

# Changes in Real Estate legislation

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## Amendments to the federal laws

### Federal Law No. 150-FZ On Amendments to the Federal Law On Cadastral Activities and to the Federal Law On the State Registration of Real Estate of June 17, 2019

The amendments made to the Federal Law On Cadastral Activities and to the Federal Law On the State Registration of Real Estate which will become effective on September 16, 2019 are mainly concerned with the conduct of complex cadastral works (“CCW”).

In particular, the list of land plots for which CCW do not apply has been expanded, and the specifics of how such works are done have been stipulated for certain land plots. The Law has also updated how boundaries are clarified when CCW are done.

It should also be noted that CCW can now be done without an approved boundary-setting plan (*proekt mezhevaniya territorii*), if the RF Town-Planning Code does not require such plan being prepared and approved.

### Federal Law No. 59-FZ On Amendments to Article 17 of the Russian Federation Housing Code of April 15, 2019

Starting October 1, 2019, it will be prohibited to use residential units in apartment buildings to provide hotel services.

No hotels, hostels or other forms of hotel services can be provided in residential units in apartment buildings.

### Federal Law No. 116-FZ On Amendments to the Russian Federation Housing Code of May 29, 2019

The Law clarifies the conditions and procedure for recategorizing housing premises in apartment buildings as nonresidential.

Previously, the law did not require written consent to such recategorization from the owners of premises in apartment buildings. Now the following are also required to recategorize residential premises as nonresidential:

- Minutes of the general meeting of owners of premises in the apartment building containing a consent to the recategorization from residential to nonresidential
- Written consent of each owner of all premises directly adjoining the premises being recategorized

### Federal Law No. 57-FZ On Amendments to the Russian Federation Code of Administrative Offenses of April 15, 2019

Administrative liability for violating water body protection and water use regulations became stricter as of April 26, 2019. For example, a legal entity violating the requirements to protect water bodies now faces a fine of between RUB 150,000 and RUB 300,000 if the violation could result in pollution of the water bodies. Previously the maximum fine for that violation was formerly RUB 40,000.

### Federal Law No. 45-FZ On Amendments to the Federal Law On Privatization of State and Municipal Property of April 1, 2019

As of June 1, 2019, auctions for the sale of state and municipal property will be conducted only electronically.

Russian Federation constituent entities and local government authorities can now engage independent sellers from a list approved by the Russian Government to arrange for the sale of state and municipal property and/or perform the seller's functions.

### RF Government Resolution No. 516 On Regulation of the Issue of Cutting Trees and

## Bushes Growing on Land Plots from Lands of Industry, Energy, Transport, Communications, Radio Broadcasting, Television, Computer Science, Lands for Space Activities, Lands for Defense, Security and other Special Purposes, and on Introducing Changes to the Rules for Issuing Permits for the Use of State or Municipally Owned Lands or a Land Plot of April 26th, 2019

Since May 8, 2019, when an applicant files an application for a permit to use state or municipally owned lands or a land plot for purposes provided for by Article 39.34(1) of the RF Land Code, the applicant must provide information about whether trees and bushes within the boundaries of the land plot, part of the land plot or special-purpose lands will need to be cut.

A cutting condition should be included in the relevant agreements if trees and bushes must be cut in order to use the land plot for its permitted use when special-purpose land plots are leased or granted for free use.

## RF Government Resolution No. 509 On Approval of the Requirements for the Composition and Content of the Work Plan for Demolition of a Capital Construction Facility of April 26, 2019

May 8th, 2019 saw the enactment of requirements for the composition and content of the work plan for demolition of a capital construction facility (“CCF”).

The plan must consist of a textual and graphic part. The parts include, inter alia:

- A map of the land plot on which the CCF is located
- The method of and reasons for demolition
- Information about the results of inspection of the CCF that is to be demolished
- Information about the conditions for disconnecting the CCF from utility systems
- A description of the conditions for removal and disposal of waste from the demolition of CCF
- Flow charts of the sequence of demolition and disassembly of building structures, equipment and utility systems, etc.

## RF Government Resolution No. 574 On Amendments to Certain Acts of the Russian Federation Government of May 8, 2019

On May 23, 2019, land plots located within the boundaries of or adjoining the shoreline of public water bodies were recategorized from low to average risk for the purposes of land supervision by Rosreestr.

Scheduled inspections of the title holders of such plots were not previously conducted because the plots were in the low risk category. However, now inspections will be done once every three years.

We remind you that the inspection schedule can be viewed on the Rosreestr website.

## RF Government Resolution No. 781 On Amendments to Certain Acts of the Russian Federation Government of June 19, 2019

The Resolution makes amendments regarding the contents of the state town-planning information system (the “ISOGD”)

Now developers who have obtained a permit to use state or municipally owned lands or a land plot to do geotechnical investigations and who have done them to prepare design documentation must submit the geotechnical investigations materials and results to the competent authorities for placement in the ISOGD within one month of completing the geotechnical investigations.

The Resolution also states that information about approved territorial development plan (“TDP”) will be entered in the ISOGD within not more than 5 or 10 business days depending on who approves the TDP.

## RF Government Resolution No. 543 of April 30, 2019 On Amendments to Russian Federation Government Resolution No. 400 of May 28, 2008 and Vesting the Russian Federation Ministry of Energy with the Authority under Article 26(19) of Federal Law No. 342-FZ of August 3, 2018 On Amendments to the Russian Federation Town-Planning Code and Certain Legislative Acts of the Russian Federation

The Resolution vested the Russian Energy Ministry with the powers and authority to:

- Verify and approve the graphic descriptions of the location of the boundaries of minimum distances to main and industrial pipelines provided by the owners of such pipelines and the reference points of those boundaries to enter them in the Unified State Register of Real Estate
- Establish a public easement for siting grid facilities, linear gas supply system facilities, oil pipelines and oil product pipelines, as well as their

integral technological parts, if such facilities are facilities of federal significance

Ministry of Economic Development of Russia Decree No. 87 of February 27, 2019 On Amendments to the Procedure for the Title Registration Authority to Send Notifications of Return of Documents Attached to an Application for State Cadastral Inventory and/or State Registration of Title without Review, Notifications of Entry in the Unified State Register of Immovable Property of Information on the Procedure for Interagency Information Exchange further to the Application of a Stakeholder, Notifications of Refusal to Enter Information in the Unified State Register of Immovable Property in Interagency Information Exchange Further to the Application of a Stakeholder, Notifications of Entry in the Unified State Register of Immovable Property of Information Received in Interagency Information Exchange, Notifications of Entry in the Unified State Register of Immovable Property in the Notification Procedure, Notifications of Correction of Errors Mentioned in Parts 1 and 3 of Article 61 of Federal Law No. 218-FZ of July 13, 2015 On State Registration of Immovable Property, Notifications of State Registration of Mortgage in the Case Mentioned in Article 53(4.1) of Federal Law No. 218-FZ of July 13, 2015 On State Registration of Immovable Property approved by Ministry of Economic Development of Russia Decree No. 173 dated March 25, 2016

The Decree approves the procedure for sending notices of the entry or modification of information on a use-restricted zone (“**use-restricted zone**”), on the commissioning of a capital construction facility for the siting of which a use-restricted zone is set up or modified, to title holders of the land plots and/or other immovable properties entirely or partially located within a use-restricted zone.

Ministry of Economic Development of Russia Decree No. 321 On Approval of Guidelines for Determining the Fee for a Public Easement over Privately Owned or State or Municipally Owned Land Plots and Granted to Individuals or Legal Entities of June 4, 2019

The Guidelines specify how to determine the fee for a public easement over privately owned or state or municipally owned land plots granted to individuals or legal entities.

According to the Guidelines, the fee for a public easement is the difference between the market value of a land plot or the market value of title to a land plot before and after a public easement is established considering the land plot's use restrictions and other circumstances arising in connection with establishing the public easement and the activity which the holder of the public easement may carry out on the land plot.

Rosreestr Decree No. P/0149 of April 16, 2019 On Setting Requirements to the Format for Providing an Opinion on Whether the Developer and Project Declaration Meet the Requirements of Federal Law No. 214-FZ

The format for providing an opinion on whether the developer and project declaration meet the requirements of the laws on the participation in construction co-funding was approved on June 16, 2019.

Ministry of Construction of Russia Decree No. 300/pr On Approval of the Form of the Statement of Readiness of the Construction Project of May 24, 2019

The Decree approves the form of the statement of construction project readiness.

### Changes in public-private partnership

RF Government Resolution No. 708 On Amendments to the Rules for the Antimonopoly Authority to Grant Consent to Change of Terms of a Concession Agreement of June 3, 2019

A resolution entered into force on June 14, 2019 that amends the Rules for the Antimonopoly Authority to Grant Consent to Change of Terms of a Concession Agreement (the “**CA**”).

The amendments to the Rules made it possible to request modification of a CA's terms up to one year after it has been executed. The antimonopoly authority used to refuse to approve changes to the terms of a CA if less than a year had passed from the date of execution of the CA and to the registration date of the application by the antimonopoly authority.

The list of grounds for modifying the CA now has new grounds considering the special nature of the CA in the housing and utilities sector. However, the Rules now have a provision, which states that the list of grounds is exhaustive: the antimonopoly authority will refuse to



approve changes if they are not on the grounds specified in the Rules.

The parties to the CA must also consider that if the amount of expenses in the CA funded by the public partner to use (operate) the housing and utility sector concession agreement facility per year of the CA's term should be increased, the antimonopoly authority will refuse to approve the changes.

We also note that there are new documents on the list of documents the applicant must submit to the antimonopoly authority to approve the changes.

## **Amendments to the laws of St. Petersburg and Leningrad Region**

### **St. Petersburg Law No. 177-40 On Amendments to the St. Petersburg Law on the Delineation of Authority of the St. Petersburg State Authorities in the Regulation of Land Relations in St. Petersburg of April 22, 2019**

As of May 5, 2019 the St. Petersburg Government is vested with the authority to establish a public easement over land plots and/or lands within St. Petersburg to be used for the purposes contemplated by certain provisions of the RF Land Code (in particular, for storing construction and other materials, for siting temporary or auxiliary structures (including fencing, cabins, sheds) and/or construction equipment which are needed for the construction, reconstruction or repair of transportation infrastructure, etc.).

The St. Petersburg Legislative Assembly used to have the power to establish a public easement.

### **St. Petersburg Law No. 263-60 of June 4, 2019 On Amendments to the St. Petersburg Law On Town-Planning Activity in St. Petersburg and the St. Petersburg Law On the Procedure for Providing a Decision on Approval of the Architectural and Town-Planning Appearance of a Facility in Housing Construction**

The preparation, approval, amendment and implementation of the St. Petersburg and Leningrad Region land use planning scheme (the joint land use planning scheme) is now regulated by the St. Petersburg Law On Town-Planning Activity in St. Petersburg as of June 18, 2019. The St. Petersburg Government has the power to approve the scheme and the St. Petersburg Legislative Assembly has the power to approve it.

The Law also made it necessary to seek approval for the architectural and town-planning appearance of a

nonresidential capital structure slated for construction. The St. Petersburg Government has this authority. We note that the law previously required only approval of the architectural and town-planning appearance of housing construction.

The list of grounds for refusing to accept an application for approval of the architectural and town-planning appearance has also been expanded. In particular, the competent authority may refuse to accept an application if the area planning documents do not provide for siting of the future facility.

### **St. Petersburg Law No. 309-73 of June 13, 2019 On Territorial Economic Zones in St. Petersburg and on Amendments to the St. Petersburg Law on Strategic Planning in St. Petersburg**

A law envisioning the creation of special status areas within St. Petersburg, territorial economic zones whose boundaries must be reflected in the St. Petersburg General Plan, was enacted on June 24, 2019.

Territorial economic zone boundaries are presumably being established due to the need to eliminate the socio-economic development disparities between areas of St. Petersburg.

Separate socio-economic development purposes and objectives will be set and achieved for such zones that have socio-economic development potential. This will allow the competent authorities to regulate construction processes within these areas, in particular.

The St. Petersburg Legislative Assembly has the authority to establish socio-economic development purposes and objectives for those areas.

### **St. Petersburg Law No. 380-94 On Types of Regional Facilities to Be Reflected in the General Plan of St. Petersburg of July 11, 2019**

The Law set forth a list of planned regional facilities to be reflected in the new version of the St. Petersburg General Plan that will become effective in 2021.

### **St. Petersburg Property Relations Committee Decree No. 113-p on the Conduct of State Cadastral Valuation of June 18, 2019**

The St. Petersburg Property Relations Committee published a decree that cadastral valuation of all types of immovable property in St. Petersburg, including land plots, will be done in 2020.

The City Cadastral Valuation Department St. Petersburg State Budgetary Institution has already started to receive declarations from real estate owners of the characteristics

of those properties to collect and process the information needed to determine cadastral value.

Declarations may be submitted to the City Cadastral Valuation Department in person, electronically or by mail.

### **St. Petersburg Legislative Assembly Resolution No. 270 On Changes to the Rules of Procedure for Meetings of the St. Petersburg Legislative Assembly of May 22, 2019**

Changes were made to the Rules of Procedure for Meetings of the St. Petersburg Legislative Assembly on May 22, 2019.

Now, in addition to those already provided for, amendments may be submitted by the second reading of the draft General Plan:

- To preserve existing provisions of the St. Petersburg Territorial Planning Regulations approved as part of the St. Petersburg General Plan
- To preserve a regional facility to be sited in accordance with the approved St. Petersburg General Plan
- To resolve discrepancies with the current legislation

### **Leningrad Region State Property Management Committee Decree No. 9 On Approval of the List of Documents to Be Submitted to the Leningrad Region State Property Management Committee by a Leningrad Region State Autonomous Institution in order Decide Whether to Consent to the Disposal of Property of March 26, 2019**

The Leningrad Region State Property Management Committee approved the list of documents to be submitted by autonomous institutions to obtain consent (approval) to transactions for the disposal of property, in particular, to enter into lease agreements with applicants, and to dispose of property in other ways, including sale and entering the charter capital of a business entity.

### **Leningrad Region Government Resolution No. 168 On Approval of the Procedure for Interaction between the Leningrad Region Executive Government Authorities in Adopting and Canceling Decisions Regarding Reserving Lands for the State Needs of Leningrad Region of April 23, 2019**

The Leningrad Region Government approved a procedure for how the executive government authorities interact to adopt/cancel decisions regarding reserving lands for state needs of Leningrad Region.

We remind you that private lands are reserved for state needs, in particular, for subsequent withdrawal for construction/reconstruction of public facilities and for other purposes contemplated by federal laws.

The Resolution sets forth lists of documents for making decisions regarding the reservation of lands, time periods for reviewing and publishing them.

### **Leningrad Region Government Resolution No. 227 On Approval of the Procedure for Preparing Area Planning Documentation Prepared for Siting the Facilities Listed in parts 4, 4.1 and 5-5.2 of Article 45 of the Russian Federation Town-Planning Code on the basis of Decisions of Local Government Authorities or an Executive Government Authority of the Leningrad Region Empowered by the Leningrad Region Government to Exercise the Town-Planning Authorities of Local Government Authorities of May 20, 2019**

The Leningrad Region Government approved the Procedure for Preparing Area Planning Documentation Prepared for Siting the Local Facilities Listed in parts 4, 4.1 and 5-5.2 of Article 45 of the Russian Federation Town-Planning Code. The Leningrad Region Architecture and Town-Planning Committee is the authority competent to make decisions on preparing site planning documents.

The procedure sets forth the requirements for preparing area planning documents providing for the siting of an apartment building and rules for determining the building footprint of a building, the area of a building, the area of premises and number of floors of a building.

The procedure also contains grounds for refusing to decide to prepare area planning documents.

We note that if the time for preparing the area planning documents has expired, the initiator must get a new decision on preparing area planning documents.

### **Leningrad Region Government Resolution No. 245 On the Procedure for Approving the List of Historic Settlements of Regional Significance, what is Protected in a Historic Settlement of Regional Significance, the Boundaries of an Historic Settlement of Regional Significance and the Requirements for Town-Planning Regulations within those Boundaries of May 30, 2019**

According to the established procedure, the Leningrad Region Culture Committee has the authority to decide

whether to place a settlement on the list of historic settlements.

Information about a settlement being placed on the list of historic settlements of regional significance and approving what is protected in the historic settlement of regional significance, the boundaries of an historic settlement of regional significance and the requirements for town-planning regulations within those boundaries will be published on the Committee's official website.

We remind you that according to Federal Law No. 73-FZ On Cultural Heritage Sites (Historical and Cultural Landmarks) of the Peoples of the Russian Federation of June 25, 2002, town-planning, business and other activities conducted in an historic settlement provided the listed cultural heritage sites, identified cultural heritage sites and what is protected in the historic settlement are preserved.

[Leningrad Region Government Resolution No. 250 of June 3, 2019 On Amendments to Leningrad Region Government Resolution No. 371 of December 11, 2009 On the Procedure for Establishing and Using the Rights-of-Way and Roadsides of Regional or Intermunicipal Roads and Leningrad Region Government Resolution No. 283 of September 7, 2011 On Approval of the Regulation on the Leningrad Region Roads Committee](#)

The Procedure for Establishing and Using the Rights-of-Way of Regional or Intermunicipal Roads was brought into conformity with the federal legislation and was restated in a new version which, in particular:

- Specifies the conditions for engaging in activity within the road right-of-way and the grounds for permitting the laying, moving or rearrangement of utilities and their operation
- Sets forth the requirements for siting newly erected road service facilities within a road right-of-way

The Resolution also clarifies the powers of Lenavtodor State Public Institution in this area.

[Leningrad Region Government Resolution No. 238 of May 28, 2019 On Amendments to Leningrad Region Government Resolution No. 42 of February 22, 2007 On the Leningrad Region Committee for State Construction Supervision and State Expert Examination](#)

This Resolution expands the powers of the Leningrad Region Committee for State Construction Supervision and

State Expert Examination in state control (supervision) in the shared construction of apartment buildings.

The Committee has such powers as:

- Keeping the registry of aggrieved individuals
- Issuing reports on the degree of readiness of an apartment building and/or other immovable property. Information about issued reports is to be published in the unified housing construction information system

The Committee is also empowered to send notices of the following to Rosreestr:

- That the developer is not entitled to raise funds from shared construction participants to build (create) an apartment house
- That a developer is not performing its obligation to transfer the shared construction facility to the participant under a registered shared construction agreement
- Whether the developer meets the requirements in Federal Law no. 214-FZ On Participation in the Shared Construction of Apartment Houses and Other Immovable Properties and Amendments to Certain Legislative Acts of the Russian Federation of December 30, 2004

[Leningrad Region Committee for State Construction Supervision and State Expert Examination Decree No. 12 On Approval of the Administrative Provision for Issuing Commissioning Permits by the Leningrad Region Committee for State Construction Supervision and State Expert Examination of the State Service of June 5, 2019](#)

The Committee's decree approved the new Administrative Provision for providing the state service to issue commissioning permits. Administrative Provision No. 15 of June 17, 2011 was repealed on June 5, 2019.

[Leningrad Region Committee for State Construction Supervision and State Expert Examination Decree No. 11 On Approval of the Procedure for Organizing the Work of the Leningrad Region Committee for State Construction Supervision and State Expert Examination to Issue a Report on the Degree of Readiness of an Apartment Building and/or Other Immovable Property or Multiple Apartment Buildings and/or Other Immovable Properties](#)

## under a Single Construction Permit of June 5, 2019

The Decree regulates how a developer's statement of construction project readiness is reviewed and how the decision to issue the relevant report is made. The statement must be reviewed within not more than 15 business days.

The Decree also sets forth the procedure for appealing the actions (inaction) and decisions of officials taken or made when reviewing the statement of construction project readiness.

## Legal precedents

### Ruling No. F05-14821/2017 of the Moscow Circuit Commercial (Arbitrazh) Court of March 25, 2019 in case No. A40-241271/2016

This case considered the issue of whether it is legal and appropriate to impose administrative liability on a landlord for letting out part of the premises of a scientific production center for activity inconsistent with the land plot's permitted use of "operation of buildings and structures for scientific and production purposes," namely, for offices, cafés, retail facilities and public services.

The trial and appellate courts declared the order imposing administrative liability illegal. The reasoning for the decisions was that the building in question was being used

for its intended purpose according to the permitted use of the land plot; therefore, it was not a violation of land laws to let out part of the premises in the building while continuing to use it for the designated purpose. Having leased premises in the building located on the land plot while the building is mainly used for its designated purpose has to do with the use of the building, not the land plot.

When it reversed the lower courts' decisions the court of cassation stated that letting out part of the premises in buildings has to do not only with the issue of the use of those buildings, but also of the land plot in which they are located. Therefore, it is a violation of the law to use the premises in the building not according to the permitted use of the land plot on which they are located.

### Decision of the Moscow Commercial (Arbitrazh) Court of May 16, 2019 in case No. A40-18724/2019

The court declared that state institutions have the authority to conduct non-state expert examination in construction.

The Moscow Commercial (Arbitrazh) Court invalidated the decision rendered by the Federal Antimonopoly Service in January 2019 prohibiting state institutions doing expert examination of construction sites from handling commercial projects. Now such institutions may do non-state expert examination of design documentation and/or the results of geotechnical investigation in construction.

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