

Kathmandu Valley Development Authority Rule, 2068

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In the exercise of the powers conferred by the Sub-section (29) (1) of the Section (29) of the Kathmandu Valley Development Authority Act, 2045, the Government of Nepal has framed the following rules.

Chapter -1

Preliminary

1. Short-title and Commencement: (1) These Rules may be called "Kathmandu Valley Development Authority Rule, 2068."

(2) These Rules shall come into force from the date of commencement of the Act.

2. Definition: Unless the subject or the context otherwise require in the Rules,

(a) "Project" means, the project related to the Land Development Program.

(b) "Act" means Kathmandu Valley Development Authority Act, 2045.

(c) "User Committee" means user group constituted from among the land owners or the tenants to assist and manage of a land development project.

(d) "Employee" means employee working at present in the Authority.

(e) "Land Development Program" means the Land Development Program pursuant to Section (10) of the Act, and this expression also means the Land Development Program operated by the local agency having approval as per these rules.

(f) "Ministry" means "Ministry of Physical Planning and Works."

(g) "Local Body" means the District Development Committee, Village Development Committee or Municipality and this expression also includes Metropolitan city or the Sub-metropolitan city constituted as per the prevailing law in the project area.

Chapter - 2

Operation of Physical Development Plan

3. **Formulation and Approval of Physical Development Plan:** (1) While formulating physical development plan pursuant to the Section (5) of the Act, the Authority shall prepare, for sustainable development and management of Kathmandu valley considering the Kathmandu valley as a single entity, on the basis of the sustainable development concept, policy, and standard and by laws, sectoral plan or map.

(2) After the approval of the physical development plan by the Government of Nepal pursuant to Sub-section (5) (2) of the Section (5) of the Act, the plan shall be published in the Nepal Gazette with detail for the information of the general public.

(3) The physical development plan shall come into force after publishing the detail of the plan in the Nepal Gazette as per Sub-rule (2).

4. **Co-ordination:** It shall be the duty of the Authority to coordinate with the concerned body of the Government of Nepal, local body and other institutions in the course of performing the physical development planning or project.

5. **Standard May be Promulgated and Enforced:** (1) The Authority may promulgate necessary standards and apply it to implement a physical development plan or the construction by getting approval from the Government of Nepal.

(2) Concern person, body or institution shall have a duty to follow the standard promulgated pursuant to Sub-section (1) by the Authority.

6. **Physical Development Programs May be Operated:** (1) If any institution intends to operate physical development programs within the planning area may operate having approval from the Authority.

(2) While permitting to operate the physical development programs as per Sub clause (1), the Authority shall prescribe necessary terms and conditions to the concern institution.

7. **Cooperation shall be Provided:** (1) If the Authority has issued an order to demolish or remove any part of a construction pursuant to Section (9) of the Act, the Authority may write to the concern body for not giving effect to the transfer of

such property or not to accept the said property as security or mortgage until the concern person demolishes or removes the part of that construction.

(2) The concern body shall follow the order of the Authority accordingly if orders receive as per Sub-rule (1).

(3) The Authority may demand necessary security and help from the Government of Nepal or any agency to perform the task under the Act or Rules.

(4) The concern body shall extend necessary help upon the request of the Authority pursuant to Sub-rule (3) to the Authority.

Chapter - 3

Operation of the Programs Related to Land Development Project

8. Provision Relating to the Operation of Guided Land Development

Program: (1) The Authority may constitute a User Committee pursuant to Part (10.1.1) of the Sub-section (10.1) of the Section (10) of the Act for the participation of local land owner or tenant in the process of operating guided land development program and, it shall be the duty of such User Committee to assist the operation of the programs launched by the Authority.

(2) If the land owners or tenants submit an application seeking for the operation of guided land development program in the area, mentioning the four sides of land, where the guided land development programs is not operated, the Authority may operate guided land development program in such area where at least fifty families can reside in the area.

(3) While operating guided land development program pursuant to Sub-rule (2), in case acquisition of land needed as per the Act, the entire amount of compensation for such acquisition of land shall be paid by the local people to be benefited from the program.

9. Provisions Relating to Operate Land Pooling Program:

(1) If the Authority intends to operate a land pooling program in a part of planning area or at least fifty one percent landowners or tenants on the area, where the land pooling program is not operated submit an application seeking for the operation of a land pooling program in such area upon setting out the four sides of land, the Authority

may operate a land pooling program in the area where at least fifty family can reside.

(2) The authority in going to operate land pooling program pursuant to Sub-clause 1, it shall constitute a User Committee from among the users of respective area for the participation of local landowner or tenant and the land pooling program shall operate with the co-operation of User Committee.

(3) While operating land pooling program, the authority shall publish a public notice as per Section (7) of the Act, and shall impose restriction on the fragmentation or physical change to be made by any person of the immovable property situated in the said part for a period not exceeding two years.

10. **To Separate the Land:** In the course of operating land pooling program, the Authority shall, on consultation of user committee, fix the area of land that the land owners or tenants have to provide for a land pooling program on the basis of the current monetary value of that land and existing road and other provided facilities in the said part in order to provide services such as road, drainage, open space, drinking water and electricity.
11. **To Fix Land into a Single Plot:** After separating land pursuant to Rules 10, the Authority shall, for the purpose of returning back the developed sites to the previous landowner or tenants and for transforming the entire plots of land into a single plot, as per the Section (7) of the Act, forwards a letter to prevent transfer of ownership of immovable property situated in the concerned area to the office authorized for registration for a period of one year in maximum and after receiving such information the concerned office shall not register any immovable property, written in such part, by transferring ownership.
12. **To Distribute Land:** (1) After finalizing the task of land pooling pursuant to Rule 11, the Authority shall return the developed sites to the previous landowner or tenant along with the provisional certificate within the period as mentioned in the said Sub-rules.

(2) After returning developed site to the concerned land owner or tenants pursuant to Sub-rules 1, along with provisional certificate, the Authority shall write a letter to the concerned office of the land survey and land revenue for making compatible the survey map with the certificate, maintaining the record of landowner and for issuing land owner registration certificate, the land survey and

land revenue offices shall also make compatible the survey map as per the certificate, prepare the survey map of the land, maintain the record of the landowner and issue a land owner registration certificate to the concerned landowner or tenant.

(3) After preparing a new survey map, record of the landowner and the landowner registration certificate having compatible with the survey map, pursuant to Sub-rule 2, within the area of the programs of land pooling, the entire previous inventory of the land owner and tenants of the concerned area shall be void.

13. The Authority itself may Acquire Land: In case a landowner having less land than the area of minimum unit pursuant to Part 10.1.4 of Subsection 10.1 of Section 10 of the Act, is unable to purchase site at a cost determined by the Authority, the Authority shall itself purchase the land of such landowner or tenant and shall give compensation as per the current value of the said land.

14. Project to be Handed Over: (1) After completing all activities of the project relating to the land development programs operated by the Authority, the Authority may hand over it to a local body or User Committee registered as per the prevailing law.

(2) If User Committee intends to take over the land development program as per Sub rule 1, the Committee shall have at least sixty percent landowners or tenants as a direct beneficiary membership.

(3) The Authority shall make an agreement with the concerned Local Body or User Committee pursuant to sub-clause 1, while handing over the land development program.

(4) The Local Body or User Committee that takes over the project through the handover process as per this Rule, shall supervise or manage the project according to the condition of the agreement.

(5) If the Local Body or User Committee is not taking proper supervision or management of the project as per condition of the agreement, the Authority may at any time take back the project in own responsibility.

15. Local Body may Operate the Land Development Program: (1) If the Local Body intends to operate the land development program in any part of its area, it may do so by taking approval of the Authority.

(2) While operating the land development program pursuant to the Act, or Rule, the Local Body shall have the power as good as the Authority and the Local Body shall comply with the procedure and other provisions of the Act, or Rule, to be followed by the Authority while operating the land development program.

(3) The Authority may provide technical and financial facility to Local Body operating the land development program as per this Rule.

Chapter - 4

Meeting of the Committee and Provision Relating to Subcommittee:

16. Procedure to Regarding Committee Meeting: (1) The meeting of the Committee shall be held as necessary.

(2) The meeting of the Committee shall be held on the date, time and place prescribed by the Chairman.

(3) The Member Secretary shall distribute a notice of the meeting to the members at least twenty four hours before the meeting.

(4) The meeting shall be deemed to have completed the quorum if more than fifty percent members of total number of the Committee are present in the meeting.

(5) The Chairman of the Committee shall preside over the meeting of the Committee and in case of absence of the Chairman at the meeting, the member chosen by the members of the Committee from amongst themselves shall chair the meeting of the Committee.

(6) The majority opinion shall prevail over the meeting of the Committee and in case of a tie in voting, the person who chairs shall cast the vote as a deciding vote in the meeting.

(7) The Committee may invite any official or the expert in the meeting of the Committee.

(8) The decision of the Committee shall be authenticated by the Member Secretary of the Committee.

(9) The other procedures relating to the meeting of the Committee shall be as determined by the Committee itself.

17. **The Local Body to be Represented:** In relation to the operation of own functions by the operating Committee, the Committee shall include the representative of the Local Body in the Subcommittee forming under the Section 16 of the Act for any work relating to physical development.

Chapter -5

Provision on Appeal Committee

18. **Appointment of the Member of the Appellate Committee:** (1) The following qualified person shall be appointed as a member of the Appellate Committee:

(a) Having at least bachelor degree in law with at least ten years experience in such area.

(b) Having at least five years working experience in the post on Gazetted First Class in the engineering service, civil group, building and architect sub-group.

(2) The tenure of the member of the committee of the Appeal shall be three years.

(3) Notwithstanding anything contained in the Sub-rule (2), if any member does not fulfill their official responsibility or incompetent in working, the authority may remove any time from the position of the member.

But, before the removing from the position, he/she shall not be deprived of the opportunity to submit their clarification.

19. **Procedures of the Appellate Committee:** (1) All members of the Appellate Committee collectively, by establishing a bench, shall proceed and make a decision on the appeal filed in the Appellate Committee.

(2) Notwithstanding anything contained in Sub-rule 2, the proceeding over the appeal may be done by any two members and the final decision on appeal may be given if one member is present including the Chairperson.

(3) On the bench where the three members are present, if all the members vote for unanimously or the majority is established by the votes of two members, the decision shall be taken as the decision of the Appellate Committee.

(4) If unanimous decision could not reach in the bench of two members, with regard to proceedings, it shall be done as per the advice of the Chairperson if the bench comprises a Chairperson and if the bench is without a Chairperson, it shall be done as per the advice of the legal member. With regard to the decision of the Appellate Committee or the final orders, the verdict approved by the member who was absent earlier shall be the decision of the Appellate Committee.

(5) While presenting before the prior absent member pursuant to Sub-rule 4, if the decision could not reach on majority, it shall be presented to the Supreme Court for decision and for that matter the decision of the Supreme Court shall be the final.

(6) The Committee of appeal shall make a decision on the appeal generally within three months.

(7) Other working procedure of the Appellate Committee shall be as determined by the Committee.

20. Provisions on Secretariat and Employees of the Appellate Committee:

(1) The Secretariat of the Appellate Committee shall be in the place determined by the Authority.

(2) The officer who is in charge of the work relating to the legal function of the Authority shall be the Secretary of the Appellate Committee.

(3) Other employees necessary for the Appellate Committee shall be managed by the Authority.

(4) The administrative function of the Appellate Committee shall be performed by the Secretary and other employees under the general control and direction of the Chairman of the Committee.

(5) The Secretary of the Appellate Committee shall have the power equal to the power, granted by the prevailing law, that have to the Registrar of the Appellate Court.

21. Facilities of the Chairman, Member and Secretary of the Appellate Committee: (1) The Chairman or Member of the Appellate Committee shall get monthly facilities as determined by the Ministry on the approval of the Ministry of Finance.

(2) The Chairman, Member or Secretary of the Appellate Committee shall get meeting allowances for participating in the meeting of the Appellate Committee as determined by the Ministry on the approval of the Ministry of Finance.

Chapter - 6

Provision on Development Commissioner and Employees

22. Provision of Development Commissioner: (1) There shall be a Development Commissioner to work as an Executive Chief of the Authority.

(2) The Ministry shall constitute the following a recommendation committee to recommend for the post of Development Commissioner pursuant to Sub-section 17.1 of the Section 17 of the Act, except to recommend the person holding a position of Special Class or above of the Government of Nepal.

(a) The concerned member of the National

Planning Commission.

-Co-ordinator

(b) Secretary of the Ministry.

-Member

(c) One person amongst from the former director generals

of the Department of Urban Development and

Building Construction.

-Member

(3) The Committee constituted under the Sub-clause 2, shall recommend a person having at least more than twenty years worked in the field of engineering, administrative or management after receiving the Bachelors degree from the

reputed educational institution to appoint in the post of Development Commissioner.

(4) The Government of Nepal shall appoint the person in the post of Development Commissioner on the recommendation of the Committee pursuant to Sub-clause 3.

(5) The Committee pursuant to Sub-rule 2, shall itself prepare the procedure to be followed regarding the recommendation.

23. Functions, Duties and Power of the Development Commissioner: The Development Commissioner shall have the following functions, duties and powers.

- a. To function as an executive chief of the Authority.
- b. To prepared long term or short term planning, annual programs or budget, submit to the Committee for approval.
- c. To implement, to make implementing the planning or programs that has approved by the Authority.
- d. To observe, to make observing the functions has completed by the Authority.
- e. To co-ordinate with different bodies or institutions on behalf of the Authority.
- f. To supervise or control the functions of sub-ordinate offices.
- g. To do, to make doing other functions as determined by the Committee or operation committee.

24. To Remove from the Post: (1) If the Development Commissioner appointed pursuant to Subsection 17.1 of Section 17, of the Act, has not fulfill his/her official responsibility or lack of competency, the Authority may constitute an investigation committee for its investigation.

(2) If the investigation committee pursuant to Sub-rule 1, suggests to remove him/her from the post of Development Commissioner, the Government of Nepal, shall remove him/her from the post of Development Commissioner on the recommendation of the Authority.

25. Provisions of Employees: (1) The Authority shall have necessary employees.

(2) The appointment, condition of the service, facilities or function, duty and power of employees of the Authority shall be according to the regulation made by the Authority.

(3) Until the regulation is not made for appointing employees, pursuant to sub-clause 2, the Government of Nepal shall depute the civil personnel to work at the Authority.

Chapter - 7

Miscellaneous

26. **The Account Operation of the Authority:** The operation of the account of the Authority shall be by the chief account of the Authority and an officer prescribed by the Development Commissioner.
27. **Naming of the Office:** (1) The Authority has been named by Kathmandu Valley Development Authority.
- (2) The office of the Authority shall be in the place as prescribed by the Authority.
28. **The organizational format and Post of Employees of the Authority:** The organizational format and post of the employees of the Authority shall be as approved by the Government of Nepal on the recommendation of the Authority.
29. **May Establish Branch Office:** (1) The Authority may establish necessary branch offices for the smooth operation of its function within the planning area.
- (2) The function, duty and power of the officials in the branch office to be established pursuant to Sub-rule 1, shall be as prescribed by the Development Commissioner.
30. **Secretariat:** The Secretariat of the Committee or operation committee shall be in the office of the Authority.
31. **Meeting Allowance:** (1) The Chairman and Member of the Committee, operation committee or constituted sub-committee pursuant to Section 16 of the Act, shall get a meeting allowance, for the participation in the meeting, on approval of Ministry of Finance as prescribed by the Ministry.

32. Provisions on Financial Administration: (1) The financial administration of the Authority shall be according to the financial administration regulation prepared by the authority.

(2) Until the authority has made a regulation pursuant to sub-clause 1, the provision of financial administration of the Authority shall be according to the Public Procurement Act, 2063, Public Procurement Rules 2064, Finance Procedure Act, 2055 or Financial Procedure Rules, 2064.

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