



WIKI LEGAL LLC

HANOI

7th Floor, HH Office, No. 293/15 Khuat Duy Tien Str., Trung Hoa Ward, Cau Giay Dist., Hanoi
Website: www.wikilegal.vn
Email: admin@wikilegal.vn

HO CHI MINH CITY

Ground Floor, DHouse Building, No. 39 Nguyen Thi Dieu Str., Vo Thi Sau Ward, 3 Dist., HCM City
Website: www.wikilegal.vn
Email: hcm.office@wikilegal.vn

LEGAL UPDATE

No. 2 – June 2023

(15 June 2023 – 30 June 2023)



News in focus

New regulations on planning, real estate and housing projects (Effective from June 20th, 2023)



New legal documents

Remarkable among documents:

Decree 44/2023/ND-CP stipulating the value-added tax reduction policy under Resolution 101/2023/QH15

A – News in focus



New regulations on planning, real estate and housing projects

(Effective from June 20th, 2023)

On June 20, 2023, the Government issued Decree No. 35/2023/ND-CP amending and supplementing several Articles of Decrees in the field of State management of the Ministry of Construction.

The new Decree has amended and supplemented many Decrees with important contents in the field of construction; at the same time:

- Repeal all Decree No. 42/2009/ND-CP dated May 7, 2009; and
- Repeal Clause 3, Article 8 of Decree 02/2022/ND-CP dated January 6, 2022.

In this legal update, we reveal several highlights on planning, real estate and housing projects at Decree 35/2023/ND-CP.

1. Speed up the planning process towards small-scale land plots

Small-scale land plots meeting the following conditions only need to make a master plan:

- The land plot shall be implemented by an investor or a competent State authority.
- In an area where an approved subdivision plan is already in place or there is already an approved general plan for an area that does not require subdivision planning.
- Have a scale of land use:
 - less than 2 hectares for construction projects of apartments and apartment complexes; or
 - less than 10 hectares for construction

projects of factories, enterprises, industrial production facilities or technical infrastructure works (except for technical infrastructure along highways) determined according to the general urban or provincial planning or approved technical and specialized planning; or

- less than 5 hectares for the remaining cases.



2. Clearly define the concept of Investor of Commercial Housing Projects

a. If an investor wins the bidding or the auction of land use rights to implement a commercial housing project or is approved as an investor as prescribed in Clause 3, Article 29 of the Law on Investment 2020, such investor shall be the investor of the commercial housing project if they satisfy:

- Article 21 of the Law on Housing 2014 (amended in Clause 1, Article 75 of the Law on Investment 2020);
- Clause 2, Article 119 of the Law on Land 2013;
- Laws on real estate business.

b. If an investor is approved for investment policies concurrently with the investor approval, such investor shall be the investor of the commercial housing project if they:

- Having land use rights as prescribed in Clauses 1 and 4, Article 23 of the Law on Housing 2014 (amended in Article 4 of Law No. 03/2022/QH15);
- Meeting the conditions under Article 21 of the Law on Housing 2014 (amended in Clause 1, Article 75 of the Law on Investment 2020);
- Complying with the laws on real estate business and relevant laws.

3. Provincial People's Committees are allowed to stipulate the area is subdivided for sale



The provincial People's Committee shall specify the area in which land use rights can be transferred in the form of land subdivision for sale for people to build their own houses according to the detailed planning of the approved project, meeting the legal provisions on land and housing, real estate business and the following regulations:

- The project is suitable for urban planning levels; has completed investing in infrastructure construction of the entire project or according to

the approved investment period; the construction of houses must ensure to comply with the approved contents and progress of the project.

- Not in an area with high management requirements for landscape architecture, the façade of regional roads and above and the main landscape routes in the urban area, the central area and around the works are architectural highlights in the city.
- Provincial People's Committees shall base themselves on urban plannings, urban development programs of each municipality, approved architectural management regulations and national technical regulations on construction, infrastructure and urban plannings to specify areas where land use rights transfer is carried out in the form of land subdivision for people to build their own houses.

4. Reduce the implementation time of the project to renovate old apartments with a land area of less than 02 hectares

- For areas where apartments and apartment buildings with a land area of less than 02 hectares are carried out to renovate, the competent state authority is entitled to establish, appraise and approve detailed plans according to the shortened process (called as the process of formulating

the master plan).

- The formulation, appraisal, approval, adjustment and announcement of the master plan shall comply with the provisions of laws on construction planning and urban planning.

5. Supplement regulations on the competence to decide the adjustment of housing project objectives

- The provincial People's Committee has the right to consider and decide to adjust the objectives of housing construction investment projects for projects under the competence to decide on investment policies or to approve investment policies of provincial People's Committees;
- The consideration and decision on adjustment of project objectives shall be implemented when considering adjustment of investment policies in accordance with laws on investment, public investment and other relevant laws (if any).
- For projects within the competence to decide on investment policies or approve investment policies of the National Assembly, the Government and the Prime Minister: The Principal People's Committee must report to these agencies for consideration and adjustment of the objectives of housing construction investment projects when considering adjustment of investment policies in accordance with the laws on investment, public investment and other relevant legislation (if any).

6. Accelerate project implementation and increase autonomy for Investors

- For projects consisting of many works of different types and grades, the appraisal competence of specialized construction agencies shall be determined according to the management specialties specified in Article 109 of this new Decree for the main works of the project or the main works of the highest level in case the project has many main works.
- In case the main works have the same level, the investor may choose to submit for appraisal at a specialized construction agency according to one of the main works of the project.

7. Clarify the competence to grant construction permits in some cases

- For projects with many works with different types and grades of works, the competence to grant construction permits shall be based on the works with the highest level of the project.
- When adjusting the construction design or renovating a work that changes the grades of the work, the competence to grant a construction permit shall be based on the level of the work after the adjustment of the design or the renovation work.

B – New legal documents



Remarkable new legal documents (Enacted from 15 June 2023 to 30 June 2023)

No.	Legal documents
LABOR	
1	Decree 42/2023/ND-CP on adjustment of pensions, social insurance allowances and monthly allowances
	Enactment Date: 29 June 2023
2	The Minister of the Labor - Invalids and Social Affairs' Circular 05/2023/TT-BLDTBXH on the List of heavy, hazardous and dangerous educational training of intermediate and college degrees
	Enactment Date: 15/6/2023
3	The Ministry of the Labor - Invalids and Social Affairs' Consolidated document 2279/VBHN-BLDTBXH in 2023 consolidating the Decree guiding the Law on Occupational Safety and Health
	Enactment Date: 21/6/2023
EXPORT AND IMPORT	
4	Decree 34/2023/ND-CP amending Decree 112/2014/ND-CP on management of land border crossings
	Enactment Date: 16/6/2023

No.	Legal documents	
TAXES – FEES		
5	Decree 36/2023/ND-CP extends deadline for payment of excise tax for domestically manufactured or assembled cars	
	Enactment Date: 21 June 2023	Effective Date: 21 June – 31 Dec 2023
6	Decree 41/2023/ND-CP stipulates the rate of collection of registration fees for cars, trailers or semi-trailers towed by automobiles and vehicles similar to domestically manufactured and assembled cars	
	Enactment Date: 28 June 2023	Effective Date: 01 July – 31 Dec 2023
7	Decree 44/2023/ND-CP stipulating the value-added tax reduction policy under Resolution 101/2023/QH15	
	Enactment Date: 30 June 2023	Effective Date: 01 July – 31 Dec 2023
TRAFFIC – CONSTRUCTION		
8	Decree 35/2023/ND-CP amending and supplementing several Articles of Decrees in the field of State management of the Ministry of Construction	
	Enactment Date: 20 June 2023	Effective Date: 20 June 2023
9	Decree 39/2023/ND-CP guiding Resolution 73/2022/QH15 on piloting car license plate auctions	
	Enactment Date: 26 June 2023	Effective Date: 01 July 2023
10	The Minister of Transport’s Circular 10/2023/TT-BGTVT on economic-technical norms for management and maintenance of inland waterways	
	Enactment Date: 22 June 2023	Effective Date: 01 Sep 2023
FINANCE – BANKING		
11	The Governor of the State Bank of Vietnam’s Circular 04/2023/TT-NHNN regulating currency exchange agency activities of bordering countries	
	Enactment Date: 16 June 2023	Effective Date: 01 Aug 2023
12	The Governor of the State Bank of Vietnam’s Circular 05/2023/TT-NHNN amending Circular 30/2015/TT-NHNN regulating the issuance of licenses, organization and operation of non-bank credit institutions	
	Enactment Date: 22 June 2023	Effective Date: 06 Aug 2023
13	The Governor of the State Bank of Vietnam’s Circular 06/2023/TT-NHNN amending Circular 39/2016/TT-NHNN regulating lending activities of credit institutions and foreign bank branches to customers	
	Enactment Date: 28 June 2023	Effective Date: 01 Sep 2023