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EXTRAORDINARY

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GOVERNMENT OF ARUNACHAL PRADESH
LAW, LEGISLATIVE AND JUSTICE DEPARTMENT
CIVIL SECRETARIAT
ITANAGAR

NOTIFICATION

The 11th December, 2024

No. Law/Legn-14/2024.—The following Ordinance which was promulgated by the Governor of Arunachal Pradesh is hereby published for general information.

(Promulgated by the Governor on 6th December, 2024)

THE ARUNACHAL PRADESH FLOOD PLAIN ZONING ORDINANCE, 2024

AN

ORDINANCE

(ORDINANCE No. 2 of 2024)

to provide for the zoning of flood plains of rivers in the State of Arunachal Pradesh and matters connected therewith or incidental thereto;

WHEREAS, the Government of Arunachal Pradesh urgently felt to avail the **Central Sponsored Scheme (CSS) fund from the Flood Management Border Area Programme (FMBAP) under the Ministry of Jal Shakti, Government of India immediately to mitigate flood problems in the State ;**

AND WHEREAS, the Arunachal Pradesh Legislative Assembly is not in Session ;

AND WHEREAS, the Governor of Arunachal Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Arunachal Pradesh is pleased to promulgate in the Seventy-fifth year of the Republic of India, the following Ordinance, namely,-

CHAPTER - I

Preliminary

1. Short title, extent and commencement :

- (1) This Ordinance may be called the Arunachal Pradesh Flood Plain Zoning Ordinance, 2024
- (2) It shall extend to the whole of the State of Arunachal Pradesh.
- (3) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions : In this Ordinance, unless the context otherwise requires :-

- (a) "Flood Plain" means and includes water channel, flood channel and that area of nearby lowland and which is susceptible to flood by inundation ;
- (b) "Flood Plain Zoning" means restricting any human activity in the flood plains of a river where the plains are created by over flow of water from the channels of rivers and streams;
- (c) "Flood Zone" means the area which is required to carry the flow of the maximum probable floods;
- (d) "Flood Zoning Authority" in relation to this Ordinance, means the authority appointed by the State Government under section 3;
- (e) "Land" means and includes interest in lands, benefits arising out of lands and things attached to the earth or permanently fastened to anything attached to the earth ;

- (f) "Occupier" in respect of any land, means any person who has an interest in the land and cultivates the land himself or by his servants or by hired labour and includes a tenant ;
- (g) "Owner" in relation to any land includes any person having interest in such land ;
- (h) "Prescribed" means prescribed by rules made by the State Government under this Ordinance ;
- (i) "River" means and includes its tributaries ;
- (j) "Water Channel" means the channel in which the flow of a river is generally confined.

CHAPTER - II

Flood Zoning Authority and its powers

3. **Declaration of flood plain zoning :** (1) Where the State Government considers it necessary or expedient so to do, it may, by notification in the Official Gazette declare that flood plain zoning shall be made in the manner hereinafter specified ;
- (2) The State Government may direct that a survey be made in a river for the purpose of determining the limits within which the provisions of this Ordinance, are to be applied and that proper charts and registers be prepared specifying all boundaries and landmarks and any other matter necessary for the purpose of ascertaining such limits.
- (3) The State Government may by notification in the Official Gazette appoint the Deputy Commissioner of the District or such other authority as the Government considers necessary, as the Flood Zoning Authority for the purposes of making a survey of the area as required under sub-section (2) and may specify in such notification, the duties to be discharged by such authority.
4. **Powers and functions of the Flood Zoning Authority :** The Flood Zoning Authority shall exercise the powers and discharge the duties in accordance with the provisions of this Ordinance and the terms and conditions specified in the notification under sub-section (2) of Section 3.

CHAPTER - III

Surveys and Delineation of Flood Plain Area

5. **Survey :**
 - (1) The Flood Zoning Authority or any of the authorized officers, shall carry out surveys of flood plains of the rivers and determine the nature and the extent of flood plains of the rivers.
 - (2) The Flood Zoning Authority shall, on the basis of the survey carried out under sub-section (1) establish flood plain zones and delineate the areas which are subject to flooding including classification of land with reference to relative risk of flood plain use intended to safeguard the health, safety and property of the general public.
 - (3) The Flood Zoning Authority shall prepare charts and registers indicating the areas delineated under sub-section (2).
6. **Power to take up survey :**

It shall be lawful for the Flood Zoning Authority or any of the officers authorized on their behalf-

 - (a) to enter upon and survey and measure levels of any land within their jurisdiction.
 - (b) to mark such levels, boundaries and lines by placing marks or boundary stones;
 - (c) to measure the land;
 - (d) to do all other acts necessary for the purposes of ascertaining the limits referred to in Section 3 (2); and
 - (e) Where otherwise the survey cannot be completed and the levels measured, the authority shall cut down and clear away any part of standing crop, fence or jungle obstructing the survey :

Provided that no Flood Zoning Authority or any other officers shall enter any building or open any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of their intention to do so.

CHAPTER - IV

Notification of Limits of Flood Plains

7. **Declaration of intention of State Government to demarcate flood plains areas :** The State Government may on the basis of a report from the Flood Zoning Authority or otherwise, by notification in the Official Gazette, declare its intention to demarcate the flood plain areas and either prohibit or restrict the use of land therein.
8. **Public Notices :** (1) The Flood Zoning Authority shall, on the issue of notification under Section 7, cause public notice of the substance of such notification to be given at conspicuous places in the area.

- (2) The Flood Zoning Authority shall exhibit records, charts, maps, registers and such other document showing the river channel, flood channel and the flood plain area, specifying the nature and extent to which the use of limits of the area is either prohibited or restricted, in the office for inspection by the general public at the timing specified therein.
 - (3) The Flood Zoning Authority may also consider to give notices individually to the owners, occupiers or possessors as the case may be, of the lands situated in the area, where such information is available in record.
9. **Objections :** (1) Any person, who desires to raise any objection to the limits and either the prohibitions or restrictions specified in the public notice referred to in Section 8, may within a period of sixty days from the date of publication of the notification in the Official Gazette, forward to the Flood Zoning Authority a statement in such manner as may be prescribed setting forth his objections.
- (2) After the expiry of the period aforesaid, the Flood Zoning Authority shall issue a notice in a manner prescribed and consider the objections after giving the party concerned a reasonable opportunity of being heard in the matter.
 - (3) The Flood Zoning Authority shall forward to the State Government its proposals together with the records referred to in sub-section (2) of Section 8.
10. **Decision of State Government :** (1) The State Government shall after considering the report of the Flood Zoning Authority, order such alteration in the limits of the area as it considers necessary.
- (2) The decision of the State Government shall be final.
 - (3) The State Government shall by notification in the Official Gazette, declare that the provisions of this Ordinance shall apply to the said river with boundaries and limits as specified :
- Provided that the State Government shall also make arrangement for rehabilitation of Colonies already existing in the flood plain.
- (4) The areas delineated and approved by the State Government shall be deemed to be the flood plain and the limits shall, where necessary be marked either by boundary stones or other suitable marks.
 - (5) The Flood Zoning Authority shall maintain the charts and registers of such areas so delineated and such charts and registers shall form part of the permanent records of the office and published on the online portal.
 - (6) The charts and registers maintained under sub-section (5) shall be furnished to the Deputy Commissioner of the District and in which any part of the river is situated and shall be opened for inspection by the general public at such time as may be prescribed.

CHAPTER - V

Prohibition or Restriction of the use of the Flood Plains

11. **Power to prohibit obstruction etc. in flood plain :** (1) Where the Flood Zoning Authority is satisfied that it is necessary to do so in the interest of public health and safety, protection of property or reducing the inconvenience to the general public, to prohibit or restrict the activities in the flood plain, the Flood Zoning Authority may, by notification in the Official Gazette, specify the areas where such prohibition or restriction is to be enforced and the nature and extent of such prohibition or restriction:
- (2) Upon the publication of a notification under sub-section (1), notwithstanding anything contained in any law, custom, agreement of instrument, for the time being in force, the prohibition or restriction specified in such notification shall prevail.
 - (3) No person shall undertake any activity within the prohibited area or restricted area except with the previous permission of Flood Zoning Authority.
12. **Penalty :** If any person commences or carries on or attempts to carry on any activity in the areas specified in the notification under sub-section (1) of Section 11 contrary to the terms and conditions specified in such notifications, he or she shall be punishable;
- (a) with fine, which may extend to one lakh rupees and in default of payment of fine, with simple imprisonment for a term which may extend to two months; and
 - (b) with further fine which may extend to five thousand rupees for each day during which the offence continues after the conviction under clause (a).
13. **Power to Compound :** (1) Subject to such conditions as may be prescribed, any officer authorized by the State Government by a general or special order in this behalf may, either before or after the institution of proceedings under this Ordinance, accept from the person who has committed or is reasonably suspected of having committed an offence, a sum of money not exceeding one lakh rupees.
- (2) On the payment of such sum of money along with an undertaking, to the effect that same offence shall not be repeated, such person shall be discharged, and no further proceedings shall be taken against him in respect of such offence.
14. **Appeal :** (1) Any person aggrieved by any decision of the Flood Zoning Authority may prefer an appeal to an authority prescribed by the State Government in this behalf, within a period of ninety days from the date on which such decision was communicated to him :

Provided that the appellate authority may entertain the appeal after the expiry of the said period of ninety days, if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) The appellate authority may, after giving a reasonable opportunity to the appellant of being heard, pass such orders as he or she thinks fit and the decision thereof shall be final.
15. **Revision :** (1) Where no appeal has been preferred under Section 14, the State Government may, for the purpose of examining the legality or propriety or correctness of any order, inquiry or proceedings of the Flood Zoning Authority, call for the records of any enquiry or proceedings of the Flood Zoning Authority and make such order in the case as it thinks fit :

Provided that no such record shall be called after the expiry of six months from the date of such order.

- (2) No order of the Flood Zoning Authority shall be varied by the State Government so as to pre-judicially affect any person without giving such person a reasonable opportunity of being heard in person in the matter.

CHAPTER - VI

Compensation

16. **Payment of compensation :** (1) Subject to restrictions specified in Section 18, where any permission to undertake any activity in the flood plain has been refused to any person or where as a result of prohibition or restriction imposed on any person under this Ordinance, such person suffers any damage, he shall be entitled to the payment of compensation of the value of the land as may be determined under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No. 30 of 2013).
- (2) In determining the amount of compensation under sub-section (1) any restriction to which the land is subjected to under any other law for the time being in force in regard to the right of the person claiming compensation to carry on any activity on the land or otherwise to the use of the land shall be taken into consideration for payment of compensation.

17. **Determining the compensation and apportionment by consent :**

- (1) The person to whom the compensation under section 16 is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the Flood Zoning Authority and the person or persons claiming interest therein.
- (2) In default of any such agreement, the Flood Zoning Authority shall, after holding such enquiry as it considers necessary, make an award determining :-
- the amount of compensation to be paid under Section 16 ; and
 - the apportionment, if any, of such compensation among persons known or believed to be interested therein ;

Provided that where the amount of compensation exceeds one lakh fifty thousand rupees, no award shall be made without the previous approval of the State Government or such other officer as the State Government may authorized in this behalf.

18. **Compensation not admissible :** (1) No compensation shall be awarded-

- if and in so far as the land is subject to substantially similar restriction in force under some other law in force on the date on which the restrictions were imposed by or under this Ordinance, or
 - if compensation in respect of the same restrictions were imposed by or under this Ordinance or substantially similar restrictions in force under some other law has already been paid in respect of the land to the claimant or any predecessor in interest of the claim; or
 - for removal of any encroachment.
 - to a person not having right to carry any activity on the said land or otherwise use the land.
- (2) Whosoever undertakes an unauthorized activity, then any increase in the land value from such activity shall not be taken into account in estimating the value of land.

19. **Application against award :** (1) Any person aggrieved by the award of the Flood Zoning Authority under sub-section (2) of Section 17 may, by an application in writing, apply to the competent civil court of the district for settlement in terms of section 64 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No. 30 of 2013).

- (2) Any application under sub-section (1) shall be made in such form and in such manner as may be prescribed and shall be made within forty five days from the date of communication of the award.
- (3) The application under this section shall be disposed of in such manner as may be prescribed.

20. **Payment under award :** On the determination of the compensation under sub-section (1) of Section 17, or on the making of an award under sub- section (2) of Section 17 or, if an application is made under section 19 against such award, after decision of the Flood Zoning authority, the compensation shall be paid by Flood Zoning Authority and the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act No. 30 of 2013) shall apply to such payment.

CHAPTER - VII**Power to Remove Obstructions after Prohibition**

21. **Power to remove obstructions :** (1) The Flood zoning Authority may, in accordance with the provisions of this Ordinance, direct any owner or occupier of land to do any act or to remove any un-authorized obstructions within such time as may be specified by it and such owner or occupier shall do such act or remove the obstructions.
- (2) If owner or occupier fails to comply with the order of the Flood Zoning Authority within the time specified under sub-section (1), the Flood Zoning Authority may cause the act to be performed or cause the obstructions to be removed.
- (3) All expenses incurred by the Flood Zoning Authority under this section shall be recovered from such owner or occupier as arrears of land revenue as per Public Demands under Bengal Public Demands Recovery Act, 1913.

CHAPTER-VIII**Miscellaneous**

22. **Preventing Flood Zoning Authority from discharging any act to be an offence :** Any person who prevents the Flood Zoning Authority in discharging any act imposed on such Authority by or under this Ordinance, shall be deemed to have committed an offence under Section 186 of the Section 221 of Bharatiya Nyaya Sanhita, 2023 (Act No. 45 of 2023) or any other law for the time being in force.
23. **Flood zoning Authority other officers to be public servants :** The Flood zoning Authority and other officers and employees authorized under this Act shall be deemed to be public servants within the meaning of sub-section (28) of Section 2 of the Bharatiya Nyaya Sanhita, 2023 (Act No. 45 of 2023).
24. **Protection of action taken in good faith :** (1) No suit, prosecution or other legal proceeding shall lie against the State Government or any authority or person exercising any power or performing any duty under this Ordinance for anything which is in good faith done or intended to be done in pursuance of this Ordinance or an order made thereunder.
- (2) No suit, or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.
25. **Recovery of fine :** All fines imposed under this Ordinance shall be recovered in the manner provided in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023).
26. **Power of Court :** A Civil Court of competent jurisdiction shall have jurisdiction to settle, decide or deal with any dispute which is by or under this Ordinance required to be settled, decided or deal with by the Flood Zoning Authority or such other officer as is authorized by the State Government in this behalf.
27. **Power to make rules :** (1) The State Government may, by notification in the Official Gazette make rules to carry out the purposes of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for -
- (a) the manner in which charts and records shall be maintained;
- (b) the form and manner in which application under Section 20 shall be made and the manner in which such application shall be disposed of ; and
- (c) any of the matter which has to be, or may be, prescribed.
- (3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before the House of the State Legislature while it is in session for a total period of 14 days which may be comprised in one session or two or successive sessions and if before the expiry of the session immediately following the session or the successive session aforesaid the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
28. **Power to remove difficulty :** If any difficulty arises in giving effect to the provisions of this **Ordinance**, the State Government may, by order do anything not in consistent with the provisions of this **Ordinance**, which appears to it necessary for removing the difficulty.

Yaspal Garg, IAS
Commissioner to the
Government of Arunachal Pradesh,
Itanagar.