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SINDH ORDINANCE NO.VI OF 1994

THE LARKANA DEVELOPMENT AUTHORITY ORDINANCE, 1994

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SINDH ORDINANCE NO.VI OF 1994

THE LARKANA DEVELOPMENT AUTHORITY ORDINANCE, 1994

[17th April, 1994]

An Ordinance to make provision of the development improvement, and beautification of the urban areas of the Larkana Division and establish an Authority for such purpose.

Preamble.

WHEREAS it is expedient to make provision for the development, Improvement and beautification of urban areas of the Larkana Division and establish an authority for such purpose.

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Sindh is pleased to make and promulgate the following Ordinance: —

CHAPTER—I
PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Larkana Development Authority Ordinance, 1994.

(2) In this Ordinance, unless there is anything repugnant in the Government may, from time to time, specify by notification.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context:—

(a) "Agency" means an agency established under section 13;

(b) "Authority" means the Larkana Development Authority under section 3;

(c) "betterment fee" means the fee levied under section 27;

(d) "budget" means an official statement of annual income and expenditure of the Authority;

(e) "Chairman" means the Chairman of the Authority;

(f) "Controlled area" means an area declared as controlled area under section 15;

(g) "Government" means the Government of Sindh;

(h) "Land" includes earth, water, air above, below or the surface of land and anything attached to the earth or permanently fastened to anything attached to the earth;

(i) "master programme" means a programme prepared under section 17;

(j) "Managing Director" means the Managing Director appointed under section 14;

(k) "member" means a member of the Authority;

(l) "prescribed" means prescribed by rules or regulations made under this Ordinance;

(m) "scheme" means a scheme prepared, taken, under or executed under this Ordinance;

(n) "service area" means an area declared as service area by the Authority under section 13;

(o) "urban area" means an area within the limits of a town municipality or city, and includes any area declared a such by Government under this Ordinance.

SINDH ORDINANCE NO.VI OF 1994

THE LARKANA DEVELOPMENT AUTHORITY ORDINANCE, 1994

CHAPTER—II
CONSTITUTION AND FUNCTIONS OF THE AUTHORITY

Authority and its incorporation.

3. (1) There shall be an Authority to be called the Larkana Development Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal with power, subject to the provision of this Ordinance to acquire and hold property, both movable and immovable and may, by the said name, sue and be sued.

(3) The headquarters of the Authority shall be at Larkana or such other place as Government may fix by notification.

Constitution of the Authority.

4. (1) The Authority shall consist of—

(a)	Commissioner of Larkana	Chairman
(b)	Director General	Member
(c)	Administrator or Mayor, as the case may be of the Larkana Municipal Corporation.	Member
(d)	A representative of the Public Health Engineering Department not below the rank of Executive Engineer.	Member
(e)	Such other non-official members not exceeding five and official members as may be appointed by Government.	Member

(2) A non-official member shall hold office for a period of three years, unless he resigns or is removed earlier.

(3) A non-official member may, at any time, resign from membership by addressing a letter to Government and his resignation shall take effect from the date on which it is accepted by Government.

(4) Government shall, by notification, remove a non-official member who has incurred any of the disqualifications mentioned in section 5.

(5) A casual vacancy in the office of non-official member shall be filled in accordance with sub-section (1) and the member appointed in such vacancy shall hold office for the unexpired portion of the term.

Disqualifications of members.

5. No person shall be or continue to be a non-official member who—

(a) is not competent to enter into a contract;

(b) is or, at any time has been, convicted of an offence involving moral turpitude;

(c) has financial interest in any project or scheme or other concern of the Authority or an interest which is, directly or indirectly, in conflict with the interest of the Authority;

(d) is for the time being disqualified for membership of an elective body under any law or rules for the time being in force.

Remuneration and privileges of non-official members.

6. Non-official members shall receive such remuneration fees and allowances and enjoy such privileges, as may be determined by Government.

Appointment and duties of the Director General.

7. (1) The Director General shall be appointed by Government on such terms and conditions as Government may determine.

(2) The Director General shall be the Chief Executive of the Authority and shall, subject to general or special directions of Government, perform such duties and exercise such powers as may be delegated to him by the Authority.

(3) Where the Director General is absent from duty for any reason, or is unable to perform the functions of his office, Government may nominate any one of the persons mentioned in sub-section (1) of section 4 to perform the duties and exercise the powers of the Director General.

Officers and other staff of the Authority.

8. The Authority may, subject to general or special orders of Government, appoint such officers, advisers, experts, consultants and employees on such terms and conditions as it may deem fit for efficient performance of its functions.

Functions of the Authority.

9. (1) Subject to the general of special directions of Government, the Authority shall—

(i) be responsible for over all development, improvement and beautification of the controlled areas in Larkana Division;

(ii) formulate, implement and enforce schemes;

(iii) provide, develop, operate, and maintain public works relating to water supply, drainage, sewerage and disposal of solid waste;

(iv) act as development agency of the Federal and Provincial Government or any local authority or autonomous body;

(v) collaborate with the Federal or Provincial, public or private agencies engaged in development activities;

(vi) co-ordinate the development activities of various agencies;

(vii) provide technical guidance including technical services and personnel for development and co-ordination of development activities;

(viii) render financial assistance for schemes relating to development, improvement and beautification of the area within its jurisdiction;

(ix) undertake the execution of schemes entrusted to it by the Federal of Provincial Government or any local authority or autonomous body;

(x) undertake research in urban planning and development;

(xi) prescribed procedure and lay down standards for development;

(xii) compile literature on planning and development and distribute such literature amongst the persons and agencies engaged or interested in development works;

(xiii) arrange and conduct training programmes and seminars on planning and development;

(xiv) promote professional organizations for planning and development work; and

(xv) perform such other functions as may be assigned to it by Government.

(2) The Authority may—

(i) take such measures and exercise such powers as may be necessary for carrying out the purposes of this Act;

(ii) acquire permanently or requisition temporarily property, movable or immovable;

(iii) dispose and land or other property vested in it by sale, lease, exchange or otherwise;

(iv) undertake any works in pursuance of any scheme or otherwise entrusted to it or brought under its control;

(v) incur any expenditures for carrying out the purposes of this Ordinance;

(vi) procure plant, machinery, instruments or material required for its use;

(vii) enter into and perform all such contracts as it may consider necessary;

(viii) cause removal of any obstruction in execution of any work or scheme;

(ix) issue inter in orders for development pending preparation of a scheme;

(x) restrict or prohibit by general or special order, any change in use of land and alteration of any building, structure or installation;

(xi) cause any building, structure or installation to be dismantled or removed;

(xii) require any person or body of persons or agency engaged in development work to furnish any information, record, report or plan relating to matter under this Ordinance;

(xiii) make inspection of any development project under execution or about to be undertaken together with record thereof;

(xiv) require any person or body of persons or agency concerned with any development project, programme or scheme to obtain its prior permission for under taking any specified action in respect of such project, programme or scheme;

(xv) direct or, as the case may be, advise any person or body of persons or agency concerned with any development project, programme or scheme to do or omit to do any thing in relation to such project, programme or scheme, and hold consultation with and seek advice or assistance from any person or body of persons or agency engaged in development work in relation to preparation or execution of any scheme and such person or body of person agency shall give the advice and assistance sought by the Authority to the best of his or its ability knowledge and judgment and the expenditure if any involved in giving such advice or assistance shall be borne by the Authority.

(3) If in exercise of power by the Authority under sub-section (2), any dispute arises between the Authority and any person or body or persons or agency, it shall be referred to and decided by such person or authority as may be appointed by Government in this behalf and the decision given by such person or authority shall be final: provided that Government may, on its own initiative or on motion by any person or body of persons or agency involved in the dispute, alter or modify such decision.

Meeting of the Authority.

10. (1) Any matter required to be decided by the Authority shall be decided in a meeting of the Authority by vote of majority of the members present in such meeting.

(2) Each member shall have one vote; provided that in case of a tie, the Chairman shall exercise a casting vote.

(3) One-third of the total members shall form a quorum for a meeting of the Authority.

(4) The authority shall meet at such place and time and in such manner as it may prescribe.

Constitution of Committee.

11. The Authority may, constitute committees such as Financial Committee, Technical Committee, Advisory Committee or such other Committee for carrying out the purposes of this Ordinance.

Delegation of Powers.

12. The Authority may, by general or special order, and subject to such conditions as it may impose, delegate any of its powers, functions and duties, to the Chairman or member or any committee or the Director General or any other officer or employee or adviser, expert or consultant.

Establishment of Agency.

13. (1) Government may, by notification, declare any area as service area.

(2) The Authority may, and if so ordered by Government shall, establish an Agency consisting of one or more persons for a service area.

(3) The Agency shall perform such functions, provide such services and exercise such powers of the Authority as may be delegated to it by the Authority.

Appointment and powers of Managing Director.

14. (1) Where an Agency is established under section 13, the Authority shall, with prior approval of Government, and on such terms and conditions as may be determined by Government, appoint a Managing Director.

(2) The Managing Director shall be the Chief Executive of the Agency and shall perform functions and exercise such powers as may from time to time, be entrusted to him by the Agency.

DECLARATION OF CONTROLLED AREA AND PREPARATION OF MASTER PROGRAMMES AND SCHEME AND THEIR EXECUTION

Declaration of controlled area.

15. The Authority may, by notification, declare any area to be a controlled area and issue such directions and do such things as may be necessary for the prevention of haphazard growth encroachments, unauthorized constructions or operations in such area.

Erection or re-erecting of building.

16. (1) No person shall, within the controlled area, erect or re-erect by building, make any material alteration in, or addition to, any existing building or construct or reconstruct any projecting portion thereof save with the permission of the Authority.

(2) The permission under sub-section (1) shall be granted in such manner and on such terms and conditions as may be prescribed and shall be valid for one year: provided that it may be renewed for such further period as the Authority may deem fit in the circumstances justifying such renewal.

(3) A person who makes or extends any excavating, erects or re-erects any building, or makes any material external alternation in or addition to any existing building or constructs or re-constructs any projecting portion of building, within a controlled area shall, within two months of the completion of such work intimate the Authority in writing about such completion.

(4) The Authority may, on receipt of the intimation under sub-section (3), authorize an officer or any other person to inspect such work and after such inspection pass such order as it may deem fit.

(5) Where any person contravenes the provisions of sub-section (1) or sub-section (3) or order passed under sub-section (4), the Authority may take such measures as may be necessary to enforce such provisions or order and the expenditure incurred on such enforcement shall be recovered from the person concerned.

Master Programmes.

17. (1) The Authority shall, as soon as may be, prepare Master programme for development, improvement, expansion and beautification of such urban areas as in its opinion or in the opinion of Government need to be developed, improved, expanded and beautified and submit such programme for approval of Government.

(2) Government may approve the aforesaid programme in its original shape or with such modifications as it deem fit.

Schemes.

18. (1) The Authority may, and if directed by Government shall, prepare specific scheme or schemes for a controlled area or part thereof in such form and such manner as may be prescribed.

(2) The Authority may, on the request of any local Council, Government agency, society or any person or body of persons, assist in preparation of, or cause to be prepared, any scheme on such terms and conditions as may be mutually settled between them.

(3) The scheme under this section may relate to:—

(a) Land use and land reservation;

(b) Zoning;

(c) Community planning, housing, re-housing and slum clearance and amelioration;

(d) Public buildings, including schools colleges libraries, museums, community centres, hospitals charitable institutions, mosques, markets and musafirkhanas;

(e) Streets and roads;

(f) Water supply, drainage, sewerage and sewage disposal;

(g) Parks, gardens play-grounds grave-yards and open spaces used for public gathering or any other public purposes;

(h) Community facilities including supply of electricity and gas;

(i) Preservation of objects or places of historical or scientific interest or natural beauty;

(j) Public transport and communication system;

(k) Commercial and industrial enclaves;

(l) Removal of hazards to life and property of citizens;

(m) Utilization of natural resources;

(n) Any subject or matter concerning public.

(4) Such schemes shall, among other things contain: -

(a) description of the scheme and the manner of its execution;

(b) estimate of cost and allocation thereof to various purposes to be served by the schemes;

(c) benefits of the schemes;

(d) public or private property or such interest affected by the scheme and the proposal to deal with such property or interest.

Publication of Schemes.

19. Every scheme prepared by the Authority shall be published in the official Gazette and local daily newspapers, one in English and one each in Urdu and Sindhi for inviting objections and suggestions thereon, within thirty days of the publication of the scheme.

Sanction of Schemes.

20. (1) The Authority shall, after considering the objections and suggestions, if any, under section 19 and hearing the persons making such objections and suggestions if the Authority considers such hearing necessary, sanction or modify or withdraw the scheme if the cost thereof does not exceed ten lacs of rupees and no loan or grant is required therefore from Government and submit other schemes with its recommendations to Government.

(2) Government may, after hearing such persons whose objections or suggestions are not accepted by the Authority, if it considers such hearing necessary, sanction the scheme with or without modification, or refuse to sanction it, or return it for reconsideration, or call for such further details or information about the scheme or direct such further examination as it deems fit.

(3) Where Government or, as the case may be, the Authority has sanctioned a scheme, the order of Government or the Authority sanctioning such scheme shall be published in the official Gazette and thereafter it shall be lawful for the Authority to undertake the execution of such scheme.

Transfer and entrustment of various Schemes to the Authority.

21. (1) Government may, on such terms and conditions as may be determined by Government, transfer to the Authority any scheme sanctioned or undertaken by Government or any local council or Government agency and place at the disposal of the Authority any funds and properties movable or immovable, connected with or ancillary or appurtenant to such scheme and thereafter it shall be lawful for the Authority to undertake the execution of such scheme.

(2) It shall be lawful for the Authority to undertake any works or execution of any scheme as may be entrusted to it by the Federal Government agency, society, person or body of persons on such terms and between the Authority and the Federal Government.

(3) The Authority may, on request of any local council, Government agency, society or any person or body of persons undertake any work or execution of any scheme entrusted to it by such local council, Government agency, society, person or body of persons on such terms and conditions as may be mutually settled between them.

Entrustment of schemes of the Authority.

22. The Authority may, with the approval of Government, entrust the execution of any scheme providing for any amenities in the area of any scheme or the maintenance of any works or services to any person, body of persons, firm or company on such terms and conditions as may be mutually settled between the Authority and such person, body of persons, firm or company within the scope of the terms and conditions as may be prescribed.

Alteration of schemes.

23. (1) At any time after sanctioning of any scheme by Government or Authority but before its completion, the Authority may alter it, with the approval of Government, if by the alteration the cost of the execution of the scheme is likely to increase by more than ten percent of such cost or fifty thousand rupees and without approval of Government, if by such alteration, the cost of the execution of the scheme is not likely to exceed such limits.

(2) If the alteration under sub-section (1) involves acquisition, otherwise than by agreement, of any manner, adversely affects any property or interest of any local council, Government agency, society, person or body of persons, the procedure laid down in sections 19 and 20 shall be followed for sanctioning of the alteration.

Power of Authority to issue direction to Government agency, local council etc.

24. (1) The Authority may, with the approval of Government, require a Government agency or local council within whose jurisdiction any scheme sanctioned by Government is to be executed:

(a) to execute such scheme or part thereof in consultation with and under the direction of the Authority;

(b) to take over and maintain any of the works or services or provide any amenities which in the opinion of the Authority ought to be provided in the area of such scheme;

(c) to enforce regulations on behalf of the Authority.

(2) The expenditure incurred on the execution of any scheme, or on the taking-over or maintenance of any works or services, or providing any amenities or the enforcement of the regulations under sub-section (1), shall be borne as may mutually be agreed upon between the Authority and in the event of disagreement, as may be determined by Government.

Funds for Scheme.

25. (1) The Authority may, with prior consent of Government, raise funds from time to time for meeting the cost of execution of the scheme including the schemes to be executed and works to be maintained by any agency by levying rates, fees and other charges.

(2) The rates, fees and other charges shall be levied and collected in such manner and in accordance with such procedure as may be prescribed.

(3) The funds raised by imposing rates, fees and other charges shall be spent on such scheme, works and projects and in such manner as the Authority may, with approval of Government, direct.

Schemes to be deemed for public purposes.

26. All schemes framed under this Act, and operate by or on behalf of the Authority shall be deemed to be the scheme for public purpose.

Betterment fee.

27. (1) Where the Authority is of the opinion that in consequence of the execution of any scheme, the value of any property has increased or will increase, it may levy upon such property a betterment fee and collect the same from the owner thereof or any person in possession thereof or having interest therein.

(2) The betterment fee shall be levied and collected at such rate, not being more than half of the amount by which the value of the property on the completion of the execution of the scheme, exceeds the value of the property prior to such execution, as the Authority may determine.

(3) When it appears to the Authority that any scheme is sufficiently advanced to enable the determination of the betterment fee, the Authority may, by an order made in this behalf declare, for the purpose of levying the betterment fee, the execution of the scheme to be deemed to have been completed and thereupon give notice in writing to the owner of the property or any person in possession thereof or having interest therein that the authority proposes to determine the betterment fee in respect of such property.

(4) The Authority shall at the expiry of fifteen days after the services of the notice under sub-section (3), or if any representation is made against the determination of betterment fee, after rejection of such representation proceed to levy and collect the betterment fee in such manner and in accordance with such procedure as may prescribed.

Removal or demolition of building.

28. (1) If the Authority is of the opinion that for the purpose of execution of a scheme it is necessary to remove or demolish any building it may order such building to be removed or demolished.

Provided that such removal or demolition shall not be ordered unless an opportunity of being heard is given to the owner or occupier of such building.

(2) If any building is ordered to be removed or demolished under sub-section (1), they shall be paid compensation, the amount of which shall be determined in accordance with the provisions relating to acquisition of land under this Ordinance.

Removal of encroachments.

29. If the Authority is of the opinion that for the purpose of execution of a scheme it is necessary to remove any encroachment made on any land or building it shall proceed to have such encroachment removed in accordance with the law for the time being in force for removal of encroachments, as if the land or building from which the encroachment is to be removed belongs to Authority.

Taking over of streets, open spaces etc.

30. (1) Whenever any street, road, drain, open space in needed for execution of any scheme, the Authority shall cause to be fixed in conspicuous place in or near such street, road, drain, or space a notice signed by the Chairman or some other person authorised by him stating the purpose for which the street, road, drain or space is needed and declaring that on or after the date as may be specified in the notice, the Authority will take over such street, road, drain or space, and a copy of such notice shall also be sent to the owner of the street, road, drain or space, at his or its last known address.

(2) The Authority may, after considering objections, if any, received before the date specified in the notice under sub-section (1), take over the charge of the street, road, drain or open space and issue any direction or make any order as to closure or otherwise of such street, road, drain or space.

(3) The Authority shall pay to the owner of the street, road, drain or open space such compensation for any loss or damage caused thereto as may be determined by a person or officer appointed in this behalf by the Authority.

Authority competent to exercise functions of a local council.

31. Government may, by notification, direct that the Authority shall, notwithstanding anything contained in any law for the time being in force, be competent to exercise powers and perform functions of a local council or Government agency within the controlled area.

CHAPTER____IV
ACQUISITION OF PROPERTY

Purchase, lese or exchange of property.

32. The Authority may, by purchase, lease or exchange, acquire any land or building or any other movable or immovable property or any interest therein by entering in to an agreement with the owner therefore a person legally competent to sell, lease out or exchange such land, building or property.

Acquisition of land.

33. Where the Authority is of the opinion that any land needed for any scheme or other public purpose cannot be acquired under section 32, it may require the Collector within whose jurisdiction the land is situated to acquire such land in accordance with the provisions of this chapter.

Marking of land.

34. On receipt of the direction from the Authority under section 33, the Collector shall cause the land (unless it has already been marked out) to be marked out and measured, and if no plan has been made thereof, a plan to be made.

Public notice to given.

35. (1) The Collector shall cause public notice to be give at conspicuous place on or near the land to be acquired, stating therein that the land is be acquired, for any scheme or, as the case may be, for other public purpose by the Authority.

(2) The notice under sub-section (1) shall state the particulars of the land and shall call upon all persons interested in the land to appear personally or by agent and file their claims of Compensation for their respective interest in such land, together with their objections, if any to the measurements made under section 34, to the Collector on such date not earlier than ten days from the date of publication of the notice and at such time and place as may be mentioned in the notice.

(3) The Collector shall also cause similar notice to be served on the occupier, if any, of such land on all such persons known or believed to interested therein, or to be entitled to act for persons so interested.

(4) No construction or development of any kind shall be undertaken on the land in respect of which notice under sub-section (1) is given without prior approval of Authority.

(5) Any structure built after the notice under sub-section (1) and without obtaining prior sanction of the Authority shall be removed after notice to and at the cost of the person responsible for raising such structure.

Enquiry and award.

36. (1) On the day fixed under section 35 or any other day to which the proceedings are adjourned, the Collector shall proceed to enquire into the objections, if any filed under section 35, market value of the land and the respective interests of the persons claiming compensation.

(2) The Collector shall make an award of the true area of the land, compensation allowed therefore and the apportionment of such compensation among all the persons known or believed to have interest therein whether or not they have appeared before him.

Factors for determining of compensation.

37. (1) The Collector shall, for purpose of determining the compensation under section 36, take into consideration: -

(i) The market value to be determined on the basis of the average sale price of two years preceding the date of notice under section 35, of land similarly situated and put to similar use;

(ii) The damage sustained by the persons having interest in the land by reason of dis-possession of any standing crops or trees thereon;

(iii) The damage sustained by the persons having interest in the land by reason of the severing of such land from their other land;

(iv) The damage sustained by the persons having interest in the land by reason of the acquisition of such land injuriously affecting their other movable or immovable property or any other source of income;

(v) The reasonable expenses to be incurred by the persons having interest in the land due to change of their residence or place of business in consequence of the acquisition of the land.

(2) In determining the compensation as aforesaid, the Collector shall not take into consideration:-

(i) the urgency has led to the acquisition of the land.

(ii) the dis-inclination of the persons having interest in the land to part with such land.

(iii) the damage sustained be the persons having interest in the land which, if caused by a private person would not render such person liable to legal action.

(iv) any increase in value of the land likely to accrue by the use for which such land is acquired.

(v) any increase in the value of the other land of the person having interest in the land to be acquired, likely to accrue by the use for which the land last mentioned is acquired.

38. The compensation may be paid in the form of cash or in the form of developed site or in both the forms in such manner as may be prescribed.

Possess and vesting of land.

39. (1) When the Collector has made an award under section 36, he may, if the parties have accepted award, within a period of fifteen days from the date of the announcement of the award take possession of the land whereupon the land shall vest in the Authority free from all encumbrances.

(2) In case of urgency the Collector, if so directed by the Authority, may, immediately after the publication of the notice under section 35, enter upon and take possession of the land which shall thereupon vest in the Authority free from all encumbrances:

Provided that the Collector shall not take possession of the land before the expiry of twenty four hours of such longer period as Collector thinks necessary after the notice in writing is served on the occupier of the land.

Owner of Collector to obtain information.

40. The Collector, may, for the purpose of acquiring any land or determining any compensation therefore, require any person, by order in writing, to furnish such information in his possession relating to any land specified in the order, or enter or authorize any person to enter upon any land and take such action as may be necessary.

Surveying, leveling, marking etc. of land.

41. It shall be lawful for the Authority or its Chairman or member or the Collector or any other person authorized by the Authority in this behalf:-

(a) to enter upon and survey and take levels of any land;

(b) to dig or bore into the sub-oil;

(c) To do all other acts necessary to ascertain whether the land is adept for the purposes of this Ordinance;

(d) To set out the boundaries of the land proposed to be acquired and the intended line of the work, if any, proposed to be made thereon;

(e) To mark such levels, boundaries and lines by placing marks and cutting trenches: and;

(f) Where it is necessary for the purposes of survey, taking of levels or marking of lines, to cut down and clear away and part of any standing crop, fence and jungle;

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house, unless the occupier thereof consents to his entry, without previously giving such occupier at least twenty four hours notice in writing of his intention to do so.

Compensation or damages.

42. Where any damage is caused to any land in consequence of anything done under section 34 and 41, the owner of the land or the person having interest therein shall be paid such compensation as may be fixed: -

(a) by agreement between the Authority or the Collector on its behalf and the owner of or the person having interest in land;

(b) where no agreement under clause (a) can be reached, by the Collector, but in no case be less than the actual damage suffered by the owner or the person having interest in the land.

Directions to Collector by Government.

43. Government may give directions to the Collector as regards exercise of his powers and discharge of his functions under this Chapter and the Collector shall be guided by, and act in accordance with, such direction.

Appeal.

44. (1) The Authority or any person aggrieved by an award of the Collector may, within one month of such award or if the aggrieved party had no intimation of the award, within six weeks of the announcement of the award, prefer to the Commissioner.

(2) The Commissioner may, after giving the parties and opportunity of being heard, make such order as he deems fit.

(3) The order of the Commissioner under sub-section (2) shall be final and shall not be called in question in any Court.

Review.

45. The Collector or the Commissioner may, either on his own motion or on an application made in this behalf by any party interested in the award, at any time review the order made by him or his predecessor in so far as it is inconsistent with any other law or relate or arithmetical, clerical or patent error or mistake.

Wrong or excess payment of compensation on.

46. If any person has, by fraud or through misrepresentation, received any compensation or any amount in excess of the compensation, which is nor due to him, the Collector shall call upon such person to refund such amount and in case of default, the same shall be recoverable as arrears of land revenue.

Dropping of proceedings.

47. If the Authority at any time before taking possession of the land decides not to acquire the land, such intimation shall be conveyed to the Collector or, as the case may be to the Commissioner whereupon proceedings relating to acquisition of such land or appeal arising therefrom shall be dropped.

Civil Court's powers to Collector and Commissioner.

48. The Collector and the Commissioner exercising powers under this Chapter shall have the powers of Civil Court under the Code of Civil Procedure, 1908 for—

(a) Summoning and enforcing of attendance of any person, and examining him on oath;

(b) requiring the discovery and production of any document;

(c) summoning any record from any Court or Office;

(d) issuing commissions for examination of witness, inspection of property or making any legal investigation;

(e) appointing guardian and item or next friend;

(f) adding or substituting representatives of the deceased parties to the proceedings;

(g) adding or dropping parties from pending proceeding;

(h) dismissal in default of appearance and restoration of cases dismissed in default;

(i) consolidating and splitting up of cases; and

(j) hearing of appeal.

No stamp duty or court fee payable.

49. (1) No stamp duty shall be payable on award made under this Ordinance.

(2) No court fee shall be payable for obtaining a copy of the award.

Restoration of land.

50. (1) If any land acquired by the Authority under this Chapter is not required for the purpose for which it was acquired or for execution of any scheme all or any of the persons from whom the land was acquired may make an application to the Authority for restoration of the land.

(2) The Authority may, on payment of any consideration, as may be fixed by it, restore the land to the applicant.

CHAPTER____V
FINANCES

Funds of the Authority.

51. (1) There shall be a separate fund known as the Larkana Development Authority Fund which shall vest in the Authority.

(2) The fund shall consist of: —

(a) grants made by Government;

(b) grants made by local councils;

(c) loans raised or obtained by the Authority;

(d) sale proceeds of movable or immovable properties;

(e) all moneys received from the Federal Government or any international Agency;

(f) all fees, receipts and charges received under this Ordinance;

(g) moneys received for utilization or services by any agency;

(h) proceeds of self financing schemes; and

(i) all other sums receivable by the Authority.

(3) There shall be a separate account of each agency in respect of the moneys received under clause (g) of sub-section (2).

(4) The amount credited in the fund shall be deposited with the State Bank or its agency or with the approval of Government, with any scheduled bank.

(5) The Authority may, invest its funds in any security of the Federal Government or any Provincial Government or any other security approved by Government.

(6) The Authority may, with the approval of Government, raise funds by issuing bonds or debentures for financing any scheme, work or project or for such other purpose.

(7) The Authority may obtain loan from Government or any bank on such terms and conditions as may be specified by Government.

Utilization of funds.

52. (1) The Authority may utilize the fund for:—

(a) meeting charges is connection with its functions under the Ordinance including payment of salaries and other remuneration of the Chairman, Members, Officers including Director General and Managing Directors, servants, experts, consultants and other employees of the Authority and the agencies;

(b) incurring expenditure on execution of any scheme or work authorized by or under this Ordinance;

(c) payment of compensation for any land acquired under this Ordinance;

(d) repayment of loans and interest thereon;

(e) other expenses required for carrying out the purposes of this Ordinance.

(2) The moneys received under clause (g) of sub-section (2) of section 51 shall exclusively be utilized for the purposes of the agency for which such moneys are received.

Sinking fund.

53. (1) The Authority may, and if directed by Government shall, establish a sinking fund for the payment of any loan obtained by the Authority and shall pay into that fund such sums as will, with accumulations of interest be sufficient to repay the loan.

(2) The sinking fund may be utilized for carrying out any purposes under this Ordinance, after the repayment of the loan for which such fund is established.

(3) Every year the sinking fund shall be examined by the Accountant-General, and if he certifies that assists of the fund fall short of the limit at which the assets would have been normally kept, the Authority shall pay into the fund the amount equivalent to the certified shortage.

(4) If any dispute arises between the Authority and the Accountant-General as to the accuracy of any certificate under sub-section (3), the Authority may after making the referred to in the that sub-section, refer the matter to Government for decision.

Budget.

54. (1) The Authority shall prepare a statement of estimated receipts and expenditure for every financial year and submit such statement to the Government for approval six months before the commencement of such financial year.

(2) The estimated receipts and expenditure in respect of each agency shall be shown under a separate had in the statement under sub-section (1).

(3) Government may sanction the budget submitted under sub-section (1), or make such modifications as it deems fit.

(4) If the budget duly sanctioned by Government is not received before the commencement of the financial year, it shall be deemed to have been sanctioned by Government.

(5) The Authority shall not, except with the prior approval of Government, incur expenditure in excess of the sanctioned budget.

Maintenance of Accounts.

55. (1) The accounts of Authority and an Agency shall be maintained in such form and in such manner as may be prescribed.

(2) Notwithstanding anything contained in this Ordinance, if any audited by not less than two Chartered Accountants.

(3) A statement of accounts duly audited by the auditors under sub-section (2), shall be furnished to Government, as soon as may be, after the end of every financial year.

(4) Government may authorize the Account General to conduct the test or other audit of the Accounts submitted under sub-section (3), on such terms and conditions as Government may determine.

CHAPTER____VI
WATER SUPPLY

Supply of Water to Government agency.

56. (1) The Authority may supply to a Government agency, such quantity of water at such rate and subject to such terms and conditions as may be agreed upon between the Authority and the Government agency or in the case of dis-agreement between them as may be determined by Government within the limits of water resources available with the Authority.

(2) Notwithstanding any thing contained in this Ordinance, if any Government within the limits of water resources available with the Authority, within one month of the receipt of notice for payment thereof, such sum shall be recoverable from the Government agency in the manner as may be prescribed.

Supply of water outside municipal limits.

57. The Authority may, subject to the availability of water, supply water to the consumers living outside the municipal limits.

Placement and maintenance of mains etc.

58. (1) The Authority or any person authorized by it shall have right to place and maintain aqueducts conduits and lines of mains, sewers or pipes over, under along or across any immovable property without acquiring such property, and to enter on such property for the purpose of examining, repairing, altering or removing and aqueducts, conduits or lines of mains, sewers or pipes:

Provided that the Authority shall not, except as otherwise required under this Ordinance, acquire any right other than the right as aforesaid.

(2) The right conferred by sub-section (1) shall not be exercisable in respect of any property vested in our under the control or management of the Federal Government or any Provincial Government or any local authority of Railway Administration save with the prior permission of such Government or local authority or Railway Administration provided that such permission shall not be necessary if any repair, replacement, removal or improvement in connection with water and sanitation works is required to be made urgently in order to maintain the supply of water without interruption or for averting danger to human life or property.

(3) The Authority or any person authorized by it shall, while exercising the right under this section, cause as little damage and inconvenience as possible and if any damage or inconvenience is actually caused, a reasonable compensation as may be determined by the Authority or by a person appointed by it in this behalf shall be paid for such damages or inconvenience.

Offence relating to Water supply and drainage.

59. Where any person—

(a) willfully obstructs the setting out of any line or any works, or pulls up or removes any pillar, post or stake fixed in the ground for the purpose of setting out the line of such works, or defaces or destroys and works made for that purpose; or

(b) willfully or negligently breaks, injures or opens any lock, dock, valve, pipe or other works belonging to the Authority; or

(c) willfully obstructs the flow of, or flushes, draws off, diverts or takes, water from any water works belonging to the Authority, or any source of water which feeds such water words; or

(d) unlawfully breaks or damages and electrical transmission lines maintained by the Authority; or

(e) obstructs any officer or servant of the Authority in the discharge of his duties under this Ordinance or refuses or willfully neglects to furnish him upon his request with the means necessary for making any entry, inspection, examination, or inquiry thereunder in relation to any water works; or

(f) bathes in at or upon any water works or washes, throws or causes to enter therein any animals or throws any rubbish or other offensive matter into any water works or washes or clean therein any cloth, wool, leather or skin or any animal or causes the water of any sink, sewer or drain or any steam engine or boiler or any other dirty water to return or be brought into any water works, or does any other act whereby the water in any water works is fouled or likely to be fouled;

he shall be punished with imprisonment it either description for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

SINDH ORDINANCE NO.VI OF 1994

THE LARKANA DEVELOPMENT AUTHORITY ORDINANCE, 1994

CHAPTER____VII
MISCELLANEOUS

Erection construction or use of Building etc. incontravent of the ordinance.

60. (1) If any building, structure, work or land is erected, constructed or used contravention of the provisions of this Ordinance, or of any rule, regulation or order made thereunder, the Deputy Commissioner, or any person authorized him or the Authority in this behalf, may by order in writing, require the owner, occupier, user or person in control of such building, structure, work or land to remove, demolish or alter the building, structure or work or to use it in such manner so as to bring such erection construction or use, in accordance with the said provisions of this Ordinance.

(2) If any order under sub-section (1) in respect of any building, structure, work or land is not complied with, Within such time as may be him or the Authority in this behalf may, after giving the persons affected by the order, an opportunity of being heard, remove demolish or alter the building, structure or work, or stop the use of the land and, in so doing, may use such force as may be necessary and may also recover the cost thereof, from the person responsible for the erection, construction or use of, the building structure, work or land in contravention of the provisions as aforesaid.

Conversion of property to different use.

61. Any conversion of property to a use or purpose other that the one provided under a scheme, by a person or agency, without the previous approval of the Authority in writing, shall be punishable with a fine which may extend, to one hundred rupees per day from the date of its conversion till the default continues or with imprisonment for the terms which may extend to one year, or with both.

Chairman members etc to be public servants.

62. The Chairman, members, officers including Director General and Managing Director and all other employees of the Authority and an Agency shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

Report of activities.

63. The Authority shall, at the close of every calendar year, prepare a report of its activities during that year and submit such report to Government in such from and on or before such date as may be prescribed.

Transfer of assets and liabilities and power of local council to the Authority.

64. On coming into force of this Ordinance: -

(i) all powers and functions of a local council, local authority or body, Government agency or other Organization or institution in respect of formulation sanction and execution of a scheme or in respect of providing, operating and maintaining services such as water supply, sewerage and drainage or such other service within the controlled area or part thereof, shall be exercised and performed by the Authority.

(ii) all properties, assets and liabilities of a local authority or body or Government agency organization or institution attached to or connected with or incidental to any scheme or service as aforesaid, shall stand transferred to and be deemed to be the property, assets and liabilities of the Authority.

(iii) the employees of a local council or body or Government agency, organization or institution in relation to scheme, work or service as aforesaid shall stand transferred to the Authority on the same terms and conditions as were admissible to them under such local authority.

Recovery of dues.

65. Any sum due to the Authority or an Agency or wrongly paid by the Authority or an Agency under this Ordinance, shall be recoverable as arrears of land revenue.

Jurisdiction barred.

66. (1) No Court shall have Jurisdiction to grant any injunction or make any order or entertain any proceedings in relation to anything done or intended to be done under this Ordinance.

(2) No act done or proceedings taken or order passed under this Ordinance, shall be rendered invalid merely on the ground of.

(a) any vacancy in the Authority or any committee or any defect in the constitution thereof;

(b) non-service of notice on any person where substantial justice has been done; and

(c) any omission, defect or irregularity not affecting the merits of any case.

Indemnity.

67. No suit or legal proceedings shall lie against Government, Authority, Agency or any other person in respect of anything done or intended to be done under this Ordinance.

Overriding Provisions.

68. The provisions contained in this Ordinance, and the rules and regulations thereunder shall have effect not withstanding anything contained in any other law, rules or regulations.

Power to make rules.

69. Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Ordinance.

Power to make regulation.

70. (1) Subject to the provisions of this Ordinance and the rules, the Authority may, by notification in the official Gazette, and with previous approval in writing of Government, make regulations for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(i) the meeting of the Authority;

(ii) conduct of business in such meeting;

(iii) terms and conditions of service of officers and staff of the Authority and Agency; and

(iv) any other matter required by the provisions of this Ordinance to be provided by regulations.

71. Government may, by notification in the official Gazette, declare that the Authority shall be dis-solved on and from such date as may be specified and on such dissolution of the Authority all properties, funds and other assets shall vest in and be realizable by Government or by such other authority, body or agency as Government may specify. **Dis-solution of the Authority.**

72. The Town improvement Act, 1922, in its application to Larkana Division is hereby repealed. **Repeal.**