



# Regulations on sea encroachment activities New Government Decree

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The Government has issued Decree No. 42/2024/NĐ-CP dated 16 April 2024 on sea encroachment activities. Accordingly, the sea area identified for sea encroachment must have its specific location, area, boundaries, coordinates in accordance with legislations on survey and mapping.

## **PROVISIONS ON LAND USE MASTER-PLANNING AND PLANNING FOR SEA AREAS IDENTIFIED FOR SEA ENCROACHMENT**

The Decree clearly states: The sea area identified for sea encroachment must have its specific location, area, boundaries, coordinates in accordance with legislations on survey and mapping. Identifying sea areas for sea encroachment and inclusion in land use master-plan and plan must ensure principles specified in Points a, b and d, Clause 2, Article 190 of the Land Law 2024.

The Provincial People's Committee identifies, includes sea areas for sea encroachment activities in the land allocation and zoning plan according to functional areas and land types to each district administrative unit of the provincial master-plan, provincial land use plan, district land use master-plan, district land use plan.

In case the sea area identified for sea encroachment is already in the provincial master-plan or construction master-plan or urban master-plan (except for the case specified in Clause 5, Article 40 of the Land Law 2013) but not yet in the district land use master-plan, the Provincial People's Committee shall direct and include it in the district land use master-plan and annual district land use plan.

In case the sea area identified for sea encroachment is not included in the provincial master-plan, the Provincial People's Committee shall direct the District People's Committee to prepare, adjust and supplement the district land use master-plan and annual district land use plan.

Investment projects with sea encroachment activities have had document approving the implementation of the project with sea encroachment activities from a competent state agency in accordance with legislations before the effective date of this Decree (16<sup>th</sup> April 2024), the area of the sea area identified for sea encroachment will be included in the total area of the administrative unit; after completing sea encroachment, the area of land types will be supplemented with land use criteria according to the land use purpose stated in the investment project with sea encroachment activities in the provincial master-plan and district land use master-plan those have been allocated.

## **DECISION ON INVESTMENT POLICY, APPROVAL OF INVESTMENT POLICY, SELECTION OF INVESTORS FOR INVESTMENT PROJECTS WITH SEA ENCROACHMENT ACTIVITIES**

The Decree stipulates that the approval of investment policy and decision on investment policy for investment projects with sea encroachment activities shall be carried out in accordance with legislations on investment, public investment, investment in the form of public-private partnerships.

The selection of investors to implement investment projects with sea encroachment activities having capital sources outside the state budget is carried out in accordance with legislations on investment, bidding, land, and investment in the form of public-private partnerships.

Sea encroachment activities in investment projects with sea encroachment activities established as sea encroachment investment projects or sea encroachment items of investment projects are implemented according to provisions of Article 6 of this Decree.

## **LAND ALLOCATION, LAND LEASE, SEA AREA ALLOCATION FOR SEA ENCROACHMENT**

The Decree stipulates that for sea encroachment investment projects or investment projects with sea encroachment items funded by public investment capital, the order and procedures for land allocation and land lease shall comply with provisions in Clause 3, Article 68 of Decree No. 43/2014/NĐ-CP dated 15<sup>th</sup> May 2014 of the Government detailing the implementation of a number of articles of the Land Law.

In case a sea encroachment investment project or an investment project with sea encroachment items develops the land fund, after completing the sea encroachment and being accepted according to regulations, the investor of the sea encroachment project must hand over the entire encroached land and construction works (if any) to competent state agencies to allocate and lease land to organizations and individuals for use in accordance with legislations on land.



For a sea encroachment investment project or an investment project with sea encroachment items funded by state capital but not public investment and a project using other capital sources, the order and procedures for land allocation and land lease are as follows:

a. In case of land allocation, land lease through auction of land use rights, follow the order and procedures specified in Clause 5, Article 68 of Decree No. 43/2014/NĐ-CP dated 15 May 2014 of the Government detailing the implementation of a number of articles of the Land Law and Clause 21, Article 1 of Decree No. 148/2020/NĐ-CP dated 18 December 2020 of the Government amending and supplementing a number of decrees detailing the implementation of the Land Law;

b. In case of land allocation, land lease with selecting an investor through bidding according to legislations on bidding or in case of approval of the investor according to provisions of Clause 3, Article 29 of the Law on Investment 2020, follow the order and procedures for land allocation and land lease specified in Clause 3, Article 68 of Decree No. 43/2014/NĐ-CP dated 15 May 2014 of the Government detailing the implementation of a number of articles of the Land Law;

c. In case of land allocation, land lease not through auction of land use rights, follow the order and procedures specified in Clause 3, Article 68 of Decree No. 43/2014/NĐ-CP dated 15 May 2014 of the Government detailing the implementation of a number of articles of the Land Law.

The Decree clearly states: An investor of a sea encroachment investment project or an investment project with sea encroachment items when submitting dossiers for land allocation, land lease, sea area allocation must submit together with sea encroachment investment project or sea encroachment items of the investment project that has been approved by competent state agencies.

The Provincial People's Committee decides to allocate and lease land at the same time as allocating the sea area for sea encroachment. Investors of sea encroachment investment projects or investment projects with sea encroachment items do not have to pay fees to use the sea area to implement sea encroachment activities.

### **ACCEPTANCE OF COMPLETED SEA ENCROACHMENT**

The Decree stipulates that the acceptance of completed sea encroachment is carried out for all or part of the completed sea encroachment area according to the progress of the sea encroachment investment project or the sea encroachment items of the approved investment project.

Examination of acceptance of completed sea encroachment is prescribed as follows:

a. Specialized agencies under the Provincial People's Committee carry out examination of acceptance of works of sea encroachment investment projects or sea encroachment items of investment projects. The

order and procedures for examination of acceptance of completed sea encroachment works are carried out in accordance with legislations on construction;

b. The investor of a sea encroachment investment project or an investment project with sea encroachment items shall send a written request to specialized construction agencies under the Provincial People's Committee to examine the acceptance of all or each completed area of sea encroachment according to the progress of the sea encroachment investment project or sea encroachment items of the investment project already approved;

c. Within 60 days from the date of receipt of the written request, specialized construction agencies under the Provincial People's Committee shall examine the acceptance of the completed sea encroachment.

### **IDENTIFICATION OF LAND USE LEVY AND LAND RENTAL**

Identification of specific land prices to calculate land use levy and land rental is carried out in accordance with legislations on land. In case the residual method is applied to identify specific land prices, the estimate of total development costs must include sea encroachment costs approved by competent state agencies according to provisions of Article 6 of this Decree; In case the total development costs are greater than the total development revenue, the difference is included in the costs of the sea encroachment investment project or investment project with sea encroachment items.

Within no more than 180 days from the date of completion of sea encroachment, the investor of a sea encroachment investment project or an investment project with sea encroachment items must prepare a dossier requesting settlement of sea encroachment costs and send to specialized construction agencies under the Provincial People's Committee for appraisal.

Within no more than 90 days from the date of receiving complete dossiers requesting settlement from the investor of a sea encroachment investment project or an investment project with sea encroachment items, specialized construction agencies under the Provincial People's Committee settle sea encroachment costs and submit them to the Provincial People's Committee for approval.



▲ *The sea area identified for sea encroachment must have its specific location, area, boundaries, coordinates in accordance with legislations on survey and mapping*

Handling the difference between settled costs of sea encroachment and costs of sea encroachment that have been included in total development costs when identifying specific land prices in case of applying the residual method (hereinafter referred to as the difference) is as follows:

- In case settled costs of sea encroachment are smaller than costs of sea encroachment included in total development costs, the investor must pay the difference;

- In case settled costs of sea encroachment are greater than costs of sea encroachment included in total development costs, the difference will be included in costs of the sea encroachment investment project or investment project with sea encroachment items.

### **ISSUANCE OF CERTIFICATES OF LAND USE RIGHTS, OWNERSHIP OF HOUSES AND OTHER ASSETS ATTACHED TO LAND**

For land areas that are not part of the sea encroachment area, after the investor has fulfilled financial obligations on land, a Certificate of land use rights, ownership of houses and other assets attached to land will be issued.

For land areas formed from sea encroachment activities, the investor of the sea encroachment investment project or the investment project with sea encroachment items has completed financial obligations on land and received a notice of acceptance results of completed sea encroachment according to provisions of Article 8 of this Decree, a Certificate of land use rights, ownership of houses and other assets attached to land will be issued to the investor ■

## **1. INTRODUCTION**

Dead river is a concept that refers to rivers that are heavily polluted and unable to clean themselves, greatly affecting the lives of the community and socio-economic development in the river basin. Currently, three river basins have heavily polluted water environment including: Cau river, Nhue - Day river system, Dong Nai river. If there are no timely pollution treatment measures, in the future, water sources of these rivers cannot be used for production and daily life.

Causes of pollution are the failure to control waste from socio-economic development activities; not doing a good job of wastewater treatment; failure to separate rainwater and domestic wastewater in urban areas; population growth that leads to many consequences causing water pollution. People in riverside areas dump waste directly into the river, clogging the flow and declining river water quality to the point of being unusable. Therefore, improving, restoring, and reviving dead rivers is an urgent need of the community along these dead rivers in particular and of the country in general.

In Ha Noi, a number of projects have been and are being implemented to contribute to improving pollution such as drainage projects to improve the environment in phase 1 and phase 2, including: Renovation of the inner-city drainage system, renovation of the embankments and technical infrastructure along To Lich, Kim Nguu, Lu, Set rivers; renovation and dredging of inner-city lakes; wastewater treatment plants invested and put into operation: Kim Lien, Truc Bach, Bay Mau, Yen So. Although the goal of reviving “dead rivers” including To Lich, Nhue, Day, Tich, Kim Nguu, Lu, Set rivers has been of interest to Ha Noi many years ago through renovation schemes and measures to prevent pollution. However, the pollution level in 7 rivers is slowly improved, affecting the lives of people in the capital city. Currently, the State’s resources to restore “dead rivers” are limited, therefore socialization and mobilization of organizations and individuals to participate in restoring “dead rivers” is necessary and feasible. Recognizing this, the Law on Water Resources (LWR) 2023 stipulates that “organizations and individuals are encouraged to participate in restoring degraded, depleted, and polluted water sources”.