

**FINAL REPORT OF THE LAND REFORM SECTOR  
“REGIONAL INVESTMENT INITIATIVE” IN NOVGOROD, RUSSIA**

**Appendix Materials**

The following materials were distributed for use by local officials during the project. Most of these papers are not included in the two roll-out Manuals which were written by NERA/CREA (property tax systems) or by PADCO (stimulating land markets). Nevertheless, these appendix materials are in a sequence which is designed for their possible use as supplementary “roll-out” materials

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**PROJECT IMPLEMENTATION AGREEMENT  
BETWEEN URBAN INSTITUTE CONSORTIUM  
AND  
STARAYA RUSSA RAION IN NOVGOROD OBLAST  
REGARDING PROPERTY TAX REFORM**

**I. INTRODUCTION**

This document describes the responsibilities of each of the Parties to this Agreement . The "Parties" are: (1) National Economic Research Associates (NERA)/Center for Real Estate Analysis (CREA) and (2) Staraya Russia Raion.

The Project is part of the Land Sector Reform component of the Partnership for Freedom Program (PFF), which is funded by the United States Agency for International Development (USAID).

The Land Sector Reform component is undertaken by the Urban Institute Consortium being constituted of the Urban Institute, National Economic Research Associates (NERA), and the Center for Real Estate Analysis (CREA), a Moscow-based firm.

**II. RESPONSIBILITIES of NERA/CREA**

NERA/CREA shall provide to the Raion the following:

1. Training Manuals and written materials concerning:
  - Legal, regulatory and administrative framework for the Property Tax Reform
  - Real Property Tax Fiscal Cadastre Construction and Maintenance
  - Property Tax Information Management System (PTIMS)
  - Taxpayers Education and public relations
2. Property Tax Information Management System (PTIMS) software.
3. Seminars
  - Seminar on fiscal cadastre construction and legal and administrative framework
  - Seminar on Property Tax Roll-Out Model.
4. On-site technical assistance and expertise provided on a limited basis by NERA/CREA.

**III. RAION RESPONSIBILITIES**

1. Establish and train Working Group of representatives of Departments or agencies with information necessary to construct the fiscal cadastre. Among these, there shall be representatives of:
  - Land Committee (LC)
  - Bureau of Technical Inventory (BTI)
  - City Registrar, and

- eventually, STS and Finance Department.
- 2. Appoint Project Coordinator.
- 3. Provide necessary equipment :computers.
- 4. Select appropriate staff for training.

#### **IV. JOINT PROJECT ACTIVITIES**

1. Develop and implement the Work Plan.
2. Construct cadastre
  - Identify data needs
  - Identify data holders
  - Develop data collection plan
  - Identify personnel needs
  - Develop data collection form
  - Train data collectors
  - Collect data
  - Develop data entry form
  - Train data entry staff
  - Enter data.
3. Construct the Property Tax Information System (PTIMS)
  - Install: modify data collection module
  - Establish quality control measure
  - Install: modify valuation module
  - Install: modify billing module
  - Install: modify collection and enforcement module
  - Develop standard operating procedures for each module for technical and clerical staff.

This Agreement is effective on the date of signing of the Parties.

The Parties each acting through their authorized representatives, have caused this Agreement to be signed in their names and delivered as of \_\_\_\_\_day of \_\_\_\_\_ 1997.

**THE URBAN INSTITUTE CONSORTIUM**

**STARAYA RUSSA RAION**

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# I. Property Tax Program

## B. "Information on Property Rights in Property Taxation System"

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### INFORMATION ON PROPERTY RIGHTS IN PROPERTY TAXATION SYSTEM

1. Why is data on the property rights required for the property taxation system?

Data on the property rights

- allow to define the taxpayer
- are used to assess the taxable property. Mass appraisal is based on the sales comparison approach. What is the essence of each buy/sell deed? - It is the transfer of the bundle of rights. Therefore appraisal for taxation purposes directly or indirectly evaluates property rights.

2. What kind of data on the property rights is required for the taxation system?

- First, which is most evident and is currently being implemented - data on the holder of the rights subject to taxation (ownership, inheritable lifetime possession, permanent (perpetual) use) or non subject to taxation (lease).
- When creating the information system one should anticipate that in future a more expanded data range may be required, for example, in case other types of rights become taxable in future. Also, in due course the fact that the right holder has rights to the properties attached to the subject property may become one of the major factors of the mass assessment model (for example, a) the house together with the land parcel attached to it will be subject to taxation as one property if they belong to the same owner; b) restrictions in favor of the third parties decrease the price/value of the property.)

3. What are the sources of information on the rights?

- Rights properly recorded before the new state system of title registration was introduced.
- Rights registered in the Unified State Title Register.

What is the difference between these two information sources?

	Recorded rights	Registered rights
Share of this type of rights by 2000	major	minor
Share of this type of rights by 2010	minor	major
Number of available information sources	unlimited	one
Conditions allowing to consider the rights documented/registered properly	various (there is definitely a certain standard de facto in Rayons, however it has been changing with time)	standard
Normative acts which were the basis for rights to be documented/registered	unlimited	so far, limited

Normative acts regulating state registration of title (on April 22, 1998):

Federal:

- Law of the Russian Federation "On State Registration of the Title"
- Rules of Keeping the Unified State Title Register (approved by the Resolution of the RF Government #219 of 18.02.98)

- Resolution of the RF Government #248 of 26.02.98 "On Establishing the Maximum Fee for State Registration of the Title and for Providing Information on the Registered Rights"
- Sample Provision on judicial agency for state registration of the title (approved by the Resolution of the RF Government #288 of 6.03.98).

In Novgorodskaya Oblast:

- Resolution of the Novgorodskaya Oblast Governor "On Measures for Implementation of the State Policy to Establish the System for State Registration of Title" (Resolution #56 of 09.02.98, modified by Resolution #146 of 10.04.98)
- Provision on Oblast Judicial Agency for State Registration of the Title (approved by the Novgorod oblast Governor's Regulation #137 of 07.04.98)

Under development in Novgorodskaya Oblast:

- Resolution on the Amount of Fee for State Registration of the Title and for Providing Information on the Registered Rights
- Regional program of creating the title registration system
- Sample provision on procedure of interaction among the judicial agency for title registration and other agencies

#### 4. What do we do with data on the property rights?

Data (as defined) are odd pieces of information.

Information is a combination of logically related data.

Knowledge is information available in the place and at the time of decision making.

Therefore, we are **linking** data on the rights and use them to link other data with one another. The rights link the property and the right holder.

It is most important not only to establish proper links between available data which takes place at the initial stage during mass entering of data but also create a situation when the information being generated comes out linked or prepared for linking.

#### 5. How are links established between data?

Unique identifiers are used to establish links between data.

For a property the unique identifier shall be a cadastral number.

For the right holder the unique identifier shall be:

for a legal entity:

- full name
- individual number of a taxpayer
- legal address
- date and place of the legal entity registration
- reference number of the registration certificate
- actual address

for individuals:

- last name
- first name
- middle name
- date of birth
- identification document and its requisites

- permanent residential address or primary address

For the registered right the unique identifier is a registration record reference number.

But the registration record number is the number given to the application for title registration (entry reference number). Therefore, there is a danger of collision: registration of rights of different entities or persons based on the same document, registration of several restrictions based on the same document.

Attention! It is not simply the registration record reference number that is unique for the registered right but combination of such a number, reference to the property, right holder and the type of the registered right (see Rules of Keeping the Unified State Register). Technically it is very inconvenient. One can only hope that explanations will be provided or alterations made.

Now back to cadastral numbers. Registration files (Unified State Register sections) are kept for each property and are identified using a cadastral number. A cadastral number is given by a real estate recordation agency. To have any right registered the applicant shall submit to the registrar a map of the property with reference to its cadastral number. Registration without cadastral number is permitted only for the land parcels which were not subject to cadastral survey or survey has not been finished yet. In this case the property will be registered using a conditional number given by the registration agency and not by the recordation agency. As soon as the property recorded with the conditional number is given a regular cadastral number the registration agency makes appropriate alterations in the registration file (section of the Unified State Register) (see articles 12, 17, 18 of the Law "On Title Registration").

Thus the recordation agency may never learn that a property was given a conditional cadastral number and the registration agency may never learn that a property was given a regular number instead of a conditional number.

Taxation faces another danger resulting from the procedure of giving conditional cadastral numbers: conditional numbers do not contain information on location of the property within administration unit (for example, assessment zone).

What can be done? A resolution can be adopted on the Oblast level (see Article 12 of the Law) on the rules of assigning conditional cadastral numbers which shall stipulate the following:

- A conditional cadastral number can be assigned to a land parcel only if the recordation agency provided a document that the property has no regular cadastral number (the recordation agency shall give its "approval" to assign a conditional cadastral number to the property, it would be great if they could also give a "recommended conditional cadastral number").
- A recordation agency shall register such "approvals".
- The registration agency shall use a **certain format** assigning conditional cadastral numbers.
- Assigning a regular cadastral number to a property, which once was assigned a conditional number, the recordation agency shall notify the registration agency.
- Within a **certain period** of time from the date of such notification the registration agency shall replace the conditional cadastral number with the regular cadastral number.

A fixed format will ensure the required level of accuracy for the location of the property registered under a conditional number.

Let's discuss why and how to limit the period of time for the registration agency to change the conditional cadastral number for the regular number. For taxation most important is to avoid the situation when property taxation data base is updated at the time when a property registered in the registration agency under a conditional number has already been assigned a

regular cadastral number in the recordation agency. What will the consequences be if it happens? Let's take a property under a regular cadastral number from the recordation agency data base. Then look for the right holder (tax payer) in the data base of the registration agency. We will not find a property under this cadastral number there. Such situation is called data disintegration.

#### 6. How to avoid data disintegration?

The answer depends on the organizational structure of agencies providing data for the taxation system. In general, all options come to two different cases:

- all agencies providing information for the taxation system can be connected into a local area network
- all agencies providing information for the taxation system can not be connected into a local area network

In the first case special software can monitor the system for data disintegration.

In the second case the most effective measure may be to announce moratorium for assigning new cadastral numbers several days before updating information in the property taxation database. During these several days the registration agency will replace all conditional numbers assigned to the properties during the year (during the period from the latest updating of the taxation system) with regular cadastral numbers.

## I. Property Tax Program

### C. "Requirements for the Automated Management System for Managing Real Estate Taxation (AMSRE)"

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#### Requirements for the Automated Management System for managing real estate taxation (AMSRE)

##### 1. General requirements

Automated Management System for managing real estate taxation (AMSRE) which is in the process of development will serve the purposes of automation of management of the city (district) real estate and it shall incorporate the following application modules:

- managing RE cadastre
- issuing registration notifications
- controlling the quality of RE cadastre
- RE appraisal
- managing taxation
- computing taxes
- issuing tax receipts and a register
- statistical module
- information searching module
- servicing modules.

Data base of AMSRE should contain data on:

- land plots
- constructions (primary projects)
- premises (secondary projects)
- tax payers (legal entities and individuals)
- rights
- tax parameters and benefits.

All data on objects of taxation, tax payers and their rights to real estate, characteristics of land plots and constructions shall be entered into RE cadastre in compliance with forms for entering data, which forms shall be sent by appropriate city (district) organizations - land committee, bureau for technical inventory etc.

The system should generate the following outgoing documentation:

- notification about registration of RE
- tax bills
- register of collected taxes.

Complete set of documents pertaining to the system includes the following:

- "AMSRE. User Guide"
- "AMSRE. Installation Guide"
- "AMSRE. Data Base Description"
- "AMSRE. System Description"

## 2. Requirements for application modules

**2.1. Module for managing RE cadastre** should provide for:

- entering data from incoming documents (data entry forms) to the table “Electronic images of data entry forms”,
- examining correctness of data and correlation between the newly entered data and the current status of the RE cadastre,
- automated entry of data into the RE register (if the data proved to be correct).

Two versions of this module are in the process of development now:

- interactive,
- package version.

A model data entry form is contained in Addendum 1.

**2.2. Module for issuing registration notifications** shall provide for execution of notifications, their preliminary reviewing and printing notifications about registration of real estate:

- pertaining to all RE projects,
- pertaining to a specified sample of projects.

A model registration notification and a list of criteria of sampling projects is contained in Addendum 2.

**2.3. Module for controlling the quality of RE cadastre** should provide for the launching of procedures for control over the quality of RE cadastre on the basis of certain formal criteria and visual display of the results of implementation of those procedures. For example, those procedures should include control over the state of readiness of different parameters of the project for computation of cost.

Criteria of determination of RE cadastre quality is contained in Addendum 3.

**2.4. Module of RE appraisal** should provide for the launching of procedures of mass appraisal of value of:

- all real estate projects contained in the register,
- a specified sample of projects.

Formulas of mass appraisal of value are contained in Addendum 4.

**2.5. Module for managing taxation** should provide for:

- entry of parameters necessary for computation of taxes
- entry and removal of benefits in the process of computing taxes.

**2.6. Module for computing taxes** should provide for computation of taxes levied on :

- all projects contained in the RE register,

- a specified sample of projects.

Algorithms of tax computation are given in Addendum 5.

**2.7. Module for issuing tax receipts and a register of taxes** should provide for execution of those documents, their preliminary reviewing and printing documents:

- pertaining to all projects contained in RE register,
- pertaining a specified sample of projects.

Samples of a tax bill, a tax register and a list of criteria of sampling projects are given in Addendum 6.

**2.8. Statistical module** should provide for the launching of procedures for collection of statistical data on RE appraisal and visual display of the results of implementation of those procedures for:

- all projects contained in RE register,
- a specified sample of projects.

Criteria of sampling and grouping projects for the purposes of collecting statistical data are contained in Addendum 6.

**2.9. Information searching module** should provide sampling of information about RE projects in accordance with pre-set criteria, like, for example:

- address
- payer

Criteria of sampling is contained in Addendum 7.

**2.10. Servicing modules** should provide for:

- keeping records reflecting changes in the data contained in the RE cadastre,
- automatic recalculation of cost and taxes when parameters of RE undergo changes.

### **3. Special requirements**

#### **3.1. Protection of data from unauthorized access**

#### **Addenda**

1. Model data entry form
2. Model registration notification
3. Criteria of determination of RE cadastre quality
4. Formulas of mass appraisal
5. Algorithms of computation of taxes
6. Samples of tax bills and a tax register
7. Criteria of sampling and grouping of projects for collection of statistical data
8. Criteria of sampling for the information searching module.

## Appendix II Legal Framework in Oblast and City

### A. Proposal for Action Plan for Conversion of Residential Land Rights: "SYSTEMATIC REGISTRATION"

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#### PROPOSAL FOR ACTION PLAN FOR CONVERSION OF RESIDENTIAL LAND RIGHTS: "SYSTEMATIC REGISTRATION"

(Adapted from paper by S. B. Butler, The Urban Institute  
ADDITIONAL POINTS IN *ITALICS*)

#### PROBLEM:

- Many owners of single-family homes within the city limits continue to hold land rights in the form of unlimited use or inheritable lifetime possession.
- It is the policy of the Russian Federation to phase out entirely these forms of land tenure except in the limited cases of state owned enterprises and budgetary organizations, as they do not suit the needs of the emerging free markets in personal land plots.
- The primary flaws of these forms of tenure as applied to personal land plots are:
  - they restrict rights of disposition, including sale and mortgage;
  - preserve a state ownership interest in the land held for personal use, contrary to public policy; and
  - create ambiguous titles as well as other problems related to state registration of real estate rights and transactions.

#### CURRENT PRACTICE—"PASSIVE REGISTRATION":

- The city of Novgorod is implementing a program of registration *which is intended to encourage private owners to register their individual property rights by simplifying the administrative process for property rights registration*
- While this proposed approach is in the right direction, there are several issues:
  - The role envisioned for the city under the proposed law is largely passive.
  - The current practice preserves the right to lease residential land,. In fact, the differential rates for lease rents and land taxes encourage leasing rather than ownership *because the tax rates are higher.*
  - The current practice might result in citizens waiting until the last moment to apply for conversion to ownership, creating an administrative problem as applications flow in as the deadline approaches.

**ALTERNATIVE ACTION PLAN FOR CONVERSION OF RESIDENTIAL LAND RIGHTS:  
"SYSTEMATIC REGISTRATION"**

- The general steps of an alternative action plan for conversion of rights through a program of "systematic registration" residential land include:
  - Prohibit leasing of newly acquired residential land plots. Henceforth exclusively grant ownership to those who newly acquire a house or residential land plot.
  - Modify the land rent laws to make rents for residential land plots as least as great as land taxes; preferably greater. *(And explore feasibility of implementing a land tax which is imposed on "use rights" value. Install a revenue system which incorporates both a rental and a "use rights" tax on rented properties.)* If this is not possible, impose an initial purchase price to obtain a lease of a residential land plot.
  - Prepare the Regulation on Delineation (Formation) of Residential Land Plots and Conversion of Rights of Use and Lifetime Possession; refer to RF Government Regulation No. 105.
  - Form City Teams for Delineation and Adjudication of Rights to Residential Land Plots.
  - Define "action areas" (geographical portions of districts) and the sequence of consideration of action areas.
  - Publish Notice of the Plan and Sequence in the Local Press.
  - Commence Delineation of Land Plots and Conversion of Rights.
- Specific steps within each "action area" would include:
  - Announcement in the local press of commencement of activity in the action area.
  - Assembly by team of city records on land plots; inventory of residential land plots in the designated action area.
  - Identification by team of unregistered rights and registered rights of use and lifetime possession.
  - Identification by team of boundaries and evidence of land rights from city records.
  - Field Visits, as necessary.
    - Notice of occupant of date and time of field visit.
    - Review of land boundaries and rights with occupants.
  - Preparation of preliminary report on boundaries and rights for land plots.
    - Prepare boundary sketch to standards established by land committee and registration agency.
  - Notice to Land Occupants of Preliminary Conclusions.
    - Notice of right to request a meeting with City team (or representative) within specified period of time; etc.
  - If requested, meetings by City Team with land occupants to resolve questions and disputes; resolution of disputes.

- Final Decision
- Notice to land occupant of final decision and intention of the city to register a certificate of ownership in the name of the occupant in 30 days unless within that time the occupant requests a lease.
- Registration of Certificate of Ownership

#### **BENEFITS OF ALTERNATIVE PLAN:**

- Helps to direct conversion of residential land rights away from leasing and toward ownership.
- Gives to local government more active role and control over the pace of conversion.
- *May encourage a program which involves simultaneous property identification (physical cadastre) concurrently with property rights registration of each property*
- Through periodic announcements advises citizens that the process has commenced and encourages them to resolve their land rights.

#### **DRAWBACKS OF ALTERNATIVE PLAN:**

- Requires some investment of city resources

## **II. Legal Framework in Oblast and City**

### **B. Municipal Land Ownership Correspondence with Novgorod Oblast Land Committee**

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*Letter of 25 August, 1998 to Deputy Chairman N. M. Manuhin*

Dear Nikolai Maximovich!

Novgorod Oblast Land Committee has prepared the draft of regional law on introducing amendments and additions to the regional law "On allocation and withdrawal of land sites in Novgorod region". This very important legal law where an effective provisions providing the possibility of a progress in land reform was adopted by Oblast Duma in the first reading. However in our opinion if the following remarks and suggestions were taken into consideration it would allow to improve the law wording.

According to the draft point 1 article 5 : "land plots, located in urban and rural settlements, and the right of its lease to private individuals and legal entities can be sold through public sales according to the resolution of the competent self government body from now on until enactment of RF law on federal and municipal lands."

This provision contradicts to legislative or some other legal laws which regulate land relations according to which the self government bodies have the powers to possess, use, dispose and manage the land sites which are in municipal ownership. In particular according to the point 3 of Procedure of organizing and holding Public Sales (auctions, competitions) on selling of land plots, located in urban and rural settlements, and of the right of its lease to private individuals and legal entities approved by the RF Resolution of 5/01/98 No2, land plots which are in federal state ownership and the right of its lease can be sold only according to resolution of RF Government or specially authorized by it federal executive bodies.

While improving the draft it is necessary to introduce the addition to the original text of point 1 article 5. This addition will consider that land sites which can not be privatized according to the RF legislation are not for sale. The sale of land sites occupied by sea-, river- and airports is prohibited. The following land is also not for sale: land of common use in settlements (squares, streets, drive-ways, roads, embankments, parks, forest parks, public gardens, gardens, boulevards, ponds, beaches) ; conservancy area, nature monuments, national and dendrology parks, botanical gardens; health improvement land , land of historical and cultural use; lands granted for agricultural use, for use and protection of mineral resources; contaminated lands, biologically contaminated lands, land sites which are in temporal use ( point 4.2 of General provisions on State program of privatization of state and municipal enterprises in RF after the 1 of July, 1994, approved by RF President Decree of 22/07/94 No1535, RF President Decree of 14/06/92 No 631 "On approving the procedure of sale the land sites under privatized state and municipal enterprises, their extension and additional construction, also allocated to citizens and their organizations for business".)

According to this, we suggest to improve the text of the draft and discuss the proposed version of the text of article 5 point 1: " from now on until enactment of RF law or other federal legal acts determining the demarcation of state lands into lands vesting to RF, to Subjects of RF and municipalities establish that self government bodies can dispose of lands including the right to sell land plots, located in urban and rural settlements, with the exception of lands referred to federal property and/or not for sale according to the existing legislation, and the right of its lease to private individuals and legal entities".

With every good wish,

M.R.Miller  
Chief of the Party

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25 of August, 1998

*Letter of 27 August, 1998 to Deputy Chairman N. M. Manuhin*

*Deputy Chairman of the Novgorod Region Land Committee*

Dear Nikolai Maximovich,

While working on the regional law draft on introducing amendments and additions to the regional law "On allocation and withdrawal of land plots in Novgorod region" please consider the following addition to the letter of the 25th of August, 1998.

It is expected to exclude part 6, article 1 of regional law "On allocation and withdrawal of land plots in Novgorod region" saying that "land plots can be allocated to foreign persons and persons without citizenship on the leasing terms" from the law and to introduce a prohibition for foreign physical and legal entities to have right to buy a land plot.

However according to the RF Constitution, part 3, article 62 foreign people and people without citizenship have the same rights and obligations in Russian Federation as Russian citizens have except the cases determined by a federal law or RF international treaty. Hereby the RF Constitution equals foreign persons, persons without citizenship and Russian citizens in their rights and obligations, that is it establishes for these people "a national regime". It is essential that the national regime is established in part 3, article 62 as the general principal of Russian legislation. According to part 3, article 62 this principal of equal rights and obligations acts as a plenitude if a federal law or RF international treaty does not determine the other. According to the RF Constitution any dismissals of the national regime (disability or on the contrary accrual of rights in comparison with Russian citizens' rights) can be established only by federal law or international treaty. Introducing the special rights for foreign people in some other laws is not legally acceptable.

The RF Civil Code also assigns the national regime for foreign citizens and people without citizenship. According to article 2 of the RF Civil Code the rules established for Russian legislation are applied to all kind of relations with foreign people, persons without citizenship and foreign legal entities except the cases determined by a federal law.

The RF legislation does not have regulations directly prohibiting for foreign legal and physical entities and persons without citizenship to have land plots in ownership. Furthermore according to the RF President Decree of 24.31.93 No2287 "On making the federal land legislation in accordance with the RF Constitution" in connection with the RF Constitution adoption, article 7 of the RSFSR Land Code prohibiting to sell land plots to foreigners in ownership and life heritage tenure is disabled. It also should be mentioned that according to point 10 of the Procedure of organizing and holding of public sales (auctions, competitions) on selling of land plots, located in urban and rural settlements, and of the right of its lease to private individuals and legal entities, approved by the RF Resolution of 5.01.98 No2, any person, who has submitted an application with required and properly issued documents not later than on the date, specified in the notification and has transferred the deposit sum by the deadline of applications reception to the accounts, specified in the notification, can take part in public sales.

The plain truth is that there will be present some essential restrictions for the land turnover. Probably these restrictions will be connected with the turnover of the agricultural lands. Due to that at present time introduction of agricultural lands in economic turnover is possible with some restrictions. This provision is reflected in RF Resolution of 21.03.98 No 321

"On the results of social and economic development of Russian Federation in 1997 and on tasks for 1998" and RF Government program "Russian Government twelve activities in the sphere of economic and social policy" approved by RF President.

Considering aforesaid we suggest to review the following text of part 6 article 1 "according to the present law foreign legal and physical entities and persons without citizenship can be the buyers of land plots, located in urban and rural settlements, with the exception of the lands excepted from or restricted in the turnover including agricultural lands. Agricultural land can be leased to foreign legal and physical entities and persons without citizenship".

With every good wish,

M.R.Miller

## **II. Legal Framework in Oblast and City**

### **C. Land Use Regulation Memorandum: Structure of Land Use Regulations in Novgorodskii Raion**

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#### ***Memorandum***

**To:** Novgorod Working Group

**From:** Peter D. Hart, Land and Real Estate Reform Team

**Re:** Structure of Land Use Regulations for Novgorodskii Raion

**Date:** 1 September 1998

#### **1. Introduction**

This memorandum is intended to provide a structure for the introduction of modern land use regulations in the suburban area of Novgorodskii Raion. The memorandum focuses on legal zoning which is the core of modern land use regulations. It begins with a discussion of the purpose of zoning and its effect on development of the raion area. A model structure of land use zones is suggested and the basic components of a zoning ordinance are explained. Finally, the administrative procedures for development approvals necessary to implement zoning in Novgorodskii Raion are outlined. To go along with this memorandum, a draft zoning map has been prepared. The basis for this map has been preliminary analysis of the study area and preparation of a preliminary land use plan. Both the land use plan and the zoning map will be refined as this work continues in conjunction with the Town Planning Fund and Novgordzempredpriatie.

Other land use regulations are historic preservation regulations and environmental regulations. Historic preservation regulations are under the control of the Oblast administration and have not been considered in detail in this memorandum. Environmental regulations include special regulations for the water protection zones in Novgorodskii Raion and sanitary protection zones for industrial development. Water protection zone regulations have been instituted by both the Oblast and the Russian Federation to protect the water quality of Lake Ilmen, the Volkov River and its tributaries. A model water protection ordinance was prepared for these areas in February 1998 under a USAID contract. Federal SNiPs (construction standards and norms) govern land uses surrounding industries.

#### **2. What is Modern Zoning?**

Zoning is a mechanism for regulating the use of land within a local jurisdiction by dividing the land area into zones that permit specified uses and activities. The types of zones are based on the long-term land use plan for the area. Therefore a planning process is essential prior to creating a zoning ordinance.

Modern legal zoning serves a community in a variety of ways. Laws which determine the types and density of land uses are one factor to estimate future needs for public investment infrastructure, roads, social and educational services. By establishing the types of uses on the land, zoning plays a crucial role in land valuation. By controlling conflicting land uses, zoning can help maintain the value of individual property and provide security to land owners and developers. Through proper administration, zoning can render predictability to the development processes of a community which improves the climate for investment.

Most land use regulations contain at least three parts. The core of the regulations is the establishment of the zones and the accompanying rules for land use and development. Equally important is a description of the procedures for acquiring a zoning approval and of the agencies involved. Finally, a zoning map which shows the location of each zone is an essential part of the regulations. Additional regulations allow conditions for variances to the regulations, explain how existing non-conforming uses are handled, and clarify how the regulations can be changed and amended.

Each zone designates the types of uses allowed and the standards for development within the zone. Uses are divided into two major categories - those that are integral to the zone and permitted by right, and those which may be permitted under special conditions by special permit. Development standards may stipulate many factors, such as the height of buildings, setback from rights-of-way, required lot size, and the density or amount of development that is permitted on the lot. Supplementary regulations may offer rules for the control of parking, signs, or may require landscaping or buffering between certain uses. Modern land use regulations often require performance standards for different types of industrial uses that are linked to the zone in which they are located.

### **3. Structure of Land Use Zones for Novgorodskii Raion**

In the past three weeks we have worked with the staff of Novgorodzempredpriatie to analyze existing conditions in the raion study area. We have determined the constraints and opportunities for future development of the area and formulated a preliminary land use development plan. We have drafted a zoning district structure based on this plan. For consistency, we have tried to parallel the zoning structure of the City of Novgorod, however, due to basis differences in geography, the nature of the zones in the raion are somewhat different from the city. The following is a recommended list of the zones with a description of the intent of each. The location of these zones are shown on an accompanying preliminary zoning map.

#### **Residential Zones**

**R-1 Large Lot Individual Residences:** The intention of this zone is to permit single and two family dwellings on large lots which have self contained water and wastewater facilities. In addition to residences, low impact agricultural activities may be allowed as a principal use. A minimum lot size should be established to accommodate the functions allowed in this district. Other uses allowed by special permit may be recreation facilities, small inns and guest homes, restaurants, small retail stores, tourist and recreation facilities, and places of worship. Developments located within the water protection zone may be subject additional review under the requirements of that zone.

**R-2 Cottage Residences:** This zone is intended for one and two family cottage residences or block houses for two or more families, no more than three stories in height, on smaller lots which may be connected to public water and sewer facilities. Special permit uses may include places of worship, educational facilities, and convenience stores for local use. Accessory uses, such as parking and storage are permitted only in conjunction with a principal or special permit use.

**R-3 Houses for Two or Three Families and Apartment Houses not higher than 5 Stories:** This zone is a general purpose residential zone which includes single and two family residences, block houses and apartment residences up to 5 stories in height. These zones are located in areas where there is substantial public investment in infrastructure and where there are social and educational support services for the residents. In addition to residential uses, principal uses permitted by right include places of worship, educational institutions, public

safety service (police and fire), clinics and social services. Special permit uses may include small shops and repair services.

**ÀÒ Mixed Use Zone - Residences/Services for the Population:** This zone is intended for mixed residential and commercial uses in active locations along major roadways. Although a mixture of residential types is allowed, the zone allows high density uses which take advantage of available infrastructure and a multitude of services. Local neighborhood businesses and services provide for the needs of the population. These uses are allowed in the first floor of residential buildings, in kiosks, in separate structures, or in “lean-to” structures adjacent to residential buildings.

## **Industrial Zones**

**Ī -1 Businesses for Servicing Industry:** This zone is designed for low-impact industry-related activities such as repair shops, offices, warehouses storage and distribution of goods, and small assembly and manufacture of items which do not have sanitary zone requirements. Also permitted are a wide range of commercial services which may have a regional market. The zone can be mapped as a buffer between higher impact industrial uses and other non-industrial uses.

**Ī -2 Enterprises of the IV-V Categories of Pollution and Warehouses (Sanitary Zones up to 100 M.):** This zone is intended for light industrial activities that have a minimal impact on surrounding land uses and according to SNIIP requirements have a sanitary zone of 100 meters or less. A limited array of complementary uses may be permitted only by special permit in order to preserve these parcels for the generation of economic activities and employment which benefit the region as a whole. The location of industrial activities would be considered on a site-by-site basis with regard to the capacity of existing infrastructure and access.

**Ī -3 Enterprises of the II-III Categories of Pollution (Sanitary Zones of 300, 500, and 1000 M.):** This zone is similar to Ī -2, except that heavier industries are allowed which require a sanitary zone up to 1000 meters.

**Ī -4 Planned Business/Industrial Park Zones:** This zone is intended for large areas of land which are to be planned as a unit with a mixture of complementary uses. In general, these are low-impact industries, offices, research or development activities which would not be subject to the sanitary zone requirements. Building may be located in a coordinated campus-type site plan. Large parts of this zone are located in areas currently under served by access and infrastructure. In order to create viable development the cost of importing these services and other site preparation activity suggests that the areas need to be planned and marketed as larger development units.

## **Conservation and Recreation Zones**

**P-1 Historic and Cultural Preservation Zone:** The intent of this zone is to support the conservation and restoration of designated historic and archeological sites and cultural landscapes. Uses are permitted which compliment the historic character of these zones, ensure the recovery and restoration of historic monuments and places of archeological value, and provide for the public enjoyment of designated structures. Due to the sensitive historic character of these areas all uses, except temporary structures associated with restoration activities, require special permit approval and review by the oblast historic preservation authorities. Some of the types of uses which may be allowed by special permit include, single and two family residences, inns guest homes and tourist centers, agriculture, museums and

exhibition halls, places of worship, education facilities, and cemeteries. Accessory uses, such as stables, storage facilities, parking and barns may be allowed only in conjunction with a permitted use.

**P-2 Dacha Zone:** The P-2 Dacha Zone is intended to provide a location for dachas and kitchen gardens for use by citizens. Since these areas are intended for seasonal and temporary residential use, they are not intended for public infrastructure investment. Typical uses permitted by right include: dachas, kitchen gardens, places of worship, and recreation facilities. Special permit uses may include sanatoria, cemeteries, etc.

**P-3 Zone of Active Recreation in Parks:** This zone is intended for active recreation and park lands. Typically they would be located in conjunction with intensive areas of land use and would be determined as areas are developed overtime. Principal uses include passive and active recreation facilities such as playgrounds, ball fields, sports centers, ski trails, swimming pools, gardens, and sitting areas. Special permit uses may include stadiums, museums and exhibition halls, cafes and restaurants, etc.

**P-4 Zone of Natural Landscapes:** This zone is intended to preserve specially protected natural features and to permit uses which do not put those features at risk. Principal uses may include fish breeding ponds, boat launches, piers, hunting facilities, camping, and skiing and hiking trails. Special permit uses may include sanatoria, education facilities and places of worship. Large areas of this zone are included in the water protection overlay zone. Any development located within this zone is subject to special review to satisfy the requirements of that zone.

**ÑÑ Agricultural Zone:** The CX Agricultural Zone is intended to provide a location for the unencumbered practice of all types of productive agriculture and to encourage agricultural enterprises. Large parcel sizes should be preserved to allow for the economic functioning of large-scale intensive agriculture. Principal uses permitted by right include the practice of agriculture, agricultural storage and repair shops, low density residences and business offices of agricultural enterprises. Special permit uses may include, dachas and kitchen gardens, places of worship, and educational facilities. Accessory uses necessary to principal and special permit uses are include retail stores and parking.

#### **4. The Concept of Permitted Uses and Development Standards**

An important part of the zoning regulations is the uses permitted in each zone. In the Novgorod City ordinance, and almost all other zoning regulations, list uses by the type of approval needed. These include principal permitted uses, special permit uses and accessory uses. . The distinction between these uses is very important.

- "Principal Permitted Uses" indicate those primary uses for which the zone was intended. They are the uses which are legally permitted without any conditions because they have no negative impacts within the zone in which they are located.
- "Special Permit Uses" are those which may have a negative impact on surrounding properties but may be permitted under specific conditions. A special permit review procedure that includes a public hearing should be established in the regulations. Specific conditions by which the use may be permitted may be established in the ordinance.
- "Accessory Uses" are secondary uses which are allowed only in conjunction with a principal or special permit use. They do not require special approval.

Uses not included on the list of uses are not allowed in the zone.

Increasingly, municipalities have found a detailed listing of uses as found in the Novgorod City ordinance cumbersome and not inclusive of new types of uses which may appear from time to

time. Therefore a more generalized categorization of uses based on the nature of impacts is becoming more popular. The uses are often laid out in a matrix, rather than a list.

Site development standards are also established for each zone. These standards regulate the size of each lot for each permitted use. This lot size regulation, in combination with the number of residences allowed per hectare, or the amount of commercial or industrial square meters, has the effect of creating the density of development for each zone. Other development standards govern urban design characteristics, such as the setback from red lines or rights-of-way, building height, open space around buildings, etc. These site development standards have not yet been incorporated in the Novgorod City ordinance.

## **5. Non-conforming Uses**

When zoning is established in an area where there is existing development, certain land uses within the zone may not match the new regulations. These are called non-conforming uses and the regulations should account for their existence. As a rule, non conforming uses are allowed to continue to exist, but they may not expand the degree to which there is non-conformance. For example, a retail store may be operating in the ground floor of a residential building. If the new zoning does not allow retail uses, then the store may continue to operate, but cannot get any larger. Sometimes a non-conforming use may be fully or partially destroyed. The regulations need to account for the replacement of the use under certain conditions.

In cases where a non-conforming use is undesirable, the regulations may stipulate a procedure for phasing them out over time. Usually a specific time period, one to five years, is given within which the use must be discontinued. This procedure gives the owner enough time to relocate the business or phase out operations.

## **6. Variances**

In some cases a developer may find it impossible to comply fully with the land use regulations due to physical peculiarities of the allocated land parcel. In these cases variances, or exceptions, to the regulations should be allowed in order to preserve the value of the land. Procedures should be included in the regulations which give criteria for allowing variances. Typical criteria include:

- demonstration that the variance requested is the minimal necessary to develop the property
- that there is no negative impact to the raion or to neighboring properties, and
- that, if granted, the use would conform to the intent of the zone.

In Novgorodskii Raion procedures may be established to permit variances after review by the land resources committee or the commission established to administer the regulations.

## **7. Administrative Procedures**

### **a. Accessibility of Regulations**

In order to be effective, the land use regulations must be available to developers, landowners, administrators and citizens who participate in land use decisions. The regulations and zoning map should be published and made available in public places.

### **b. Administrative Body**

The zoning regulations should designate the administrative body which is responsible for approving land use permits. Some cities have established a special land use and development commission for this purpose. In Novgorodskii Raion, the Land Committee is responsible for

coordinating the review of proposals to use land in the raion. The review of proposals is done by a "Site Selection Committee" composed of representatives of the major agencies of raion government involved in land use matters. Members of this committee include representatives of the raion administration, the architecture department, the land department, the nature protection department, the sanitary epidemiological center, state fire defense control, as well as the current and proposed user of the land.

With zoning, this committee may be reconstituted as the Land Use and Development Commission. The chairman of the new commission may be the First Deputy of the Administration as it is currently. The commission should hold regular meetings to consider land use applications. All meetings of the commission should be open to the public and media. The commission should be authorized to act on applications for special permit uses, variances and amendments or changes to the zoning. The commission should also hold public hearings of each of these applications as required by the ordinance.

**c. Procedures for Granting Zoning and Construction Permit**

A summary of our understanding of the current procedure for the "right to use the land parcel" is outlined below. For most uses this is a three step process involving initial review and approval in concept, revision of the documentation and a second approval of plan details. The procedure is founded in the municipal ownership of land and applies to applicants who wish to lease, rent or own land for use in a specific development.

<p>Novgorodskii Raion Current Land Use Review Procedure</p>
<p>Step 1. Applicant confers with staff of Land Resources Committee to determine application requirements</p> <p>Applicant submits application to the head of the raion administration. Application is clocked in and given number. Application is transmitted to Land Resources Committee for preliminary review by "site selection committee."</p>
<p>Step 2. Site selection committee reviews application and decides on preliminary approval. Minor applications may be approved at this stage.</p> <p>If granted preliminary approval, the applicant may prepare an "design survey" and a "working project."</p>
<p>Step 3. Applicant submits a second application to the head of raion administration including the "working project." This application is retransmitted to the Land Resources Committee and the site selection committee.</p> <p>If the site selection committee approves the application, the head of the raion administration issues the land use certificate "on the right to use the land parcel."</p>

With zoning, the vast majority of land uses are considered as-of-right. That is, if the proposed development conforms to the zoning requirements in all respects, the right to develop principal permitted uses is already vested in land ownership. Wherein under municipal land ownership the right to develop would be vested in the individual to which the municipality grants the use of the land whether by lease, rent or sale. Under zoning, clarification of land tenure is a prerequisite to approval of the development.

## As-of-Right Approval for Principal Permitted Uses

If land tenure is clarified, no special approval process is necessary for most principal permitted uses. All that is needed is a simple check to make sure that the proposed development satisfies completely the zoning requirements. This may be done in the initial stages of the development process at the time of submittal of the application.

## Special Permit Uses

Because special permit uses may have a negative impact on the land or adjoining property, a special review is necessary. This approval may be given by the land use and development commission, and specific criteria for approval of these applications should be established firmly in the regulations. A three step process is generally necessary which involves a preliminary conference, preliminary approval and final approval. A public hearing is also necessary so that adjacent landowners and other interested parties have the opportunity to inform the commission of their concerns. Under all circumstances, if the proposal satisfies all criteria established by the commission, it must be approved. This process is outlined as follows:

<p>Novgorodskii Raion Proposed General Procedure for Special Permits</p>
<p>Step 1. Applicant confers with staff of the Land Use and Development Commission about special permit application requirements and approval criteria.</p>
<p>Applicant submits complete special permit application to the Land Use and Development Commission, which clocks in the application and initiates review. The application should include:</p> <ul style="list-style-type: none"><li>• a site plan indicating adjoining parcels and the zone in which the development is located</li><li>• drawings and information about the proposed development</li><li>• pertinent information about potential impacts of the development</li></ul>
<p>Step 2. Land Use and Development Commission publicizes and holds a public hearing concerning the application.</p>
<p>Step 3. Land Use and Development Commission deliberates on preliminary application and either approves or disapproves with reasons.</p>
<p>In its deliberations the commission should consider the following:</p> <ul style="list-style-type: none"><li>• if the use conforms to the raion development plan</li><li>• if historic resources are protected</li><li>• if the environment is damaged</li><li>• if there is an encumbrance of adjoining properties or land owners</li><li>• if there is little negative reaction at the public hearing</li></ul>

## Zoning Text and Zoning Map Amendments

Changes, or amendments, to the zoning text and zoning map are frequently necessary to accommodate new conditions, changes in development policy or a new development plan. Amendments may be introduced by the chief architect, other governmental agencies, land

owners or concerned citizens and are effective after the amendment procedure has been completed. The amendment procedure should include the following steps:

- a draft amendment is submitted to the land use and development commission;
- the land use and development commission studies possible consequences that may be caused by this amendment and submits its recommendations on the amendment to the raion administration;
- the head of the administration and municipal assembly conduct public hearings and then approve or reject the amendment.

#### **d. Procedures for Granting Land Tenure**

As mentioned before, clarification of land tenure is a key element in determining the vested development rights under zoning. Therefore, the type of land tenure granted to the developer needs to be determined before the development process begins - whether it is long-term lease or ownership.

#### **e. Water Protection Zone**

The water protection zone is established according to oblast and federation regulations. These regulations restrict certain uses which would have a contaminating affect on Lake Ilmen and the Volkov River and its tributaries. While the zone does not eliminate all development possibilities in this zone, some restrictions may apply. For small developments the site selection committee includes representation of the water resources committee to comment on applications. Larger proposals which may impact the zone significantly may require oblast or federal approval.

Model water protection regulations have been drafted for Novgorod within an Environmental Protection and Land Use Regulation Manual prepared by a USAID project in February 1998. These regulations are based on the federal water protection law and were designed for Novgorod Velikii and Novgorod Raion. It is important that these regulations be integrated with the zoning regulations. The zoning map should include a line marking the water protection zone. Proposed developments within this demarcation should be immediately sent to water protection agency for review according to the model regulations. If the development is approved by the water protection agency, then it may be referred to the land use and development commission for zoning approval.

### **8. Next Steps**

Over the next few months the Town Planning Fund and Novgorodzempredpriatie will be working with you to refine this work and prepare zoning regulations and a zoning map that can be approved by the Raion Duma. Very careful consideration should be given to the development policies of the raion to make sure they are reflected in the land use development plan. It is critical that the raion clarify the form of future development and specific locations where public and private investment should occur. A correct land use plan, which represents a vision for the raion area, is a prerequisite to establishing the zoning regulations.

The zoning map should reflect a certain balance between the reality of existing uses and the long-term vision presented in the development plan. The draft zoning map should be revised and reviewed by raion officials. Both the zoning map and the new zoning ordinance will need to be approved by the Raion Duma before it can be put into effect.

Key to effective planning for the raion is current and accurate data concerning land use and development. The effective development of land market projections and a system for land valuation requires ongoing monitoring of property transactions , with information about location cost and vital property data. Without these projections it is impossible to determine how much land should be available for any given use, especially for residential and industrial uses. This information has a direct bearing on the size and location, and the characteristics of each zone.

Furthermore, once the raion resolves policy issues with regard to the type, pace and location of future growth, investment areas should be determined. Investment areas are specific locations where the raion seeks to attract and retain economic development activities. In order to effectively market these areas, either through sale or long-term lease, the raion needs to collect specific information about each site, particularly about its opportunities and constraints. Based on this information the raion can determine the amount of public and private investment, and the costs to the community, needed to attract new companies to these sites. Much of this information is already available, such as location and capacity of utilities, current use, geographic characteristics, current tenure and availability. The information needs to be collected and made available to potential investors in a coherent fashion.

If the raion is to be proactive concerning future employment and housing, tax base and efficient use of land resources it needs to effectively plan for its future.

## II. Legal Framework in Oblast and City

### D. Resolution of City Duma authorizing the land auction and proposing amendments to Oblast Law "On Allocation of Land Plots..."

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Russian Federation  
Novgorod City Duma

#### RESOLUTION

##### On Regulation of Land Relations

In compliance with RF Law "On Local self-government in the Russian Federation", RF Law "On General Principles of Establishing Local Government in the Russian Federation", Oblast Law "On Procedures for Allocation and Withdrawal of Land Plots in Novgorod Region" and pursuant to RF President Decree # 1263 as of 11/26/97 "On Sale to Individuals and Legal Entities of Land Plots Subject to Development and Located on Urban and Rural Settlements Territory, or Sale of Rights to Lease Them", RF Government Resolution #2 as of 01/05/98 "On Approval of Procedures for Arranging Tenders (Auctions, Competitions) for Sale to Individuals and Legal Entities of Land Plots Subject to Development and Located on Urban and Rural Settlements Territory, or for Sale of Rights to Lease Them" Novgorod City Duma

HAS RULED

1. To approve the attached documents including:

1.1. Regulations *On Procedures for Land Plots Management and Disposal in Novgorod City* (Attachment 1);

1.2. *Procedures for Arranging Tenders (Auctions, Competitions) for Sale to Individuals and Legal Entities of Land Plots Located on Territory of Novgorod City, or for Sale of Rights to Lease Them* (Attachment 2).

2. To establish that land plots shall be allocated

2.1. At price:

2.1.1. Set at sales staged in the form of an auction, or competition;

2.1.2. set off sales - when they are allocated to citizens eligible, in accordance with federal legislation, to purchase land plots at reduced rates if this right is certified by a proper document. In this case a land plot shall be sold at a price not less than five times rate of land tax per unit of a land plot which may be increased by a sum spent on developing engineering and social infrastructure of the area where concerned land plot is located.

2.2. Free of charge when plots are allocated:

2.2.1. for maintenance of residential buildings which are in private, or common ownership;

2.2.2. for construction of buildings, structures and facilities required to satisfy city's needs, or cultural and social needs of its population;

2.2.3. for orchards and vegetables growing;

2.2.4. for individual residential construction to citizens eligible in accordance with the federal legislation to obtain land plots free of charge if this right is certified by a proper document.

3. Land plots shall be allocated to citizens eligible to purchase them at reduced price, or free of charge on the following conditions:

- 3.1. if those citizens reside in Novgorod for at least 5 years;
- 3.2. if they live in housing with floor space per a household member less than established standards allowing to register a household as needy to improve living conditions, or they live in communal apartments, hostels.
4. The said groups of citizens may be denied to purchase land plots on favorable terms on the following grounds:
  - 4.1. failure to present documents certifying their right to privileges;
  - 4.2. prior allocation of a land plot for construction, or maintenance of a residential building;
  - 4.3. citizen's alienation of a land plot previously allocated on favorable terms for individual housing construction;
  - 4.4. prior allocation on favorable terms of residential premises (apartment) as an improvement of living conditions;
  - 4.5. citizen's alienation of residential premises (apartment) previously allocated on favorable terms as an improvement of living conditions.
5. Regulations *On Procedures of Allocation of Land Plots to Citizens Eligible to Purchase Them on Favorable Terms* shall be approved by City Administration.
6. To reserve in settlements Pletniha, Derevenitsy designated for individual development as well as in Pskovsky residential district lands for mass development for their further allocation to citizens eligible to privileges.

To provide to City Administration the right to adjust the number of plots to be allocated on favorable terms within the whole volume of reserved lands in accordance with a yearly demand for them

7. To amend decision of the 55th session of the Novgorod City Soviet of People's Deputies of the 21 convocation as of 12/09/92 (Small Soviet) by revising Regulations *On Allocation of Land Plots for Individual Housing Construction to Individuals, Enterprises, Organizations, Companies* which shall now read in accordance with the attached version (Attachment 3).
8. To declare as null and void decision of the 35th session of the Novgorod City Soviet of People's Deputies of the 21 convocation as of 02/26/92; items 1 and 3 of the 55th session of the Novgorod City Soviet of People's Deputies of the 21 convocation (Small Soviet) as of 12/09/92.
9. To submit to Oblast Duma for consideration a draft oblast law "On Introducing Amendments and Changes into Oblast Law "On Procedures of Allocation and Withdrawal of Land Plots in Novgorod Oblast" (Attachment 4) and authorize Deputy Chairman of the City Duma I.I.Kibina to present a report on the said draft on part of Novgorod City Duma.
10. To promulgate this decision in the "Novgorod" newspaper.

## II. Legal Framework in Oblast and City

### E. Legislative Proposal to Re-codify Novgorod Oblast Land Laws

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#### **PROPOSED REVISIONS TO DRAFT NOVGOROD OBLAST ORDINANCE "ON REGULATION OF LAND RELATIONS WITHIN THE TERRITORY OF THE NOVGOROD OBLAST"**

**PREPARED BY:**

**THE URBAN INSTITUTE  
and  
THE RURAL DEVELOPMENT INSTITUTE**

#### ***Chapter I. General Provisions***

##### *Article 1. Land Legislation*

1. Pursuant to the RF Constitution the land legislation falls within jurisdiction of the Russian Federation and subjects of the Russian Federation.

Land legislation of Novgorod Oblast incorporates the Land Codex of the Russian Federation, the Civil Code of the Russian Federation, and consistent with them legal acts and regulations of the federal government, Novgorod Oblast and local self-governments, including this Ordinance.

Article 2. Powers of Novgorod Oblast public authorities<sup>1</sup>. Pursuant to Novgorod Oblast Charter (Fundamental Law), Oblast Duma is authorized to establish, in conformity with the RF legislation, procedures for possession, use and disposal of land, and, in particular, to pass the land legislation which does not fall within jurisdiction of the Russian Federation.

2. Pursuant to Novgorod Oblast Charter (Fundamental Law), the Oblast Administration is authorized:

- 1) to dispose and manage the state property of Novgorod Oblast;
- 2) to manage lands under Novgorod Oblast jurisdiction;
- 3) to exercise control over the use and conservation of lands;
- 4)
- 5) to identify, jointly with local self-governments, areas where the special legal regime of land use is in effect;
- 6) to set the minimum and maximum size of land plots allocated for purposes specified in Article 24 of this Ordinance;
- 7) to set procedures of payment for land pursuant to the federal legislation;
- 8) to manage and dispose of Novgorod Oblast lands, to break them up by natural and agricultural properties, to zone and plan the use of them;
- 9) to approve and modify boundaries of administrative, territorial and municipal formations, as well as to approve and review Master Plans and plans of settlements' boundaries;
- 10) to design and implement Oblast Programs on upgrading soil fertility, better use and conservation of lands; to set procedures for finance of Programs out of proceeds of the Oblast budget, and patterns for public control over the use and conservation of

lands;

- 11) to establish procedures for transferring lands from one category of targeted purpose to another, except lands of federal significance, as well as to transfer lands from one category of targeted purpose to another;
- 12) to organize work on the State Land Cadastre keeping, land management, monitoring of lands, state registration of land titles;
- 13) to set procedures for maintaining additional Land Cadastre documents with allowance made for local conditions;
- 14) to buy out private and municipal lands for Novgorod Oblast needs;
- 15) to execute other powers provided by the federal and Oblast legislation.

*Article 3. Powers of local self-governments to regulate land relations*

1. Local self-governments are empowered to regulate land relations within the following limits:

- 1) to determine long-term perspectives of municipal development, to plan use of territories, to zone lands, to design and approve Master Plans of municipalities in coordination with Novgorod Oblast public authorities;
- 2) to set procedures for allocation, use and withdrawal of municipal lands, and to establish restrictions, encumbrances, servitudes on them;
- 3) to manage and dispose of municipal lands;
- 4) to set rates of payments for municipal lands, to allow to pay for lands at reduced rates in conformity with the federal and Oblast legislation;
- 5) to transfer municipal lands from one category of targeted purpose to another, except agricultural lands and areas with special conservation regime;
- 6) to develop and implement programs on improvement of soil fertility, better use and conservation of lands;
- 7) to set the limiting size and number of land plots allocated for purposes specified in Items 3-6, Article 24 of this Ordinance;
- 8) to buy out lands for municipal needs, to sell land and rights to land;
- 9) to identify land parcels which local self-governments may buy by right of priority;
- 10) to organize allocation of lands for development, haying, pasturing, gardening and other needs of population;
- 11) to organize work on the State Land Cadastre keeping, land management, land inventory, and state registration of land titles;
- 12) to make land use procedures known to population;
- 13) to impose penalties on citizens and legal entities guilty in violation of the land legislation and land ordinances issued by local self-governments, except the instances when law prohibits to impose a relevant penalty, or requires to impose it in quite another procedure;
- 14) to exercise control over the use of municipal lands;
- 15) to execute other powers with regard to regulation of land relations treated as such by a municipality Charter in accordance with the RF and Novgorod Oblast legislation.

2. Powers specified in Item 1 of this Article shall be separated between representative and other bodies of local self-government in accordance with Oblast Ordinance "On Local self-

government in Novgorod Oblast”, federal and other Oblast Ordinances, Charters of municipalities.

#### *Article 4. Land Relations*

1. Relations between federal authorities, local self-governments, legal entities and individuals with regard to possession, use and disposal of lands, as well as public management of land resources are defined as land relations.

Regulation of land relations is based on:

- 1) formulating land use regulation to address its various characterizations, including land as a natural resource, as an object of civil rights, and as a major means of production (agricultural land);
- 2) a diversity in the forms of land ownership, possession and use;
- 3) delegation of primary responsibility to oblast authorities and local self-governments in the area of regulation of land relations within their territories;
- 4) recognition of equality of all participants of land relations as far as protection of their rights in land is concerned;
- 5) impossibility for public authorities to intervene, at variance with the law, in citizens', or legal entities' execution of rights to possess, use and dispose of lands;
- 6) the right of public authorities to regulate the use of land to prevent harm to the environment or to the rights of others, without regard to the identity of the possessor, the legal form of possession, or what rights to it are exercised.

2. Parties involved in land relations include: the Russian Federation, Novgorod oblast, municipalities, citizens and legal entities.

3. Foreign citizens, expatriates and foreign legal entities may be involved in land relations on conditions specified by Article 9 of this Ordinance.

4. Land plots and rights to them are deemed to be the objects of land relations.

#### *Article 5. Land Plot*

1. A land plot is a part of the surface layer with established boundaries, and fixed area, location, legal regime and other properties recorded in the State Land Cadastre and registered in the State Registry of Real Estate Rights and Transactions.

2. Boundaries of a land plot shall be marked on maps and delineated on-site in accordance with the Russian Federation laws and regulations pertaining to land survey and land cadastre. The area of a land plot shall be determined upon on-site establishing of its boundaries.

3. Legal regime of a land plot is determined on the basis of its targeted purpose and registered, in accordance with the established procedures, rights to it in the State Registry of Real Estate Rights and Transactions.

4. Land plots and rights to them, as well as objects firmly connected with land (soil, enclosed water reservoirs, forest, perennials, buildings, constructions, structures, etc.) which cannot be removed without serious damage to them, shall be transferred in their integrity, unless otherwise provided by the effective legislation. Nothing in this item is intended to prevent creation or reservation of servitudes, encumbrances or contractual rights to exploit natural resources firmly connected to land by either purchasers or sellers of land.

*Article 6. Composition of Oblast lands; targeted purpose of lands.*

1. By targeted purpose Oblast lands may be broken down as follows:

- 1) agricultural lands;
- 2) lands of settlements;
- 3) lands used for industrial, transportation, communication, radio and TV broadcasting, data retrieval and processing, space operations, power supply, defense and other purposes;
- 4) lands with special regime of nature conservation;
- 5) forest lands;
- 6) water supply lands;
- 7) land reserves.

2. Lands classified in accordance with the scheme in Item 1 of this Article shall be used in compliance with their targeted purpose and legal regime established for their targeted purpose.

*Article 7. Targeted Purpose and Legal Regime of Land Use.*

1. The targeted purpose determines the legally established procedures, terms, and limits of employment (use) of all lands in the targeted purpose category.

2. A legal regime is established for each category of targeted purpose. The legal regime of land includes federal, oblast and municipal laws and regulations on land use, circulation conservation, inventory and monitoring, including without limitation laws and regulations on land conservation, town planning and zoning, forest, water, environmental, mineral resources legislation. The legal regime associated with a targeted purpose applies to all the lands of a specific targeted purpose category.

3. Lands included in prime categories of targeted purpose described in item 1 of article 6 of this ordinance may be divided into sub-categories through application of laws of planning and zoning. Lands of sub-categories within a targeted purpose may be subject to different legal regimes.

4. If lands fall into several categories of targeted purpose, all rules and restrictions set for them shall be observed.

5. In case the legal regime of the use of a land plot is in dispute, the preference shall be made to the more strict legal regime.

6. The legal regime for the prime categories of targeted purpose of lands described in item 1 of article 6 of this ordinance are set by federal laws and oblast ordinances, and shall be indicated in the town planning and land management documentation. Through their powers to manage lands provided in this ordinance, and the effective Russian Federation and oblast laws municipalities may elaborate the legal regime of municipal lands through adoption of rules and regulations which do not contradict the legal regimes of categories of targeted purposes as established by federal laws and oblast ordinances.

***Chapter II. Citizens' and Legal Entities' Rights to Land Parcels***

*Article 8. Citizens' and Legal Entities' Ownership and Other Rights to Land*

1. Subject to the provisions of this Ordinance citizens and legal entities of the Russian Federation may possess land parcels within the Oblast territory by right of

- 1) ownership;
- 2) permanent/perpetual use;
- 3) fixed term use;
- 4) lease.

2. Subject to the provisions of this Ordinance, citizens of the Russian Federation may possess land parcels within the Oblast territory also by right of inheritable possession for life.

#### *Article 9. Rights of Foreigners, Stateless Persons, Foreign Legal Entities to Land Parcels*

1. Pursuant to Article 62 of the RF Constitution foreigners, stateless persons and foreign legal entities shall, within the Oblast territory, exercise all rights and obligations to land parcels on equal terms with citizens of the Russian Federation, except the instances specified by the federal legislation and international treaties signed by the Russian Federation.

2. Agricultural lands shall not be transferred to the ownership of foreigners, stateless persons and foreign legal entities, as well as to Russian legal entities if the property of Russian legal entities is under control of foreigners, stateless persons, or foreign legal entities.

3. Foreigners, stateless persons, or foreign legal entities may acquire the ownership rights to agricultural lands only in succession to Russian citizens. Within two years of the legal date of succession the heir(s) or legal successor(s) shall alienate agricultural land parcels in their possession back to the ownership of the state or local administration which would be entitled to ownership of the land under the laws of abandoned property, and the state or local administration shall provide the heir(s) or legal successor(s) with:

- 1) compensation for withdrawal of the right of ownership for state or municipal needs, in accordance with the provisions of this ordinance; and
- 2) a lease to the land for the maximum term permitted by law.

In case of a failure to meet the requirements of this Item, a local administration shall bring an action to court claiming to alienate a land plot by enforcement with immediate execution of the lease right to it.

#### *Article 10. Ownership right to land*

1. Citizens' and legal entities' ownership right to land plot shall be deemed the right to possess, use and dispose of land parcel with mandatory observance of the legal regime of the land plot.

2. Citizens' and legal entities' ownership rights to land plots arise through any legal means contemplated in the Russian Federation Civil Code, including privatization of state and municipal lands, succession, sale, donation, exchange, and other land transactions; they may also arise if a land plot or a land share is contributed to the authorized (stock) capital of a legal entity.

#### *Article 11. Inherited life possession of land*

1. Inheritable life possession of land is the right to possess and use a land plot during the life of the possessor, and to transfer such land by inheritance. The legal attributes of inheritable life possession of land are as defined in articles 265 through 267 of the Civil Code of the Russian Federation [and article [49] of the Land Code of the Russian Federation], as such may be amended from time to time.

2. After the effective date of this ordinance no new rights of inheritable life possession of land

may be created in the Novgorod oblast. Rights of inheritable life possession of land legally in existence on the effective date of this law shall continue in effect with respect to the current possessor of the right and his heirs.

3. Any holder of a right of inheritable lifetime possession of land shall have the right to demand that the local administration convert the right into a right of ownership or lease in the established procedure.

*4. Nothing in this article is intended to prevent the creation of a right to possess and use a land plot during the life of a designated person, to the extent permitted under the laws governing inheritance and other civil legislation of the Russian Federation. Article 12. Lease of a land plot*

1. The lease right to a land plot is the right to use it within a fixed period of time for pay in full consistency with a lease agreement. The legal attributes of lease of a land plot are defined in section 1 of chapter 34 of the Russian Federation Civil Code [and article [50] of the Russian Federation Land Code], as such may be amended from time to time.

2. Citizens and legal entities to whom land parcels are leased by Oblast, or local administrations may, with prior written notice to the Oblast or local administration, lease them out, transfer for a fixed term use, exchange, assign or voluntarily surrender their lease rights unless specifically prohibited by the lease agreement. The Oblast or local administration will not accept a voluntary surrender of any lease which has been subleased or transferred for a fixed term without the written consent of the sublease or transferee.

3. The right to lease a state, or municipally-owned land plot may be sold through auctions.

*Article 13. Right to use a land plot*

1. The right to use a land plot shall be deemed the right to possess and use a land plot which belongs to the state, or a municipality by right of ownership. Rights of use may be granted with an indefinite term (permanently) or for a fixed term. The legal attributes of the right of permanent use of a land plot are defined in articles 268 through 270 of the Russian Federation Civil Code [and article [51] of the Russian Federation Land Code], as such may be amended from time to time. The right of fixed term use is defined in article [ ] of the Russian Federation Land Code.

2. After the effective date of this ordinance no new rights of use of land may be granted in the Novgorod oblast except to budgetary organizations, unitary enterprises and institutions engaged in administrative, socio-cultural, educational, artistic or other functions of a non-commercial character.

3. Rights of use of land legally in existence on the effective date of this law shall continue in effect with respect to the current possessor of the right and his legal successors.

4. Any holder of a right of permanent use of land on the effective date of this ordinance, other than budgetary organizations, unitary enterprises and the aforementioned institutions, shall have the right to demand that the local administration convert the right into a right of ownership or lease in the established procedure. Any holder of a right of use for a fixed term on the effective date of this law, other than budgetary organizations, unitary enterprises and the aforementioned institutions, shall have the right to demand that the local administration convert his right to a lease for the remaining term.

5. A land plot shall be transferred for use free of charge.

6. Citizens and legal entities, who have land parcels allocated to them by Oblast, or local administrations for permanent (perpetual) use, may, with prior written notice to the Oblast or local administration, lease out the land plots, transfer them for a fixed term use, assign,

exchange, or voluntarily surrender their rights unless specifically prohibited by agreement. The Oblast or local administration will not accept a voluntary surrender of any right of perpetual use which has been subleased or transferred for a fixed term without the written consent of the sublessee or transferee.

7. Citizens and legal entities, who have land parcels allocated to them by Oblast, or local administration for a fixed term use, may, with the consent of the latter, exchange the land plots, or voluntarily abandon them.

#### *Article 14. Common ownership to a land plot*

1. A land plot located within a territory of Novgorod oblast, or a right (lease, permanent use, inheritable lifetime possession) to a land plot located within the territory of Novgorod oblast, which has two or more owners, shall be deemed to be in common ownership.

2. A land plot or right to a land plot may be in common ownership with the determination of the participatory share (participatory share ownership) or without the determination of such participatory shares (joint ownership)

3. The possession, use and disposition of land plots or rights to land plots located on the territory of the Novgorod Oblast and held in common ownership are governed by Chapter 16 of the Civil Code of the Russian Federation.

#### *Article 15. Encumbrances of a land plot*

1. A land plot transferred from the state or municipal stock of lands into the ownership of a citizen or legal entity, or acquired by a citizen or legal entity into ownership by any other legal means, may be subject to covenants or restrictions ("encumbrances") which oblige the owner to do or to refrain from doing a specified action on or with respect to the land, including without limitation the following:

- 1) a prohibition to sell a land plot, or alienate it by any other way within a fixed period of time;
- 3) a preference to buy a land plot at declared price when it is offered for sale;
- 4) an obligation to share the proceeds of sale of land;
- 5) a permit to assign a land plot by right of succession only to specific successors (in case of agricultural lands);
- 6) a requirement to commence and complete the development, or cultivation of a land plot within a fixed period of time in accordance with the project approved under the established procedure;
- 7) a prohibition to modify the exterior of a real property, to renovate, or demolish a building, a construction, or a structure without an approval to be obtained in the established procedure;
- 8) a condition to construct, repair, or maintain a road, or a segment of a road;
- 9) an obligation to contribute money to the maintenance of common facilities;
- 10) a prohibition from specified types of activities, or behavior;
- 11) a prohibition against construction of buildings or structures in certain locations or in excess of specified size or height;
- 12) a condition to meet environmental requirements, or perform specific works, including those contributing to wild animals protection, soil, rare plants and nature conservation, historic, cultural and archeological preservation within the territory of a

land plot;

13) a condition to conserve the natural environment and migration routes of wild animals;

14) a right of way, right of access or right to use land for limited purposes granted to a particular person or class of persons (including the public at large) without regard to possession of another land plot;

15) other obligations, restrictions, or requirements.

2. Land plots may be encumbered only by virtue of law, an agreement, or a court ruling.

3. Encumbrance may be established for a fixed or perpetual term. In the absence of statement of a fixed term, it is presumed that the encumbrance is perpetual.

4. Encumbrance may be established for the benefit of a particular person, class of persons (including the public, generally) or designated land plot(s).

5. Encumbrances of a land plot shall be included in its legal regime, recorded by state registration authorities, and preserved in event of transfer of rights to a land plot to another person/entity. An encumbrance may be established in documents of conveyance of a land plot.

6. An encumbrance may be invalidated by a court of law upon request of the owner of the encumbered property if:

1) because of change of circumstances the encumbrance no longer serves the purpose for which it was established;

2) the encumbrance is frivolous or imposes significant restraints on the rights of possession, use and disposal without substantial purpose;

3) the encumbrance violates another law, or enforcement of the encumbrance would violate a clear public policy of the Russian Federation or the Novgorod Oblast.

7. An encumbrance is enforceable in a court of law by any person or persons for whose benefit it was established, or their legal successors or representatives. Encumbrance may be enforced in accordance with its terms, including by specific performance of the terms of the encumbrance or damages.

8. Holders of rights of inheritable possession, permanent use or lease of a land plot may place encumbrances on their right to the land plot to the extent permitted under the civil legislation. Encumbrances on rights of inheritable possession, permanent use or lease terminate upon termination of the right, if not terminated earlier under the terms of the encumbrance.

#### *Article 16. Servitude of a land plot*

1. Servitude of a land plot shall be deemed the right of limited use of a neighboring land plot, or several neighboring land plots. The legal attributes of servitude are defined in articles 274 through 276 of the Russian Federation Civil Code [and in article [55] of the Russian Federation Land Code], as such may be amended from time to time.

2. Servitudes may be established by land owners' agreement, by a court, or by prescriptive acquisition in accordance with article 234 of the Russian Federation Civil Code.

3. An owner of a land plot shall have the right to claim, if necessary in court as well, the establishment of a servitude for the purposes of servicing his/her land plot.

4. The servitudes which may be established include, without limitation, the following:

1) right of way;

2) right of use for lining and repairing public, or individual engineering, power supply

- and other nets and communications;
- 3) servitude for draining a land plot;
  - 4) servitude for water intake and water trough;
  - 5) servitude for driving cattle;
  - 6) servitude for mowing, or pasturing within time periods complying with local conditions and traditions;
  - 7) right of temporary use for performance of survey, research and other works;
  - 8) servitude for repair and construction purposes
  - 9) servitude for constructing a building or a structure which will rest on or hang over a neighboring land plot;
  - 10) servitude for constructing a building or a structure of a specific height on a neighboring land plot;
  - 11) servitude for creation of protecting forest zones and other nature conserving facilities;
  - 12) other servitudes.

5. Servitudes shall be established in the manner which will be the least troublesome for a subject land plot.

6. The owner of a servient land plot shall have the right to collect reasonable charges from those interested in the servitude establishment, unless otherwise provided by law. Servitudes established for farmers and their associations, shall be free.

7. Servitudes may be established with regard to any land plot for the benefit of any other land plot, and may be either temporary, or permanent.

8. Servitudes shall be subject to the state registration. Servitude may be established (reserved) in a document of conveyance of a land plot.

9. Servitudes shall be preserved in event of the transfer of a land plot to another person.

10. On request of the owner of a servient land plot, the servitude may be terminated in view of the grounds for which the servitude was established having disappeared. If in the result of establishing servitude, a land plot cannot be used in accordance with its targeted purpose, the owner shall have the right to claim its termination in court.

#### *Article 17. Grounds for acquiring rights to a land plot*

1. Citizens' and legal entities' rights to land plots, as well as their obligations with regard to the use of them may arise on the following grounds:

- 1) resolutions of state authorities and ordinances of local self-governments, agreements concluded with them;
- 2) agreements and other land transactions;
- 3) acquisitive prescription, except ownership rights to land plots allocated from the stock of state and municipal lands;
- 4) court judgments, or rulings establishing rights to a land plot;
- 5) other actions taken by citizens, or events which the law, or any other statutory act interprets as a ground for establishing rights to land plots and obligations with regard to the use of them.

### ***Chapter III. Allocation of land plots from the stock of state and municipal lands***

*Article 18. Scope of the RF Government, Oblast Administration, local administrations' competence to allocate land plots from the stock of state and municipal lands*

1. Within the Oblast territory citizens and legal entities may acquire land plots:
  - 1) from the stock of federal lands – on the ground of the RF Government resolution;
  - 2) from the stock of Oblast lands – on the ground of Oblast Administration ordinance;
  - 3) from the stock of municipal lands – on the ground of a decision issued by local authorities.
2. Land plots shall be provided through the withdrawal and allocation in line with the survey and town planning documentation, and under the procedure set by the RF Government, Oblast laws and regulations issued by local self-governments.
3. Conversion of forest lands into non-forest with the aim to use them for the purposes not connected with the forest science, or forest exploitation, and (or) withdrawal of forest lands shall be effected under the procedure set by the Government of the Russian Federation.

*Article 19. General rules of allocation of land plots upon application of citizens and legal entities*

1. Citizens and legal entities wishing to acquire land plots which are in the ownership (jurisdiction) of Oblast or municipal administration, may lodge an application to Oblast Administration, or to a respective local administration authorized to allocate land plots.

In applications they shall specify the purpose of use, the location and expected size of a land plot, a proposed form of legal possession, and provide information on the location, size, use and form of legal possession of any other land plot formerly or presently in the possession of the applicant.

Applications are deemed acceptable if the proposed use specified includes any use permitted under the legal regime applicable to the land plot.

Papers required for the withdrawal and allocation of lands under the jurisdiction and control of the Oblast shall be executed by the Novgorod Oblast Committee for Land Resources and Land Management, or its territorial offices, jointly with architecture and town planning authorities as well as other specially authorized bodies of state power controlling use and conservation of lands. Papers required for the withdrawal and allocation of lands under the jurisdiction and control of municipality shall be executed by the municipal committee for land resources and land management jointly with municipal architecture and town planning authorities as well as other specially authorized bodies of state power controlling use and conservation of lands.

2. If an application appeals for a specific land plot, a respective authorized body of executive power, or a local self-government shall identify the list of required approvals, ascertain the rights and benefits of other parties including the owners of neighboring land plots, examine the feasibility of the land use for the purpose stated in the application in view of the existing territorial scheme of land use and zoning plans, and in case of a positive decision – work out price and other contractual terms of the transfer (sale) of a land plot.

3. If an application appeals for a land plot, but fails to specify a specific place of its location, possible variants shall be suggested by the responsible authorities.

An application shall be processed until a land plot meeting the stated requirements is selected, or a commission authorized to allocate land plots comes to a conclusion that within the given territory there does not exist a land plot conforming to the specifications of the application. Determination of unavailability of an appropriate land plot does not prevent the applicant from modifying his application.

4. An applicant shall obtain approvals required for the allocation of a land plot on his/her own and at his/her expense.

5. An Oblast, or a local administration resolution permitting the transfer of a land plot to the ownership of an applicant shall serve as the ground for issuing a relevant land certificate, and in an instance of a lease of a land plot, or fixed term use – the ground for signing a relevant agreement.

6. Refusal to allocate a land plot shall be issued in the format of an Oblast, or a local administration resolution and shall provide the appropriate reasoning for the decision. Not later than seven days upon issuing a refusal a copy of it shall be handed over to an applicant.

7. Applications of citizens and legal entities appealing for land plots shall be processed within a two month period. Upon expiration of the two month period an applicant may request that a court compel a decision on the application.

The processing shall be considered started as soon as all documents required for a land plot allocation are submitted in a complete form in accordance with the requirements.

8. The procedure laid down by this Article shall not be applied when land plots are allocated to citizens and legal entities by way of implementing the RF Government Resolution # 2 as of 01/05/98 "On approving the procedure for organizing and holding public sales (auctions, competitions) on selling of land plots, located in urban and rural settlements, and of the right of their lease to private individuals and legal entities".

#### *Article 20. Appeal against decisions on refusal to allocate a land plot*

1. Citizens and legal entities may take an appeal against decisions of public authorities and local self-governments which refuse to allocate land plots to them. Delay in processing an application shall be interpreted as a refusal to allocate a land plot.

2. Upon hearing the case the court may either confirm the validity of a refusal to allocate a land plot, or state its unlawfulness. If a refusal is unlawful, a corresponding court judgment shall serve as the basis for registration of a right to a land plot and shall be executed in the procedure set by law.

#### *Article 21. Transfer of land plots through auction and tender procedures*

On their own initiative Oblast and municipal authorities may transfer land to citizens and legal entities through auction and tender procedures in compliance with the RF Government Resolution # 2 as of 01/05/98 "On approving the procedure for organizing and holding public sales (auctions, competitions) on selling of land plots, located in urban and rural settlements, and of the right of their lease to private individuals and legal entities," as such resolution may be modified or amended from time to time.

#### *Article 22. Transfer of land plots through negotiated transactions at initiative of Oblast and municipal authorities*

1. Oblast and municipal authorities may on their own initiative offer land for sale or lease to citizens and legal entities without using auction and tender procedures, subject to the provisions of this article.

2. No land leased or sold without using auction or tender procedures may be leased or sold at a price or rent lower than the fair market price or rent certified by an independent real estate broker or appraiser. The costs of appraisal may be charged to the recipient of the land plot.

3. At least 20 days prior to completing an agreement with respect to any land leased or sold without using auction or tender procedures the seller shall publish in the organ designated for publication of official acts a description of the land to be sold or leased, the recipient, the price or rent, the place at which additional information may be obtained regarding the transaction, and the place at which the public may submit comments on the proposed transaction. No transfer of land may be completed until 30 days following the date of such publication.

4. Upon completion of a transaction the final terms of the transaction shall be published in the same manner as the announcement of the pending transaction.

5. Oblast and local administration authorities may enter into brokerage agreements with independent real estate brokers for the sale of land plots.

#### *Article 23. Prices of land plots*

1. Land plots shall be allocated to the ownership or lease of commercial legal entities and private entrepreneurs for charge.

2. Land plots shall be allocated to the ownership or lease of citizens either for charge or free. Free allocation of land plots to citizens' ownership may take place if they are allocated:

- 1) for private housing construction, or farmer's personal subsidiary farming within the limits set by a local self-government;
- 2) for collective, or private gardening and stock-breeding – including land plots allocated before January 1, 1992, and plots newly allocated for that purposes from non-agricultural and deteriorated lands;
- 3) for gardening and construction cooperatives – including land plots allocated before January 1, 1992;
- 4) for other purposes set by the federal legislation, oblast ordinances and regulations issued by local self-governments.

3. Repeat free allocation of land plots to citizens for purposes indicated in Item 2 of this Article is not allowed.

4. Land plots may be allocated to the ownership of citizens and legal entities for charge in line with the Procedure for organizing and holding public sales (auctions, competitions) on selling of land plots, located in urban and rural settlements, and of the right of their lease to private individuals and legal entities, approved by RF Government Resolution #2 as of January 5, 1998.

5. Charges for land may be established:

- 1) in the case of auctions and tenders, by the prices or rents actually bid;
- 2) in all other cases, by independent appraisal performed by a licensed real estate broker or appraiser or an agency of the Oblast or local administration authorized by law to perform appraisal of land and real estate..

6. Charges for land plots allocated to commercial entities or private entrepreneurs may be reduced below appraised value in the discretion of the state or local administration if:

- 1) a reduction in price is considered necessary to attract business or industry to the locality in accordance with a program of economic development program adopted by the locality;
- 2) the lower charge is an offset or fees or charges imposed on the land developer for public facilities.

7. Payment for land may be deferred or arranged by installment payment in the discretion of the seller of the land plot.

#### *Article 24. Land allocation standards*

1. The maximum size of land plots the ownership of which is acquired by a peasant (farmer's) economy directly from the stock of Oblast or municipal lands shall be limited to 50 hectares. Land plots of the standard size established by rayon authorities for free allocation will be granted in the ownership of citizens who do not work at an agricultural enterprise, or a peasant (farmer's) economy, from the redistribution lands stock free of charge.

The ownership rights to the area in excess of the standard size shall be acquired for charge in accordance with article 23.

2. Citizens leaving an agricultural enterprise and establishing a peasant (farmer's) economy shall have the right to receive a land plot of the area determined proportionally to the number of land shares contributed in it.

3. The maximum size of a land plot the ownership of which is acquired by a citizen directly from the stock of Oblast or municipal lands for the purposes of collective, or individual gardening shall be limited to 0.15 hectares.

4. The maximum size of land plots the ownership of which is acquired directly from the stock of Oblast or municipal lands for the purposes of cattle breeding, private housing and summer cottages construction, personal subsidiary farming, shall be established by a relevant local self-government.

5. The maximum size of land plots allocated directly from the stock of Oblast or municipal lands for other purposes not forbidden by law shall be set in accordance with the established standards of allocating lands for that purposes, or in line with corresponding town planning and design documents.

6. The minimum size of land plots transferred to citizens' ownership shall not be less than the minimum legal size of a land plot under the applicable town planning regulations, and in the absence of applicable regulations:

- for gardening – 0.04 hectares;
- for summer cottage construction – 0.06 hectares;
- for private housing construction
  - in rural settlements - 0.06 hectares,
  - in cities - 0.04 hectares
- for personal subsidiary farming - 0.06 hectares

7. Successors may partition a land plot which they own by right of ownership, use, inheritable life possession with due account of municipal standards indicated in Item 7 of this Article. Partition of a land plot shall be effectuated by agreement of all the parties, or in court.

8. There is no restriction on the size of a land plot, or the aggregate size of land holdings (including land shares) which may be acquired by a citizen from sources other than the state or municipal land funds.

#### *Article 25. Land plot development*

1. Citizens and legal entities possessing land plots by right of ownership, inheritable life possession, permanent/ perpetual use, or taking them from the stock of the state and municipal lands on lease, shall have the right to erect, demolish, or rehabilitate acquired buildings, constructions and structures in full conformity with the town planning, housing, environmental and historic preservation legislation subject to the condition that all

encumbrances of a land plot are observed.

2. It is impermissible for oblast or municipal authorities to encumber a land parcel at the time of allocation with a use restriction other than those restrictions imposed by the targeted purpose legal regime of the land plot, town planning and zoning regulations, unless such restriction is imposed pursuant to an integrated program of economic or urban development adopted by the authorities and supported by evidence that the restriction is the optimal use of the land plot.

3. Land may be allocated from the oblast or municipal land stocks either with or without an encumbrance which requires the recipient to develop the land plot within a specified period of time.

4. Construction may be commenced only upon adjustment and approval of a construction project, and issuance of a building permit according to the set procedure.

#### *Article 26. Land plots adjacent to multifamily buildings*

1. Land plots adjacent to multifamily buildings which are exclusively in Oblast or municipal ownership shall be considered as belonging to Oblast or municipal authorities by right of ownership (transferred under the jurisdiction of Oblast Administration and relevant local administration).

2. Land plots adjacent to multifamily buildings in which one or more apartment units are privatized and for which a housing partnership has been established shall be deemed to be in the common shared ownership of the owners of the apartment units, which shall include the oblast or the municipality to the extent of its ownership interest in apartments. Shared common ownership interests shall be based on the interests expressed in the charter of the housing partnership, and in the absence of such expression on the formula for calculating shared common interests provided in the Russian Federation Law On Housing Partnerships (Condominium).

3. Allocation of land plots to owners of apartment units shall be carried out in accordance with the provisions of the Regulation of the Russian Federation Government On Establishing the Size and Boundaries of Condominium Land Plots,; September 26, 1997, other applicable federal and oblast laws.

#### *Article 27. Allocation of land plots under power supply lines and in sanitary protective zones around industrial enterprises*

1. It is forbidden to allocate land plots under power supply lines and in sanitary protective zones of industrial enterprises for formation of not-for profit associations of individual gardeners.

Land plots under power supply lines and in sanitary protective zones of industrial enterprises may be allocated only for gardening and hay making with the consent of the their owners.

2. Within the RF zone of forestlands it is allowed to extend land plots of previously formed not-for profit associations of individual gardeners located under power supply lines to the set limits at the expense of the adjacent forest lands with the purpose to lessen the hazardous impact of power supply lines on human health.

#### *Article 28 Use of lands for survey purposes*

1. Surveying enterprises, institutions and organizations shall have the right to perform their

works for public purposes on any lands irrespective of the target of their use by virtue of resolutions on conducting the surveying issued in the established procedure, and agreements concluded with an owner, possessor, user or leaseholder of a land plot. Land plots designated for surveying shall not be withdrawn.

2. Surveying enterprises, institutions and organizations shall have the right to perform their works for private purposes on land only upon agreement with the owner, lessee or user of the land, or upon order of court. Agreements shall specify the time of works performance, the rate of payments for the employment of land plots, liabilities to cover damages and rehabilitate the lands in line with their targeted use. If a dispute arises, it shall be settled in court.

3. Upon rehabilitation of lands in line with their targeted use, surveying enterprises, institutions and organizations shall commission them to their owners, possessors, users or leaseholders with simultaneous execution of an act of acceptance.

4. Rehabilitation of lands in line with their targeted use shall be performed alongside with the surveying, or within fixed terms set in an agreement.

5. If surveying enterprises, institutions and organizations have to perform works which require the erection of temporary constructions, placement and storage of equipment, machines and other facilities which may occupy a part or the whole land plot and restrict its use by an owner, possessor, user or leaseholder, the said enterprises, institutions and organizations shall pay a land tax or rent and fully cover the damages incurred by owners, possessors, users or leaseholders of land plots.

#### *Article 29. Acquisition of state and municipal lands by possession prior to January 1, 1991*

1. Citizens and legal entities who openly and uninterruptedly have possessed land plots for horticulture, cattle breeding, gardening, and construction of individual houses, summer cottages and garages from a time prior to January 1, 1991, but lack documentation or other legal formalization establishing their rights, shall have the right to acquire them into their ownership.

2. Persons meeting the requirements of item 1 of this article shall have a right to issuance of a certificate of ownership to the land plot in the established procedure upon submission to the Oblast or local administration of reasonable proof of open and uninterrupted possession of the land plot since a time prior to January 1, 1991. The oblast or local administration shall not reject any reasonable offer of evidence. Any dispute shall be resolved in a court of law.

3. Certificates of land ownership issued pursuant to this article are registered in the State Registry of real Estate Rights and Transactions in the established procedure.

4. If land plots are withdrawn for other designated purposes, persons who have the right to acquire them by virtue of this article shall be provided with another land plot, or reimbursed for their damages.

#### *Article 30. Acquisition of land plots by prescriptive acquisition*

1. Citizens and legal entities shall have a right to acquire the ownership of privately owned land plots, or portions thereof, which they openly and uninterruptedly possess for more than 15 years without documentation or other legal formalization of their right provided that the ownership of the given lands is not forbidden by law. Rights of prescriptive acquisition of privately owned land plots shall be governed by article 234 of the Russian Federation Civil Code.

2. Prescriptive acquisition of ownership rights to land plots in the state and municipal stock is not permitted.

3. The right of acquisitive prescription may be established by executive authorities, local self-governments, or in court.

*Article 31. Mandatory state registration of rights to land plots*

1. Rights of citizens, legal entities, state and municipal authorities to land plots, they shall be without fail subject to the state registration

in accordance with the procedures of state registration of real estate rights and transactions set forth by the Russian Federation Law On State Registration of Real Estate Rights and Transactions and the rules and regulations promulgated pursuant to that law.

2. Rights to a land plot shall arise in citizens and legal entities from the moment of the state registration of them.

**Chapter IV. Rights and obligations of owners, possessors, users and leaseholders of land plots**

*Article 32. Rights of land owners*

1. Within the Oblast territory owners of land plots shall have the right:

- 1) to perform economic management within a plot in compliance with its designated purpose;
- 2) to exploit for his/her own needs any universally distributed mineral resources available on the plot including peat, fresh underground water, as well as forest, plants and isolated water reservoirs;
- 3) to erect housing, production facilities, cultural amenities, any other buildings, constructions and structures; to modify or demolish them in compliance with the designated purpose of a land plot and design documents;
- 4) to perform irrigating, draining and other meliorating works and engineering improvements; to construct ponds and other water reservoirs in concord with the effective legislation, environmental, building, sanitary and other requirements (norms, standards and rules) upon their approval by respective executive authorities and local self-governments; to participate in land development subsidized out of respective budgets;
- 5) to exercise the right of ownership to agricultural crops, plants, fruits and produced income except the instances when a land plot is taken on lease;
- 6) to voluntarily abandon a land plot;
- 7) to sell, donate, pledge, lease out, transfer by succession, as well as to close any other land transactions unless they ceased to be negotiable, or are negotiable only to the limited extent;
- 8) to receive a compensation when land plots are withdrawn for state, or municipal purposes, which shall include the contractual price of a subject land plot, construction and development costs, opportunity cost, etc.
- 9) to perform any other activity not forbidden by law.

2. Participants in the right of common ownership or in any other joint right to a land plot subject to state registration shall differentiate their rights and obligations as well as set the procedure for a land plot use in an agreement concluded by all participants in the common ownership. In case of a failure to reach an agreement their disputes shall be settled in court.

*Article 33. Rights of possessors, users and leaseholders of land plots*

1. Possessors for life, users and leaseholders of land plots shall have all rights provided for owners of land plots which are identified in this Ordinance, Article 35, Item 1, Paragraph 1-6.
2. Possessors for life of land in the state or municipal stock shall have the right to transfer their rights by inheritance. Users and leaseholders of land plots in the state or municipal stock shall have the rights to transfer, sublease, pledge or otherwise dispose of their right to the extent provided in item 2 of article 12 and item 3 of article 13 of this ordinance.
3. In addition to rights identified in Item 1 of this Article, possessors for life, users and leaseholders of land plots in the state and municipal stock shall have the right to claim the reimbursement of his/her expenses associated with the development and improvement of land plots when the latter are withdrawn for state and municipal purposes. In addition, lessees or users of land in the state and municipal land stock shall have the right to claim for the value of the lease and use rights under the provisions of article 55 of this ordinance.
4. The rights of lessees of privately owned land to share in awards of compensation from state or municipal withdrawal of land are determined under the civil legislation and the terms of the lease agreement.

*Article 34. Obligations of owners, possessors for life, users and leaseholders of land plots*

1. Owners, possessors for life, and users of land plots shall bear the burden of maintenance of land plots and shall be liable for any violation of the land legislation.
2. Owners, possessors for life, and users of land plots shall be bound:
  - 1) not to violate rights of owners, possessors, users and leaseholders of neighboring land plots;
  - 2) to install and preserve survey, geodesic and other special marks on the territory of land plots;
  - 3) to comply with laws and regulations on land use and conservation, to meet the requirements on the use of forest, water and other natural objects, and to prevent environmental damage;
  - 4) to observe the established regimes of land use;
  - 5) to promptly commence the development of a land plot if the term for the land development is set by laws, regulations of local self-governments, or agreements;
  - 6) to pay land charges promptly;
  - 7) to perform construction, improvement and maintenance of buildings, constructions, structures located on a land plot in compliance with town planning, building, environmental, sanitary, fire safety and other effective requirements (norms, standards and rules);
  - 8) to furnish the required data on land use to public authorities and local self-governments promptly;
  - 9) to provide assistance to specially authorized executives of the public authorities when they exercise their powers to monitor the use and conservation of lands within the scope of their competence;

Other federal laws, Oblast ordinances and regulations of local self-governments may set forth other obligations for owners, possessors, users and leaseholders of land plots.

3. The obligations of lessees of land plots are determined by the terms of the legal agreement

creating their rights.

*Article 35. Reservation of rights to a land plot in event of destruction of a building, construction, structure*

1. When a building, a construction, a structure is destroyed by fire, natural calamities and other force major circumstances including the destruction due to their decrepit state, the possessor for life or user of land plot shall reserve their rights to a land plot with the understanding that within three years he/she will commence the restoration of a building, a construction, a structure. Executive authorities, or a local self-government shall have the right to prolong that time period, and in case of a dispute, it may be prolonged in court.
2. Destruction of a completed building, structure or construction on a privately owned land plot shall have no affect on the right of ownership of the land plot and the decision on reconstruction shall be in the discretion of the owner.
3. Obligations of a lessee of a land plot to reconstruct a building, construction or structure shall be determined by the terms of the lease agreement.
4. Nothing in this article is intended to modify the right of public authorities to order the demolition or alteration of buildings, structures or constructions, or the removal of debris and clearing of a land parcel, if necessary to protect the health and safety of the public or neighboring land parcels.

*Article 36. Lands which cannot be transferred to the private ownership*

1. It is not allowed to transfer to the private ownership the following land plots:
  - 1) those occupied by state and municipal housing stock exclusively;
  - 2) those not developed and designated for nature conservation, sanctuary maintenance, health improvement and recreation purposes;
  - 3) forest and water lands except land plots where isolated water reservoirs are located, since such plots belong to citizens or legal entities by right of ownership;
  - 4) health resorts and sanitation areas within the boundaries of sanitary protection zones (mountain sanitary zones);
  - 5) those allocated for state melioration, or hydraulic facilities;
  - 6) those of common use (squares, streets, roads, embankments, parks, gardens, beaches and other territories of common use);
  - 7) those where mineral resources, except universally distributed, are deposited and which are not recorded in the State Register;
  - 8) polluted areas including those exposed to biogenic pollution;
  - 9) those allocated to public and research institutions, educational establishments, pedigreed stock and seed growing farms;
  - 10) those allocated for cattle pasturing, driving and watering, as well as those occupied by roads, wells and springs of common use;
  - 11) riparian zones, land allocations for high roads, railroads, pipelines and other transportation lines, power supply lines, river harbors and stations, air terminals and air fields, navigation facilities, river ships repair shops, as well as allotments (reserved areas) for prospective development of the said kinds of transportation;
  - 12) disputable areas until settlement of the disputes;

13) closed settlements, placers of military and civil burials.

Federal and Oblast laws, as well as regulations issued by local self-governments may identify other land plots forbidden for the transfer to the private ownership.

2. Nothing in this article is intended to prevent change of the targeted purpose or legal regime of a land plot in the established procedure.

*Article 37. General terms and conditions of privatization of land plots*

1. Privatization of land plots means transfer of land plots in state or municipal ownership to the ownership of citizens and legal entities who possess such land plots by rights of use or lifetime inheritable possession, or who have met the requirements of article 34 of this Ordinance. Lessees of land plots owned by the state of municipality may privatize to the extent provided in the laws of the Russian Federation.

2. Land plots shall be privatized on request of citizens and legal entities in the procedure set by this Ordinance, Article 19. Privatization of land plots in connection with privatization of enterprises or other commercial facilities shall be subject to the provisions of Presidential Decree No. 1535 and the regulations of the Russian Federation and Oblast governments promulgated pursuant to that decree.

3. Land plots may be privatized subject to the provisions on size, price and development rights set forth in articles 23 through 25 of this Ordinance.

4. A land plot with the area exceeding the standard set for the free transfer of land to the ownership shall be purchased at a contractual price which shall not be lower than the standard price, or it shall be kept in permanent/perpetual use, or by right of inheritable life possession or on lease.

5. Land plots which belong to citizens and legal entities by right of permanent/perpetual use, right of inheritable life possession or on lease from the state or municipal land fund (until expiration of its term) cannot be privatized or purchased by another person.

6. The right of participatory share ownership to a land plot where a farmstead, a garden, a summer cottage, a garage is located shall arise only if a given farmstead, garden, summer cottage, or garage is in participatory share ownership.

7. Developed land plots shall be transferred to the ownership with account of their perspective designated purpose and in line with town planning documents.

8. Developed land plots designated for nature conservation, health improvement, recreation and historic preservation purposes shall be transferred on condition that a specific regime of their use is observed, unless otherwise provided by law. Such regime shall be established by encumbrance.

9. Non-developed lands designated for historic preservation shall be transferred to the ownership only upon approval of the transfer by the state historic preservation authorities after performance of a full archeological research and shall be transferred on condition that a specific regime of their use is observed, unless otherwise provided by law. Such regime shall be established by encumbrance.

10. The Russian Federation legislation shall regulate the procedure for issuing land privatization documents to citizens and legal entities.

*Article 38. Acquisition of rights to a land plot in event of transfer of ownership right to a building, construction, or structure*

1. When the ownership right to a building, construction, structure, or enterprise is transferred

the right to a land plot shall be also transferred to an acquirer on the same terms, in the same scope as the previous owner of a building, construction, structure, or enterprise had.

2. Sale of the ownership right to a building, construction, or structure which belong to the state, or a municipality entails the transfer of land plots on which they are located in the ownership of the purchaser, except that in cases where the law prohibits sale of land into ownership it shall be transferred into permanent/perpetual use, with respect to those entities eligible to receive rights of permanent use, and in all other cases on lease.

#### *Article 39. Peculiarities of pledge of land plots*

1. Land plots which belong to citizens, or legal entities by right of ownership, or on lease, may be mortgaged to secure loan obligations to banks, or other credit institutions.

2. Mortgage of a building, construction, structure, or enterprise located on land plots which belong to the owner of the building, construction, structure, or enterprise by right of inheritable life possession, or permanent/perpetual use, may provide for the mortgagee the right to reclaim land plots to the extent necessary for economic management of the mortgaged property.

3. Mortgage of municipal lands by local self-governments is permitted subject to local law. Mortgage of federal lands or lands owned by a subject of the Russian Federation is permitted subject to federal law or the law of the subject of the Federation, as the case may be.

4. If a portion of a land plot is mortgaged, boundaries of that portion shall be first designated.

5. Procedures and terms of mortgage of lands shall be regulated by the Federal Law On Mortgage.

#### *Article 40. Land transactions*

1. Land transactions shall be subject to the provisions of Chapter 30, Section 7 of the Russian Federation Civil Code [and article [94] of the Russian Federation Land Code].

#### *Article 41. Invalidity of land transactions*

Land transactions shall be considered null and void, or may be considered invalid by reasons specified in the civil legislation and the land legislation of the Russian Federation.

Nullity suit against land transactions may be brought by RF and Novgorod Oblast executive authorities, local self-governments, public prosecutors, specially authorized public authorities exercising control over land use and conservation, as well as by persons whose rights were infringed.

### **Chapter V. Peculiarities of transactions for agricultural lands**

#### *Article 42. Additional terms for allocating agricultural lands to citizens*

1. Agricultural lands for peasant (farmer's) economy, or any other private enterprise manufacturing agricultural products, shall be delivered to citizens not younger than 18 either educated at agricultural colleges and institutions, or having experience in agriculture.

2. The said requirements shall not be applied with regard to citizens wishing to acquire land plots for maintaining an individual subsistence household, constructing a summer cottage, cultivating of orchards, cattle breeding, or gardening.

#### *Article 43. Requirements to the transactions for agricultural lands*

1. The owner of lands designated for agricultural purposes shall have the right to administer and manage them under the procedure set by the federal and Oblast legislation.
2. Transactions for land shares (land plots) shall be closed in compliance with the RF legislation and provisions of this Oblast Ordinance. Alienation of land shares for pay shall be effectuated in full conformity with the provisions of Article 250 of the Civil Code of the Russian Federation.
3. Targeted purpose of the use of agricultural lands may be modified only with the consent of Oblast Administration and in compliance with the territorial zoning set in the land management and town planning documents approved in the established procedure.
4. Land shares (land plots) may be leased out to agricultural enterprises, peasant (farmer's) economies, as well as land shares (land plots) , or the right to use them may transferred as a contribution to the authorized capital of agricultural enterprises by virtue of agreements concluded between owners of shares (owners of land plots) and agricultural enterprises, or peasant (farmer's) economies.
5. A land shares lease agreement shall be concluded for at least three years term. Both an individual owner of a land share, and a group of owners of land shares may act as a lessor.
6. When a land share is leased out, or transferred in use a share owner may specify in the agreement that a land tax will be paid by a leaseholder, or a land user.
7. Area of agricultural lands leased out for manufacturing agricultural products shall not be limited.

#### *Article 44. Preferential right to purchase agricultural lands*

Preferential right to purchase agricultural lands from the stock of state and municipal lands (for charge, or free of charge) shall be given to citizens and legal entities – leaseholders of land plots offered for sale, or citizens residing close to it.

If several applicants wish to buy a land plot (land share), a local self-government shall sell it through a competition.

#### *Article 45. Ownership right to agricultural lands of banks and financial institutions*

1. Banks and other financial institutions are not allowed to hold agricultural lands by the right of ownership.

1. If a bank, or a financial institution acquired the ownership of agricultural lands in the result of a foreclosure of a land plot, they shall alienate it within two years. If within two years they failed to alienate a land plot, it shall be sold through auction in the procedure set in the Civil Code, Article 238. Sale proceeds minus auction expenses and a proper sales tax shall be passed over to the bank, or financial institution to which a land plot belonged by right of ownership.

#### *Article 46. Lands of peasant (farmer's) economies*

1. A land plot may be transferred to a peasant (farmer's) economy by right of ownership, inheritable life possession, permanent/perpetual use, on lease or for the fixed term use.

2. The total area of a land plot of a peasant (farmer's) economy directly from the stock of state or municipal lands shall be established by the oblast administration but in no case shall be less than three times the average size of the peasant (farmer's) economy in the oblast.

3. Preferential right to obtain a land plot for maintaining a peasant (farmer's) economy shall be granted to citizens of the Russian Federation residing on the territory where a land plot is

located. Persons involved in agricultural production shall also have a preferential right to acquire a land plot for maintaining a peasant (farmer's) economy. In event of several applicants wishing to maintain a peasant (farmer's) economy on a given land plot, a local self-government shall select among them through a competition held on the territory where a land plot is located.

If a taken decision infringes the preferential right to acquire a land plot for maintaining a peasant (farmer's) economy, an appeal against such a decision may be taken to court.

4. A citizen who has a dwelling house in a rural settlement and has acquired a land plot for maintaining a peasant (farmer's) economy shall have the right to reserve the ownership to a land plot adjacent to his/her house which shall not be included in the composition of lands used for a peasant (farmer's) economy.

5. In event of termination of a peasant (farmer's) economy in connection with withdrawal of all, or anyone of its participants, or by any other reason, a land plot allocated to that peasant (farmer's) economy by right of common ownership shall be, pursuant to Article 50 of this Ordinance, partitioned under the rules and procedures set in Articles 18 and 19 of this Oblast Ordinance.

6. In event of withdrawal of one of a participant from a peasant (farmer's) economy, a land plot which was transferred to the participatory share ownership (joint ownership) of a peasant (farmer's) economy, shall not be subject to the partition in accordance with Article 48 of this Oblast Ordinance. Such owner shall have the right to claim allocation of a land plot in kind, or, in cases where allocation of a land plot in kind would cause incommensurate damage to the remaining common property or where the withdrawing member consents, a compensation adequate to the cost of a land plot. Procedures for the partition of a land plot and payment of a compensation shall be set by mutual consent of all participants of peasant (farmer's) economy, and in event of a failure to reach an agreement – by court.

*Article 47. Allocation of land plots for maintaining a peasant (farmer's) economy to citizens – members (participants) of an agricultural enterprise*

1. When a member (participant) of an agricultural enterprise withdraws from it with the aim to organize a peasant (farmer's) economy, he/she shall file an application to a general meeting, or a body authorized by it, with a request to allocate him/her a land plot and with indication of a proposed size, location of the economy and number of the family members wishing to organize it.

2. The general meeting of the members (participants) of an agricultural enterprise, or a body authorized by it, shall within a month from the date of filing an application issue a decision with regard to the size and on-site location of a land plot, which shall serve the basis for issuance by an authorized body of a resolution on allocation of land plot. Decisions of the general meeting or authorized body shall be made at open meetings of which the applicant has at least seven days written notice and at which the applicant may appear in support of his application. The applicant shall be provided with a written, reasoned decision on his application within 14 days of the date of the public meeting at which the decision is taken.

A relevant Committee for Land Resources and Land Management shall within two months from the date of documents' incoming to determine and delineate boundaries of a land plot and issue a plat of a land plot to the head of a peasant (farmer's) economy.

An appeal against refusal to allocate a land plot or a decision on the location and size of a land plot may be taken to the local committee on land resources and land management or to a court, in the discretion of the appellant. The decision of the local committee on land resources and land management may be appealed to a court.

3. Land plots allocated for the purpose of maintaining a peasant (farmer's) economy shall have

the mid-level of land productivity according to the Cadastre assessment of the lands of an agricultural enterprise.

4. A peasant (farmer's) economy separated out an agricultural enterprise shall have the right to lease out, in addition, lands from the public redistribution lands stock (Land Stock) of the same agricultural enterprise, or from any other land owners, and to obtain land plots from the stock of state lands by right of inheritable life possession as well.

5. The same procedure of land allocation shall be observed when a citizen withdraws from an agricultural enterprise with the purpose to join the other peasant (farmer's) economy.

*Article 48. Allocation of land plots for maintaining a peasant (farmer's) economy to citizens that fail to be the members (participants) of an agricultural enterprise*

1. To citizens that fail to be the members (participants) of an agricultural enterprise and that obtain land for the purpose of maintaining a peasant (farmer's) economy for the first time, land plots shall be allocated to the ownership, inheritable life possession, for permanent/perpetual use (within limits set in Article 26 of this Oblast Ordinance), on lease, or for the fixed term use from the public redistribution lands stock (Land Stock) on applications filed by that citizens.

2. In an application for land allocation signed by the head and members (participants) of a peasant (farmer's) economy an applicant shall state a proposed purpose of the use of a requested land plot, its proposed size and location, availability (absence) of any other land plots, and in event of a lease, or a fixed term use – the proposed term of the use of a land plot. An applicant shall append to his/her application a business plan, an extract from the service record of the head of a peasant (farmer's) economy certifying his/her qualification through a record of his/her work in an agricultural enterprise, or a copy of a diploma, or a training certificate.

3. On the basis of the submitted documents a respective local administration shall within a month from the date of the application incoming make a decision to allocate, or to refuse to allocate a land plot.

4. Refusal to allocate a land plot, along with actions of officials, which violate citizens' right to obtain a land plot for the purpose of maintaining a peasant (farmer's) economy, including concealment of the data on availability of the public redistribution lands stock (Land Stock), may be brought in court.

*Article 49. Negotiability of peasant (farmer's) economies' lands*

1. It is forbidden to sell, or alienate in any other way, except by succession within two years from the moment of acquisition the ownership in lands, agricultural lands, allocated to citizens free of charge from the public redistribution land stock (Land Stock).

2. Upon two years the said lands may be alienated, subject to payment into the respective local budget of a portion of the net proceeds of sale equal to the following:

Held for more than:	But less than:	% of net sales proceeds:
2 years	3 years	100%
3 years	4 years	75%
4 years	5 years	50%
5 years		None

3. Proceeds of sale shall be net of the costs of the sale, including brokerage, legal and registration fees, and the amount of any investment in improvements to the land made by the seller. The oblast committee on land resources and land management shall issue an instruction

for calculating net sale proceeds.

4. The right of the local budget to participate in sale proceeds as aforesaid shall be an encumbrance on the land enforceable in a court of law.
5. Except as provided in this article, all other agricultural land plots and land shares are alienable in accordance with the law.

*Article 50. Transfer of the right to a land plot in event of sale of agricultural property*

1. In event of sale, donation, or any other alienation of agricultural property (dwelling and industrial buildings, structures, constructions, machinery, equipment, etc.) belonging to a peasant (farmer's) economy or an agricultural enterprise, corresponding rights to a land plot shall be transferred to a new owner of agricultural property on condition that he/she further operates an agricultural enterprise in compliance with Articles 45, 46, 47 of this Oblast Ordinance.
2. A purchaser of the property of a peasant (farmer's) economy, or of the property of an agricultural enterprise shall be bound to register his/her rights to a land plot in the established procedure.

*Article 51. Lands belonging to non-profit orchard growing, gardening and cattle breeding associations of citizens and associations of owners of summer cottages*

1. Non-profit orchard growing, gardening associations of citizens and associations of owners of summer cottages shall acquire and use land plots in conformity with Federal Law "On non-profit orchard growing, gardening and cattle breeding associations of citizens and associations of owners of summer cottages".
2. Cattle breeding associations of citizens shall acquire and use land plots for the purposes of construction of household facilities and cooperative cattle breeding and forage growing in conformity with federal and oblast laws and ordinances.

*Article 52. Lands for hay making and pasturing*

Land plots for hay making and pasturing shall be given to citizens and legal entities on lease, or for fixed term use.

**Chapter VI. Termination of land rights**

*Article 53. Grounds for termination of citizens' and legal entities' rights to land plots*

1. Right of ownership of a land plot may be terminated on the grounds and in the manner provided in article 235 of the Russian Federation Civil Code.
2. Right of lease of land plot may be terminated in accordance with the provisions of Chapter 34, section 1 of the Russian Federation Civil Code and with the terms of the lease agreement.
2. Right of inheritable possession for life and permanent/perpetual use of a land plot may be terminated on the following grounds:
  - a) voluntary abandonment of the right or the land plot, or a portion of it, as determined under article 225 of the Russian Federation Civil Code [and article [125] of the Russian Federation Land Code];
  - b) voluntary alienation of the right through any legal means;
  - c) legal succession;

- d)
- e) ;
- f) termination of labor-management relations in view of which a functional allotment was made, except the instances indicated in RF Land Codex, Article 87;
- g) violation of any other law governing use of land, provided that such violation is specifically identified in the law as grounds for termination of land rights;
- h) demise of a citizen without legal successor.

2. Lands may be withdrawn for public, municipal, and social needs no matter who makes the use of them, subject to the provisions of article 279 the Russian Federation Civil Code [and article [129] of the Russian Federation Land Code]. If necessary, local self-governments shall have the right to withdraw a land plot, or a portion of it, for temporary use to construct city nets and communications, with compensating damages to a land user, leaseholder, or a land owner.

*Article 54. Procedure of termination of rights to a land plot*

1. In event of violations of law which permit termination of land rights, rights to a land plot shall be terminated as follows:

- a) upon disclosure of the said violations, relevant public authorities empowered to monitor the use and conservation of lands shall impose a penalty on a person at fault in compliance with RF President Decree #2162 as of 12/16/93 "On Better Public Control Over the Use and Conservation of Lands during Implementation of the Land Reform";
- b) simultaneously with a penalty imposition a notice with the requirement to remedy the faults in three months shall be made;

In event of delinquency in payments for land the notice shall be sent by State Tax authorities, in all other cases – by authorities indicated in Paragraph a) of this Item;

In event of a failure to remedy the disclosed faults, the authorities identified in Paragraph b) of this Item, shall forward to a local self-government which allocated the land plot in question, a suggestion to terminate existing rights to a land plot.

Termination of rights in events specified in this Article shall be initiated by virtue of a resolution issued by a relevant local administration (Oblast Administration).

2. A copy of a resolution shall be delivered to an owner, possessor, user, leaseholder of a land plot not later than seven days after its issuance.

3. If within 30 days of receipt of the resolution to terminate land rights an owner, possessor, or user of a land plot notifies in writing the authority which issued a decision to withdraw a land plot, about his/her consent to it, than a land plot shall be subject to redistribution (withdrawn) in the established procedure.

4. If within the aforesaid 30 day period an owner, possessor, or user of a land plot does not consent in writing to a decision to withdraw a land plot, the authority which issued the decision may bring an action to court. 5. As long as a court judgment is not issued termination of rights to a land plot shall not be registered by state registration authorities.

6. Involuntary termination of a right to land for violation of the land laws shall be treated as a withdrawal of the right under article 55 of this ordinance and shall entitle the holder of the right to compensation. In calculating the compensation due to the holder of the terminated right the costs of enforcing the law and of curing the violation which led to termination of the right may be considered.

*Article 55. Termination of rights to a land plot in event of its withdrawal (purchase) for state and municipal needs*

1. This Article establishes the procedure of termination of rights to land when land plots are withdrawn (purchased) for state and municipal needs.

2. Land plots for state (federal, oblast) needs shall be withdrawn (purchased) by virtue of Oblast Administration resolutions issued with the consent of relevant local self-government.

Land plots for oblast needs which do not affect other regions, shall be withdrawn (purchased) by virtue of resolutions issued by a local administration on the instructions of Oblast Administration.

3. Terms for a withdrawal (purchase) of a land plot from an owner, possessor, leaseholder shall be set in a land management plan during a preliminary approval of the place of project location, and shall provide for:

- allocation of a plot of the equal value in exchange of the one withdrawn;
- to repay the cost of a purchased land plot;
- to cover losses of land users (including the opportunity cost), losses of agricultural enterprises and costs of the purchase and use of other plots.

Terms of a withdrawal (purchase) of a land plot shall be agreed with a land owner, user, or leaseholder simultaneously with the execution of a land plot selection act.

With a land owner, user, or leaseholder consent to withdraw a land plot a relevant local administration shall issue a decision on the withdrawal (purchase) of a land plot on agreed conditions with setting the dates when they shall be fulfilled.

If a land owner, user, or leaseholder does not agree with a withdrawal (purchase) of a land plot for state, or municipal needs, or they do not agree with a purchase price and other purchase terms, the public authorities which made that decision, may bring an action on a land purchase to court.

4. A decision of a relevant local administration on withdrawal (purchase) identifying terms of such withdrawal (purchase) shall be delivered to a land owner, user, or leaseholder not later than 7 days upon the date of its issuance, and may be reconsidered within a month upon lodging a complaint by people's court if a complaint is lodged by a citizen, and by court of arbitration – if a complaint is lodged by a legal entity. Taking appeal against a decision entails the stay of its execution.

Purchase of a land plot shall be legalized by a purchase agreement which shall be registered in the procedure established by law.

5. In exchange of a land plot subject to withdrawal another land plot may be allocated from the regional, or oblast redistribution land stock, reserved or other lands which are in state, or municipal ownership. An owner, land user, or leaseholder of a land plot may be suggested an option of no more than three land plots of equal value.

In event of allocation of a better land plot compared to the one withdrawn the area of newly allocated plot may be adjusted:

- subject to the ratio of productivity of a withdrawn land plot to the productivity of a newly allocated one;
- in terms of indicators used for comprehensive appraisal of lands of settlements across zones of different town planning value.

6. Land plots in ownership of citizens and legal entities shall be purchased at contractual price which shall equal fair market value of the land plot and in no case be less than standard (purchase) price set by relevant public authorities, or local self-government.

Land plots for state and municipal needs shall be purchased out of relevant budgets, or extra budgetary funds.

In event of allocation of a land plot of equal value in exchange of a withdrawn one its cost shall not be paid.

7. An owner, user, leaseholder of a land plot subject to withdrawal (purchase) shall obtain a reimbursement for losses and costs incurred with regard to:

- moving to a new site, or erection on it of a building, construction, any other real property of the same designation, or just get a reimbursement for their cost (with the consent of an owner, user, leaseholder);
- compensation for the opportunity cost;
- reimbursement for expenses on acquisition of ownership right to a land plot and its improvements if any;
- indemnity for other losses as the current legislation provides for.

Expenditures connected with erection of buildings, constructions and other real property shall be determined on the basis of the market value of construction as for the moment of withdrawal of a land plot.

The opportunity cost shall be determined as equal to a yearly income lost for the period of recovery of disrupted production.

If land plots subject to withdrawal have improvements of non-productive purpose a reimbursement for the opportunity cost shall not be paid.

Agricultural losses shall be repaid if the designation of land plots, withdrawn and allocated for state needs, is modified.

Expenses on improvement of lands incurred by an owner, possessor, user or leaseholder of a plot shall be determined in terms of prices ruling at the moment of the withdrawal of a land plot.

Losses of a land user (including the opportunity cost) and costs of acquisition of rights to a land plot and its development shall be covered out of the federal, municipal budgets, or out of relevant extra budgetary funds.

8. In event of withdrawal of land plots allocated to a citizen, or a legal entity for a fixed term (up to three years), or on lease, losses and expenses shall be covered in compliance with respective provisions and clauses of a fixed term use, or lease agreement signed by parties.

If an agreement fails to specify mutual obligations and rights of the parties in event of withdrawal of a land plot until expiration of the term of lease, or fixed term of use, a leaseholder (user) shall be paid the indemnity for the following losses:

- the market value of buildings, constructions and other real a leaseholder (user) property located on a land plot subject to withdrawal if they are erected with the consent of the owner;
- the opportunity cost of a leaseholder (user) calculated as a lost benefit which he/she might obtain for the coming period of recovery of disrupted production;
- costs on acquisition of lease (fixed term use) right to a land plot and its improvements if any;
- other losses of a leaseholder (user) as the current legislation provides for.

## ***Chapter VII. Land charge, administrative and criminal responsibility for violation of land law, settlement of land disputes***

*Article 56. Land charge*

1. In Novgorod Oblast use of land is charged for, except instances specified in federal, Oblast legislation and by agreements.
2. Land charge shall be collected in accordance with Oblast Law "On Land Charge".

*Article 57. Administrative and criminal responsibility for violation of land law*

Violation of land law involves an administrative and criminal liability in accordance with the federal legislation.

*Article 58. Settlement of land disputes*

All disputes arising in connection with alienation and purchase of land plots, as well as any other land disputes shall be settled in court.

**Chapter VIII. Final clauses.**

*Article 59. Operation of the present Ordinance*

Pending the enactment of the Federal Law on State and Municipal Lands, land plots on the territory of urban and rural settlements, or rights to lease them shall be auctioned off to citizens and legal entities under the decision of a relevant local self-government.

Pending the introduction of federal standards for distribution of sales proceeds from auctions where land plots located on the territory of urban and rural settlements, or right to lease them are offered to citizens and legal entities for development, the said proceeds, after payment of the auction expenses, shall be distributed as follows: 75% shall be entered to a relevant city, or Oblast district budget, and 25% shall be entered to the Oblast budget.

*Article 60. On recognizing Oblast Law null and void.*

With the present Oblast Ordinance coming into force, Oblast Law "On Procedure of Allocation and Withdrawal of Land Plots in Novgorod Oblast" ("Novgorodsky Vedomosti" newspaper, as of 07/12/95, 07/21/96, 08/09/96) shall be considered null and void.

*Article 61. On enactment of the present Ordinance*

The present Oblast Ordinance shall come into force from the date of its official publication in the "Novgorodsky Vedomosti" newspaper.

*Article 62. Harmonization of legislative and normative acts with the present Oblast Ordinance*

Upon enactment of the present Oblast Ordinance legislative and normative acts issued by Oblast authorities, and legislative and normative acts issued by local self-governments shall be harmonized with it.

## II. Legal Framework in Oblast and City

### F. COMMENTS ON PROPOSED NOVGOROD OBLAST ORDINANCE "ON REGULATION OF LAND RELATIONSHIPS WITHIN THE TERRITORY OF THE NOVGOROD OBLAST" TO RE-CODIFY LAND LAWS

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#### COMMENTS ON DRAFT NOVGOROD OBLAST ORDINANCE "ON REGULATION OF LAND RELATIONSHIPS WITHIN THE TERRITORY OF THE NOVGOROD OBLAST"

Prepared by:  
The Urban Institute<sup>1</sup>  
and  
The Rural Development Institute<sup>2</sup>

September, 1998

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The following comments and suggestions regarding the draft Novgorod Oblast ordinance "On Regulation of Land Relationships Within the Territory of the Novgorod Oblast" were prepared by the Urban Institute and Rural Development Institute in connection with the "Regional Investment Initiative" in the Novgorod Oblast sponsored by the United States Agency for International Development and the Novgorod Oblast Administration.

Attached to these comments is a revised version of the proposed ordinance which shows the suggested modifications to the draft.

#### Chapter 1

**Article 1.** The Civil Code is part of the land legislation; it is not entirely superseded by the Land Code, particularly with respect to land as an object of civil rights and definitions of forms of land tenure.

**Article 4.** In item 1 (5) the term "land management" is too broad and undefined. The appropriate constitutional standard is to regulate land use "to prevent harm to the environment and the rights of others."

**Article 5.** Delineation of land plots should be subject to the Russian Federation laws of land cadastre and survey.

With respect to item 4, there are many instances where some portion of land right may be separated from the ownership right when the land is sold, for example: reservation of a servitude for a right of way or reservation of the right to remove timber. It should be made clear that this provision, which says that land, land rights and objects attached to land must be sold as an integral unit, is not meant to prevent the creation or reservation of servitudes,

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<sup>1</sup> 19 Prospect Mira, Moscow, Russia. The Urban Institute, a nonprofit research and consulting firm, has been working on issues of urban land and housing reform in Russia since 1992 under the auspices of the United States Agency for International Development.

<sup>2</sup> 1100 NE Campus Parkway, Seattle, Washington, USA. The Rural Development Institute, a nonprofit research and consulting firm, has been working on issues of rural and agricultural development in the Russian Federation since 1992 under the auspices of the United States Agency for International Development.

encumbrances or other agreements for the exploitation of natural resources at the time the land is sold.

**Article 6.** Targeted purpose and legal regime are different, but related. Use of the terms should be more precise.

**Article 7.** In item 1 it should be clear that the legal regime established for a targeted purpose applies to all land classified under the targeted purpose. It should be stated that under laws of planning and zoning a targeted purpose may be divided into subcategories which are subject to different legal regimes. In item 6, it should be clear that the content of a targeted purpose may be enhanced by consistent acts of local administrations under their powers of town planning and zoning.

## Chapter II

**Article 8.** This article has been reorganized to show that the only form of tenure exclusive to natural persons is inheritable lifetime possession. Discussed further below are suggested modifications to the content of rights of lifetime possession, permanent and fixed term use.

**Article 9.** In item 3, it is a violation of the Constitution and the Civil Code to withdraw ownership rights to land without compensation, even if the owner is no longer a Russian citizen. Compensation may of course take into account the value of the lease right exchanged for the right of ownership.

**Article 10.** Acquisition of ownership to property, including land and real estate, should be governed under the provisions of the Civil Code. A general reference to the Civil Code assures uniformity and prevents conflict among laws.

Encumbrances are simply a part of the land plot's legal regime, and use of the more general term "legal regime" would be more appropriate here.

**Article 11.** The definition of lifetime possession found in this code and the proposed federal land code is simply incorrect. Lifetime possession is not the right to use land acquired through inheritance, but rather the right to use land for life and dispose of it through inheritance.

The tenure of inheritable lifetime possession is defined under the Civil Code. A general reference to the Civil Code assures uniformity and prevents conflict among laws. This form of tenure is antiquated and not suitable for a modern land economy; it is recommended that no new rights of lifetime possession be granted in the oblast. It is believed that the option to cease granting rights of lifetime possession is within the discretion of the oblast дума. It should also be clear that under present law, holders of rights of lifetime possession may convert those rights to ownership, thereby encouraging gradual eradication of the existing rights and further development of the land market. Finally, a distinction needs to be drawn between right of lifetime possession as a form of possession of state and municipal land, and lifetime possession as a form of devise of private land through inheritance. The latter form of lifetime possession, equivalent to the concept of "annuity," should be permitted under the laws of inheritance (for example, lifetime possession to a surviving spouse with ownership vesting in surviving children upon his/her death).

**Article 12.** Rights of lease are defined under the Civil Code. A general reference to the Civil Code assures uniformity and prevents conflict among laws. To promote vibrant land markets, the approach of item 2 should be reversed. Lessees of state and municipal land should have the right to pledge and transfer their lease rights unless specifically prohibited by a lease agreement.

One of the failures of Russian land markets is that the many leases of state and municipal lands are not designed to replicate true land markets by allowing private decisions on pledge and transfer of the lease rights. In most systems in which widespread leasing of state and municipal land is effective, rights of pledge and assignment are permitted without approval of the lessor.

**Article 13.** The right of permanent use is defined in the Civil Code. A general reference to the Civil Code assures uniformity and prevents conflict among laws. The right of fixed term use is not presently defined anywhere, but a definition is proposed in the draft Russian Federation Land Code.

The right of permanent use (including economic and operational management) is not appropriate for a modern land economy except in the case of state-owned enterprises and public institutions. Anything that can be accomplished by right of permanent use can be accomplished by a lease. It is recommended that no new rights of permanent use be granted in the oblast except to those types of legal entities. Existing rights of permanent use should continue in existence, but right holders (except state owned enterprises and public institutions) should have the right to convert the use right to ownership or lease in accordance with the applicable laws.

As with the right of lease, to promote a vibrant land market there should be a presumption that holders of permanent rights of use may pledge, assign, etc. unless specifically prohibited by agreement. (This is not a significant departure from present law, under which a sale of a structure automatically results in transfer of the right of land use to the purchaser. This transfer is a de facto assignment of the right of land use without approval of the state.)

For convenience, this article should be revised to address rights of use generally, which may be permanent or for a fixed term. In either case, there should be no rent charged for the right, as this is the only aspect of the right that distinguishes it from a lease. If a rent is to be charged for a right of fixed term use it would be better to use a lease, which has far greater legal definition in the laws.

**Article 14.** The current article 14 should be deleted in light of the changes to article 13. The right of "fixed term use" is not appropriate to a modern land economy, particularly if a rent is charged. This form of tenure should also be limited to state owned enterprises and public institutions. Moreover, if a rent is charged there is no reason why the form of tenure should be called "fixed term use" and not a simple lease. This type of distinction only leads to confusion in the forms of land tenure. Present holders of rights of fixed term use in effect on the effective date of the law should be permitted to convert their right to a lease.

**Article 15 (New article 14).** Rights of common ownership of property, including land and real estate, are very well defined in the Civil Code. There is no apparent reason to elaborate on the Civil Code. A general reference to the Civil Code assures uniformity and prevents conflict among laws.

**Articles 16-19.** Delete. See comment to article 15.

**Article 20 (New article 15).** The definition of encumbrance needs more elaboration. For example, an encumbrance that "attaches" to the land plot and is binding on all subsequent owners and users can be created only by the land owner. An encumbrance on any other form of tenure (use, lease, etc.) encumbers only the right itself (for example, a pledge of a lease right), but does not encumber the land plot directly, and such encumbrances terminates in all cases upon termination of the right. Encumbrances of secondary rights to land plots are

possible (for example, pledge of a lease right; a servitude granted by the holder of a lease or right of use) but should be treated differently, as they are in the nature of a contract and not an encumbrance on the real estate object.

Several of the specific encumbrances enumerated violate the purpose of encumbrances and impose unreasonable restrictions on the rights of ownership, including:

1) prohibitions on alienation should not be limited to specific individuals, as this may create discrimination, nor should prohibitions be perpetual; prohibitions are reasonable only for a limited period of time, for example the period of development, after which they become unreasonable restrictions on the right of ownership and on the land market.

2) it is unreasonable to prevent a land owner from leasing his land; also, the term "sublease" does not apply to a land owner.

9) an owner can not change the targeted use of his land - he can only change the actual use of his land, and prohibition of change of actual use, except in accordance with the laws of land use (targeted use, zoning and planning), is an unreasonable restriction on the rights of ownership.

11) item 11 should be generalized, as suggested in the new item 14.

Additional items should include the obligations to contribute to financial support of facilities; prohibitions on building design (height and bulk, location, etc.); and an obligation to share the proceeds if land is sold.

Additional provisions on the terms and beneficiaries of encumbrances are suggested. It is important to note that one of the most important uses of encumbrance under Russian law is a grant of limited rights of access and use to persons who are not land owners, including the public at large, as the definition of servitude presently found in the Russian Civil Code does not allow such rights to be characterized as servitudes.

Additional provisions are recommended dealing with the termination of encumbrances and the forms of enforcement.

**Article 21 (New article 16).** Servitudes are defined in the Russian Federation Civil Code. A general reference to the Civil Code assures uniformity and prevents conflict among laws.

It is recommended that the law establish whether a servitude can be created by prescriptive acquisition, as is suggested by the Civil Code.

It should be made clear that a servitude may be established to benefit any land plot, and not just an adjoining land plot.

### Chapter III

**Article 24 (New article 19).** This article describes just one form of land allocation, which presumes an application from a citizen or legal entity.

It is recommended that applications include information on any land plots formerly owned by the applicant so that authorities can monitor whether there have been multiple allocations.

Any use permitted under applicable town planning laws should be sufficient to receive a land plot. Otherwise, the oblast or municipality will be in the position of deciding the specific use of land plots, which would be a distortion of market principles. An application may not be rejected if it states any use permitted by law.

In item 3, it should be made clear that the only grounds for refusing allocation of the land plot is that a suitable land plot does not exist, and that the authorities are not authorized to evaluate the "feasibility" of the proposed use other than to determine whether the land plot is suitable in terms of size and permitted use. The decision of feasibility must be made on the basis of the specifications for the land plot provided in the application and objective evaluation of the land plots technical and legal characteristics.

Reference to perpetual use and lifetime possession is no longer necessary in item 5 if new rights of use and lifetime possession are not granted.

**New Article 20.** A new article 20 pertaining to appeal of allocation decisions, largely incorporating material found later article 34 the draft, is inserted here to improve organization.

**New Article 21.** It is suggested that allocation through auction be described as a separate form of allocation.

**New Article 22.** Article 19 deals only with allocation on the basis of applications by citizens and legal entities, and new article 21 deals only with auctions and tenders. An entirely separate form of allocation which should be permitted is allocation of land by the oblast or municipality on its own initiative without competitive procedure, either through advertisement or brokerage. This is referred to in this new article as sale through negotiated transaction and it is an important tool for land allocation. There is no prohibition on allocation of land using this method but there should be certain restrictions, primarily the obligation to disclose the terms of the transaction to the public.

**Article 25 (New article 23).** Charge for land applies to lease as well as sale. It is recommended that the charge be established either through an auction or appraisal, but that sale or lease below appraised value be permitted in specified cases to encourage commercial activity. It is also recommended that the law specifically refer to deferred payment and payment by installment.

**Article 26 (New article 24).** The basic principle is that restrictions on the size of land holdings should be imposed only on land granted directly from the state or municipal stock, either through privatization or allocation. There should be no absolute limit on the size of land holdings acquired in private market transactions. It is inconsistent to complain of under utilization of land, and then prevent those who can actually make economic use of it from acquiring it.

Article 26 contains two main problems. First, Article 26 falls under Chapter III of the land ordinance, which is entitled "Allocation of land plots from the stock of state and municipal lands." However, Items 2 and 3 of Article 26 contain important rules regarding land shares. Land shares are private land rights, not rights to state or municipal lands. Thus, from the legal perspective, these two points should not be contained in Chapter III. They belong in Chapter IV, "Rights and obligations of owners, possessors, users, and lease-holders of land plots."

Second, Article 26(3) effectively limits the total area of land shares that one citizen can acquire to 50 hectares. This 50-hectare limit, combined with the limit on allocation of state or municipal land (under Article 26(1)), may limit the potential viability of a peasant's (farmer's)

economy, especially in the northerly Novgorod *oblast*. Farmers must have the freedom to decide for themselves how much land to cultivate if agricultural production is to be maximized.

Instead of establishing a fixed limit, Article 26(3) should be deleted. In its place, Article 49(2) should be revised to read as follows:

The total area of a land plot of a peasant (farmer's) economy shall be established by the *oblast* administration but in no case shall be less than three times the average size of the peasant (farmer's) economy in the *oblast*.

This recommendation should give peasant farmers enough flexibility to establish farms at optimum size, while at the same time preventing landlordism.

**Article 27(New article 25).** In most cases it should be prohibited for oblast and municipal authorities to encumber a land plot with a specific use restriction at the time of allocation. (By "specific" use restriction we refer to what is frequently called the "profile restriction," where a land plot is designated for a "shoe store," rather than simply "retail use" or "consumer goods and services.") Land use should be subject to the laws of targeted purpose, planning and zoning, and not determined on a case by case basis by the local administration.

Use restrictions on land allocated from the state and municipal funds present a difficult problem. Local authorities may have valid opinions on the highest and best use of key urban land plots, or may have long range economic or planning objectives which they believe to be in the best interests of the locality. At the same time, public authorities frequently cannot accurately interpret the market and require uses that the private sector investors are not willing to develop. (At least part of the problem is that the public authorities are not required to invest their own funds in the development.) Moreover, if specific use restrictions are imposed as an encumbrance on the land plot, they persist for all time unless waived by the local authorities, which significantly decreases the owner's ability to respond to changes in the market and, consequently, the value of the land.

There are no easy solutions to this problem. In this draft it has been suggested that it is impermissible for land allocation authorities to encumber a land plot with a specific use (other than targeted purpose and zoning and planning restrictions) unless the use is part of an integrated urban or economic development program and supported by evidence that it is the highest and best use for the land. In fact, it may be unnecessary to address this issue at all. If local authorities insist on determining the specific uses of land, and those determinations are contrary to the assessments of the private market, the land will not be sold and development activity will decrease.

It should be clear that it is not necessary to require that a land plot be developed in a specific period of time. In many cases, particularly if market value is paid for the land plot, the market should determine the pace of development.

**Article 28(New article 26).** There is no legal, economic or social rationale for denying ownership rights to land under multifamily buildings until all apartment and commercial units are privatized. This is essentially a reactionary position which will delay land privatization as long as possible. The better approach, closer to the policy of land privatization and the intentions of the law on condominiums, is to consider the land to be held in common share ownership by the apartment owners, including the oblast or municipality, as the case may be.

**Article 30 (New article 28).** The essential principle is that entry onto private land for surveying must be for a public purpose, and in the absence of a public purpose may be done only with the agreement of the land holder.

**Article 31 (New article 29).** What is described here is not prescriptive acquisition, and therefore a misuse of the term. Prescriptive acquisition is the occupation and use of land without formal rights and against the interests of the owner. Article 31, in contrast, describes a case where land was actually allocated by the state but the right creating documents are lost, or perhaps never issued. This is an entirely different case. It is suggested that this provision be converted into a simple solution for the problem of people lawfully occupying land but without registration or documents, to distinguish it from a case in which people are actually occupying and using land without the knowledge or consent of the state.

It is doubtful that the requirement of "good faith" is useful. It is generally not relevant to the objective of land privatization, and is a very ambiguous concept. For example, if a person knows he does not have legal documentation for his rights, is he in "good faith"? If the objective is simply to clarify land rights, the good faith test should be eliminated.

**New Article 30.** A new article 30 should be added which addresses prescriptive acquisition as defined in the RF Civil Code. There is some question whether prescriptive acquisition of state lands should be permitted. Many countries do not allow prescription against the state. The draft seems to allow prescription against state lands, but describes the limitations on prescription very vaguely.

Again, the issue of "good faith" is not legally relevant to prescriptive acquisition.

**Article 32 (New Article 31).** Since enactment of the law On Registration of Rights to Real Estate it is necessary only for this land law to refer to the registration law.

**Article 33.** It is suggested that this article be combined with the prior article on registration of rights.

**Article 34.** It is suggested that the contents of this article be moved earlier in the draft, to new article 20 under Chapter III, as has been done in the revision.

## Chapter IV

**Article 36 (New article 33).** This article seems to contradict the present law and other provisions of the draft with respect to the rights of possessors for life, users and lessees to dispose of their rights through inheritance, and their right to compensation for withdrawal of the land (see, for example, articles 279-283, RF Civil Code). Other provisions of the draft allow transfer of these rights through inheritance. It is a long established legal principle in Russia, reflected in the Civil Code and drafts of the Land Code, that holders of rights of use and lease should have the right to claim compensation for the value of their land right, and not simply the value of their improvements. This is particularly true of leases that are negotiated civil transactions for which the lessee pays fair market value. Moreover, the right of a lessee of privately owned land to compensation for withdrawal of the land can be a matter of negotiation between the lessor and lessee regarding sharing of the award, and this draft makes no distinction between state and private leases.

As a matter of land economics, if the state is not required to pay compensation, it will be prone to make incorrect economic judgments on withdrawal of land, possibly withdrawing land for purposes of lower economic value to society than the use to which the land is presently put. Requiring compensation in all cases makes the state consider whether the proposed withdrawal is of higher economic value than the present use, and therefore whether the state needs can be met by withdrawing a less valuable land plot.

**Article 37 (New article 34).** It may be useful to point out that the obligations of leaseholders and users may be determined by a legal agreement.

Most of the obligations described here are not necessarily imposed on leaseholders, but are rather obligations of ownership. The primary obligations with respect to land are imposed on the owner (holder of lifetime or permanent use), and the obligations imposed on lease holders are established by contract. It may be better in this article to state that obligations of leaseholders are established by the lease agreement.

Article 37 contains several problems concerning land use obligations, which become grounds for termination of land rights (including ownership) in Article 56. Item 1 of Article 37, for example, requires right holders to “maintain” land plots; Item 2(1) requires right holders to “use land plots fully, in line with their designated purpose;” Item 2(4) requires that the land right holder “enhance soil fertility” and “carry out measures on land use and conservation;” and Item 2(5) requires right holders to observe “established regimes of land use.” These obligations are worded too broadly in terms of the obligations they impose. The result of such vaguely worded requirements may be arbitrary enforcement by local or other officials, added reluctance by individuals to risk acquiring private land rights in anticipation of possible arbitrary enforcement, and greater reluctance of banks to get involved in financing private purchase or land rights. The land use restrictions in Article 37 are further discussed under the comments to Article 56, below.

**Article 38 (New article 35).** The state should not be permitted to terminate a right of ownership because a building is not reconstructed. While it may be possible to allocate a land plot subject to the condition that a building be constructed, once the building is constructed the land owners’ obligation is met. A perpetual obligation to construct a building is a throwback to Soviet-era land concepts and contrary to the workings of a market. Such a concept of ownership makes the right of ownership depend on whether the owner is making some state-approved use of the land, which is not the concept of ownership presently embodied in the RF Constitution and Civil Code. There are many reasons why setting an arbitrary number of years for reconstruction is inadvisable, including the condition of the real estate market, the availability of financing, etc.

The threat of withdrawal (confiscation) of private land rights under any circumstances is a major violation of land tenure security, and thus serves to chill the development of land markets. Revoking rights to land in the event of disaster makes even less sense, given the slow recovery period many land owners may naturally experience after losing most of their assets.

With respect to lessees of land, their obligation to reconstruct is solely dependent upon the terms of the lease agreement, particularly if it is a private lease agreement.

Public authorities can require the removal of any dangerous condition caused by the destruction of a building.

**Article 39 (New article 36).** Presence of state and municipal housing in a multifamily building should prevent transfer of land ownership only if state or municipal housing is the exclusive use of the land. If the housing is partially privatized land should be allocated to the common ownership of the housing owners, including state or municipality, as the case may be.

It should be clarified that the use of land can be re-characterized in the normal procedure, after which it may perhaps be transferred to private ownership.

**Article 40 (New article 37).** The definition of privatization includes the fact that the land is presently held by citizen or legal entity under some other right, such as use or possession. Other transfers of ownership rights are referred to as “allocation.”

Items 5 and 6 are not necessary, and lack clear policy justification.

Item (4) prohibits the privatization or purchase of land held in permanent/perpetual use, right of “inheritable life possession” or lease. Inheritable life possession is not needed as a form of tenure, since private ownership conveys every benefit of inheritable life possession without the restrictions on the economic usefulness of the land that are imposed by lifetime inheritable proprietorship’s prohibition on sale. Also, inheritable life possession has been excluded from the 1991 federal Land Code by Presidential Decree No. 2287 “On Bringing the Land Legislation of the Russian Federation Into Conformity With the Constitution of the Russian Federation” (December 24, 1993).<sup>3</sup>

Despite the problems with and the lack of need for inheritable life possession, many private parties may currently hold land plots in such a form in Novgorod *Oblast*. Consideration should be given to phasing out inheritable life possession in the context of this Draft Law. Provisions could be added which provide that (1) the *oblast* and lower levels of government shall not allocate land plots in inheritable life possession, and (2) land plots owned by the *oblast* or lower levels of government and allocated in lifetime inheritable proprietorship shall be converted into full ownership.

**Article 42 (New article 39).** The second paragraph of item 1 is redundant of item 5. Also, it is not in the interests of oblast and municipal governments to prohibit mortgage of excess lands. Real estate collateral may often be very useful collateral for municipal bonds. The justification for prohibiting mortgage of public lands in connection with public borrowing is not clear.

**Article 43 (New article 40).** Land transactions are contractual transactions governed by the Civil Code. It is not necessary to provide additional guidance in this land law. It is suggested that article 43 and 44 be combined as shown.

## Chapter V

**Article 46 (New article 43).** Item (3) of Article 46 requires that the local government approve every allocation or sale of agricultural land to a peasant farm, based on an “expert opinion” issued by an ad hoc committee comprised of representatives of the local administration, agricultural authorities, the land committee, and a peasant farmers’ association. This provision contains several problems. First, this procedure creates substantial hurdles to each and every transaction in land for a peasant farm, thereby deterring implementation of a market and dampening the incentive for members of collective farms to withdraw their land shares in kind. Second, any necessary restrictions on agricultural land sales should apply uniformly regardless of whether the recipient is a peasant farm or a collective farm, or any other type of agricultural production organization. By singling out transactions to peasant farms for burdensome restrictions, this provision encourages land owners to sell their land back to collectives or other buyers and discourages collective farm members from withdrawing their

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<sup>3</sup> The right of lifetime inheritable possession to land does, however exist in the Civil Code, Chapter 17, Article 265. Chapter 17 is not yet enacted; it is to be introduced into operation on the date of the introduction into operation of the Land Code of the Russian Federation, which has not yet been adopted. See Article 13 of the Law “On the Introduction into Operation of Part I of the Civil Code of the Russian Federation” (December 1994).

land shares in the first place. In short, this Item serves no legitimate purpose, and should be deleted.

Item (4) conditions all agricultural land transactions on the preservation of their designated use-purpose, thus rendering the seller of the land plot responsible for guarantees of future use by the buyer. What is the remedy to be if the buyer changes use purpose in violation of the transaction agreement? Use purpose concerns are most effectively addressed by zoning and planning regulations, as contained in Item of this Article. Thus, language in Item 4 requiring that use purpose preservation be maintained as a condition of the transaction should be deleted.

Item (6) allows the leasing of agricultural land shares or plots to agricultural enterprises or to peasant farms, as well as the contribution of the shares back to the agricultural enterprise or to a peasant farm. It should be noted that contribution of a land share ownership right to the charter capital of an agricultural enterprise is generally not in the interests of the contributor. In contributing a land share, the contributor gives up the right to lease his land share for additional income, or possibly (if the charter does not allow withdrawal of the contribution in kind) to use his land share to start a peasant (farm) enterprise or expand his personal auxiliary enterprise. As a land market develops over the next several years, such land share rights will become more and more valuable. In return for contributing his land share, the share owner receives shares in the enterprise which are almost worthless, and will continue to be worthless: enterprises are generally too financially weak to pay dividends to shareholders, and shares on agricultural enterprises hold out little hope of increasing in value and returning a capital gain to the shareholder. Moreover, since common understanding of company and shareholder's rights is lacking in Russia, the shareholder is often at the mercy of the enterprise director. Serious consideration should be given to including a statement in this Draft Law (or in model forms on contribution of land shares) warning land share owners about the dangers of contributing their land shares.

Item (10) gives local governments the right to buy out a land share or plot to add to the redistribution lands stock. See comments to Article 56, below.

**Article 47 (New article 44).** This Article gives preference in allocation (for charge or free of charge) of land from the state and municipal land fund to leaseholders (citizens or legal entities) of the particular land being allocated or citizens residing close to it. Two problems arise from these provisions. First, if collective enterprises are currently leasing much of the state and municipal lands, they would receive priority over peasant farms or private individuals to allocation of these lands. Depending on how much of this land the collective farm enterprises are currently leasing, this could significantly limit the amount of land available for allocation to peasant farms. Second, the concept of "preference" lacks definition. It is particularly hard to imagine how "preferences" could exist alongside the requirement in the following paragraph that a local government must sell a given share or plot through a "competition" if several applicants wish to buy it. This Article should be amended to clarify the meaning of "preference" and to give priority in allocating land fund lands only to individual citizens and peasant (farmer's) economies who are currently using the land in question, or are located nearby.

**Article 49 (New article 46).** Item (6) states that a peasant farm shall adopt its own procedures for partitioning a land plot or otherwise compensating a member who decides to withdraw his share. The language in the last sentence of this Article is unclear, and, read together with the first sentence, could be interpreted to mean that a member withdrawing from a peasant farm can receive compensation but not an in kind share. This Article should be amended to clarify that a peasant (farmer's) economy must adopt procedures on how an individual member can withdraw land in kind *or*, in cases where withdrawal of a plot in kind

would cause incommensurate damage to the remaining common property or where the withdrawing member consents, to receive compensation.

**Article 50 (New article 47).** During the course of land reform in Russia in the 1990s, a set of rules has developed (supported by legislation) by which an agricultural enterprise member who wants to withdraw land from the enterprise has a reasonable chance of receiving land of average quality and location. Article 50 weakens the withdrawing member's chance in several ways.

Article 50 describes the procedures required for a member of an agricultural enterprise to withdraw a land plot in kind to start a peasant (farmer's) economy. First, Item (1) requires an application to the general meeting of the agricultural enterprise, or a body authorized by it. This requirement subordinates an individual member's right to withdraw his share in kind to the approval of the general meeting, and thus contradicts Presidential Decree No. 337, On Realization of Citizens' Constitutional Rights to Land (March 7, 1996), which provides that a land share owner can withdraw his land as a land plot in kind without consent of other land share owners. Any reference to approval by the agricultural enterprise as a prerequisite to land share withdrawal by an individual member should be deleted from Article 50.

Second, Item (2) states that the general meeting, or body authorized by it, must decide on size and location of the land plot within a month, thereby leaving the determination of the exact plot location and size entirely up to the agricultural enterprise management. The member's right to appeal arises only in the event of a "refusal" to allocate a land plot by the general meeting or its authorized body; poor location is not stated as a basis for appeal. As a practical matter, the applicant is thus almost wholly dependent on the goodwill of the general meeting (that is, the agricultural enterprise management, whose interests are in conflict with the withdrawing member) for the allocation of a viable land plot. These provisions undermine Decree No. 337, which provides that the withdrawing shareholder must obtain agreement of the other land share owners regarding the land plot's location, but does not leave selection of the plot solely up to the collective management. This Item should be amended to provide the withdrawing shareholder with: (1) greater participation in the land plot selection process; and (2) the right to appeal poor location of an in kind plot.

Third, Item (2) states only that "An appeal against refusal to allocate a land plot may be taken to court," thereby subjecting the withdrawing shareholder to a potentially lengthy and inefficient dispute-resolution mechanism. By failing to provide a more efficient channel for recourse, the provisions in this Article fall short of the provisions in Decree No. 337 in protecting the withdrawing shareholder rights from obstruction by the agricultural enterprise. Decree No. 337, in contrast, provides for dispute resolution (for refusal or controversies in selection of the land plot) by the local administration and the local committee on land resources and land management, *or* by appeal to court, when necessary. This Article should be amended to mirror the terms for withdrawal stipulated by Decree No. 337.

**Article 51 (New article 48).** Item (2) lists the requirements for a peasant (farmer's) application for allocation of state or municipal land, which include proof of work record in an agricultural enterprise *and* a copy of a diploma or a training certificate. While requiring one or the other may provide reasonable assurance that the land fund land will be used productively by the initial transferees, requiring both may have the opposite result of unduly hindering the allocation of agricultural land into productive use. This effect seems especially probable given that in 1997, 48,500 hectares of plowed land, out of 139,000 total hectares of agricultural land in the *raion* land redistribution funds of Novgorod *oblast*, went unused. In order to ensure the most rapid and efficient transfer of agricultural land into productive use, this Article should be amended to require proof of *either* previous agricultural work *or* agricultural education or training by an applicant for land fund allocations for a peasant (farmer's) economy.

**Article 52 (New article 49).** Item (1) forbids alienation (except by succession) of land within three years of acquisition from the public redistribution land stock, when the land was allocated for maintaining a peasant (farmer's) economy. Item (2) subjects alienation of such lands to a penalty equal to 50% of the Cadastre value of the land if the alienation occurs between three and five years of acquisition. The first problem with this Article is that it establishes restrictions on alienation which discriminate against peasant farms. Why should any such restrictions on alienation of allocated land apply to a peasant farm more so than to any other form of land use or economic enterprise? Secondly, this provision places peasant farmers in an untenable position should it become economically disadvantageous or physically impossible to continue farming the allocated land within 5 years of acquisition. Many peasant farmers hold the view that federal law prohibits the lease of peasant farmland.<sup>4</sup> This Article's moratorium and penalty periods on land transfers by peasant farmers leave peasant farmers without any way to transfer his ownership into productive use if he cannot do so himself for any reason. The plight of peasant farmers in this situation is compounded by the fact that non-use of land is grounds for terminating rights to it. (See discussion under Article 56, below). Thirdly, the Cadastre value of the land may not reflect its market value, so that a penalty charge equal to 50% the Cadastre land value could render alienation impossible for a total of five years from the acquisition date.

One way to limit the possibility of speculation without unduly burdening peasant (farmer's) economies or overly restricting private land ownership rights would be to reduce the moratorium to two years from the date of acquisition, but apply it to the transfer of all agricultural land received from the land fund rather than just that land allocated for peasant (farmer's) economies. For land sales that occur after the second but before the fifth year from allocation, profit could be subject to a special surtax on the profit from the sale, rather than a penalty based on the Cadastre land value. This surtax could be levied incrementally, in inverse relation to the number of years that have passed since the acquisition date (i.e., 100% on sales that take place after two years have passed, but prior to the end of the third year, 75% on sales that take place after three years have passed, but prior to the end of the fourth year, and 50% on sales that take place after four years have passed, but prior to the end of the fifth year).

A final point on Article 52: it is unclear what is meant by the phrase, "with exception to be made for land shares."<sup>5</sup> This phrase could clarify that the three-year moratorium applies only on sales of land allocated to peasant (farmer's) economies from the land fund, and not to future transactions of land shares withdrawn in kind by members of agricultural enterprises. Another possible reading is that any land fund allocations to agricultural enterprises are not subject to the same restrictions on alienation as are allocations to peasant (farmer's) economies. The reference to land shares in Item 1 of this Article should be deleted, and a new Item 3 should be added which provides that all other land plots and land shares are alienable in accordance with the law.

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<sup>4</sup> The federal law on the "Peasant (Farmer) Economy" provides that only those peasant farmers who are temporarily incapacitated, called up for regular service in the armed forces, or enrolled in school may lease out land. RF Law on the Peasant Farm, art. 10. However, land plots may be leased without such restrictions pursuant to Presidential Decree No. 1767, which may be regarded as superseding restrictions contained in the Law on the Peasant Farm.

<sup>5</sup> The entire Item reads: "It is forbidden to sell, or alienate in any other way, except by succession within three years from the moment of acquisition the ownership in lands, agricultural lands, allocated to citizens free of charge from the public redistribution land stock (Land Stock) for the purpose of maintaining a peasant (farmer's) economy, with exception to be made for land shares.

## Chapter VI

**Article 56 (New article 53).** It is suggested that the right of ownership be distinguished from the other forms of tenure as it is the primary civil right defined in the Civil Code. Article 235 of the Civil Code set out in great detail the grounds for termination of the right of ownership. It is not clear what this law adds to the provisions of the Civil Code, or why the proposed additional grounds for termination are necessary.

Lease rights are also defined in great detail in the Civil Code. Leases, including leases of land, are primarily commercial transactions and therefore the provisions of the Civil Code should be emphasized. The Civil Code sets out the grounds for termination of rights of lease. Simple reference to the Civil Code assures uniformity and decreases the potential for conflict among laws.

Because the rights of use and lifetime possession are not primarily commercial transactions they receive less attention in the Civil Code and it is acceptable to define the grounds for termination of these rights in this law. However, the grounds provided in the draft are too detailed and specific and are addressed in other laws. A better approach would be to make the grounds for termination more general and rely on the contents of other laws; in that way this law would not have to be changed every time the other laws were changed.

It should be specified that termination of land rights because of violation of a rule of land use will be permitted only if the law establishing the rule of land use specifically allows termination of rights as a result of the violation.

Specific comments on the grounds for termination enumerated in the draft are as follows:

- Item 1(a) gives the local government the right to confiscate land for “voluntary abandonment of plot or portion of plot,” but neglects to define what constitutes abandonment. Rather, this vague provision would seemingly authorize government bodies to revoke land rights if the owner is not present on the land for a certain period of time. There are many more market-friendly ways to promote the efficient use of land than by forcing an owner to spend time on the plot. The market itself, coupled with security of land tenure from arbitrary government action, will promote such efficiency by allowing individual owners to use or not use their land, according to their economic interest. Item 1(a) should be deleted.
- Item 1(d) establishes “failure to use a plot for its designated purpose” as a grounds for invoking the penalties set forth in Article 57, which escalate to withdrawal of the land plot.<sup>6</sup> While it is reasonable for the government to retain the authority to enforce designated use purposes, this authority must be balanced against the critical need for tenure security as a prerequisite to the development of a private land market. To better protect the rights of peasant (farmer’s) economies and individual agricultural land owners, this Item should be amended to provide for a graduated system of fines for actively violating the designated use purpose. If a forced sale is necessary in severely egregious cases, a public sale should be required with the proceeds going to the owner of the land. (See comments to Article 58, below.)

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<sup>6</sup> Article 57 calls for a fine to be levied in accordance with Presidential Decree No. 2162, and for the violation to be eliminated within three months. If the fine is not paid and the violation is not eliminated, then the appropriate state agency shall make a request to the appropriate local self-government body to terminate the rights.

- Item 1(f) establishes inefficient land use, defined as either the use of land that results in production levels 20% below average or conversion to a less valuable use, as a grounds for Article 57 penalties. Given the inherent risks involved in agricultural production, this provision has the potential to severely discourage farmers from taking ownership of private land. Lessors of land may also be reluctant to lease their land to private farmers who are just getting started. If the private farmer cannot effectively use the leased land, the lessor runs the risk that he will lose his land or be forced to farm it himself. Moreover, federal legislation does not authorize forced termination of ownership rights by the state or local government in cases of irrational use other than in exceptional situations. Even in situations of flagrant violations of rational use, forced sale or some equivalent method of compensation is required by the Civil Code. For such flagrant cases of irrational use, graduated penalties should lead at most to forced sale, with the proceeds from such sale given to the owner. Since any such egregious case is likely to fall under Items 1(d) or 1(g), Item 1(f) should be deleted.
- Item 1(g) states that improper land use resulting in productivity decline and environmental deterioration may be punished under Article 57 procedures. For the reasons given under Item 1(d) above, this Item should be amended to provide for a graduated system of fines for actively causing soil or other types of environmental degradation. If a forced sale is necessary in severely egregious cases, a public sale should be required with the proceeds going to the owner of the land. (See comments to Article 58, below.)
- Items 1(i) and 1(j) establish non-use as a grounds for the penalties set forth in Article 57, which begin with fines and escalate to withdrawal. Under Item 1(i), non-use of leased agricultural land for a period of one year subjects the lessee to penalty. Under Item 1(j), non-use of owned agricultural land for a period of three years subjects the owner to penalty. Confiscation of land rights for non-use not only chills the private land market, it also fails to make economic sense in an *oblast* where 82,000 hectares of land in the 139,000-hectare land redistribution fund currently go unused. Furthermore, these provisions both conflict with federal legislation, which does not authorize either withdrawal or fines for non-use. Items 1(i) and 1(j) should be deleted.
- Item 1(l) authorizes withdrawal of land upon the “termination of participatory share ownership, or joint ownership of an agricultural enterprise (company) to a land plot in scope of rights to a land share (an interest) of a person who withdraws from an agricultural enterprise (company).” This Item is unclear and should be re-worded or deleted.
- Item 1(m) allows for “withdrawal (purchase including a forced one) of lands for public, municipal, social and other needs, as well as for allocation of land plots to citizens.” Rather than restricting withdrawal to instances of public or social necessity, this item authorizes the government to withdraw privately held land to add to a land redistribution fund to be used for future private land allocations to other citizens. The government’s authority to withdraw land plots is a severe infringement on private land rights, especially in the nascent market environment of Russia, and thus should be exercised only if needed to serve overriding public interests. Allocation of land plots to private parties should not be considered one of these overriding public interests. This Item should be deleted.

**Article 57 (New article 54).** The enumeration of grounds for termination of land rights is not the same as in the previous provisions of the draft and can cause conflict and confusion. The reference should be more generalized.

The process of termination should be modified to require that the holder of the right respond to the notice of the authorities within a specified period of time, and if he does not respond then the authorities may bring an action in court to terminate land rights. It should be clear that

termination may not be the result of an administrative procedure, but may only be ordered by a court. Termination should be treated as a withdrawal of land rights under the succeeding article, and the holder of the right should receive compensation. As with withdrawal for state and municipal needs, termination would not be considered effective until compensation was paid. In the absence of court supervision and compensation, there is a good possibility that the right to terminate will be abused by local governments and citizens will be deprived of their land unfairly and for frivolous reasons. It is also likely that the value of the property confiscated will greatly exceed the damage caused by violation of the land laws.

One approach to compensation for confiscated land would be a public sale procedure comparable to enforcement of a mortgage through which the state would compensate a private land owner with the net proceeds from the public sale in the event of withdrawal.

**Article 58 (New article 55).** It is not necessary to enumerate in item 1 the reasons why land may be withdrawn. The reasons are established under constitutional law.

In item 6 it should be clear that the contractual price of the land is the fair market value.

## Chapter VII

**Article 59 (New article 56).** It is not necessary to limit the first paragraph to auctions. The point is that land plots may be transferred in any legal way by the decision of the municipal government.

It does not make sense now to allocate the proceeds from land sales to the stated purposes until more experience is gained. Proceeds should be allocated to the budget generally.

**Appendix III Stimulating Land Markets**  
**ATTACHMENT A: Sample Registration Procedures**

MODEL PROVISIONS  
**for Interaction**  
**among Oblast Judicial Agency for Title Registration and Other Rayon-Based Agencies**

## *PART I. INTRODUCTION*

1. The current Model Provisions are based on the following laws:
  - RF Law «On State Registration of the Title»;
  - Regulations for Novgorodskaya oblast Judicial Agency for Title Registration (approved by Novgorodskaya oblast Governor's Order #137, dated April 7, 1998);
  - Provisions for Maintaining the Unified State Title Register (approved by RF Governmental Order #219, dated February 2, 1998);
  - RF Presidential Ukaze #2130, dated December 12, 1993 «On Maintaining State Land Cadastre and Title Registration»;
  - Provisions «On State Recording of Residential Fund in the Russian Federation» (approved by the RF Governmental Order #1301, dated October 13, 1997).
  
2. Interaction among agencies stated below in paragraph 3 of this Part is organized with the following goals:
  - to simplify the procedures for processing documents required for title registration;
  - to set up unified procedures for recording of properties that provide for transparency of the real estate market and protect legal interests of citizens.
  
3. Agencies Subject to Regulation by These Provisions.
  - 3.1. Novgorodskaya oblast Judicial Agency for Title Registration (further referred to as Judicial Agency). The functions of the Judicial Agency on the rayon level shall be exercised by its local branch.
  - 3.2. Agencies involved in description and recording of buildings and premises (further referred to as building recording agencies), i.e.: municipal Bureau of Technical Inventory (BTI); «Novtechinventarizatsiya» for Novgorodsky and Batetsky rayons.
  - 3.3. Land description and recording agency:  
a respective rayon Committee for Land Resources and Land Management.
  - 3.4. Other agencies involved:
    - local self-government agency;

- rayon (municipal) department for city planning and architecture;
- courts;
- tax agencies;
- other agencies (as provided for by current laws).

3.5. An applicant. In compliance with these Provisions an applicant shall be a person who submits an application to register the emergence, transference or cessation of real estate rights and respective encumbrances and/or real estate transactions.

## *PART II. DIVISION OF AUTHORITY AMONG PROPERTY RECORDING AGENCIES AND JUDICIAL AGENCY*

### 4. General

- 4.1. An applicant shall contact property recording agencies for documents required by the Judicial Agency for title registration. Such documents shall be submitted to the applicant within time limits and for a fee as set by authorized agencies. Property recording agencies shall not retain the originals of submitted documents and shall not make any inscriptions on them (with the exception of payment documents).
- 4.2. An applicant shall submit an application for title registration and two copies of all required documents to the Judicial Agency.
- 4.3. If the Judicial Agency needs additional information concerning real property and/or real estate rights that emerged prior to this registration, the Judicial Agency may send a request for such information to a respective property recording agency. Property recording agencies shall submit the requested information free of charge within ten working days. The Judicial Agency may have additional direct agreements with property recording agencies regarding urgent submission of information for a fee set by Novgorodskaya oblast Administration.
- 4.4. After title registration (or denial in such registration) the Judicial Agency shall return one set of documents required for title registration to the applicant. The fact of title registration is certified by a Certificate of Title Registration issued in one copy to the title holder. Registration of agreements and other transactions is certified by a respective registration inscription on a document that describes the transaction.
- 4.5. In compliance with these Provisions, the Judicial Agency shall regularly and freely provide data on registered rights to property recording agencies.

### 5. Application Documents Required for State Registration of Emergence or Transference of Rights to a Land Parcel.

- 5.1. A land recording agency shall submit the following documents to the Applicant:
  - a certificate of encumbrances imposed on a land parcel and recorded in the Land Book prior to May 12, 1998;
  - a map of the land parcel with a cadastral or other temporary number.

6. Application Documents Required for State Registration of Emergence or Transference of Rights to a Building, its Part or Interior Space

6.1. A building recording agency shall provide the applicant with the following documents:

- data on the location, description, technical condition, evaluation and ownership of real estate (Form 1-RP);
- floor maps with indication of the cadastral number of the property.

7. Interaction of Agencies in the Process of Designating a Cadastral Number to Real Properties

7.1. When a Judicial Agency registers rights to a building, part of a building or interior space located on a land parcel whose cadastral number is unknown, the Judicial Agency shall send an inquiry for information for a designated cadastral number to a land recording agency. In the letter of inquiry the real property is identified by its mail address. A property map may be attached to the letter of inquiry.

7.2. Within five working days a land recording agency shall send a response to the Judicial Agency containing the following information:

- the number and date of inquiry;
- the date of response;
- the real estate mail address;
- other real estate identifiers (if any);
- the cadastral number of the relevant land parcel, the date of its designation and the number of its cadastral file; the official's position, name and signature.

The cadastral number must be in the format approved by the «Provisions for the Format and the Order of Recording Real Estate Cadastral Numbers» (approved by the RF Governmental Order, dated April 15, 1996) and the Order of Novgorodskaya oblast Administration, dated November 25, 1995 «On the Format of Real Estate Cadastral Numbers».

If a cadastral number has not been designated to a land parcel by the time of inquiry for information, the land recording agency shall designate such cadastral number to the land parcel.

7.3. If within five working days a land recording agency fails to designate a cadastral number to a land parcel, the Judicial Agency shall designate a temporary number to such land parcel. The Judicial Agency shall regularly provide data on designated temporary numbers to the oblast Committee for Land Resources and Land Management.

7.4. In the future, when the land recording agency designates a cadastral number to the property regarding which the Judicial Agency has once requested cadastral information, the land recording agency, within one day after designating the cadastral number, shall provide the following information to the respective branch of the Judicial Agency:

- the number and date of inquiry from the Judicial Agency;

- the cadastral number (numbers);
- the date of designating the cadastral number;
- the number of the land surveying file;
- a map of the land parcel.

7.5. Upon receiving the above information, the Judicial Agency, within five working days, shall:

- change the respective temporary number in the Unified State Title Register for a designated cadastral number;
- inform the real estate owner about the designated cadastral number.

8. Information on Registered Rights that the Judicial Agency Shall Provide to Property Recording Agencies.

8.1. Before the 10<sup>th</sup> date of the first month of each quarter the Judicial Agency shall provide land recording agencies with data on land rights registered in the previous quarter of the year. Data shall be adequate for keeping the Land Book (if possible, data shall also be submitted in a required format).

8.2. Before the 10<sup>th</sup> date of the first month of each quarter the Judicial Agency shall provide building recording agencies with data on building rights registered in the previous quarter of the year.

### *PART III. INTERACTION WITH LOCAL SELF-GOVERNMENT AUTHORITIES*

9. By-Laws Constituting Basis for State Registration of Rights

9.1. Issues of granting and returning of land use rights:

oblast law «On the Procedures of Granting and Returning of Land Use Rights in Novgorodskaya Oblast»;

9.2. Privatization issues:

Regulations on the approval of a plan of privatization;

9.3. Issues of transference of use and ownership rights;

Decision on granting a gratuitous land use right;

Agreement on transference of land into gratuitous use;

9.4. Issues of establishing public servitudes:

Decision on establishing a public servitude;

9.5. Issues of putting real estate into operation:

Decision certifying that an earlier completed building has been put into operation;  
or Decision approving a building completion certificate;

9.6. Issues of approving vested rights:

Decision on the approval of vested real estate rights;

9.7. Issues of recording real estate that has no owner:

Resolution validating the fact that the real estate has no owner;

Application submitted to the oblast Judicial Agency with a request to put the real estate on a list of real properties that have no owner; upon completion of a year since the date of such recording the real estate can get the status of a municipal property (based on a court decision);

9.8. Issues of inheritance from the deceased:

Certificate of escheating real estate by local self-government authorities (based on the request of local self-government authorities).

10. Delegation of Authority

10.1. Local self-government authorities may pass by-laws and decisions on issues that are within the authority of Novgorodskaya oblast administration only if such authority has been delegated to them by Novgorodskaya oblast administration; their by-laws shall contain language referring to a specific resolution delegating such authority.

10.2. Rural and semi-rural administrations may pass Decisions on issues that are within the authority of local self-government authorities only if such authority has been delegated to them by local self-governments; their by-laws shall contain language referring to a specific resolution delegating such authority.

11. Providing Local Self-Government Authorities with Information on Registered Rights

11.1. Pursuant to clauses 14.1. and 14.3. of these Provisions, the Judicial Agency shall provide local self-government authorities with relevant information.

*PART IV. INTERACTION WITH OTHER AGENCIES*

12. Providing Information on Registered Rights to the Holder of Right

12.1. The Judicial Agency shall provide all holders of rights with information on rights registered for a respective real property as well as with information on the above rights given to other parties within five days prior to the date of application. Agencies listed in clause 14.1. obtain such information free, other agencies shall pay a fee established by Novgorodskaya oblast Administration.

### 13. Interaction with Tax Agencies

13.1. Land recording agencies and building recording agencies shall provide rayon tax agencies with information on real estate and respective rights that emerged prior to May 12, 1998 in compliance with established procedures.

13.2. The Judicial Agency shall provide rayon tax agencies with information on real estate rights that emerged after May 12, 1998 in compliance with agreements signed by the Judicial Agency and rayon tax agencies.

13.3. The Judicial Agency shall provide rayon tax agencies with data on right establishing documents and rights registered on the basis of a donation agreement within 15 days after registration in compliance with an agreement signed between the Judicial Agency and a rayon tax agency.

13.4. The Judicial Agency shall recommend an applicant to obtain confirmation of the fact that the alienator of rights has paid all due taxes on the transferred property (such information may be obtained from a tax agency). If an applicant fails to submit such information within two working days after application, the Judicial Agency shall inform a rayon tax agency by telephone about the received application on the third working day after application.

### 14. Providing Other Agencies with Information on Registered Rights

14.1. Within five working days the Judicial Agency shall provide title transfer information free of charge to the following agencies:

- police and courts regarding data related to current lawsuits;
- state authorities of the subjects of the Russian Federation and local self-government authorities;
- tax agencies on requests about real properties located on the territories under their authority;
- state agencies supervising the use and protection of land and other natural resources;
- agencies responsible for state statistics.

The request for information shall identify real estate by its mail address and cadastral number.

14.2. Other agencies entitled to obtaining information free of charge in compliance with the laws of the Russian Federation state such rights in the application form.

14.3. Within five working days the Judicial Agencies shall provide top officials of self-government agencies, state authorities of the subjects of the Russian Federation, courts and police investigating cases connected with real estate and/or holders of rights, with the following free information:

- data on the language of rights establishing documents;
  - general information about the rights of an individual about his/her property located on the territory under the authority of this Judicial Agency;
  - title transfer information.
- Such information shall be provided only on request from authorized officials.

15. Providing Information to the Judicial Agency at its Request

15.1. Within ten working days after receiving an inquiry for information required for title registration, respective agencies shall submit such information to the Judicial Agency free of charge (if not otherwise stipulated by these Provisions).

16. Providing the Judicial Agency with Information about Court Decisions

16.1. Within three days courts shall inform the Judicial Agency about court decisions and determinations related to real estate rights.

17. Providing the Judicial Agency with Information about Distressed Property

17.1. Within three days the authorities that distressed real estate shall send an attested copy of the decision to distress the property to the Judicial Agency. Relevant information shall also be sent to other agencies in compliance with current laws.

*PART V. PROCEDURES FOR STATE REGISTRATION OF REAL ESTATE RIGHTS AND TRANSACTIONS.*

18. Procedures for Registration of Rights to a Land Parcel Allocated by Local self-government Authorities.

18.1. The local self-government authorities shall request a land recording agency to draw maps of land parcels that are to be allocated into perpetual (permanent) use, inheritable life-time possession, ownership and lease. Local self-government authorities are recommended to maintain full cadastral information concerning the allocated land parcels.

18.2. A land recording agency shall provide a description of the allocated land parcel to an extent requested by local self-government authorities (see clause 18.1). The prepared documents shall contain a reference to the cadastral number of the land parcel.

- 18.3. The applicant shall submit to the local self-government agency a request to grant him the right to use (own, lease) the above land parcel.
- 18.4. The local self-government agency shall issue a Decision on the allocation of the land parcel. The Decision shall specify the transferee and the transferred rights; maps of the land parcels, bearing the cadastral numbers thereof, shall be attached to the Decision. The local self-government agency shall, upon request, issue a copy of the Decision and of all the appendices to the transferee.
- 18.5. The transferee shall apply for registration of rights to the land parcel to the Judicial Agency. The Decision of the local self-government agency and all the appendices to it (see clause 18.4.) shall be attached to the application.
- 18.6. The Judicial Agency shall register the applicant's rights to the land parcel. Rights are registered on compliance with the procedures approved by the local self-government authorities (see clause 26 hereunder).

19. Procedures for Alienation of a Building Located on a Land Parcel which the Owner of the Building has in Permanent Use or Inheritable Life-Time Possession.

- 19.1. For the purpose of state registration of an agreement and (or) ownership rights to a building, an applicant shall provide the Judicial Agency with a documented proof of his/her right to use a respective land parcel. The title transfer can be registered if it does not conflict with the current land use conditions.
- 19.2. Pursuant to Paragraph 3 of Article 552 of the RF Civil Code, the new owner's right to the building allows him/her to obtain the use or ownership land rights on the same conditions as for the previous owner of the building. Based on that right, the new owner may apply to the local self-government agency for the right to lease, hold in permanent use or own the respective land parcel.
- 19.3. The applicant (the new owner of the building) shall apply to the Judicial Agency for state registration of the right to lease the land parcel, hold it in permanent use or in inheritable life-time possession. These rights are registered in compliance with the established procedures (see clause 4 of these Provision).

20. Procedures for the Transfer of the Right to a Building Located on a Land Parcel Owned by the Owner of the Building.

- 20.1. If the conditions of the transfer of right of ownership to a land parcel or the right to use the land parcel or a part thereof are provided for in an agreement alienating the building, the applicant shall submit to the Judicial Agency a request for state registration of either one or both of the following rights: the right of ownership to the building and the respective right to the land parcel. These rights are registered in compliance with the established procedures (see clause 4 of these Provisions).
- 20.2. Pursuant to Paragraph 2 of Article 522 of the Civil Code, if the agreement does not stipulate the transfer of land rights to the purchaser of a building, the purchaser shall have the right to the land parcel under the building or to a part of the land parcel that is required to operate the building.

- 20.3. The applicant shall apply to the Judicial Agency with a request to register the right of ownership to the building. The right is registered in compliance with the established procedures (see clause 4 of these Provisions).
- 20.4. Upon registration of building rights, the land recording agency, based on an application submitted by the new owner and the right establishing documents (such as a buy-sell agreement and a certificate of state registration of ownership rights), shall draw maps of the part of the land parcel that is located under the building and is required for its operation, as well as a map of the remaining part of the land parcel and shall issue them to the applicant.
- 20.5. The applicant shall apply to the Judicial Agency for state registration of the right of ownership for the newly-formed land parcel. The right is registered in compliance with the established procedures (see clause 4 of these Provisions).
21. Procedures for State Registration of Rights to a Land Parcel which is not Described or is Inadequately Described in the Cadastre.
- 21.1. A land parcel is considered inadequately described in the cadastre if a cadastral number has not been designated to it and/or its boundaries, exact location of buildings and utilities are not drawn on the map.
- 21.2. If the cadastral survey has not been made or completed, the land recording agency shall draw a map based on available information. If a cadastral number has not been designated to a land parcel, the Judicial Agency and the land recording agency shall act in accordance with the procedures stated in clause 7 of these Provisions. The land recording agency shall provide the adjusted information about the land parcel to the Judicial Agency within one day after the completion of cadastral works.
22. Procedures for Registration of a New Building
- 22.1 At the applicant's request a building recording agency shall make technical documentation for a new building («technical passport»).
- 22.2. At the applicant's written request and based on the submitted «technical passport», the City Planning and Architecture Committee shall approve the construction of a new building and issue a certificate of building acceptance into operation.
- 22.3. The local self-government agency, based on the state commission's certificate of acceptance into operation, shall issue a Decision about the approval of the certificate of acceptance and designate an address to it.
- 22.4. The applicant shall apply to the Judicial Agency for the registration of the right of ownership to the building. The state registration is carried out in compliance with the procedures established for registration of rights resulting from local self-government by-laws.
23. Procedures for Registration of an Unfinished Building

- 23.1. Based on the applicant's written request for registration, application documents confirming the applicant's right to use the land parcel allocated to him for construction of a building, and the project estimate documentation (if and when demanded by law), the building recording agency shall prepare documents containing the description of an uncompleted building and shall provide the applicant with a report written in a required format.
- 23.2. The report describing the building at the moment of transfer of right may be signed by a commission comprised of representatives of a real estate recording agency, agencies supervising city planning and construction, or by the buyer and the seller (or their representatives).
- 23.3. The applicant shall apply for state registration of the right to an unfinished building to the Judicial Agency. The right is registered in compliance with standard procedures (see clause 4 of these Provisions).

24. Procedures for Registration of Rights to Previously Constructed Buildings.

24.1. Based on the applicant's written request and the attached documents confirming the applicant's land rights (a Decision of a local self-government agency) and land payments (such as tax and insurance payments, etc.), a copy of records from the account ledger, a certificate issued in an established format by a street council, the local self-government agency shall pass a Decision about putting the previously constructed building into operation.

24.2. The Judicial Agency shall register the rights of ownership to such building in compliance with the procedures established for registration of rights resulting from local self-government by-laws (see clause 26 of these Provisions).

25. The Procedures for Registration of Vested Rights to a Building (Premises)

25.1. In the case of the applicant's fair, open and unbroken possession of a building (or a part thereof) as if it were his/her own for a period of over 15 years, the local self-government agency, at the applicant's request and based on the application documents confirming land rights and possible payments (including tax and insurance payments), a copy of records in the account ledger, a certificate issued by a street council in an established format and other relevant documents, shall issue a Decision approving vested rights to the building.

25.2. The applicant shall apply to the Judicial Agency for the registration of the right of ownership. Such right is registered in compliance with the procedures established for registration of rights resulting from local self-government by-laws (see clause 26 of these Provisions).

26. The Procedures for State Registration of Rights Resulting from Local self-government By-Laws and Decisions

26.1. Should the rights arise from a Decision taken by state authorities or by local self-government authorities, the request for state registration of rights shall be submitted by a party specified in such Decision.

In other respects, general registration procedures shall be applied (see clause 4 of these Provisions).

27. The Procedures for Registration of Rights of State and Local self-government Authorities

27.1. In the event of registration of rights to real estate owned by the Russian Federation, Subjects of the Russian Federation or municipalities, they may be represented by state authorities, local self-government authorities, legal entities and individuals.

28. Procedures for State Registration of Rights that Arise from Court Decision or Determination

- 28.1. Real estate rights established by courts shall be registered by the Judicial Agency immediately upon receiving a court decision or determination without notification of the holder of rights.  
The time of title transference is determined by a court decision.
- 28.2. If the court decision does not contain complete information that needs to be entered into the Unified State Title Register, the Judicial Agency shall inquire the court about the procedures of carrying out the court decision or determination.
- 28.3. The court may inquire missing information from real estate recording agencies.

*PART VI. COOPERATION WITH REAL ESTATE DEPARTMENT*

29. The Functions of Real Estate Department

- 29.1. The real estate department may perform some of the functions of real estate recording agencies and those of local self-government agencies within the authority delegated to it by self-government agencies.
- 29.2. The real estate department may act on behalf of applicants (legal entities and individuals) if the latter provide it with a respective agreement and/or a letter of attorney.

30. Participation in Title Registration

- 30.1. The real estate department shall cooperate with the Judicial Agency and other agencies in compliance with the procedures set up by these Provisions for entities and individuals whose functions it performs.

## ATTACHMENT B - Registration Seminar Agenda

### AGENDA

of the First Seminar

Title Registration: Interactions Among Rayon-based Agencies  
Novgorod. June 18, 1998

- 9:30-10:00 Registration
- 10:00 Greetings by the Oblast Administration, Urban Institute and PADCO
- 10:30 A.McEwan, Real Estate Recording and Registration Specialist,  
DCO-REA: "The Role of Title Registration on Real Estate Market and Municipal Management"
- 11:15 Fabrichnaya T.A., Chief Registrar of Title in Novgorod Oblast: "The System of Registration in the Oblast"
- 12:00 Coffee break
- 12:20 Romanovskaya E.G., State Registrar of Title: " Unified State Title Register and Information Exchange"
- 13:00 Lunch
- 14:00 Grigorieva O.V., Real Estate Information Specialist, PADCO-REA:  
Draft of Model Provisions for Interaction among Rayon-based Agencies.
- 15:30 Coffee break
- 16:00 Discussion of the draft of Model Provisions
- 17:00 Vinogradova L.I., Head of the Judicial Agency of Novgorod Oblast Administration:  
Conclusions.

DRAFT

**RULES OF OPERATIONS of  
Novgorod oblast justice institution for state  
registration of real estate rights and transactions**

**Organizational Structure**

The present document regulates the work of the following organizational units of the Institution:

- Chief State Registrar
- Expert Analysis Department
- Processing and Storage Department

Accepting and Issuing Documentation

1. Documents are accepted from applicants and issued to them at the following address: Novgorod, ul.Stratilatovskaya, 19, 4<sup>th</sup> floor. Working hours (on working days only): 10:00-13:00 and from 14:00 till 17:30.
2. Documents are accepted and then issued by reception officers appointed by the Head of Processing and Storage Department from among the employees of this Department, as well as by an Expert put on duty by the Head of the Expert Analysis Department from among the employees of this Department.
3. Reception officer does the following:
  - 3.1. He compares the titles of submitted documents and the number of their copies with the list needed for registration of the right mentioned in the Application for registration;
  - 3.2. He summons the Expert who is on duty if:
    - 3.2.1. Applicants submitted a contract which was not certified by a notary;
    - 3.2.2. The applicant is a legal entity;
    - 3.2.3. There are no methodological aides for respective types of rights/contracts/transactions;
    - 3.2.4. There are doubts about the authenticity of an applicant's ID documents;

- 3.3. He calculates the amount of the fee;
- 3.4. He accepts an Application for registration and accompanying documentation;
- 3.5. He makes an entry in the Ledger of Incoming Documents;
- 3.6. He issues receipts against documents accepted;
- 3.7. He explains to an applicant the term of registration, provides contact telephone numbers.

The term of registration shall not exceed 30 days after an Application was submitted; information about the possibility of earlier completion of registration might be collected by an applicant via a contact telephone number one week after the Application was submitted.

If registration is to be completed urgently it will take 5 working days from the day when an Application was submitted; information about the possibility of earlier completion of registration might be obtained on the next working day via a contact telephone number.

- 3.8. He compiles a documentation file on which he inscribes the following with a pencil:
  - 3.8.1. Cadastre number
  - 3.8.2. Postal address of an object of registration
  - 3.8.3. Family name, first name, patronymics of the holder of the right
  - 3.8.4. Family name, first name, patronymics of the trustee;
- 3.9. In the Inventory of files which contain right-establishing documents (hereinafter, Inventory) he enters the following data as of the scheduled date of completion of registration:
  - 3.9.1. Family name, first name, patronymics of the holder of the right
  - 3.9.2. Address of the object
  - 3.9.3. Necessary actions relating to registration
- 3.10. He submits the Inventory to an expert from the Processing and Storage Department;
  - 4. An expert from the Processing and Storage Department does the following:
    - 4.1. He accepts the Inventory from the expert responsible for accepting documents.
    - 4.2. He compares files with existing court rulings on the RE object and on the holder of the right; if such a court ruling exists he shall inform an expert about it when submitting files to him.
    - 4.3. Pursuant to an instruction by the Head of Expert Analysis Department he submits files containing enabling documentation to experts against their signature in the Inventory.
- 4.4. He controls how long it takes to carry out expert analysis and takes back files with enabling documentation as such analysis progresses.
- 4.5. He compares the incoming writs of execution on property attachment with the files which are being registered; towards this end he uses the Inventory.
- 4.6. Pursuant to an instruction by the head of the Department for processing and storing information, he submits files with right-establishing documents to experts responsible for executing documents for the following purposes:
  - 4.6.1. completion of a Certificate;

- 4.6.2. for stamping and sealing documents;
- 4.6.3. for attaching documents to files;
- 4.6.4. for creating a package of documents which will be issued to an applicant;
- 4.6.5. for obtaining the signature of the Registrar on a registration Certificate or on a "denial" to register.
- 4.7. He issues enabling documents and Certificates (or "denials") to applicants.
- 4.8. He records certificates and "denials".
- 4.9. He accepts requests for information on registered rights.
- 4.10. He makes entries in the Ledger of incoming requests.

Experts who accept and issue documents rely in their day-to-day activities on the Law of the Russian Federation "On State Registration of Real Estate Rights and Transactions", on methodological aides and on their leader's instructions.

### **Expert analysis of documents**

- 5. Expert analysis of documents submitted for registration is carried out by employees of the Expert Analysis Department.
- 6. The Head of Expert Analysis Department distributes files which consist of documents submitted for registration (delivered by an expert from the Processing and Storage Department) among the employees of the Expert Analysis Department; every employee shall add his signature to the Inventory against the name of the file he received.
- 7. An employee of the Expert Analysis Department shall perform expert analysis of documents and make a decision on whether to agree to state registration or to deny it.
- 8. Expert decision shall be approved by the head of the Department for expert analysis.
- 9. In the event of positive result of expert analysis an employee of the Department for expert analysis shall make necessary entries in the Unified State Register of rights (Register), signs them and after that he returns documents and filled sheets of the Register section to an expert from the Processing and Storage Department; an expert from the records keeping department makes a germane entry in the Inventory.
- 10. Pursuant to a decision to deny registration an employee of Expert Analysis Department shall prepare his report on such a denial; then he has to return all documents to the Department for processing and storing information and has to make a relevant entry in the Inventory.

In the event that an employee of the Expert Analysis Department is unable to make a decision on whether to register or to deny registration he shall prepare an oral or written description of the situation and submits it to the Head of the Expert Analysis Department.

In the event that the Head of the Expert Analysis Department is unable to make a decision on whether to register or to deny registration he shall arrange for a meeting with the Chief State Registrar during reception hours set for such meetings.

The Chief state registrar receives employees of the Expert Analysis Department every day from 15:00 through 17:30.

If additional information from other organizations is required a germane request shall be signed by the Chief state registrar and submitted to the Processing and Storage Department for subsequent forwarding to addressee.

## Documents Flow

11. Responsibility for organizing documents flow is placed with Head of the Processing and Storage Department.
12. The Institution maintains the records as identified in the attached List.
13. Officers of the Processing and Storage Department:
  - 13.1. Obtain the documents submitted by the applicants from the reception officers.
  - 13.2. For an object having no cadastre number, obtain confirmation of its absence from respective agency, and assign a conventional number.
  - 13.3. Check Register Cardfile for existence of a Register section for the respective object. In case such section exists, supply the documents submitted by the applicant with respective Register section and File, of which a note is made in the Register Sections Cardfile and a reference card is placed into the Register.
  - 13.4. Forward completed document files to expert analysis, of which a note is made in the Inventory of files.
  - 13.5. Receive reviewed documents from expert analysis.
  - 13.6. Provide the documents subject to return to the applicants.
  - 13.7. Transfer Register sections and Files to the archive, making respective notes in the Register Cardfile.
  - 13.8. Send requests of the Justice Institution to other organizations and institutions, of which a note is made in the Ledger of Outgoing Requests.
  - 13.9. Prepare answers to requests for information on registered rights.
  - 13.10. Make entries on requests in appropriate cards in the Register Cardfile.
  - 13.11. Place a copy of the answer to a request for information into appropriate Files for the objects.
  - 13.12. According to the established schedule, produce information (extracts from the Register) for:
    - 13.12.1. Committee on Land Resources and Land Allocation
    - 13.12.2. Bureau of Technical Inventory;
    - 13.12.3. Tax Inspection;
    - 13.12.4. District administration.
  - 13.13. Prepare monthly activity reports for the Institution.
  - 13.14. Make scheduled visits to the branches to render methodical assistance and monitor the Register-forming activities of the branches.
  - 13.15. Submit requests for blank forms and other expendables in a timely manner.
14. The Unified Register of rights is archived in the following manner:
  - 14.1. Sections of the Register are positioned according to their cadastre (conventional) numbers.
  - 14.2. Files of right-establishing documents are kept according to the postal address of the real estate objects.Head of the Department will keep the files submitted for an urgent expert review separately from the files subject to an expert review under an the ordinary time schedule; both are arranged according to the date of receipt.

Documents which have to be returned to the applicants are arranged according to their cadastre (conventional) numbers.

### **Reception procedures**

15. Chief Registrar receives citizens for two hours twice a week at the address: ul. Lermontova, 17.
16. Appointments to the Chief State Registrar are to be made with Reception Officers with regard to established reception hours (20 minutes per person).
17. Appointment may be made not later than 1 hour prior to the reception hours.
18. 1 hour prior to the start of reception the Reception Officer hands over the Reception Log to Head of Processing and Storage Department.
19. Head of Processing and Storage Department prepares materials for the files of the persons which have made an appointment and hands them over to the Chief State Registrar.

Attachments

LIST  
of documents maintained by Justice Institution for registration  
of real estate rights and transactions

N	Document	Responsible Person	Notes
1.	Ledger of incoming documents	Officer for receipt and issuance of documents	No limit on the number of ledgers kept at a given time
2.	Inventory of right-establishing documents under registration (Inventory of files)	Processing and Storage Department	Inventories are sequential.
3.	Ledger of files under expert analysis	Head of Expert Analysis Department	Internal reporting documents of the department
4.	Ledger of issued State Registration Certificates	Processing and Storage Department	
5.	Cardfile of Register sections	Head of Processing and Storage Department	
6.	Ledger of incoming requests	Head of Processing and Storage Department	
7.	Ledger of outgoing requests	Head of Processing and Storage Department	

Ledger of files under expert analysis

The Ledger will contain the following columns:

Date received by the Expert Analysis Department

Incoming number of the File of right-establishing documents

Priority status

Cadastre (conventional number of the object

Register section and File additionally provided (yes/no)

Expert analysis:

Expert's name

date and time of submission

date and time of receipt

Storage Officer

date and time of receipt

**signature**

## ATTACHMENT D - Agenda for Second Registration Seminar

### AGENDA

of the second seminar  
Title Registration: Interactions Among Rayon-based Agencies  
Novgorod. September 3, 1998

- 9:30-10:00 Registration  
10:00 Greetings by PADCO  
10:30 A.Sobolev: "Actual Goals of Interaction among Property Cadasters and Title Register"  
11:00 I.Rumiantsev: "Legal and Economic Bases for Interactions of Agencies in the framework of Creating and Using the Title Register"  
11:30 Coffee break  
11:50 Land Committee representative: "Creation of the Land Cadaster in Starorussky Rayon and Interactions with the Branch of the Judicial Establishment"  
13:00 Lunch  
14:00 Head of Starorussky Branch "Creation and Maintenance of the Unified Title Register by the Judicial Institution and Property Recording Agencies".  
14:30 Head of Soletsky Branch "Creating and Using the Unified Title Register by the Judicial Institution and Property Recording Agencies"  
15:00 Coffee break  
15:20 Discussion of reports. Free exchange of opinions  
17:00 Conclusion - representative of the Oblast Judicial Establishment for Title Registration

**ATTACHMENT E - Property Information Check List Item #3 - Information Checklist**

Real Estate Site Analysis Checklist

**Appendix II SITE OWNER:**

Full name:

Address of owner or his representative:

Rayon Administration (authorized official):

**Appendix III SITE LESSEE:**

(including all lessees and holders of perpetual permanent use rights)

**Appendix IV LAND USE RIGHTS:**

The boundaries were established and the property described in (date) and was allocated to (whom, for what use).

The right of (ownership, leasehold, sublease) was registered .....

Buildings and premises located on the land parcels are owned by ..... and registered (by whom, when, enlist).

On-site utilities (description, ownership).

Encumbrances (use designation, registered zoning restrictions for land use and development, etc.)

**Appendix V ON-SITE FACTORS:**

The land parcel is a (fenced, partially fenced, unfenced) site of .....(size)sq.m.

The parcel was surveyed (not surveyed) .....

The boundaries were established (not established) .....

Registered servitudes and encumbrances .....

Cultural landmarks and historical monuments (if registered).

Soil conditions (e.g.: Soils permit all types of civil construction)

Terrain

Flood and subsidence danger

Code of socio-economic district (or tax zone code):

Land leasehold rates: 1996,1997, 1998,1999.

Land tax rates: 1996,1997, 1998,1999.

**Appendix VI UTILITIES:**

Electrical power service (none or electricity is supplied by means of a power line with the capacity of .....). The site contains a transformer sub-station ..... owned by (name, owner, contact person, address, telephone) with ..... transformers that completely

satisfy the need for electricity. In addition, the site is hooked to a reserve power line with the capacity of .....running from a transformer sub-station ..... (owner) that can be used in case of emergency.

If electrical power is not available, state possibilities for connection, approved capacities (if any), costs of works including planning, connection, installation of power lines, construction of a sub-station, etc. (company's name, company's representative).

Heating (available or not, type of boilers and their working condition, type of fuel, capacity).

Gas (state if medium pressure gas is available and what pipe diameter is. What is gas capacity and who designates it, address, telephone, authorized representative. If gas is not available, what is the potential for connection, distance to the nearest pipe line, connection costs).

Water (see information required under "gas"); potential for independent water supply (who approves the project, who approves water capacity, who is responsible for construction and supervises the system)

Sewer. (Information on municipal sewer and drainage, estimated construction and connection costs, capacities, authorized representative).

Environment. Soil contamination, water and air pollution, if any, statement of environmental condition ( who issued or can issue an environmental condition certificate).

Fire danger: (distance and ownership of the nearest fire station).

#### *TRANSPORT:*

Access to air lines, railway stations, highways and navigable water.

Transportation (access to the site, approvals by police inspection (GAI) and other agencies concerned), landscaping and road improvement (if required).

Railway spur (potential for railroad connection).

Railway planning (address, contact persons)

Construction company (address, contact person).

Railway service is provided by (address, contact persons, service rates)

Planning and construction costs of 1 m of a railway spur will be -----\$, as estimated by experts (address).

Cargo water transport (availability, nearest docks, required approvals, service rates).

#### ***IDENTIFIED DAMAGES IN OPERATING UTILITIES AND REQUIRED REPAIRS***

on the site or neighborhood.

(Electrical power service, heating, sewer, road construction, gas, anti-fire system, necessary road and ground works)



**ATTACHMENT F - List of Property Reports (contained in "Appendix" to Roll-out Manual**

*ITEM #1.1 - **Borovichi Site***

PROPERTY DESCRIPTION

Location: 30 Metallistov St., Borovichi, Novgorodskaya Oblast, Russia

*ITEM #1.2 - **Malaya Vishera Site***

PROPERTY DESCRIPTION

Location: Meretskova Street, Malaya Vishera, Novgorodskaya Oblast, Russia

*ITEM #1.3 - **Staraya Russia Site***

PROPERTY DESCRIPTION

Location: 29 Nekrasova St., Staraya Russa, Novgorodskaya Oblast, Russia

*ITEM #1.4 - **Valday Site***

PROPERTY DESCRIPTION

Location: 392 km, Moscow-St. Petersburg Highway (M10) Valday, Novgorodskaya Oblast, Russia

ATTACHMENT G - Agenda for Land Market Seminar

The United States Agency for International Development  
USAID Project for Novgorod Oblast "Regional Investment Initiative"  
*DEVELOPING A LAND MARKET*

*AND PREPARING FOR INVESTORS*

*Seminar for Local Government Administrators  
And Enterprise Managers*

June,30,1998

- 9:30 Registration
- 10:00 Introduction (Vladimir Alfimov, Oblast KUGI Chairman)
- 10:15 *The Goals of the Seminar (Richard Miller, CoP Land and Real Estate Reform Sector, RII)*
- 10:30 Relationship between Real Estate and Economic Development (Steve Dixon)
- 11:00 Investor's Perspective on Russian Market (V. Miagkov)
- 11:15 – 11:30 Coffee Break
- 11:30 Ownership Rights vs Leasehold rights (V.Miagkov)
- 12:45 Legal Issues for Land Privatization (V.Miagkov, S.Dixon)
- 13:30 Lunch Time
- 14:00 Land Inventory and Site Selections (S.Dixon)
- 14:40 Property Documentation (A.Favorskiy, V.Miagkov)
- 15:00 Determining Market Value of Land (V.Miagkov)
- 15:45 Planning Auctions and Tenders (N.Lepeshkin, City Land Committee)
- 16:00 Marketing and Advertising (S.Dixon)
- 16:30 Questions/Answers Discussion

ATTACHMENT H - Table of Contents for Guide for Development of a Land Market

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“GUIDE FOR DEVELOPMENT OF A LAND MARKET”

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### Appendix III. Stimulating Land Markets

#### B. Draft of Oblast Raion-municipality Land auction preparation process

##### **WORKPLAN FOR NOVGOROD OBLAST MARKETING EVENT**

Tasks	Party	Start Date	Date Compl.	Work Product	Paid By?	Remarks
Property Selection	PADCO/Raion Oblast	Oct. 1, 1997	Feb. 15, 1998	List of properties	PFF	Site visits and raion mtgs.
Preparation of Property Detail Information	Raion	Oct. 20, 1997	Feb. 28, 1998	Complete data files	Raion	PADCO will monitor & assist
Data Review and Investor package preparation	PADCO/Raion	Dec. 15, 1997	Mar. 15, 1998	Final package ready	Raion	PADCO will advise & assist
Event planning, design investor pre-qualification profile & site use conditions a- establish event type b- select event location c- select event operations team d- identify properties to be sold/leased e- select marketing team f- lawyers & officials establish investor pre-qualification characteristics g- lawyers & officials establish property use conditions & development plans	PADCO/Raion Oblast	Jan. 12, 1998	Mar. 31, 1998	Legislative drafts, event date, site, type	PFF/Oblast	COP/Miller & Working Group will coordinate all parties
Marketing plan development & Bid package prepared. a- establish event participant profile & create mailing list b- conduct media cost survey & establish event media budget c- begin design work on event bid documents & promotional brochures d- set advertising schedule & implement	PADCO/Oblast	Feb. 15, 1998	Mar. 31, 1998	Advertising plan	Oblast/Raion	Funding sources must be identified. Bidders buy package

<b>Complete/distribute Information Packets</b>						
Oblast issues necessary regulations for event a- Governor & local Duma draft & approve required regulations to authorize event & procedures. b- set up bank accounts for deposits	Oblast/Raion/R II	Jan. 12, 1998	Mar. 31, 1998	Final Duma & official signatures	Oblast/Raion	PFF will provide legal support
Site boundary markers set a- set temporary boundary line markers b- obtain bids from survey companies to perform official cadaster plan.	Raion	Feb. 28, 1998	April 30, 1998	General plot plans	Raions	Final cadaster survey after event
Utility monopoly negotiations a- locate and map nearest connection point to each utility source line b- get written conditions from utilities	Oblast/Raion	Jan. 12, 1998	April 30, 1998	Infrastructure scheme & cost estimates	Raion/ Monopoly	Scheme should show nearest supply line & est. cost to site
Assemble Investor mailing list a- contact each foreign consulate commerce officer for list of companies interested in Russia b- create list of major western real estate brokers c- create list of known investment funds d- create list of all entities who contact city & oblast for information on investments e- <b>Design, approve, and fund advertising campaign</b>	PADCO/ Oblast	Feb. 1, 1998	Mar. 31, 1998	Name & address list	PFF	Assistance from Consulates
Finalize Event Agreements a- lawyers & officials agree on final event documents	Oblast/PFF	Feb. 15, 1998	April 30, 1998	Purchase forms & bid documents	Oblast/ PFF	PFF legal support
Establish Bid Review Committee a- Oblast creates Committee through official decree b- Oblast sets Committee procedures c- Oblast appoints Committee chairman & members <b>Establish "registration" requirements and</b>	Oblast/Raion	April 1, 1998	April 30, 1998	Official List Approved	Oblast	PFF provide legal & technical support

<b>assign responsibility</b>						
Establish Post event schedule to finalize sales a- set clear, specific procedures for completion of each transaction b- set time schedule for completion of each procedure c- identify which official or administrative department is responsible for completion of each procedure	PFF/Oblast/Raion	Mar. 1, 1998	April 30, 1998	procedural checklist	PFF/Oblast	PFF provide technical support
Pre-Event Marketing Fair (if held)	PFF/Oblast	Feb. 1, 1998	April 15, 1998	Event Completed	Oblast	PFF provide technical support
Site Signage <b>"Pre-auction Information Activities"</b> a- design & order billboard type sign for each site b- erect signs on sites c- <b>Distribute Information Packet</b> d- <b>Conduct Site Orientation meetings</b> e- <b>Pre-auction Information Conference</b> f- <b>Last day to distribute Information Packets and register participants</b>	Raion	Mar. 1, 1998	April 15, 1998	Each site w/signage	Raion	PFF provide technical support
Event or Bid Submission Deadline a- establish specific procedures for receiving of bids b- establish procedures for handling deposits c- establish procedures for bid reviews & criteria for analysis of each bid d- <b>Conduct Auction</b>	PFF/Oblast/Raion		May 15, 1998  <b>6<sup>th</sup> of June</b>	Event or bids	Oblast/Raion	Bidders will provide Letter of Credit as deposits
Bid Approvals & Notification a- set schedule for bid review & analysis b- set schedule for final decision & method of notice to winning bidder. c- set procedures for public notice to media of bid results	Oblast	May 15, 1998	June 15, 1998	Accept/Reject Bids	Oblast/Raion	Bid Review Committee recommends & official signs

Winning Bidders sign Buy/Sell or Lease Agreement a- establish who will sign agreements b- set schedule for each transaction completion c- establish transaction file & who will be responsible for monitoring each file	Oblast/Raion	June 15, 1998	July 31, 1998	Final Agreements	Raion	PFF provides legal support
Raion/Oblast receive bidder payments a- establish bank accounts for receiving funds b- set criteria for distribution of proceeds c- <b>Winners, sellers execute lease or sales documents</b>	Bidder/Oblast	June 15, 1998	<b>7 July</b>	Funds Received	Bidder	
Bidder starts development processes	Bidder/Raion	June 15, 1998		Approvals/Certificates		Normal approval process

## C. PADCO Recommendations on Proposed Future Activities in Land Titling and “Pro-Active Marketing”

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August, 1998

Sub-Task a: Land Title Registration

Financial Sustainability Analysis

The local governments and many oblast governments in Russia have limited resources and the most promising form of new revenues is property tax. Property taxation is dependent upon a fiscal and a legal cadastre, a property registration system. If the later is not financially sustainable or sustainable to the extent that it is not legally fully dependable for both the public and private sectors, it will fail in its objective.

RECOMMENDATION: USAID should develop a module for the proposed property registration procedural guidelines manual that addresses financial sustainability, in abstract, using fee structures proposed by the RF and various assumptions about the types and numbers of fee earning transactions/registrations.

### **Multiple Amendments to the Scope of Work**

While a concern due to the limited resources under the task order, nevertheless the ability to respond to the changing needs of the clientele is what made this assistance successful.

RECOMMENDATION: USAID should design technical assistance programs with the flexibility and provide the contractor with the authority to quickly respond to changing priorities and needs in order to meet agreed upon strategic objectives.

### **National Model**

Finally the RF legislative mandate is in place to fully establish the infrastructure for property registration and the protection of private property rights.

RECOMMENDATION: USAID should utilize the products of this task order and, with additional resources through DURER or another vehicle, prepare a guide or manual that can be disseminated throughout the federation.

## Sub-Task b: Pro-Active Land Marketing

### **Ownership Rights**

The land privatization process has virtually ground to a halt. Not only have many oblast and local officials in cities like Novgorod resisted the sale of ownership rights, they have passed ordinances that make privatization economically unattractive. Investors have demonstrated that secure ownership rights are much more attractive to them than the right-to-construct/leasehold option.

RECOMMENDATION: USAID should continue the efforts of this project in uncovering and then solving the outstanding issues surrounding the sale of ownership rights, both at the local, regional and national levels. Novgorod Oblast may not be as receptive as other oblasts like Samara.

### **RF Land Ownership**

The fact that the RF has not transferred property within local jurisdictions to those jurisdictions means that ownership rights cannot be sold as the municipality cannot prove ownership and the right to sell.

RECOMMENDATION: USAID should support further efforts at the RF and the regional levels to develop model procedures for this transfer to occur. If this process is not sufficiently legally documented the underlying rights to the properties involved will be compromised.

### **Normative Land Pricing**

The action of the Novgorodsky Oblast Duma in passing an act that raises normative prices for land to levels above current demonstrated market values effectively halts land privatization whether this was the intent or not.

RECOMMENDATION: USAID RII coordinators should discuss this directly with the Oblast leadership and seek reconsideration of this act as it undermines the principal objectives of the RII Program, the stimulation of investment.

### **Utility Restructuring**

The impact on land values of under investment in municipal infrastructure has been largely overlooked. The negative impact on land privatization and investment is obvious.

RECOMMENDATION: USAID should recognize this interrelationship in their current and future programs, seeking ways to mitigate and quickly overcome this negative impact. Further, USAID should continue to support the efforts of the IBRD and EBRD in the financial and institutional restructuring and channeling financing to utility companies in Russia.