

THE PARKS AND HORTICULTURE AUTHORITY ACT 2012

(Act XLVII of 2012)

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(Act XLVII of 2012)

[30 July 2012]

An Act to provide for the establishment of Parks and Horticulture Authority in the Punjab.

Preamble.— Whereas it is expedient to establish the Parks and Horticulture Authority in the Punjab for the regulation, development and maintenance of public parks, green belts and green areas in the Punjab; regulation of billboards, sky signs and outdoor advertisements; to promote open and unrestricted views of the Punjab; and, to provide for the connected matters;

It is enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be cited as the Parks and Horticulture Authority Act 2012.

(2) It extends to the district of Lahore but the Government may, by notification, extend it to any other area of the Punjab.

(3) It shall come into force at once.

2. Definitions.— In this Act—

- (a) “Act” means the Parks and Horticulture Authority Act 2012;
- (b) “advertisement” means commercially displayed or installed signage, board, screen, streamer, poster, banner or any other thing placed, painted, pasted or installed on public or private property that is visible from a public place and is intended to inform the reader of the availability of a service, product or promotes a business;
- (c) “Authority” means the Parks and Horticulture Authority established under section 3 of the Act;
- (d) “billboard” includes an advertisement fixed, placed or displayed on a structure other than a building;
- (e) “Board” means the Board of Directors of the Authority;
- (f) “casual use” means any temporary and occasional use but does not include its use as parking place on a regular basis;
- (g) “Code” means the Code of Criminal Procedure 1898 (V of 1898);
- (h) “Director General” means the Director General of the Authority;
- (i) “empowering authority” means any authority, local government or other entity empowered to allow the use of a public park, green belt or green area in any manner or grant permission for installation of a billboard, sky sign, outdoor advertisement or advertisement prior to the commencement of the Act;
- (j) “Fund” means the Parks and Horticulture Authority Fund;
- (k) “Government” means Government of the Punjab;
- (l) “green area” means any space notified by the Government as green area which is required to be kept green other than a public park or green belt and includes a notified play ground;
- (m) “green belt” means an area notified by the Government as green belt other than a public park which is kept as an open space in any locality or area either in pursuance of a development plan or otherwise;
- (n) “Heritage Park” means any area having historical, traditional or cultural value notified as such under section 5 of the Act;
- (o) “outdoor advertisement” means a streamer, board, poster, banner, or any other thing placed, painted, pasted or installed on a public or private building or property so that it is visible from a public place and which is intended to inform the reader of the

availability of a service, product or outlet or otherwise promote a person or a message;

- (p) “prescribed” means prescribed by the rules made under the Act;
- (q) “private land authority” means any natural or legal person engaged in the development of land or maintenance of an area or provision of municipal services other than a public land authority;
- (r) “public land authority” includes a statutory or executive body established by the Government for development of land or engaged in the development of land or maintenance of an area or provision of municipal services;
- (s) “public park” includes a park or space reserved for use as a public park and notified by the Government as a public park;
- (t) “rules” means the rules made under the Act;
- (u) “sky sign” means a sign installed on a building for its view from a distance; and
- (v) “vehicle” includes mechanically propelled vehicle and a human or animal driven carriage.

3. Establishment of the Authority.— (1) The Government may, by notification, establish an Authority for the district of Lahore to be called the Parks and Horticulture Authority.

(2) The Government may, by notification, either establish a separate Authority for an area to which the Act is extended to be called the Parks and Horticulture Authority of that area or may direct the Authority mentioned in sub-section (1) to perform the functions under the Act in respect of such other area.

(3) An Authority shall be a body corporate having perpetual succession and a common seal, with power to enter into agreement, acquire, hold, manage, and dispose of property, and to sue and be sued in its name.

4. Powers and functions of the Authority.— The Authority shall:

- (a) develop and maintain public parks, green belts and green areas;
- (b) regulate the use of public parks, green belts and green areas;
- (c) regulate the installation of billboards, sky signs, out-door advertisements on private or public property;
- (d) establish and maintain botanical gardens;
- (e) organize shows and exhibitions pertaining to horticulture, aviculture and cultural entertainment;
- (f) protect trees and other vegetation;
- (g) create awareness about horticulture and promote gardening;
- (h) acquire land for the development of any public park, green belt, or green area;
- (i) procure machinery, equipment or material as may be required for the proper discharge of its functions;
- (j) grant a service contract for the maintenance of public parks, green belts or green areas to a company owned by it or to any other private or public limited company;
- (k) constitute committees for performing specific functions of the Authority; and
- (l) perform such other functions as may be ancillary, or as may be prescribed.

5. Heritage Park.— (1) The Government may, by notification, declare an area as Heritage Park to conserve the heritage or culture and to preserve, conserve and develop the flora and fauna for the present and future generations.

(2) The Heritage Park shall be maintained and developed by the Authority in the prescribed manner.

6. Board of Directors.– (1) The Board of Directors shall take the policy decisions of the Authority.

(2) The Board shall consist of the following:-

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| (a) | Chief Minister or any other person nominated by the Chief Minister; | Chairperson |
| (b) | Minister for Housing or any other person nominated by the Minister for Housing; | Vice Chairperson |
| (c) | two members of the Provincial Assembly of the Punjab nominated by the Speaker of the Assembly; | Members |
| (d) | the elected head of the local government of the area for which the Authority is established; | Member |
| (e) | Secretary to the Government, Housing Department or his nominee; | Member |
| (f) | Secretary to the Government, Finance Department or his nominee; | Member |
| (g) | Secretary to the Government, Local Government and Community Development Department or his nominee; | Member |
| (h) | District Coordination Officer of the area for which the Authority is established; | Member |
| (i) | Director General of the Development Authority of the area for which the Authority is established; | Member |
| (j) | two environmentalists nominated by the Government | Members |
| (k) | one horticulture expert nominated by the Government | Member |
| (l) | one representative of the concerned Chamber of Commerce & Industry; and | Member |
| (m) | Director General. | Member/Secretary |

(3) The Government shall nominate the members of the Board, other than *ex-officio* members, for a period of three years.

(4) The Chairperson may, co-opt any other person as member of the Board for a meeting or for a specified period.

(5) Six members shall constitute the quorum for a meeting of the Board.

(6) The Board shall take decisions by the majority of its members present and voting, and in case of a tie, the person presiding the meeting shall have a casting vote.

(7) The Chairperson or, in his absence, the Vice Chairperson, shall preside over a meeting of the Board, and in case of absence of the Chairperson and Vice Chairperson a member nominated by the Chairperson shall preside over the meeting.

(8) The Authority shall cause to be recorded the minutes of the proceedings of every meeting of the Board and of every meeting of a committee established by the Board.

(9) The Secretary of the Board shall maintain a complete record of the minutes and the decisions of the Board in the prescribed manner.

(10) The proceedings of a meeting of the Board shall not be invalid merely on account of any vacancy or defect in the constitution of the Board.

7. Director General.– (1) The Government shall appoint the Director General of the Authority.

(2) The Director General shall exercise such powers as are assigned to him by the Board or as may be prescribed.

(3) The Director General shall–

- (a) be a whole-time employee of the Authority;
- (b) hold office during the pleasure of the Government;
- (c) be the principal accounting officer of the Authority; and
- (d) be competent to enter into contracts on behalf of the Authority.

(4) The Government shall determine the terms and conditions of the service of the Director General.

(5) Notwithstanding the expiration of the term of Director General, the Government may ask him to continue to hold office for a further period of three months or till his successor enters upon his office, whichever is earlier.

(6) Nothing contained in this section shall preclude the Government from re-appointing the Director General to hold that office for a period not exceeding three years at a time.

(7) The Director General may resign by tendering resignation to the Government or may be removed by the Government in the prescribed manner.

(8) The Director General may, subject to the approval of the Board—

(a) delegate any of his financial powers to an officer of the Authority;

(b) appoint an advisor or a consultant for a period not exceeding one year; and

(c) appoint a legal advisor of the Authority for a period not exceeding one year.

8. Employees of the Authority.— (1) The Authority may, subject to the approval of the Board, employ such officers, officials, workmen, gardeners, watermen and other employees as it considers necessary for the efficient performance of its functions under the Act.

(2) The Authority may provide for the grant of such allowances, leave, pension, gratuity, provident fund and other benefits and facilities as may be prescribed.

(3) The employees of the Authority shall be deemed to be public servants within the meanings of section 21 of the Pakistan Penal Code 1860 (XLV of 1860).

9. Directions to the Authority.— (1) The Government may give general or special directions to the Authority and the Authority shall comply with such directions.

(2) The Authority shall immediately act to rectify any neglect in the performance of its functions when informed by a local government or a land authority.

10. Use of public parks, green belts and green areas.— (1) If any person intends to use a public park, green belt or green area for any purpose other than the normal use of the place, he shall make an application to the Authority.

(2) If the intended use affects the rights of the neighbours or residents of the area in general, the Authority shall invite objections from them and decide the objections before taking a decision.

(3) The Authority shall not grant permission if the intended use affects the rights of the neighbours or residents of the area to the free and uninterrupted use of the roads abutting the public park, green belt or green area or results in the conversion of the public park or green area or green belt into any other thing or changes the general outlook of the locality.

(4) The Authority shall not grant permission for a period exceeding fifteen days if the intended use is likely to bring, directly or indirectly, any financial benefit to the applicant or any other person.

(5) Notwithstanding anything contained in the Act, the Authority shall not grant permission for using any public park, green belt or green area as a parking place.

(6) Notwithstanding anything contained in sub-section (3) and sub-section (4), the Authority may grant permission for using a public park for provision of food, playing facilities, sale of plants, horticultural equipment or books or such other purpose on payment of fees if the said permission does not adversely affect the general outlook of the public park.

(7) Where the Authority gives permission for use of a public park, green belt or green area, it shall issue a permission order indicating the duration and nature of the

permission and the order shall be duly displayed at a prominent place of the public park, green belt or green area.

11. Access to private property.– (1) Where a green belt or green area lies between a property and a service lane or public road, the owner of the property may, subject to the permission by the Authority, use the green belt for accessing his property in a reasonable manner but the permission shall be restricted to the extent of acquiring access and shall in no manner be deemed to allow the use of any part of the green belt for any other purpose or the use of the entire green belt or green area abutting the property for purposes of access.

(2) Notwithstanding anything contained in sub-section (1), a person shall not, in any manner, use or change the nature of any green belt for the purpose of acquiring access to a service lane from the main road.

12. Installation of billboards, sky signs and outdoor advertisements.– (1) If any person intends to install a billboard, sky sign or outdoor advertisement in any manner on private or public property or public park, green belt or green area, he shall make an application in the prescribed manner to the Authority.

(2) If the billboard, sky sign or outdoor advertisement affects the rights of the neighbours or residents of the area in general or road users, the Authority shall invite objections from them and decide the objections before taking a decision.

(3) The Authority shall not grant permission if the installation of the billboard, sky sign or outdoor advertisement affects the rights of road users to safe and secure usage or view of the residents or provision of light and air, or the view or sanctity of a historical monument.

(4) The permission for installation of billboard, sky sign or outdoor advertisement shall include such safety measures as may be determined by the Authority or as may be prescribed, and shall not, in any case, exceed a period of twelve months.

(5) A person shall not install or continue installation of a billboard, sky sign or outdoor advertisement except in accordance with the permission of the Authority.

(6) Where the Authority gives permission for installation of a billboard, sky sign or outdoor advertisement, it shall issue a permission number which shall be displayed on the billboard, sky sign or outdoor advertisement.

(7) Notwithstanding anything contained in sub-section (1) and while acting in accordance with the provisions of sub-sections (2) to (6), the Authority may identify public places for installation of billboards, sky signs, and outdoor advertisements and may allow the installation of billboards, sky signs, and outdoor advertisements at these places on such terms and conditions as may be prescribed.

(8) The Authority may charge such fees for the grant of permission for installation of a billboard, sky sign or outdoor advertisement as the Government may approve.

13. Advertisements on vehicles.– (1) A person shall not display any advertisement on any vehicle or any other moveable property except with the prior permission of the Authority.

(2) The Authority may charge such fees as for the grant of permission to display advertisements on vehicles as the Government may approve.

(3) The Authority shall not grant permission to display an advertisement on a vehicle for a period exceeding twelve months.

(4) The Authority shall issue a permission number for display on the advertisement.

(5) The Authority shall not give permission for an advertisement which is against public morals or promotes an activity or product the performance or sale of which, is barred by law.

14. Regulations regarding green areas.– (1) The Authority shall determine the extent of a planned area to be reserved and maintained as a public park, green belt or green area.

(2) A public land authority or a private land authority shall obtain prior sanction of the Authority for any development plan.

(3) The Authority may obtain a copy of the development plan or land use plan of a public land authority or a private land authority which contains detailed specifications of the areas reserved as public parks, green areas or green belts and the public or private land authority shall, within thirty days, provide the development plan or land use plan to the Authority.

(4) The Authority shall determine–

(a) the level of green belts from the road and the method and way of their planting and maintenance;

(b) the percentage of a public park that may be reserved for parking and provision of food;

(c) the maintenance and usage of a public park; and

(d) the maintenance and usage of a green area.

15. Maintenance of public parks, green belts and green areas.– (1) The Authority shall undertake beautification and maintenance of areas required to be kept green by a public land authority.

(2) The Authority may maintain and beautify the areas required to be kept green by any private land authority or may require the private land authority to maintain and beautify the same.

(3) Where the Authority maintains or beautifies a public park, green belt or green area situated in a privately developed area, it may charge maintenance charges from the private land authority which was required to maintain the public park, green area or green belt.

16. Duty on private persons to maintain green belts.– (1) The Authority may require the resident or owner of a property to maintain a green belt between his property and the public road.

(2) The Authority may recover a fixed charge in accordance with a schedule of charges from the owner of the property for maintaining a green belt which the owner has failed to maintain in accordance with its directions.

(3) If the Authority finds that a green belt has been raised by an owner or occupier of a property abutting to it or has been bricked over or concretized, it may require the said owner or the occupier to remove the construction and bring it to the level notified by it and if the person does not comply with the directions of the Authority within a reasonable time, the Authority may recover the cost of removal in accordance with a schedule of costs.

(4) Notwithstanding anything contained in sub-section (3), the Authority may remove a construction from a green belt or bring the level of a green belt to the prescribed level at its own cost.

17. Continuation of contracts.– (1) All contracts, permissions and leases granted by an empowering authority for the use of any public park, green belt or green area or the installation or placement of any billboard, sky sign or outdoor advertisement on public or private property prior to the enforcement of the Act, shall be subject to, and governed by, the provisions of the Act.

(2) The Authority shall not cancel any contract or withdraw any permission mentioned in sub-section (1) without providing an opportunity of hearing to the affected person.

18. Fund.— (1) There shall be a Fund to be known as Parks and Horticulture Authority Fund.

(2) The Fund shall consist of—

(a) grants made by the Government or other authorities or agencies;

(b) charges collected by the Authority for maintenance of public parks, green belts and green areas;

(c) fees imposed by the Authority; and

(d) income from any other source.

(3) The Fund shall be maintained and invested in such manner as may be prescribed.

(4) The Fund shall be utilized to meet the expenses of the Authority in connection with its functions under the Act.

(5) The Authority shall not obtain loan and shall not incur debt.

19. Budget and accounts.— (1) The Director General shall, before the commencement of a financial year, prepare a statement of the estimated receipts and expenditure of the Authority for the financial year and submit it to the Board for approval.

(2) The Authority shall maintain proper accounts and other records relating to its financial affairs including its income and expenditures and its assets and liabilities in such form and manner as may be prescribed.

(3) As soon as may be, after the end of each financial year, the Authority, in the manner prescribed, shall cause to be prepared for that financial year statements of account of the Authority, which shall include a balance-sheet and an account of income and expenditure.

20. Audit.— (1) The Auditor General of Pakistan shall annually audit the accounts of the Authority.

(2) The Government, in addition to the audit under sub-section (1), may cause the annual accounts of the Authority audited, in the prescribed manner, by a Chartered Accountant or a firm of Chartered Accountants.

21. Prohibitions.— (1) A person shall not use any green belt or green area for any purpose except casual use without prior permission in writing of the Authority.

(2) No person shall discharge any waste water or sewage on any public park, green belt or green area.

(3) No person shall throw or dispose of any litter or garbage in any public park, green belt or green area.

(4) No person shall install or exhibit any billboard, sky sign, outdoor advertisement or advertisement or allow the installation and exhibition of any billboard, sky sign, outdoor advertisement or advertisement in any property under his control without the permission of the Authority.

(5) A person shall not cut any tree on private or public land without prior permission of the Authority.

(6) A person shall not take any part in the publication, installation or display of any billboard, sky sign, outdoor advertisement, advertisement, or which is indecent or against public morality or which may incite public disorder.

22. Attempts and abetments.— A person who attempts to contravene, or abets the contravention of any order made under this Act shall be deemed to have contravened that order.

23. Offences, penalties and procedures.– (1) If a person contravenes any provision of the Act, he shall be liable to punishment of imprisonment which may extend to six months or fine which may extend to five hundred thousand rupees or both.

(2) If a person continues to commit an act in violation of any order of the Authority, he shall, in addition to any other punishment under the Act, be liable to punishment of fine which may extend to five thousand rupees for each day the offence continues.

(3) If a person, being convicted under the Act, again commits an offence under the Act, he shall be liable to punishment of imprisonment for a term which may extend to one year or fine which may extend to one million rupees or both.

(4) If a person fails to obtain and display a permission required to be displayed under the Act, he shall be liable to punishment of fine which may extend to twenty five thousand rupees.

(5) An offence under the Act shall be non-bailable but the police shall not take cognizance of the offence except on the information received from an authorized officer of the Authority.

(6) Notwithstanding anything contained in sub-section (5), the Authority may instead of filing information before the police, file a complaint before a Magistrate authorized to take cognizance of an offence under the Act.

(7) The procedure for the trial of offences under the Act shall be the same as is laid down in the Code for summary trial.

24. Complaints of illegal or unauthorized use.– Any person may file a complaint in the prescribed format to the Authority regarding the illegal use of any public park or green belt or green area or any other violation of the Act and the Authority on receipt of such a complaint shall inquire into the same and shall take such action as may be necessary under the Act.

25. Powers of Authority and its officers with regard to offences.– (1) Any officer of the Authority, or a person authorized by the Authority may take all such actions as may be necessary for enforcement of the Act, rules or regulations including removal of encroachments, cessation of hazardous or unauthorized trade in a public park, green area or green belt, removal of unauthorized billboards, sky signs, outdoor advertisements or advertisements, and removal or cessation of unauthorized construction or stoppage of unauthorized land use in or on a public park, green belt or green area.

(2) Any officer of the Authority authorized in this behalf, along with such other persons as may be necessary, may enter at a reasonable time and after due notice, any private premises for removal of a billboard or sky sign or outdoor advertisement and remove the same.

(3) Where the Authority has removed any construction or billboard, sky sign, outdoor advertisement or advertisement, it shall confiscate the debris of the construction, billboard, sky sign, outdoor advertisement or advertisement and may recover the cost of removal and disposal from the person who owns or occupies the same.

26. Power to enter and survey.– Any person authorized by the Authority may enter and survey any premises or land at a reasonable time and after due notice of inspection and survey for the purposes of the Act, rules or regulations.

27. Recovery of dues.– A sum due to the Authority shall be recoverable as arrears of land revenue.

28. Police assistance.— The police shall render such assistance as the Authority may require in the discharge of its functions under the Act.

29. Act to have overriding effect.— The provisions of the Act shall have effect notwithstanding anything to the contrary contained in any other law.

30. Power to make rules.— The Government may, by notification in the official Gazette, make rules for giving effect to the provisions of the Act.

31. Power to frame regulations.— Subject to the Act and the rules, the Authority may, with the previous approval of the Government, frame regulations for matters not provided for in the rules and for which provision is necessary or expedient for carrying out the purposes of the Act.

32. Ownership of public parks, green belts or green area.— The ownership of Heritage Park and any area notified as a public park, green belt or green area shall vest in the Authority.

33. Summary ejection of unauthorized occupant or user.— The Director General or an officer authorized by the Authority may eject any person in unauthorized occupation of any land or property vested in the Authority and may use such force as may be necessary to remove the unauthorized occupant or user.

34. Annual report.— (1) The Authority shall, within three months of the close of a financial year, submit to the Government an annual report.

(2) The report shall consist of—

(a) the statement of accounts of the Authority;

(b) a comprehensive statement of the work and activities of the Authority during the preceding financial year; and

(c) such other matters as may be prescribed and as the Authority may consider appropriate.

35. Protection of action taken under the Act.— (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of any order made under the Act.

(2) No suit or other legal proceeding shall lie against the Government or the Authority for any damage caused or likely to be caused by anything which is, in good faith, done or intended to be done in pursuance of any order made under the Act.

(3) Notwithstanding anything contained in any other law, the Director General or any other employee of the Authority shall not be personally liable in civil proceedings for any action taken for enforcement of the Act.

This Act was originally passed by the Provincial Assembly on 7th day of June 2012 and was sent to the Governor for assent, but the Governor returned the Bill for reconsideration by the Assembly. The Provincial Assembly again passed it on 18th day of July 2012. Since the Governor did not assent to the Bill within the stipulated period of ten days, the same was deemed to have been assented to in terms of clause (3) of Article 116 of the Constitution and was published in the Punjab Gazette (Extraordinary), dated 30 July 2012, pages 409-16.