmarked for the unemployment insurance, pension insurance, etc. of former employees of the enterprise.

**Article 45** After completion of the liquidation, the liquidation group shall issue a liquidation report, and shall, upon verification by an accounting firm, audit firm or asset appraisal institution that has been registered as approved, go through the formalities for cancellation of registration with the original property right registration and registration authority, and make a public announcement.

## Chapter VII Supplementary Provisions

**Article 46** The implementation of the joint-stock cooperative system in public institutions shall be carried out by reference to the Measures.

**Article 47** The Municipal Commission for Economic Reform shall be responsible for the interpretation of specific issues during the implementation of the Measures.

**Article 48** The Measures shall come into force as of the date of promulgation. The Interim Measures of Beijing Municipality on Joint-Stock Cooperative System (Decree No. 14 of 1994) promulgated by the Municipal People's Government on July 25, 1994 shall be repealed simultaneously.



# 北京市产权交易管理规定

(2001年12月7日北京市人民政府第90号令公布 根据2005年6月15日北京市人民政府第159号令第一次修改 根据2010年11月27日北京市人民政府第226号令第二次修改)

## 第一章 总 则

**第一条** 为培育和发展本市产权交易市场，规范产权交易行为，促进资源的优化配置，根据本市实际情况，制定本规定。

**第二条** 在本市产权交易机构从事产权交易活动，应当遵守本规定。法律、法规另有规定的，从其规定。

本规定所称产权交易是指企业财产所有权及相关财产权益的有偿转让行为。

**第三条** 从事产权交易应当遵守法律、法规，遵循自愿平等、诚实信用和公开、公平、公正的原则，不得侵犯他人的合法权益和损害社会公共利益。

产权交易当事人的合法权益受法律保护。

**第四条** 产权交易不受地区、行业、隶属关系、经济性质的限制。

涉及国家安全、国家秘密的产权交易应当按照国家有关规定办理。

**第五条** 本市所属企业国有产权的交易，应当在市国有资产监督管理机构选择确定的产权交易机构公开进行。

金融类企业国有产权转让和上市公司的国有股权转让，依照国家有关规定执行。

城镇集体企业产权以及其他产权的交易，可以在产权交易机构进行。

**第六条** 市金融工作部门负责指导和协调本市产权交易的监督管理工作。市国有

# Provisions of Beijing Municipality on the Management of Property Right Transactions

(Promulgated by Decree No. 90 of the People's Government of Beijing Municipality on December 7, 2001, revised for the first time in accordance with Decree No. 159 of the People's Government of Beijing Municipality on June 15, 2005, and revised for the second time in accordance with Decree No. 226 of the People's Government of Beijing Municipality on November 27, 2010)

## Chapter I General Provisions

**Article 1** The Provisions are formulated for the purposes of fostering and developing the property right transaction market of this Municipality, regulating property right transactions and promoting the optimized allocation of resources in light of actual circumstances of this Municipality.

**Article 2** The Provisions shall apply to the property right transaction activities in property right transaction agencies of this Municipality, except where otherwise provided by laws and regulations.

The term “property right transaction” as mentioned in the Provisions refers to the paid transfer of the ownership of enterprise property and the relevant property rights and interests.

**Article 3** Anyone that engages in property right transactions shall abide by laws and regulations and follow the principles of voluntariness, equality, good faith, openness, fairness and impartiality, and shall not infringe on the legitimate rights and interests of others or damage public interests.

The legitimate rights and interests of the parties to property right transactions shall be protected by law.

**Article 4** Property right transactions shall not be subject to restrictions of regions, industries, subordination relations or economic nature.

Property right transactions involving national security or secrets shall be handled according to relevant provisions of the State.

**Article 5** Transactions involving state-owned property rights of an enterprise subordinate to the Municipal People's Government shall be publicly conducted in the property right transaction agency designated by the municipal state-owned asset supervision and administration department.

Any transfer of the state-owned property rights of a financial enterprise or of the state-owned stock rights of a listed company shall be conducted according to relevant provisions of the State.

Transactions involving the property rights of an urban collective enterprise and any other property right may be conducted in property right transaction agencies.

**Article 6** The municipal financial affairs department shall be responsible for guiding

资产监督管理机构负责企业国有产权转让的监督管理工作。

本市其他各有关部门按照各自的职责，做好有关产权交易的监督管理工作。

## 第二章 产权交易机构

**第七条** 产权交易机构是依法设立的，为产权交易提供场所、设施、信息等服务，并履行相关职责的法人。

**第八条** 产权交易机构可以实行会员制管理。

产权交易机构应当根据法律、法规和本规定的要求，制定本机构章程、产权交易规则和会员管理办法，报市金融工作部门备案。

## 第三章 产权交易行为规范

**第九条** 转让企业产权，应当履行下列手续：

（一）企业国有产权转让的，应当按照《企业国有产权转让管理暂行办法》规定的批准程序办理。

（二）城镇集体企业，应当经出资人同意并经职工（代表）大会讨论通过。

**第十条** 已经实行承包、租赁、托管等形式经营的企业，其产权交易，应当在承包、租赁或者托管合同期满后进行。

确需提前转让的，应当按照法律、法规的规定先行办理承包、租赁或者托管合同的终止手续，并处理未了事项后，再进行产权交易。

**第十一条** 产权交易的转让方应当委托具有合格资质的中介机构进行审计和资产评估。涉及国有资产评估的，应当按照有关法律、法规执行。

**第十二条** 产权交易机构应当建立产权交易信息披露制度，及时发布产权交易相关信息。

**第十三条** 出现下列情形之一的，转让方、受让方或者第三方可以申请中止交易：

and coordinating the supervision and administration of property right transactions in this Municipality. The municipal state-owned asset supervision and administration department shall be responsible for the supervision and administration of the transfer of state-owned property rights of enterprises.

Other relevant departments of this Municipality shall, within the scope of their respective functions and duties, do a good job in the supervision and administration of property right transactions.

## Chapter II Property Right Transaction Agency

**Article 7** A property right transaction agency is a legal person that is established according to law to provide places, facilities, information and other services for property right transactions and perform relevant functions and duties.

**Article 8** Property right transaction agencies may implement the membership system for management.

Property right transaction agencies shall, in accordance with the requirements of laws, regulations and the Provisions, formulate the articles of association, property right transaction rules and member management measures thereof, which shall be submitted to the municipal financial affairs department for the record.

## Chapter III Code of Conduct for Property Right Transactions

**Article 9** To transfer property rights of enterprises, the following formalities shall be handled:

(1) To transfer state-owned property rights of enterprises, it shall be handled according to the approval procedures as prescribed by the Interim Measures for Management of Transfer of State-owned Property Rights of Enterprises;

(2) In the case of an urban collective enterprise, the approval of capital contributors and the employees' assembly or employees' congress shall be obtained.

**Article 10** For enterprises managed by contract, lease or mandate, the property right transactions thereof shall be conducted after the expiration of the contract, lease or mandate.

Where early transfer is required, the formalities for terminating the contract, lease or mandate shall be handed first in accordance with the provisions of laws and regulations and property right transactions shall be conducted after completion of remaining matters.

**Article 11** The transferor to a property right transaction shall entrust a qualified intermediary agency to conduct auditing and asset appraisal. The appraisal of state-owned assets shall be conducted according to relevant laws and regulations.

**Article 12** Property right transaction agencies shall establish an information disclosure system for property right transactions to release relevant information on property right transactions in a timely manner.

**Article 13** Under any of the following circumstances, the transferor, the transferee or a third party may apply for suspension of transactions:

(一) 第三方与转让方对转让的产权有争议且尚未解决的;

(二) 依法应当中止产权交易的其他情形。

中止交易的申请,应当向产权交易机构提出。

**第十四条** 出现下列情形之一的,应当终止交易:

(一) 转让方或者受让方在转让合同生效前提出终止交易的;

(二) 人民法院依法发出终止交易书面通知的;

(三) 依法应当终止产权交易的其他情形。

**第十五条** 在产权交易活动中禁止下列行为:

(一) 在市国有资产监督管理机构选择确定的产权交易机构之外进行本市所属企业国有产权的交易;

(二) 操纵产权交易市场或者扰乱产权交易秩序;

(三) 产权交易机构及其工作人员作为转让方、受让方或者第三方参与产权交易的;

(四) 法律、法规、规章禁止的其他行为。

**第十六条** 产权交易机构收费的标准按照国家有关规定确定。

## 第四章 产权交易方式和程序

**第十七条** 产权交易可以采取拍卖、招标、协议转让等方式,也可以采取法律、法规、规章规定的其他方式。

**第十八条** 从事产权交易的转让方或者受让方,可以委托具有会员资格的经纪机构代理进行产权交易。

委托经纪机构代理进行产权交易的,委托方应当与受托的经纪机构签订产权交易委托代理合同。

在同一产权交易中,经纪机构不得同时接受转让方和受让方的代理委托。

**第十九条** 转让方申请产权交易,应当向受委托的经纪机构或者产权交易机构提

(1) There is an outstanding dispute between the third party and the transferor over the property rights to be transferred; or

(2) There are other circumstances in which property right transactions shall be suspended according to law.

Applications for suspension of transactions shall be filed to property right transaction agencies.

**Article 14** Under any of the following circumstances, a transaction shall be terminated:

(1) The transferor or the transferee requests to terminate the transaction before the transfer contract takes effect;

(2) The people's court issues a written notice of terminating the transaction according to law; or

(3) There are other circumstances in which the transaction shall be terminated according to law.

**Article 15** The following acts are prohibited in property right transactions:

(1) conducting transactions involving state-owned property rights of an enterprise subordinate to the Municipal People's Government outside the property right transaction agency designated by the municipal state-owned asset supervision and administration department;

(2) manipulating the property right transaction market or disturbing the order thereof;

(3) participating in property right transactions by property right transaction agencies and the staff thereof as the transferor, the transferee or a third party; or

(4) committing any other act as prohibited by laws, regulations and rules.

**Article 16** The charging standards of property right transaction agencies shall be determined according to relevant provisions of the State.

## Chapter IV Ways of and Procedures for Property Right Transactions

**Article 17** Property right transactions may be conducted by means of auction, bid invitations or contract-based transfer or by others means as prescribed by laws, regulations and rules.

**Article 18** The transferor or transferee to a property right transaction may entrust a brokerage organization with the membership to conduct the property right transaction as an agent.

Where a brokerage organization is entrusted to conduct a property right transaction as an agent, the entrusting party shall conclude an agency contract for property right transaction with the entrusted brokerage organization.

In the same property right transaction, a brokerage organization shall not concurrently accept the entrustment from both the transferor and the transferee.

**Article 19** To apply for any property right transaction, the transferor shall submit the following materials to the entrusted brokerage organization or property right transaction

交下列文件，并保证其真实、完整。

- （一）企业产权转让的申请书；
- （二）转让方的资格证明或者其他有效证明；
- （三）企业产权权属的证明文件；
- （四）出资人准予转让企业产权的证明；
- （五）转让标的情况的说明；
- （六）法律、法规、规章规定的其他文件。

**第二十条** 受让方申请产权交易，应当提交下列文件：

- （一）购买企业产权的申请书；
- （二）受让方的主体资格证明；
- （三）受让方的资信证明；
- （四）法律、法规、规章规定的其他材料。

**第二十一条** 产权交易价格可以采取拍卖、招标方式确定，也可以由转让方和受让方协议确定。

企业国有产权转让价格的确定依照《企业国有产权转让管理暂行办法》的规定执行。

集体企业产权的转让价格，以具有合格资质的资产评估机构的评估值作为参考依据；转让价格低于评估结果 90% 的，应当经集体企业产权所有者同意。

**第二十二条** 转让方与受让方达成转让意向后，应当签订产权交易合同。产权交易合同主要包括下列内容：

- （一）转让标的；
- （二）转让方和受让方的名称、住所、法定代表人；
- （三）转让价格、支付方式和支付期限；
- （四）有关债权、债务的处理事项；
- （五）产权交割事项；

agency and ensure the authenticity and integrity thereof:

- (1) an application for transfer of property rights of enterprises;
- (2) qualification certificates or other valid certificates of the transferor;
- (3) supporting documents concerning the ownership of property rights of enterprises;
- (4) evidence that capital contributors approve the transfer of property rights of enterprises;
- (5) descriptions of the property rights to be transferred; and
- (6) other materials as prescribed by laws, regulations and rules.

**Article 20** To apply for any property right transaction, the transferee shall submit the following materials:

- (1) an application for purchase of property rights of enterprises;
- (2) qualification certificates of the transferee;
- (3) proof of financial standing of the transferee; and
- (4) other materials as prescribed by laws, regulations and rules.

**Article 21** The price of a property right transaction may be determined by way of auction or bid invitations or agreed by the transferor and the transferee.

The transfer price of state-owned property rights of enterprises shall be determined in accordance with the provisions of the Interim Measures for Management of Transfer of State-owned Property Rights of Enterprises.

For the transfer price of property rights of collective enterprises, the assessed value by the qualified asset appraisal institution shall be used as a reference; where the transfer price is lower than 90% of the assessment result, it shall be subject to the approval of owners of property rights of collective enterprises.

**Article 22** After the transferor and the transferee have reached a preliminary agreement on the transfer, they shall conclude a contract of property right transaction. The contract shall include:

- (1) property rights to be transferred;
- (2) names, addresses and legal representatives of the transferor and the transferee;
- (3) transfer price, and method and time of payment;
- (4) matters concerning the settlement of claims and debts;
- (5) matters concerning delivery of property rights;



(六) 有关职工安置的事项;

(七) 违约责任;

(八) 合同争议解决方式;

(九) 签约日期;

(十) 需要约定的其他事项。

涉及企业国有产权转让内容的产权交易合同, 应当符合《企业国有产权转让管理暂行办法》的规定。

**第二十三条** 产权交易合同经转让方和受让方签字、盖章后, 由产权交易机构审核并出具产权交易凭证。

**第二十四条** 产权交易完成后, 交易双方应依法办理产权变更登记手续。涉及企业国有产权变更的, 市和区、县各有关部门依据产权交易机构出具的产权交易凭证并依照相关规定, 为交易双方办理有关变更手续。

## 第五章 产权交易监督和管理

**第二十五条** 产权交易过程中转让方、受让方、中介机构及有关人员的违法、违规行为由有关部门依法查处; 对违反国家和本市企业国有产权转让有关规定的, 依法承担相应责任; 构成犯罪的, 依法追究刑事责任。

**第二十六条** 本市建立产权交易活动违法行为记录系统, 记载转让方、受让方、中介机构等产权交易活动当事人的违法行为及处理结果。

单位和个人有权查询违法行为处理结果记录。

**第二十七条** 产权交易过程中发生产权交易纠纷的, 当事人可以依据合同约定申请仲裁; 没有约定仲裁的, 可以依法向人民法院提起诉讼。

## 第六章 附 则

**第二十八条** 行政事业单位的产权交易参照本规定执行。

**第二十九条** 本规定自 2002 年 1 月 1 日起施行。

- (6) matters concerning placement of employees;
- (7) liability for breach of contract;
- (8) resolution of contract disputes;
- (9) date of conclusion; and
- (10) other matters to be stipulated.

Any contract of property right transaction that involves the transfer of state-owned property rights of enterprises shall conform to the provisions of the Interim Measures for Management of Transfer of State-owned Property Rights of Enterprises.

**Article 23** After the transferor and the transferee to a contract of property right transaction have affixed their signatures and seals thereon, the property right transaction agency shall examine the contract and issue a certificate of property right transaction.

**Article 24** After completion of a property right transaction, both parties thereto shall go through the formalities for registration of change of property rights according to law. In the event of change of state-owned property rights of enterprises, relevant departments at the municipal, district and county level shall handle relevant change formalities for both parties according to the certificate of property right transaction issued by the property right transaction agency as well as relevant provisions.

## Chapter V Supervision and Administration of Property Right Transactions

**Article 25** Violations of laws and regulations by the transferor, transferee or intermediary agency and relevant personnel in property right transactions shall be investigated and punished by relevant departments according to law; whoever violates relevant provisions of the State and this Municipality on transfer of state-owned property rights shall be held accountable according to law; if a crime is constituted, criminal responsibility shall be investigated for according to law.

**Article 26** This Municipality shall establish a recording system for illegal acts in property right transactions to record any illegal act of the parties to a property right transaction such as the transferor, transferee and intermediary agency as well as the handling results thereof.

Units or individuals shall have the right to view the records of handling results of illegal acts.

**Article 27** In the event of any dispute over a property right transaction, the parties may apply for arbitration as agreed in the contract; in the absence of agreement on arbitration, the parties may file a lawsuit in the people's court according to law.

## Chapter VI Supplementary Provisions

**Article 28** Property right transactions involving administrative institutions shall be conducted by reference to the Provisions.

**Article 29** The Provisions shall come into force as of January 1, 2002.

## （十七）其 他

# 北京经济技术开发区条例

（1995 年 4 月 14 日北京市第十届人民代表大会常务委员会第  
十六次会议通过）

## 第一章 总 则

**第一条** 为了加快北京经济技术开发区的建设，促进本市对外开放，发展国内外经济技术合作与贸易，根据国家法律、法规的有关规定，结合本市实际情况，制定本条例。

**第二条** 本条例适用于经国务院批准设立的北京经济技术开发区（以下简称开发区）。

**第三条** 本市鼓励国内外企业事业单位、其他经济组织和个人（以下统称投资者）在开发区投资兴办高新技术企业、先进技术企业和产品出口企业。

鼓励投资者在开发区投资建设有利于产业结构调整、扩大出口贸易和国有大中型企业技术改造的工业项目及科技型项目。

鼓励投资者在开发区投资兴办基础设施项目。

**第四条** 在开发区不得兴办技术落后、设备陈旧、未达到国家和本市有关环境保护标准的项目以及国家和本市禁止的其他项目。

**第五条** 开发区应当建设完善的基础设施，建立符合社会主义市场经济体制要求的高效率的运行管理机制，创造良好的投资环境。

**第六条** 开发区的土地经征用后，实行有偿使用。土地使用权可以依法出让、转让。投资者可以按照开发区的规划，依法投资开发成片土地。

**第七条** 投资者在开发区的投资、收益和其他合法权益，受中华人民共和国的法

## xvii. Others

# Regulations on Beijing Economic and technological Development Zone

(Adopted at the 16<sup>th</sup> Session of the Standing Committee of the 10<sup>th</sup> Beijing Municipal People's Congress on April 14, 1995)

### Chapter I General Provisions

**Article 1** These Regulations are formulated in accordance with relevant provisions of State laws and regulations and in the light of the actual conditions of this Municipality for the purposes of speeding up the construction of Beijing Economic and Technological Development Zone, promoting this Municipality's opening up to the outside and boosting international and domestic economic and technological co-operation and trade.

**Article 2** These Regulations apply to Beijing Economic and Technological Development Zone (hereinafter referred to as BETDZ) established with the approval of the State Council.

**Article 3** This Municipality encourages foreign and domestic enterprises and institutions, other economic organizations and individuals (hereinafter referred to as investors) to make investments and set up new and high-tech enterprises, advanced technology enterprises and product-export enterprises in the BETDZ.

Investors are encouraged to invest in the BETDZ to build industrial projects and scienceand-technology-based projects that will help the readjustment of industrial structure, expansion of export and technology renovation of large and medium-sized State enterprises.

Investors are encouraged to invest in the BETDZ to launch infrastructure projects.

**Article 4** Any projects with backward technology and out-of-dated equipment and below the relevant environmental protection standards the State and Municipality, and other projects banned by the State and this Municipality are not allowed to be carried out in the BETDZ.

**Article 5** The BETDZ shall build perfect infrastructure facilities, institute an operation administration mechanism that meets the requirements of socialist market economy system and create a good environment for investment.

**Article 6** Land in the BETDZ, upon requisition, shall be used with payment. Land-use rights may be granted and transferred according to law.

Investors may, based on the planning of BETDZ, invest in the development of land in plots according to law.

**Article 7** Investors' investment, earnings and other legal rights and interests in the

律、法规保护。

开发区的任何单位和个人，必须遵守中华人民共和国的法律、法规和其他有关规定。

## 第二章 管理机构

**第八条** 市人民政府设立北京经济技术开发区管理委员会（以下简称开发区管委会），代表市人民政府对开发区实行统一领导和管理。

**第九条** 开发区管委会行使下列职权：

- （一）保证国家法律、法规和产业政策在开发区贯彻实施；
- （二）编制开发区总体规划和经济、社会发展计划，经市人民政府批准后组织实施；
- （三）制定并组织实施开发区的行政管理规定；
- （四）按照规定权限审核、批准开发区各类投资项目；
- （五）按照开发区的总体规划，对开发区的土地实行统一管理；
- （六）统一规划、管理开发区的各项基础设施和公共设施；
- （七）管理开发区的财政收支；
- （八）管理开发区的进出口事务；
- （九）管理开发区的涉外事务；
- （十）管理开发区的工商行政、劳动、人事、统计、物价、技术监督、城市建设、房地产、环境保护、环境卫生、公安、司法行政和计划生育等行政工作；
- （十一）兴办、管理开发区的教育、文化、卫生、体育等社会公益事业；
- （十二）监督、检查、协调有关部门设在开发区的分支机构的工作；
- （十三）市人民政府授予的其他职权。

**第十条** 开发区管委会可以设立必要的职能机构，对开发区的事务实行管理，为投资者提供服务。

市人民政府有关部门应当支持和配合开发区管委会的工作，加强对开发区管委会职能机构的业务指导。

BETDZ are protected by the laws and regulations of the People's Republic of China.

Any organizations and individuals in the BETDZ must abide by the laws, regulations and other provisions of the People's Republic of China.

## Chapter II Administrative Body

**Article 8** The Municipal People's Government sets up Beijing Economic and Technological Development Zone Administrative Committee (hereinafter referred to as BETDZAC) that exercises the unified leadership and control over the BETDZ on behalf of the Municipal People's Government.

**Article 9** The BETDZAC shall have the following functions and powers:

(1) ensuring that the State laws, regulations and industry-related policies are carried out and implemented in the BETDZ;

(2) preparing the overall program and economic and social development plans of the BETDZ, and after approval by the Municipal People's Government, organizing their implementation;

(3) formulating the administrative provisions of the BETDZ and organizing their implementation;

(4) examining and approving, within its jurisdiction, all kinds of investment projects in the BETDZ;

(5) exercising the unified control over the land in the BETDZ according to the overall program of the BETDZ;

(6) planning and managing in a unified way all the infrastructure and public facilities in the BETDZ;

(7) controlling the financial revenue and expenditure of the BETDZ;

(8) managing import and export affairs of the BETDZ;

(9) managing foreign affairs of the BETDZ;

(10) executing the administration of commerce and industry, labor, personnel, statistics, pricing, technical supervision, urban construction, real estate, environmental protection, environmental sanitation, public security, judicatory and family planning;

(11) establishing and managing public-interest institutions of education, culture, health and sports in BETDZ;

(12) supervising, inspecting and coordinating the work of relevant departments' branch offices located in the BETDZ;

(13) other functions and powers granted by the Municipal People's Government.

**Article 10** The BETDZAC may establish necessary functional offices supervising the affairs in the BETDZ and providing services for investors.

Departments of the Municipal People's Government shall support and cooperate with the BETDZAC and give strengthened professional guidance to the BETDZAC functional offices.

**第十一条** 本市有关部门在开发区设立分支机构，必须经开发区管委会同意，并报市人民政府批准。

### 第三章 投资和经营

**第十二条** 在开发区投资兴办企业事业项目，应当向开发区管委会提出申请，经审核批准后，依法办理土地使用、工商登记和税务登记等手续。

**第十三条** 在开发区兴办企业，应当按规定的期限投入资本和动工建设。不能按期投入资本或者动工建设的，应当提前申请批准延期；未经批准延期的，依法注销土地使用证和吊销营业执照。

**第十四条** 开发区的企业依法享有经营决策、产品销售、机构设置、劳动用工和工资分配等经营自主权。

**第十五条** 开发区的企业应当设立完整的会计帐簿，并依照规定向开发区有关部门报送会计报表和企业年检报告，接受财政、税务和工商行政管理等部门监督。

开发区企业的年度会计报表，应当经在中国注册的会计师或者审计师验证并出具证明。

**第十六条** 开发区的企业应当依照国家和本市环境保护和劳动保护的规定，采取切实有效措施，防止环境污染，改善劳动条件，保证劳动者在安全、卫生的条件下工作。

**第十七条** 开发区的用人单位和劳动者应当依照法律、法规和本市的有关规定参加社会保险。

**第十八条** 开发区的企业解散或者破产，依照法律、法规的有关规定办理。

### 第四章 优惠待遇

**第十九条** 开发区的企业，分别享受下列优惠待遇：

（一）外商投资企业享受国家规定的沿海开放城市经济技术开发区和本市规定的有关外商投资企业的优惠待遇；

**Article 11** To set up branch offices in the BETDZ, relevant departments of this Municipality must obtain the consent of the BETDZAC and report to the Municipal People's Government for approval.

### Chapter III Investment and Operation

**Article 12** Those that are to invest in the BETDZ to establish enterprises and institutions shall apply to the BETDZAC and after being examined and approved, go through the procedures of land use, commercial and industrial registration and taxation registration according to law.

**Article 13** Those that are to establish enterprises in the BETDZ shall vest capital and start construction within the prescribed time period. Those that are not able to input capital or start construction on schedule shall apply for the approval of department in advance; and without the approval of deferment, the certificate of land use and the business license shall be revoked according to law.

**Article 14** Enterprises located in the BETDZ shall enjoy the business autonomy in terms of operational decision-making, product sales, agency organizing, labor employment and salary distribution according to law.

**Article 15** Enterprises located in the BETDZ shall establish complete accounting books, submit accounting statements and enterprise annual verification reports to the relevant department of the BETDZ as required and accept of supervision of finance, taxation, commerce and industry administrative departments.

Annual accounting statements of enterprises located in the BETDZ shall be verified by accountants or auditors registered in China and certificates shall be issued by them.

**Article 16** Enterprises located in the BETDZ shall take practical and effective measures according to State and Municipality provisions concerning environmental and labor protection to prevent environmental pollution, improve working conditions and to ensure that laborers work in safe and sanitary conditions.

**Article 17** Employers and workers in the BETDZ shall participate in social insurance according to State laws and regulations and relevant provisions of this Municipality.

**Article 18** The dissolution or bankruptcy of enterprises in the BETDZ shall be handled according to the relevant provisions of laws and regulations.

### Chapter IV Preferential Treatment

**Article 19** Enterprises located in the BETDZ shall enjoy the following preferential treatments separately:

(1) foreign-invested enterprises shall enjoy the preferential treatment provided by the State for foreign-invested enterprises in economic and technological development zones of coastal open cities and the preferential treatment provided by the Municipality for foreign-invested enterprises;



(二) 高新技术企业享受国家和本市规定的鼓励高新技术发展的优惠待遇；

(三) 国家和本市给予开发区企业的其他优惠待遇。

**第二十条** 开发区的生产、经营和生活所需水、电、燃气、热力，纳入本市计划，保证供应。

**第二十一条** 经海关批准，开发区可以设立保税仓库、保税工厂和保税生产资料市场。

**第二十二条** 开发区的新增财政收入，自 1995 年起，五年内全部返还开发区，专项用于开发区建设。

## 第五章 附 则

**第二十三条** 华侨和香港、澳门、台湾同胞在开发区投资兴办企业，除国家另有规定外，享受本条例给予外商投资企业的优惠待遇。

**第二十四条** 市人民政府可以在开发区周边设立配套协作区。

**第二十五条** 本条例具体应用中的问题，由市人民政府负责解释。

**第二十六条** 本条例自 1995 年 6 月 1 日起施行。

(2) new and high-tech enterprises shall enjoy the preferential treatment provided by the State and the Municipality for encouraging the development of new and high technologies;

(3) other preferential treatment granted by the State and the Municipality to enterprises located in the BETDZ.

**Article 20** Water, electricity, fuel gas and heat needed for production, operation and daily life in the BETDZ shall be included in the municipal plan and their supply shall be guaranteed.

**Article 21** With the approval of the Customs, the BETDZ may set up bonded warehouses, bonded factories and bonded markets of productive materials.

**Article 22** Newly added financial revenue of the BETDZ should be returned in total to the BETDZ within five years starting from 1995 and earmarked for the construction of the BETDZ.

## Chapter V Supplementary Provisions

**Article 23** Overseas Chinese and compatriots from Hong Kong, Macao and Taiwan who invest in the BETDZ to launch enterprises shall enjoy the preferential treatment granted by these Regulations to foreign-invested enterprises, unless otherwise provided by the State.

**Article 24** The Municipal People's Government may set up correlative coordination zones in the periphery of the BETDZ.

**Article 25** The Municipal People's Government is responsible for interpreting these Regulations with respect to their application.

**Article 26** These Regulations shall become effective as of June 1, 1995.

# 北京市人民政府关于实施 《北京经济技术开发区条例》办法

(1998年4月29日北京市人民政府第3号令发布 根据2006  
年12月5日北京市人民政府第182号令修改)

**第一条** 为了实施《北京经济技术开发区条例》(以下简称《条例》), 加快北京经济技术开发区的建设和发展, 制定本办法。

**第二条** 本办法适用于国务院批准的北京经济技术开发区(以下简称开发区)规划范围内的开发、建设和管理。

北京经济技术开发区管理委员会(以下简称开发区管委会)代表市人民政府对开发区实行统一领导和管理。

**第三条** 开发区管委会对开发区内各项建设活动依法实施统一的规划管理。开发区规划管理部门在业务上受市规划管理部门领导, 主要负责以下事项:

(一) 按照《北京城市总体规划》和《亦庄新城规划》, 会同有关部门组织编制和修订开发区总体规划, 经市规划管理部门审核并报市人民政府批准后实施;

(二) 组织编制开发区详细规划和各专业规划, 报开发区管委会审定后, 按国家和本市有关规定报送市规划管理部门备案, 其中控制性详细规划方案报市规划管理部门审批;

(三) 承办开发区建设用地的规划申报, 涉及征收开发区范围内集体所有土地的, 根据本市土地利用年度计划和开发区管委会开发建设计划确定集中征地范围, 在依法办理农用地转用审批手续前, 报市规划管理部门审核同意, 经市人民政府批准, 由市规划管理部门核发建设用地规划许可证;

# Measures of the People's Government of Beijing Municipality for Implementing the Regulations on Beijing Economic and Technological Development Zone

(Promulgated by Decree No. 3 of the People's Government of Beijing Municipality on April 29, 1998 and revised in accordance with Decree No. 182 of the People's Government of Beijing Municipality on December 5, 2006)

**Article 1** These Measures are formulated for the purposes of implementing the Regulations on Beijing Economic and Technological Development Zone and speeding up the construction and development of Beijing Economic and Technological Development Zone (hereinafter referred to as the Development Zone).

**Article 2** These Measures shall apply to the development, construction and administration within the planned area of Beijing Economic and Technological Development Zone (hereinafter referred to as the Development Zone) approved by the State Council.

The Administration Committee of Beijing Economic and Technological Development Zone (hereinafter referred to as the Administration Committee of the Development Zone) shall exercise uniform leadership and administration of the Development Zone on behalf of the Municipal People's Government.

**Article 3** The Administration Committee of the Development Zone shall exercise uniform planning administration on all construction activities in the Development Zone. The planning administration department of the Development Zone is under the leadership of the municipal planning administration department, mainly responsible for the following matters:

(1) organizing the compilation and revision of the overall planning of the Development Zone jointly with relevant departments in accordance with Beijing Overall City Planning and Yizhuang New City Planning, and implementing the planning after it is verified by the municipal planning administration department and reported to and approved by the Municipal People's Government;

(2) organizing the compilation of the detailed planning and various special planning, and after reporting it to the Administration Committee of the Development Zone for final verification, submitting it to the municipal planning administration department for the record in accordance with relevant provisions of the State and this Municipality, additionally, submitting the controlling detailed planning to the municipal planning administration department for approval;

(3) undertaking the planning application of construction-use land in the Development Zone, where the expropriation of collectively-owned land is involved, determining the scope of land to be expropriated centrally based on the annual land-use plan of this Municipality and the development construction plan of the Administration Committee of the Development Zone, reporting to the municipal planning administration department for verification and consent prior to handling the examination and approval procedures for the agricultural land conversion according to law, and upon approval by the Municipal People's Government, the municipal planning administration department shall issue the construction

（四）受理在市人民政府批准的用地范围内具体项目的建设用地的规划审批申请，按照规定程序核发建设用地规划许可证，并报送市规划管理部门备案；

（五）承担开发区内建设工程的规划管理工作，经开发区管委会依据《北京城市总体规划》、《亦庄新城规划》、控制性详细规划以及各类专项规划批准，核发建设工程规划许可证，并报送市规划管理部门备案；

（六）参加开发区内建设工程竣工验收，并按国家和本市有关规定管理建设工程竣工档案。

**第四条** 开发区管委会按照开发区的总体规划，对开发区的土地、房屋依法实施统一管理。开发区国土资源管理部门、房屋管理部门在业务上接受市国土资源管理部门、建设管理部门的指导和监督，主要负责以下事项：

（一）依据本市土地利用年度计划中的农用地转用计划指标办理开发区规划范围内农用地转用和征收集体土地手续，经被征收土地所在地的区人民政府审核同意后，按规定程序报市人民政府批准；

（二）依据国家和本市有关规定办理开发区内国有土地使用权出让手续；

（三）受理开发区内国有土地使用权登记申请，按规定报市人民政府批准后，代发国有土地使用证；

（四）承担开发区内房屋产权登记发证和房屋买卖、租赁、抵押、商品房预（销）售等房地产市场的管理工作；

（五）审核开发区内房地产中介机构和物业管理单位的资质；

（六）会同房屋所在地的区建设管理部门协调处理开发区内房屋拆迁工作。

**第五条** 开发区管委会按照规定权限审批、核准开发区各类投资项目。开发区发展改革部门在业务上接受市发展改革部门的指导和监督，主要负责以下事项：

（一）受理《外商投资企业项目指导目录》中总投资（含增资额）1亿美元以下的鼓励类、允许类外商投资的项目和《政府核准的投资项目目录》中规定由地方政府

-use land planning permit;

(4) accepting the application for the planning of construction-use land of specific projects, within the land-use scope approved by the Municipal People's Government issuing the construction-use land planning permit in accordance with the stipulated procedures and reporting it to the municipal planning administration department for the record;

(5) undertaking the planning administration of construction projects in the Development Zone, issuing the construction-use land planning permit upon approval by the Administration Committee of the Development Zone in accordance with Beijing City Overall Planning, Yizhuang New City Planning, controlling detailed planning and various special planning, and reporting it to the municipal planning administration department for the record;

(6) participating in the acceptance upon check of construction projects completed in the Development Zone and keeping the files of construction projects completed in accordance with relevant provisions of the State and this Municipality.

**Article 4** The Administration Committee of the Development Zone shall exercise uniform control over the land and premises in the Development Zone according to the overall planning of the Development Zone. The administrative departments for land resources and housing of the Development Zone are under the guidance and supervision of the municipal administrative departments for land resources and construction in business, mainly responsible for the following matters:

(1) handling the procedures of the agricultural land conversion and collectively-owned land expropriation in the planned area of the Development Zone in accordance with the planned quota for agricultural land conversion of the annual land-use plan of this Municipality, and reporting to the Municipal People's Government for approval in accordance with the stipulated procedures after the district people's government in the place where the expropriated land is located grants the consent upon verification;

(2) handling the granting procedures of the State-owned land-use right in the Development Zone in accordance with relevant provisions of the State and this Municipality;

(3) accepting the application for registration of the State-owned land-use right in the Development Zone, and after reporting to and obtaining approval from the Municipal People's Government issuing the certificate of the State-owned land-use right on behalf;

(4) undertaking the registration of property rights of houses and issuance of the certificates, and the administration work of real estate market relating to the purchase, sale, lease and mortgage of houses as well as the presale of commercial houses;

(5) examining and verifying the qualification of real estate intermediary agencies and property management agencies in the Development Zone;

(6) rendering coordination and handling the housing demolition affairs in the Development Zone jointly with the administrative department for construction at the district level in the place where the housing is located.

**Article 5** The Administration Committee of the Development Zone shall examine, approve and verify all kinds of investment projects in the Development Zone according to its stipulated authority. The department for development and reform of the Development Zone is under the guidance and supervision of the municipal department for development and reform in business, mainly responsible for the following matters:

(1) accepting the application for the projects in the encouraged and permitted categories in the Catalogue for the Guidance of Projects for Enterprises with Foreign Investment with a total investment (including the increased amount) less than 0.1 billion

投资主管部门核准的项目申请，报开发区管委会核准。但涉及全市能源总量平衡的项目，水资源开发、利用和配置的项目，日产2万立方米以上的城市供水、排水项目，跨开发区规划范围的项目以及本市规定由市发展改革部门核准的其他项目除外；

（二）受理不使用政府投资，在《北京市政府核准的投资项目目录细则》以外的国内企业投资建设项目立项备案申请，报开发区管委会决定；

（三）协助企业做好由市发展改革部门或者国务院发展改革部门审批或者核准权限内项目的申报工作。

**第六条** 开发区管委会按照规定权限审核、批准在开发区申请设立的外商投资企业。开发区商务部门在业务上接受市商务部门的指导和监督，主要负责以下事项：

（一）受理投资总额在1亿美元以下的非限制类中外合资、合作企业章程、合同和外商独资企业章程审查的申请，报开发区管委会批准；

（二）核发市商务部门委托开发区管委会代发的外商投资企业批准证书；

（三）受理开发区内外商投资先进技术企业认定的申请，按规定报市商务部门认定；

（四）受理开发区内外商投资企业投资项下的非许可证、非配额管理的进出口设备、物料、机电产品及加工贸易合同的审核申请，报开发区管委会批准或者转报市商务部门。

**第七条** 开发区管委会统一管理开发区内的城市建设。开发区建设管理部门在业务上接受市建设管理部门的指导和监督，主要负责以下事项：

（一）依据有关法律、法规和规章，管理开发区内建筑市场和建筑行业；

（二）管理由开发区管委会批准的建设项目的招标投标、建筑质量和建筑施工；

（三）审批开发区内建设工程开工，核发建筑工程施工许可证。

**第八条** 开发区管委会统一规划、建设和管理开发区各项基础设施和公共设施。开发区市政管理部门在业务上接受市市政管理、园林绿化、交通、水务等管理部门的

US dollars and the projects subject to the examination and approved by the department in charge of investment of the local governments as stipulated by the Catalogue of Investment Projects Requiring Government Verification, and reporting to the Administration Committee of the Development Zone for verification, with the exception of the projects involving the balance of the total amount of energy of the whole municipality, the projects for the development utilization and allocation of water resources, the urban water supply and drainage projects with a daily productivity of more than 20,000 m<sup>3</sup>, the projects crossing the planned area of the Development Zone and other projects" subject to verification by the municipal department for development and reform as stipulated by this Municipality;

(2) accepting the application for entering in the records of the establishment of the non-government invested construction projects with the investment of domestic enterprises other than those included in the Detailed Rules of the Catalogue of Investment Projects Requiring Verification by the People's Government of Beijing Municipality and reporting to the Administration Committee of the Development Zone for decision;

(3) helping the enterprises to bring success to the application work concerning the projects subject to the authority of examination and approval or verification by the department for development and reform at the municipal level or of the State Council.

**Article 6** The Administration Committee of the Development Zone shall examine and approve the application for establishment of foreign invested enterprises in the Development Zone according to its stipulated authority. The department of commerce of the Development Zone is under the guidance and supervision of the municipal department of commerce in business, mainly responsible for the following matters:

(1) accepting the application for examination of the articles of association and control of the Chinese-foreign equity or contractual joint ventures and the articles of association of the wholly foreign-owned enterprises in the non-restricted category and with a total investment less than 0.1 billion US dollars, and reporting to the Administration Committee of the Development Zone for approval;

(2) checking and issuing the approval certificates of foreign invested enterprises which the municipal department of commerce entrusts the Administration Committee of the Development Zone to issue;

(3) accepting the application for confirmation of advanced-technology-based enterprises with foreign investment in the Development Zone and reporting to the municipal department of commerce for confirmation according to provisions;

(4) accepting the application for verification of import and export equipment, materials, mechanical and electrical products that are not subject to license or quota under the investment projects of foreign invested enterprises and verification of processing trade contracts in the Development Zone, and reporting to the Administration Committee of the Development Zone for approval or transferring the application to the municipal department of commerce.

**Article 7** The Administration Committee of the Development Zone shall exercise uniform administration of the urban construction in the Development Zone. The administrative department for construction of the Development Zone is under the guidance and supervision of the municipal administrative department for construction in business mainly responsible for the following matters:

(1) carrying out administration of the construction market and industry in the Development Zone in accordance with relevant laws, regulations and rules;

(2) carrying out administration of the bidding, quality and construction of the construction projects approved by the Administration Committee of the Development Zone;

(3) examining and approving the start-up of construction projects in the Development Zone, checking and issuing the construction permit for construction projects.

**Article 8** The Administration Committee of the Development Zone shall exercise



指导和监督，主要负责以下事项：

- （一）建设和管理开发区内道路、公共交通、供热等市政基础设施；
- （二）管理开发区内园林绿化和市容环境卫生工作；
- （三）管理开发区供水、排水、污水处理等水务工作；
- （四）依法征收绿化补偿费。

**第九条** 开发区管委会统一管理开发区环境保护工作。开发区环境保护管理部门在业务上接受市环境保护管理部门的指导和监督，主要负责以下事项：

- （一）组织编制开发区内的环境保护规划和年度计划，报开发区管委会批准后组织实施；
- （二）监测开发区内的环境质量；
- （三）审批开发区内新建、扩建、改建工程项目环境影响评价文件，参加环境保护设施的竣工验收；
- （四）承办开发区内污染物排放申报登记，依据市环境保护管理部门核定的污染物排放总量指标，实施污染物排放总量控制，核发污染物排放许可证，对超标排放污染物的单位责令限期治理；
- （五）处理环境污染纠纷及污染事故，并按规定及时上报；
- （六）依法征收开发区内的污染物排污费和超标排污费。

**第十条** 开发区管委会统一管理开发区的人事、劳动和社会保障工作。开发区人事、劳动和社会保障管理部门在业务上接受市人事、劳动和社会保障管理部门的指导和监督，主要负责以下事项：

- （一）组织实施开发区内促进就业和人才市场、劳动力市场管理服务工作；
- （二）管理开发区内的劳动合同和集体合同，核定工时，实施职业技能开发，依法开展劳动保障监察，处理劳动争议案件；
- （三）管理社会保险基金、开展工伤认定及劳动能力鉴定等各项社会保障工作。

uniform planning, construction and administration of various infrastructure and public facilities in the Development Zone. The urban administration department of the development Zone is under the guidance and supervision of the municipal department of urban administration, gardening and afforestation, traffic, water affairs, etc. in business mainly responsible for the following matters:

- (1) carrying out construction and administration of such urban engineering facilities as roads, public transportation and heating supply in the Development Zone;
- (2) carrying out administration of the gardening, greening, city appearance and environmental sanitation in the Development Zone;
- (3) carrying out administration of such water affairs in the Development Zone as water supply, drainage and wastewater treatment;
- (4) collecting the greening compensation fees according to law.

**Article 9** The Administration Committee of the Development Zone shall exercise uniform administration of the environmental protection in the Development Zone. The department for environmental protection of the Development Zone is under the guidance and supervision of the municipal department for environmental protection in business, mainly responsible for the following matters:

- (1) organizing the compilation of the environmental protection planning and annual plan in the Development Zone, and after reporting to and obtaining approval from the Administration Committee of the Development Zone, organizing the implementation;
- (2) monitoring the environmental quality in the Development Zone;
- (3) examining and approving the environmental effect evaluation documents of newly built, expanded or renovated construction projects and participating in the acceptance upon check of environmental protection facilities in the Development Zone;
- (4) undertaking the registration of application for emitting pollutants, exercising total control of pollutant discharge according to the target of total pollutant discharge verified by the municipal department for environmental protection, checking and issuing the pollutant discharge licenses and ordering units discharging pollutants in excess of standards to solve their problems within a prescribed time limit in the Development Zone;
- (5) settling disputes concerning environmental pollution and pollution accidents, and timely reporting to the superior authority according to provisions;
- (6) collecting fees for discharging pollutants and that for discharging in excess of standards in the Development Zone according to law.

**Article 10** The Administration Committee of the Development Zone shall exercise uniform administration of the personnel, labor and social security work in the Development Zone. The administrative departments for personnel, labor and social security of the Development Zone are under the guidance and supervision of the municipal administrative departments for personnel, labor and social security in business, mainly responsible for the following matters:

- (1) organizing the implementation of administration of and services to the employment promotion, talent market and labor force market in the Development Zone;
- (2) carrying out administration of labor contracts and collective contracts, verifying the working hours, implementing the development of professional skills, carrying out surveillance on labor security according to law and settling cases of labor disputes in the Development Zone;
- (3) carrying out administration of social insurance funds, and carrying out such social security work as the confirmation of industrial injuries and authentication of labour capacity.

**第十一条** 开发区管委会统一管理开发区的统计工作。开发区统计部门在业务上接受市统计部门的指导和监督，主要负责以下事项：

- （一）负责开发区内各单位统计管理工作；
- （二）执行国家和本市统计部门的统计报表制度，完成各项统计调查任务；
- （三）负责开发区内统计报表和统计资料的管理。

**第十二条** 开发区管委会负责开发区内的科技管理和知识产权保护工作，协助开发区内企业做好高新技术企业的认定和专利费用减、免等事务。

**第十三条** 开发区管委会统一领导开发区内安全生产工作，协调解决安全生产监督管理中存在的问题。开发区安全生产监督管理部门业务上受市安全生产监督管理部门的指导和监督，主要负责以下事项：

- （一）依据有关法律、法规和规章，对生产经营单位的安全生产工作实施监督检查；
- （二）承担开发区内安全生产的综合监督管理工作，指导、协调和监督开发区有关部门履行安全生产监督和管理职责；
- （三）承担安全生产的宣传教育、培训考核工作，按照职责分工组织查处生产安全事故。

**第十四条** 开发区管委会统一管理开发区的信息化工作，统筹规划开发区信息基础设施，组织落实信息安全保障体系建设工作。

**第十五条** 开发区管委会应当认真履行《条例》规定的各项职责，除《条例》和本办法已明确规定的各项职责外，对开发区内的其他管理事项可以行使区、县级人民政府行使的职权。具体职责范围由开发区管委会会同市级有关行政管理部门协商确定，报市人民政府备案。

**第十六条** 本办法自 1998 年 6 月 1 日起施行。

**Article 11** The Administration Committee of the Development Zone shall exercise uniform administration of statistical work in the Development Zone. The statistics department of the Development Zone is under the guidance and supervision of the municipal statistics department in business, mainly responsible for the following matters:

- (1) undertaking the administration of statistical work of units in the Development Zone;
- (2) exercising the statistical statement system of the statistics departments of the State and this Municipality and fulfilling the statistical survey tasks;
- (3) undertaking the administration of statistical statements and materials in the Development Zone.

**Article 12** The Administration Committee of the Development Zone shall be responsible for the administration of science and technology and the protection of intellectual property rights in the Development Zone, and helping the enterprises in the Development Zone to bring success to such affairs as the confirmation of high-tech enterprises and the deduction and exemption of the patent fees.

**Article 13** The Administration Committee of the Development Zone shall exercise uniform leadership of the safe production work in the Development Zone, coordinate and settle the problems in the supervision and administration of safe production. The department for supervision and administration of safe production is under the guidance and supervision of the municipal department for supervision and administration of safe production in business, mainly responsible for the following matters:

- (1) carrying out supervision over and inspection of the safe production work of the production and operation units in accordance with relevant laws, regulations and rules;
- (2) undertaking comprehensive supervision and administration of safe production in the Development Zone, guiding, coordinating and supervising relevant departments of the Development Zone to perform their functions and duties in supervision and administration of safe production;
- (3) undertaking propaganda, education, training and examination on safe production, and organizing investigation and disposal of safe production accidents according to its function and duties.

**Article 14** The Administration Committee of the Development Zone shall exercise uniform administration of the information -based work in the Development Zone, make planning of the information infrastructure in an overall manner in the Development Zone, and organize the implementation of the construction of information security systems.

**Article 15** The Administration Committee of the Development Zone shall conscientiously exercise the functions and duties prescribed in the Regulations and, except those functions and duties definitely prescribed in the Regulations and these Measures, may perform the functions and powers of the people's government at the district or county level over other administrative affairs in the Development Zone. The specific scope of its functions and duties shall be decided by the Administration Committee of the Development Zone jointly with relevant administrative departments at the municipal level through consultation and submitted to the municipal people's government for the record.

**Article 16** These Measures shall be effective as of June 1, 1998.

# 北京天竺综合保税区管理办法

(2010年2月1日北京市人民政府第218号令公布)

**第一条** 为促进北京天竺综合保税区(以下简称天竺综保区)建设与发展,根据有关法律、法规和《国务院关于同意设立北京天竺综合保税区的批复》,制定本办法。

**第二条** 本办法适用于天竺综保区。

本办法所称的天竺综保区是指国务院批准的设立在北京首都国际机场航空港区,具有口岸、物流、加工等功能的海关特殊监管区域。

**第三条** 天竺综保区内企业应当遵守中华人民共和国法律,遵守社会公德、商业道德,诚实守信。

天竺综保区内企业的合法权益受法律保护,依法享受国家和本市有关优惠政策。

**第四条** 市人民政府设立北京天竺综合保税区管理委员会(以下简称管委会),统筹协调天竺综保区规划建设和产业发展,统一管理天竺综保区的日常事务。

**第五条** 管委会根据国家和本市的产业发展规划和区域规划,会同发展改革、规划、商务等有关部门组织编制天竺综保区产业发展规划和区域建设规划,经市人民政府批准后组织实施。天竺综保区的开发建设,应当符合天竺综保区区域建设规划。

**第六条** 管委会应当为区内企业提供高效、便捷服务,区内企业设立、登记和投资等活动所涉及的各项行政许可事项,应当在天竺综保区内集中办理。

**第七条** 管委会在天竺综保区内设立集中办理行政许可事项的场所,实行一个窗口受理、集中办理、限时办结、跟踪服务等制度。

管委会应当在集中办理行政许可事项的场所公布行政许可事项的依据、内容、条件、全部流程、期限,以及需要提交的全部材料目录、申请书示范文本等。

# Measures for Administration of Beijing Tian Zhu Free Trade Zone

(Promulgated by Decree No. 218 of the People's Government of Beijing Municipality on February 1, 2010)

**Article 1** These Measures are formulated for the purpose of promoting the construction and development of Beijing Tian Zhu Free Trade Zone (hereinafter referred to as Tian Zhu FTZ) in accordance with relevant laws, regulations and the Reply of the State Council on Approving the Establishment of Beijing Tian Zhu Free Trade Zone.

**Article 2** These Measures apply to Tian Zhu FTZ.

The term “Tian Zhu FTZ” in these Measures refers to the special Customs surveillance zone with functions such as port, logistics and processing which is approved by the State Council to be established in the airport area of Beijing Capital International Airport.

**Article 3** Enterprises in Tian Zhu FTZ shall observe the laws of the People's Republic of China, comply with social and business ethics, and be honest and maintain good faith.

The legitimate rights and interests of the enterprises in Tian Zhu FTZ are protected by law and the enterprises enjoy relevant preferential policies of the State and this Municipality.

**Article 4** The Municipal People's Government shall set up the Regulatory Committee for Beijing Tian Zhu Free Trade Zone (hereinafter referred to as the Regulatory Committee) to considerate and coordinate the planning, construction and industrial development of Tian Zhu FTZ in an overall manner and carry out the daily routine business of Tian Zhu FTZ in a unified way.

**Article 5** The Regulatory Committee shall organize the compilation of the industrial development plan and regional construction plan in conjunction with the relevant departments for development and reform, planning and commerce, etc. in accordance with the industrial development plan and regional plan of the State and this Municipality, and organize the implementation of such plans upon approval by the Municipal People's Government. The development and construction of Tian Zhu FTZ shall comply with the regional construction plan of Tian Zhu FTZ.

**Article 6** The Regulatory Committee shall provide the enterprises in Tian Zhu FTZ with efficient and convenient services, and various administrative licensing matters involved in such activities as establishment registration and investment of the enterprises in the Zone shall be processed in Tian Zhu FTZ in a centralized way.

**Article 7** The Regulatory Committee shall set up a place in Tian Zhu FTZ for processing the administrative licensing matters in a concentrated way where the systems of handling the above matters at a single window, in a concentrated way, within a limited period and by providing tracking services shall be practiced.

The Regulatory Committee shall make public at the place for concentrated processing of administrative licensing matters the basis, contents, requirements, all procedures, time limit of the administrative licensing matters as well as the catalogue of all the materials required

申请人要求对公示内容予以说明、解释的，有关工作人员应当说明、解释。

**第八条** 相关行政机关需要对天竺综保区进行执法检查的，由管委会统一组织协调。

管委会根据市人民政府的决定，在天竺综保区内集中行使有关行政机关的行政处罚权。

**第九条** 建立口岸联合办公机制，为企业提供高效、优质通关服务。管委会组织海关、检验检疫、税务、外汇、商务、口岸、交通运输、民航、首都机场等单位建立联席会议制度，创新口岸监管制度，提高通关效率。

**第十条** 管委会设立联合查验中心，对需要查验的进出货物，由口岸监管部门根据需要进行联合查验。

**第十一条** 进出天竺综保区的人员和运输工具，应当凭专用证件在指定通道通行，并接受海关监管和检查。

管委会负责协调海关等有关单位，落实必要的监管措施，保证进出天竺综保区的人员和运输工具正常、有序通行。

**第十二条** 天竺综保区内企业聘用的专业技术和管理人才，符合本市有关规定，需要办理《北京市工作居住证》或者北京市常住户口的，管委会应当给予支持，协助办理相关手续。

**第十三条** 管委会应当及时受理企业的投诉，自接到投诉之日起 10 个工作日内提出处理意见；属于其他部门处理的应当及时移送，并书面告知投诉人。有关部门应当自接到移送投诉之日起 10 个工作日内提出处理意见，并书面告知投诉人和管委会。

**第十四条** 本办法自 2010 年 3 月 1 日起施行。

to be submitted and application forms for demonstration.

Where an applicant requests for an explanation or interpretation for what is publicized, the relevant staff member shall do so accordingly.

**Article 8** Where any relevant administrative agency needs to carry out law enforcement inspection in Tian Zhu FTZ, such inspection shall be subject to unified coordination and organization of the Regulatory Committee.

The Regulatory Committee, in accordance with the decision of the Municipal People's Government, shall exercise the administrative penalty powers of relevant administrative agencies in Tian Zhu FTZ in a centralized manner.

**Article 9** A joint working mechanism for port services shall be set up to provide the enterprises with efficient and high-quality customs clearance services. The Regulatory Committee shall organize the institutions of customs, inspection and quarantine, taxation, foreign exchange, commerce, port, transport, civil aviation and the Capital Airport to set up a joint meeting system and make innovations in port supervision systems to improve efficiency in customs clearance.

**Article 10** The Regulatory Committee shall set up a joint inspection center, where the port control departments make joint inspections on the import and export goods subject to inspections if it is necessary.

**Article 11** Persons and means of transport shall enter and exit Tian Zhu FTZ with special passes in designated routes and accept the customs' supervision and inspection.

The Regulatory Committee shall be responsible for coordinating the customs and other relevant institutions to implement the necessary supervision measures and ensure that persons and means of transport enter and exit Tian Zhu FTZ normally and orderly.

**Article 12** Where the professional technicians and management personnel employed by the enterprises in Tian Zhu FTZ conform to the relevant provisions of this Municipality and need to apply for handling the procedures for "Beijing Residence Permit for Work" or permanent household registration in Beijing, the Regulatory Committee shall give support and assistance in processing relevant procedures.

**Article 13** The Regulatory Committee shall promptly accept the complaints from enterprises and put forward the opinions on handling the cases within ten working days upon receipt of the complaints; where a case falls in the jurisdiction of another department, the Regulatory Committee shall transfer the case promptly and inform the complainant in writing. The relevant department shall put forward the opinions on handling the case within ten working days upon receipt of the transferred complaint and inform in writing the complainant and the Regulatory Committee.

**Article 14** These Measures shall be effective as of March 1, 2010.



