
Decree No. 72/2012/ND-CP dated September 24, 2012

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Decree No. 72/2012/ND-CP dated September 24, 2012 of the Government on management and common-use of technical infrastructure works

THE GOVERNMENT

No. 72/2012/ND-CP

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

Hanoi, September 24, 2012

DECREE

ON MANAGEMENT AND COMMON-USE OF TECHNICAL INFRASTRUCTURE WORKS

Pursuant to the Law on Government organization, of December 25, 2001;

Pursuant to the Law on telecommunication, of November 23, 2009;

Pursuant to the Law on Construction, of November 26, 2003;

Pursuant to the Law amending and supplementing a number of articles of the laws concerning capital construction investment, of June 19, 2009;

Pursuant to the Law on Urban Planning, of June 17, 2009;

At the proposal of Minister of Construction;

The Government promulgates Decree on management and common-use of technical infrastructure works,

Chapter 1.

GENERAL PROVISIONS

Article 1. Scope of regulation and Subjects of application

1. This Decree prescribes on management and common-use of urban technical infrastructure works and encourages application for outside-urban areas.

2. Organizations and individuals with operation relating to management and common-use of urban technical infrastructure works must comply with this Decree and relevant provisions of law.

Article 2. Interpretation of terms

In this Decree, the following terms shall be construed as follows:

1. *Common-use of technical infrastructure works* means arranging, installing telecommunication, power and public lighting lines, cables (hereinafter referred to as lines, cables); water supply, drainage and energy supply pipelines (hereinafter referred to as pipelines) of organizations, individuals into the technical infrastructure works used by public.

2. *Common-used of technical infrastructure works* means works constructed to arrange, install lines, cables, pipelines, including: Aerial poles; cable (conductor) poles; cable works; technical trenches and tunnels; urban roads; roadway tunnels; railway tunnels; sewers; roadway and railway bridges.

3. *The database on common-used of technical infrastructure works* includes explanation, acceptance drawings; database on equipping, information on organizations, individuals participating in management and common-use.

Article 3. Principles in management and common-use of technical infrastructure works

1. The common-used technical infrastructure works shall be determined in planning; invested, constructed under planning in order to ensure synchronism aiming to raise effective use of land resource, save costs for investment and construction, assure landscape and environment.

2. Organizations, individuals owning the common-used technical infrastructure works shall facilitate for organizations, individuals possessing lines, cables and pipelines arranged into the common-used technical infrastructure works which have been built as prescribed.

3. Organizations, individuals possessing lines, cables and pipelines installed newly shall be responsible for arrange them into the common-used technical infrastructure works which have been built.

4. Installment, arrangement of new lines, cables and pipelines into the common-used technical infrastructure works which have been built must have solutions to ensure the normal operation of the existing system.

5. Types of lines, cables and pipelines arranged, installed into the common-used technical infrastructure works must have signs for identification as prescribed in Article 11 of this Decree.

6. Management and operation of the common-used technical infrastructure works must comply with technical regulations and standards; technical provisions; assurance of safety and urban beauty, and be performed by contract specified in Article 16, Article 17 of this Decree.

Article 4. Technical regulations and standards on common-used technical infrastructure works

1. Organizations, individuals participating in activities relating to planning, design, construction of the common-used technical infrastructure works shall comply with provisions on standards, technical regulations applied for such works. If not having technical regulations and standards, it permits to apply foreign technical regulations and standards. Application of foreign technical regulations and standards must comply with provisions of law on application of technical regulations and standards for construction in Vietnam.

2. The Ministry of Construction and ministries within their functions and tasks are assigned by Government to formulate technical regulations and standards on common-used technical infrastructure works and promulgate them within their authority.

Article 5. Inspection and handling violations in management and common-use of technical infrastructure works

1. The construction state management agencies under decentralization shall inspect, detect violations in management and common-use of technical infrastructure works and handle them within their authority.

2. Organizations, individuals violate provisions on this Decree, depending on extent, shall be handle as prescribed by current law.

Article 6. Prohibited acts

1. Building the common-used technical infrastructure works without compliance of urban planning; improper performance comparing to construction license or having no construction license as prescribed.

2. Installment of lines, cables, pipelines into the common-used technical infrastructure works does not comply with provisions.

3. Obstructing participation of common-use specified in this Decree and relevant other provisions of law.

4. Violating provisions on management, use, maintain of common-used technical infrastructure works.

Chapter 2.

PLANNING AND INVESTMENT IN DEVELOPMENT OF COMMON-USED TECHNICAL INFRASTRUCTURE WORKS

Article 7. Requirements for planning

1. Urban planning must determine the common-used technical infrastructure works (direction, position and scale) in order to ensure uniformity, synchronism in management on investment and construction.

2. The general urban planning must determine direction and scale of works of cable sewers, trenches and technical tunnels in urban main road.

3. The divided-zone planning must determine direction and scale of common-used technical infrastructure works from the zone main road or more important and displayed on the typical cross-section.

4. The detail planning must determine position, quantity and scale of common-used technical infrastructure works from the level of internal road or higher-level roads and displayed on the typical cross-section.

5. For central-affiliated cities, the technical-infrastructure-specializing master plan must determine work items under fields joining in the common-used technical infrastructure works in order to ensure synchronism and serve as basic to make projects investing in works construction.

6. In master plans specified in clause 2, clause 3 and clause 4 of this Article, they must determine quantity, type of lines, cables and pipelines joining in installment into the common-used technical infrastructure works.

7. For urban areas have had approved urban master plans but without content specified in clauses 2,3,4,5 of this Article, they must be supplemented right after adjusting master plan. If an infrastructure works used for public not scheduled in the urban planning, when investing in construction of such works, it must have an agreeing opinion of the state management agency of planning in locality.

8. For existing urban areas, on the basis of surveying and assessment of the existing technical infrastructure works, to propose solutions for renewal, upgrading and new construction aiming to ensure inheritance and satisfy demand of common use on planned zones.

Article 8. Investment in construction of common-used technical infrastructure works

1. For new urban areas, new urban centers, the investor shall invest in synchronous construction of common-used technical infrastructure works under planning approved by competent authorities.

2. For existing urban areas, People's Committees of cities, towns, townships under management decentralization, must have plans in order to gradually invest in new construction, renewal, upgrading of common-used technical infrastructure works.

3. For others, to encourage investment in construction of common-used technical infrastructure works aiming to ensure connection, capacity of exploitation, advantage and safe use.

4. The state encourages economic sectors to participate in investment in construction of common-used technical infrastructure works under compatible investment forms and sets support and priority policies for organizations, individuals investing in construction of common-used technical infrastructure works.

5. The Ministry of Planning and Investment assume the prime responsibility for, and coordinate with the Ministry of Finance to guide implementation of support and preferential policies for organizations, individuals investing in construction of common-used technical infrastructure works.

Article 9. Capital sources for investment in construction of common-used technical infrastructure works

1. Capital of the State budget.

2. Credit capital guaranteed by state

3. Credit capital for investment and development of state.

4. ODA capital, foreign aids.

5. Capital from domestic and offshore investors.

6. Other lawful capital sources.

The provincial People's Committees have policies to mobilize forces in order to invest in construction of common-used technical infrastructure works in their localities.

Article 10. Ownership of the common-used technical infrastructure works

1. People's Committees of cities, towns, townships under management decentralization shall be owners of common-used technical infrastructure works including:

a) The common-used technical infrastructure works are invested from capital sources of local budget;

b) When being handed over from organizations, individuals use their capital to invest in construction of common-used technical infrastructure works after ending time limit of management and exploitation as prescribed.

2. Organizations assigned management and use of capital sources from central budget used for investment in construction of common-used technical infrastructure works shall be owner, manager and operator of common-used technical infrastructure works until handing over them for localities as prescribed.

3. Organizations, individuals investing in construction of new urban areas, new urban centers shall be owner, manager and operator of common-used technical infrastructure works until handover as prescribed.

4. Organizations, individuals shall be owners of common-used technical infrastructure works which used their capital to invest in construction until handover as prescribed.

5. Owners of common-used technical infrastructure works must comply with provisions on management and common-used technical infrastructure works promulgated by provincial People's Committees.

Chapter 3.

COMMON-USE OF TECHNICAL INFRASTRUCTURE WORKS

Article 11. Provisions on signs for identification of lines, cables and pipelines in common-used technical infrastructure works

1. Signs for identification of lines, cables and pipelines are basic information indicated uniformly by signs, colors according to provisions in order to identify, distinct each type of lines, cables and pipelines installed into the common-used technical infrastructure works.

2. The basic information of signs for identification includes owner; nature and kind of lines, cables and pipelines.

3. Units possessing lines, cables and pipelines installed into the common-used technical infrastructure works shall mark signs for identification as prescribed.

4. The Ministry of Construction assumes the prime responsibility for, and coordinates with the Ministry of Industry and Trade, the Ministry of Information and Communications to prescribe signs for identification of lines, cables and pipelines installed into common-used technical infrastructure works.

Article 12. Common-use of cable sewers, technical trenches and tunnels

1. Type of works participating on common-use of cable sewers, technical trenches and tunnels:

a) The cable -sewer common-use works include: Telecommunication, power and lighting lines, cables;

b) The technical-trench common-use works: Telecommunication, power and lighting lines, cables; water supply pipelines; energy supply pipelines;

c) The technical-tunnel common-use works: Telecommunication, power and lighting lines, cables; water supply pipelines; energy supply pipelines; drainage pipelines (if any).

2. The common-use of cable sewers, technical trenches and tunnels must comply with technical regulations and standards and ensure technical requirement according to current provisions.

3. Lines, cables, pipelines must be installed in exact position, ensure on structure and have signs for identification as prescribed, concurrently ensure convenient in course of operation and maintain management.

Article 13. Common-use of urban roads; roadway tunnels; railway tunnels; sewers; roadway and railway bridges

1. Works of lines, cables and pipelines; cable (conductor) poles; cable sewers; technical trenches and tunnels combined for common-use must be compatible with each type of urban roads; roadway tunnels; railway tunnels; sewers; roadway and railway bridges.

2. Design to construct urban roads; urban roads; roadway tunnels; railway tunnels; sewers; roadway and railway bridges must comply with planning, Regulation, technical standards and have compatible technical solutions in order to arrange, install lines, cables and pipelines.

3. Common-use of existing urban road works; urban roads; roadway tunnels; railway tunnels; sewers; roadway and railway bridges must comply with provisions of this Decree and have agreeing opinion of agencies managing works, concurrently must ensure traffic safety, works safety and urban beauty.

Article 14. Common-use of aerial pole, cable (conductor) pole

1. Type of works, equipment having common-use of aerial pole, cable (conductor) pole:

a) Equipment having common-use of aerial pole includes radio equipments;

b) Works having common-use of cable (conductor) pole include: Telecommunication, power and lighting lines, cables.

2. Common-use of aerial pole, cable (conductor) pole must ensure the load bearing, safety, urban beauty

3. Lines, cables, equipments must be installed in exact position, ensure technical requirements and have signs for identification as prescribed.

Article 15. Selection of units to manage operation of common-used technical infrastructure works

1. For common-used technical infrastructure works invested from budget capital source, selection of units to manage operation shall comply with provisions of current law.

2. Organizations, individuals used their capital to invest in common-used technical infrastructure works shall directly manager operation or hire unit to manager operation by contract on operation management specified in Article 16 of this Decree.

Article 16. Contract of operation management of common-used technical infrastructure works

1. Operation management of the following works shall be performed by contract of operation management:

- a) Aerial pole;
- b) Cable (conductor) pole;
- c) Cable sewers;
- d) Technical trenches and tunnels.

2. The Contract of operation management specified in clause 1 of this Article is signed between owner and unit managing operation of common-used technical infrastructure works.

3. The Ministry of Construction shall promulgate Form of Contract of operation management of common-used technical infrastructure works.

Article 17. Contract of common-use of technical infrastructure works operation

1. Common-use of the following works shall be performed by contract of common-use:

- a) Aerial pole;
- b) Cable (conductor) pole;
- c) Cable sewers;
- d) Technical trenches and tunnels;
- e) Roadway tunnels; railway tunnels; sewers; roadway and railway bridges.

2. The Contract of common-use specified in clause 1 of this Article is signed between owner or unit managing operation authorized by owner with organizations, individuals having demand of use.

3. The Ministry of Construction shall promulgate Form of Contract of technical infrastructure works common-use.

Article 18. Price of the common-used technical infrastructure works lease

1. Principles of defining price

a) Price of the common-used technical infrastructure works lease must be calculated exactly and fully for expenditures of investment in construction; expenditures of operation management, maintain; other expenditures as prescribed by law; in association of service quality; compatible with policy mechanism, economic- technical norms, expenditure norm promulgated by competent agencies;

b) If organizations, individuals invest in construction of common-used technical infrastructure works for business under form of leasing, the price of lease shall be determined on works, expenditures as prescribed and rational profit.

2. Basis to determine price of lease

- a) Expenditures of production, supply of services;
- b) Supply-demand relation, market price;
- c) Changes on price and policy mechanism of state;
- d) Condition of local socio-economic development.

3. Control of price of lease:

a) The Ministry of Finance assume the prime responsibility for, and coordinate with the Ministry of Construction to guide mechanism, principle to control price and method to determine price of lease; prescribe exemption, price reduction to serve for National defense and security public interest activities as prescribed by law;

b) The provincial People's Committees shall base on provisions in clause 1, clause 2 of this article and method to determine price of lease under guides of inter ministries of Construction, Finance to decide price of lease of common-used technical infrastructure works which being invested from the State budget source and apply uniformly in localities;

c) Organizations, individuals shall base on provisions in clause 1, clause 2 of this article and method to determine price of lease under guides of inter ministries of Construction, Finance to prescribe price of lease of common-used technical infrastructure works which being invested by themselves (outside of the State budget source) and agree with organizations, individuals having demand of use; and perform price registration according to provisions of law on price

management; If parties fail to agree price of lease, state competent agencies shall organize price negotiation according to provisions of law on price management.

Chapter 4.

RESPONSIBILITIES AND DUTIES OF ORGANIZATIONS, INDIVIDUALS IN MANAGEMENT AND COMMON-USE OF TECHNICAL INFRASTRUCTURE WORKS

Article 19. Responsibilities and duties of the owner

1. To organize, select units to manage operation and sign contract of common-used technical infrastructure works operation according to current provisions.
2. Directly or by authorization for unit managing operation to sign contract of use with organizations, individuals having demand of common-use of technical infrastructure works.
3. To implement rights and duties for unit managing operation; for organizations, individuals participating in common-use of technical infrastructure works under signed contracts of operation management and use contracts.
4. To make plan to renovate, repair, upgrade common-used technical infrastructure works.
5. To require unit managing operation to construct, manage the data works and supply information of common-used technical infrastructure works as prescribed in this Decree and relevant law.
6. To request the state competent agencies to consider amending and supplementing of technical regulations and standards relating to the common-used technical infrastructure works.
7. To implement report to the competent state management agencies as prescribed.

Article 20. Responsibilities and duties of the unit managing operation

1. It must have a staff of sufficient-capacity officers and workers; necessary equipment and technical devices in order to implement requirements and tasks of operation management.
2. To sign contract with organizations, individuals having demand of common-use of technical infrastructure works under authority or being authorized by the owner.
3. To implement rights and duties for the owner; for organizations, individuals participating in common-use of technical infrastructure works under signed contracts of operation management and use contracts.
4. To comply with provisions on management of common-used technical infrastructure works operation in this Decree and relevant other provision of law. To formulate, adopt in details the process on management of operation of common-used technical infrastructure works within its assigned management.
5. Periodically, to inspect, assess activities of common-used technical infrastructure works. To handle malfunction and take responsibility for reporting timely to relevant parties in order to cooperate to handle, overcome.
6. To implement and notify to relevant units to cooperate to implement plan on renovation, repairment, upgrading of common-used technical infrastructure works.
7. To build, exploit and manage the database. To periodically report on operation management to the competent agencies as prescribed.

Article 21. Responsibilities and rights of organizations, individuals participating in common-use

1. To implement rights and duties for the owner; or for unit managing operation under signed use contracts.
2. To comply with provisions on management of common-use of technical infrastructure works in this Decree and relevant other provision of law.
3. To supply information on common-used lines, cables, pipelines, equipment and being supplied relevant information of the common-used technical infrastructure works as prescribed.
4. To timely notify to unit managing operation when detecting abnormal phenomenon which is able to cause malfunction, and take responsibility to coordinate with unit managing operation, relevant units to participate in handling happening malfunction.
5. To coordinate with unit managing operation to implement dismantle, move out the technical infrastructure works which shared pipelines, lines, cables and equipment and need to be upgraded or which is fault, must be replaced.

Article 22. Responsibilities of Ministries, Ministerial agencies

1. Responsibilities of the Ministry of Construction

- a) Having responsibilities for state management on common-use of urban technical infrastructure works in whole country;
- b) Coordinating with ministries, ministerial agencies, provincial People's Committees to guide, monitor, inspect implementation of law on managing common-use of technical infrastructure works.

2. Responsibilities of Ministries, Ministerial agencies

Ministries, ministerial agencies within their tasks, powers shall coordinate with the Ministry of Construction, relevant ministries, sectors and provincial People's Committees to guide, monitor, inspect implementation of this Decree.

Article 23. Responsibilities of provincial People's Committees

1. Provincial People's Committees shall uniformly state manage on common-use of technical infrastructure works, assign tasks for specialized agencies, decentralize responsibilities for People's Committees in urban areas in localities.
2. To promulgate documents detailing management, decentralization of management and common-use of technical infrastructure works intra vires.
3. To direct combination of common-use when making plan to develop common-used technical infrastructure works in managed localities.
4. To raise investment capital from other economic sectors to participate in construction of common-used technical infrastructure works.
5. To promulgate mechanism, policy to encourage organizations, individuals being eligible as prescribed by law to participate in investment in construction, management of common-used technical infrastructure works operation.
6. To assume the prime responsibility for, and coordinate with relevant ministries, sectors to solve disputes on common-use of technical infrastructure works in localities as prescribed by law.
7. To popularize and develop implementation of legal documents providing on managing common-use of technical infrastructure works in localities.

Article 24. Responsibilities of specialized agencies in localities

1. Responsibilities of the Service of Construction
 - a) To assume the prime responsibility for, and coordinate with relevant specialized agencies to formulate documents providing on managing common-use of technical infrastructure works and submit them to provincial People's Committees for promulgation intra vires.
 - b) To summarize, store the database, supply information of common-use of technical infrastructure works; to report on managing common-use of technical infrastructure works to provincial People's Committees and the Ministry of Construction as prescribed.
 - c) To guide, inspect and handle violations relating to provisions on management of common-use of technical infrastructure works in localities intra vires.
2. Responsibilities of other specialized agencies in localities: To coordinate with Service of Construction to implement state management on common-use of technical infrastructure works under function and task assigned by provincial People's Committees.

Chapter 5.

ORGANIZATIONS OF IMPLEMENTATION

Article 25. Effect

This Decree takes effect on November 10, 2012.

Article 26. Organizations of implementation

Ministers, heads of ministerial agencies, Heads of Governmental agencies, the Presidents of People's Committees of central-affiliated cities and provinces within their tasks, powers shall organize implementation of this Decree.

**ON THE BEHALF OF GOVERNMENT
PRIME MINISTER**

Nguyen Tan Dung