

UKRAINE: LAND LAW IN FOCUS

AUGUST 2020



LAND PLANNING: NOVELTIES

The current land legislation is amended dynamically. Particularly the new Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine on Land Use Planning introduces the new online and publicly available document – the Comprehensive Plan of Spatial Development which shall unite all town planning and land planning documentation. What else? Please find in our review.

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On July 24, 2020 the new Law of Ukraine On Amendments to Certain Legislative Acts of Ukraine Concerning Land Use Planning (hereinafter - the **Law**) was officially published.

The new Law introduces the number of expected changes, in particular, simplifies the procedure for changing the designated purpose of land plots, eliminates the concept of the designated use, introduces concept of functional zone of the territory. Please find these and other amendments in detail below.

FUNCTIONAL ZONE OF TERRITORY

Currently, the correlation of the functional use of lands (construction zoning) and the designated purpose (land zoning) is the cornerstone of land relations, in most cases they do not entirely correspond to each other. As a result, in case of land development, numerous disputes arise. The provisions of the Law partially regulate this issue.

The Law introduces the concept of the functional zone of the territory. From now on, the designated purpose and the designated use of a land plot will be determined in accordance with the respective functional use of the territory.

This being said the appropriate classifier will determine the correlation between the designated use of lands and the functional use of the territory. The rules of application of this classifier will be approved by the Cabinet of Ministers of Ukraine.

By January 1, 2025 the data on functional zones shall be included in the State Land Cadastre on the basis of approved comprehensive plans for spatial development of a community, the general plans of settlements.

Prior to entering these data, the land plots are designated to the relevant functional zone under zoning plans, general plans of settlements, detailed plans of the territory, urban planning documentation of the regional level.

CHANGE OF DESIGNATED PURPOSE

The change of the land plot's designated purpose **may be performed by the landlords at its discretion**. The similar right is granted to the land users who own buildings or constructions located on the land plots. This provision of the Law is not applicable to the land plots, located on the areas and objects of natural reserve fund.

Tenants of state and communal land plots are deprived of such an opportunity, because this issue is still decided by the relevant authority.

The **below steps will not be required anymore** to change the land plot's designated purpose:

- elaboration of technical documentation (except for allotment of state and communal land plots);
- adoption of additional decisions by the relevant authorities (except for decisions on establishing and change of the designated purpose of communal and state land plots).

The Law also defines the cases when the approval of the change of the plot's designated purpose is mandatory, in particular:

- if the land plot is used permanently, leased, or is subject to superficies/emphyteusis/mortgage the change of its designated purpose shall be approved by the land user or the mortgagee;
- if the land plot belongs to military lands, change of the land plot's designated purpose shall be performed through its approval by the Ministry of Defense of Ukraine or by the relevant authority;
- if the land plot is designated as especially valuable state or communal lands, the change of its designated purpose shall be performed through its approval by the Cabinet of Ministers of Ukraine.

The main condition for the implementation of these changes is the introduction of information on functional zones in the State Land Cadastre.

If this information is absent, the change of the designated purpose is carried out under the feasibility studies (in the way it was required before).

August 2020

CHANGES OF URBAN PLANNING DOCUMENTATION

Updating a list of an urban planning documentation and its content is one of the key issues of the new Law.

From now on, urban planning documentation of the local level should establish the maximum height of houses, buildings and structures, maximum density permitted for residential construction in the relevant quarter or neighborhood, the minimum distances from the projected object to the red lines, building lines regulation, existing buildings and structures, planning restrictions on the use of aerodrome areas, established under the Air Code of Ukraine.

The Law introduces the new type of urban planning documentation - comprehensive plans for spatial development of a community (hereinafter - the **Comprehensive Plan**). The Comprehensive Plan is developed for the entire territory of the community and provides for coordinated decision-making on the holistic spatial development of settlements as a single settlement system and the territory outside of them.

The general plans of the settlements detail the provisions of the Comprehensive Plan and are its integral components.

Please note that urban planning documentation of the local level approved earlier remains in force, and since January 1, 2025 amendments to such documentation are allowed only if they will comply with the requirements of the Law.

During two years since the date of publication of the Law, urban planning documentation of the local level, developed before the date of entry into force of this Law, may be approved without taking into account the requirements of the Law.

COASTAL PROTECTIVE STRIPS

Coastal protection strips (beach areas) in the settlements will be established according to the Comprehensive Plan, general plans of the settlements however shall not be less than 100 meters in case the above documentation is absent.

Information on the coastal protection strips, beach areas is to be recorded in the State Land Cadastre as information on land use restrictions, and shall be marked with information signs.

Please note that the Law comes into force on **July 24, 2021**.

Should you have any questions with respect to above or require any additional information, please do not hesitate to contact Mr. Vladyslav Kysil (v.kysil@kpdconsulting.com.ua), Mr. Mykhailo Semka (m.semka@kpdconsulting.com.ua) or Ms. Anastasiia Polishchuk (a.polishchuk@kpdconsulting.com.ua). We will be pleased to assist You.

Information contained in this overview is not intended to provide legal advice and should not be relied on or treated as a substitute for specific advice concerning individual situations.