

# PwC Georgia Tax & Law Brief

2 April 2019

## **Decree #39-18 of Tbilisi Municipality Council Dated 14 March 2019 on “Approving Regulatory Plan of Development”**

On 15 March 2019, the Tbilisi development regulatory plan (Regulatory Plan) entered into force.

- Regulatory Plan governs the following important directions:
  - Social-economic development, which is based on the following trends:
    - Industrial enterprises will be located based on “mosaic” principle;
    - Preference shall be given to enterprises, which are distinguished by their technology, power and cost efficiency;
  - Conservation/development of landscape and natural environment - the following important directions shall be outlined:
    - Notwithstanding type of ownership or zones, green spaces of urban areas, are primarily designated for developing green recreational territories;
    - Green areas and open spaces shall be increased – at least 10 m<sup>2</sup> of the total green space per person;
    - Acoustic noise in public and residential areas, as well as in recreational zones shall be limited. Noise protection facilities shall be installed along with special engineering structures, central highways and railways;
    - The profile of ecologically harmful and technologically obsolete enterprises shall be altered/modernized/liquidated.
  - Engineering infrastructure - the following important directions to be pointed out:
    - Medium and large industries shall use energy-efficient technologies;

### **Social-economic development**

### **Conservation/development of landscape and natural environment**

### **Engineering infrastructure**

### **Water supply**

- High voltage towers and lines shall be placed under the ground;
- Restricted or suspicious conditions of engineering infrastructure of architectural objects may be a precondition for issuing a construction permit.
- Water supply - the following important directions to be pointed out:
  - It is recommended to set limits for industrial enterprises on usage of drinking-industrial water and introduce relevant sanctions for using water on top of the limit;
  - Industrial enterprises shall implement the system of recycling and water re-use;
  - Any development near the Tbilisi Sea or development that affects water quality shall be agreed on the terms considering priority of protecting Tbilisi Sea areas.

### **Industrial-fecal sewage**

- The following important directions might be distinguished:
  - Lack or emergency conditions of sewage connections might be the reason for temporary suspension/prohibition of construction development;
  - Running wastewater by avoiding sewage connections shall be prohibited;
  - Small rivers of Tbilisi and ravines shall not be used for fecal sewage purposes.

### **Drainage**

- Assessment of the volume of drainage systems is mandatory if cover and ground surface is replaced with asphalt or other low water absorption surface;

### **Communications**

- The tightened fiber-optic cables shall be used in modern technologies of inter-state and interconnections;

### **Internet**

- For territories of social infrastructure objects (Health/education) internet connectivity is mandatory;

### **Gasification**

- Gas consumption limits shall be set for industrial enterprises.

*Source: The Legislative Herald of Georgia, 1 April 2019*

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## **Amendments to the Decree #14-39 of Tbilisi Municipality Council Dated 24 May 2016 on “Approval of Rules of Utilizing Territories of Tbilisi Municipality and its Development”**

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On 15 March 2019, the rules of use and development of Tbilisi city areas were amended – restrictions were introduced on increasing of development coefficients.

- Prior to amendments dated 15 March 2019, development coefficients could be changed through:

### **Changing regulatory limits of development**

- Regulatory plan of development – K-1 and K-2 coefficients and limits of land area/sizes;
- Special (zonal) agreement – K-1 and K-2 coefficients;

### **Prohibition of changing regulatory limits of development**

- Amendments dated 15 March 2019 prohibited increasing regulatory limits of development (including via the regulatory plan of development as well);
- According to the decree, excess in regulatory limits of k-1 and k-2 coefficients is permissible in the following cases:

### **Excess in regulatory limits of K-1 and K-2 coefficients**

- Construction of residential terraced buildings on complex terrain land plots, exceeding K-1 – maximum until 0.7 provided that K-3 will be at least 0.2;
- Setting individual parameters of development in order to estimate parameters of actual used land plot;
- On land plots allocated/transferred by municipality with the purposes to satisfy victims of cooperative construction;
- Within the regulatory plan of development on the areas indicated by the municipality;
- Reconstructing existing buildings with the purpose to improve living conditions – exceeding K-1 – maximum until 0.7;
- Implementing projects of state importance;
- Replacing damaged buildings;
- If the administrative proceedings for issuing a construction permit were initiated three years before Tbilisi Development Regulatory Rules entered into force, construction works have been performed, but cannot be completed due to excusable causes.

*Source: The Legislative Herald of Georgia, 1 April 2019*

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## Draft of Law on “Mediation”

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The draft of law on “Mediation” was submitted to the Parliament of Georgia, pending 1<sup>st</sup> hearing.

### Choosing/appointing the mediator

- Mediation may be led by one or several mediators;
- Parties mutually choose the mediator. In case of court mediation, the mediator may be chosen from the mediators’ registry;
- Court Mediation – If parties cannot choose the mediator within 3 days after the court provides parties with the list of mediators, the Mediators’ Association of Georgia will appoint the mediator;
- Mediation – if parties are not able to choose the mediator by agreement, upon parties request the Mediators’ Association of Georgia will appoint the mediator;

### Mediation as a precondition for addressing court/court of arbitration

- If parties have agreed on mediation- i.e. agreed to address the court/court of arbitration only after having exhausted resolution through mediation, then the court/court of arbitration will not hear the case before provisions of mediation are not fulfilled, unless the plaintiff proves existence of irreparable damage;

### Mediation policy

- Upon parties’ consent, the mediator may offer settlement terms taking into consideration the interests and position of parties;
- Parties/their representatives are responsible for drafting mediation settlement. The mediator may give parties advice in drafting mediation settlement;

### Finishing mediation

- The mediation settlement shall be made in a written form and signed by parties and the mediator;

### Statutes of limitation

- Upon initiating mediation, statutes of limitation provided by the civil code of Georgia will be suspended;
- Limitation period will be deemed as suspended until the end of mediation but no more than 2 years since its initiation.

Source: The Parliament of Georgia, 1 April 2019

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## Draft Amendments to „Code of Civil Procedure of Georgia”

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The draft amendments to the code of civil procedure of Georgia concerning mediation was submitted to the Parliament of Georgia, pending 1<sup>st</sup> hearing.

### Ensuring the mediation settlement

- According to the expected changes, a party is entitled to ask the court to secure mediation settlement before initiating court/mediation hearing or/and in the mediation process;
- Upon the request of one/both parties, the court may decide the question of enforcing mediation settlement;
- The court may not enforce the mediation settlement if it is in contradiction with Georgian legislation/public order of Georgia or enforcement is impossible;

### Enforcement of the mediation settlement

- The court delivers a ruling on enforcement of the mediation settlement along with a writ of execution;
- The ruling on enforcement of the mediation settlement is final and may not be appealed.

*Source: The Parliament of Georgia, 1 April 2019*

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## Draft of Organic Law of Georgia on “Property Rights of Agricultural Land”

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The draft organic law of Georgia on “Property Rights of Agricultural land” was submitted to the Parliament of Georgia, pending 1<sup>st</sup> hearing.

### Owner of the agricultural land

- According to the organic law, the following persons are entitled to own an agricultural land:
  - The Government of Georgia/Autonomous Republic/municipality;
  - The Georgian Legal Entity under Public Law (LEPL);
  - A citizen of Georgia;
  - A legal entity registered in Georgia provided that dominant shareholders are persons indicated above;
  - An Union/Partnership provided that majority of members are persons indicated above;
  - A foreigner if s/he has intertied the land;

**Obligation to alienate the agricultural land**

- A legal entity registered in Georgia whose dominant shareholder is a foreigner/a legal entity of foreign states, upon the Government's decision and based on the investment plan;

- The following persons shall alienate the agricultural land:

- A financial institution, whose dominant shareholder is a foreigner or/and a legal entity of foreign states within 2 years after acquisition of property;
- A legal entity whose dominant shareholder is a foreigner/a legal entity of foreign states, in case of non-fulfillment of the obligations provided by the investment plan – within 1 year;
- A foreigner, if s/he does not utilize the inherited property for agricultural purposes - within 3 years.

**Restrictions on mortgaging/assigning the agricultural land**

- In favor of a foreigner/a legal entity of foreign states/a legal entity registered in Georgia whose dominant shareholder is a foreigner/legal entity of foreign states, it is prohibited to:

- Mortgage the agricultural land;
- Assign claims/rights if it involves transfer of property rights on the agricultural land;

- If the legal entity registered in Georgia owns the agricultural land the following actions are prohibited:

- Change of shareholder by which a dominant shareholder becomes a foreigner/a legal entity of foreign states/a legal entity registered in Georgia whose dominant shareholder is a foreigner/a legal entity of foreign states;
- Pledging shares/units in such amounts that after transferring pledged property to the creditor, due to nonperformance of obligations, a foreigner/a legal entity of foreign states/a legal entity registered in Georgia whose dominant shareholder is a foreigner/a legal entity of foreign states, acquires the status of a dominant shareholder.

**Restrictions on the legal entity registered in Georgia**

*Source: The Parliament of Georgia, 1 April 2019*

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## Draft of Law of Georgia on “Determining Land Status and Sustainable Management of Agricultural Land”

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The draft of law of Georgia on “Determining Land Status and Sustainable Management of Agricultural land” was submitted to the Parliament of Georgia, pending 1st hearing.

### Purposes of utilizing the agricultural land

- The agricultural land may be utilized only for the purposes of agricultural production, arrangement of homestead/family farm. Individual residential house/agricultural/ancillary buildings might be situated on the land;
- One is not entitled to utilize agricultural land for non-agricultural purposes without having changed the status of land;

### Changing status/category of land

- The national agency of sustainable management of agricultural land and land use monitoring (Agency) is responsible for altering the status/category of land, which is subject to registration at the Public Registry;
- Change the status of agricultural land/or its part is possible in case of a reasonable need;
- In case of alienation of agricultural land, the following persons are granted with preemptive rights:

### Preemptive rights on agricultural land

- The Government of Georgia;
- The co-owner of the land;
- The lessee after 2 years from registering lease right.

*Source: The Parliament of Georgia, 1 April 2019*

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## Let's talk

For a deeper discussion of how this issue might affect your business, please contact us at PwC Georgia

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