

**THE <sup>1</sup>[KHYBER PAKHTUNKHWA] HIGHWAYS ORDINANCE, 1959.**

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<sup>1</sup>. For the words “West Pakistan” the words “North-West Frontier Province”, Subs. by Khyber Pakhtunkhwa OrdNo.X of 1984 and then Subs vide Khyber Pakhtunkhwa Act No.IV of 2011.

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<sup>1</sup>[SCHEDULE]

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<sup>1</sup>. The Schedule added vide Khyber Pakhtunkhwa Ordinance No.X of 1984.

**THE <sup>1</sup>[KHYBER PAKHTUNKHWA] HIGHWAYS ORDINANCE, 1959.**

**(KHYBER PAKHTUNKHWA ORDINANCE NO. XXXII OF 1959)**

**[23<sup>rd</sup>May, 1959]**

**AN  
ORDINANCE**

*to consolidate and amend the law relating to highways in the Province of <sup>2</sup>[Khyber Pakhtunkhwa].*

**WHEREAS** it is expedient to consolidate and amend the law relating to highways in the Province of <sup>3</sup>[Khyber Pakhtunkhwa]. Preamble.

**NOW, THEREFORE**, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:-

**CHAPTER-I  
PRELIMINARY**

1. (1) This Ordinance may be called the <sup>4</sup>[Khyber Pakhtunkhwa] Highways Ordinance, 1959. Short title and extent.

(2) It shall extend to the whole of the <sup>5</sup>[Province of Khyber Pakhtunkhwa] except the <sup>6</sup>[Tribal Areas.]

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings here by respectively assigned to them, that is to say – Definitions.

(a) “animal” includes any elephant, camel, horse, ass, mule and cattle.

(b) “Government” means the Government of <sup>7</sup>[Khyber Pakhtunkhwa].

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<sup>1</sup>. For the words “West Pakistan” the words “North-West Frontier Province”, subs. by Khyber Pakhtunkhwa Ord. No. X of 1984 and then subs. vide Act No.IV of 2011.

<sup>2</sup>. Substituted as *ibid*.

<sup>3</sup>. Substituted as *ibid*.

<sup>4</sup>. Substituted as *ibid*.

<sup>5</sup>. Substituted as *ibid*.

<sup>6</sup>. In sub-section (2) of Section 1 for the words “Federal Capital and the Special Areas” the words “Tribal Areas”, subs. by W.P. Ord. No.VII of 1964.

<sup>7</sup>. For the words “West Pakistan” the words “North-West Frontier Province”, subs. by Khyber Pakhtunkhwa Ord. No. X of 1984 and then subs for the word “Khyber Pakhtunkhwa”, vide Act No.IV of 2011.

(c) “highway” includes a common and public highway and all roads, carriage ways, cartways, streets and lanes, together with any bridleways, footpaths and pavements adjacent thereto, which have been constructed, or are maintained by Government or any local authority or any other authority empowered in that behalf, and are designed and intended for, or used by the general public for the passage of vehicles, and shall further include—

(a) all culverts, bridges and works of every description built on, under or across any highway;

(b) all adjacent berms and side drains within the boundaries of any highway;

(c) all land included within the boundaries of any highway; and

(d) all fences, posts and trees on any highway;

(e) “prescribed” means the prescribed by rules made under this Ordinance;

<sup>1</sup>[(dd) “Schedule” means the Schedule appended to this Ordinance;]

(f) “vehicle” includes any wheeled conveyance drawn propelled or driven by any kind of power, including human and animal power, but shall not include motor vehicles, unless the latter are expressly included.

## CHAPTER-II

### HIGHWAY AUTHORITIES

3. (1) Government may, by notification,<sup>2</sup> appoint any person or persons to be Highway Authority for a part of a highway or for one or more highways and such authority shall be subject to such conditions and limitations as may be specified in the notification.

Highway  
Authorities.

(2) Where no Highway Authority is appointed under the last preceding sub-section and the highway is not maintained by Government, the local authority shall be deemed to be Highway Authority in respect of all highways within its

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<sup>1</sup>. Clause (dd).ins. by Khyber Pakhtunkhwa Ord. No. X of 1984.

<sup>2</sup>. For notification appointing high way authorities, see Gazette of West Pakistan, 1959 Pt. I. P. 99 and *ibid*, 1960, Pt. I, P. 220.

jurisdiction.

(3) Government shall be Highway Authority for all highways and all purposes not specifically provided for in the two preceding sub-sections.

4. (1) Government may, by notification, transfer control of any highway from itself as Highway Authority to another Highway Authority, or from another Highway Authority either to itself as Highway Authority or to some other Highway Authority, in regard to such matters dealt with by this Ordinance, and on such conditions, as may be specified in the notification.

Transfer of control from one Highway Authority to another.

(2) As from the date of a notification issued under the last preceding sub-section any contract made prior to such date by or on behalf of the superseded Highway Authority in respect of the highways and in relation to the functions of which control is transferred, shall take effect as if it had been made on behalf of the Highway Authority assuming such control.

### **CHAPTER-III**

#### **POWERS OF HIGHWAY AUTHORITIES.**

5. Subject to the other provisions of this Ordinance, a Highway Authority may –

General power of Highway Authorities.

- (a) lay out or make a highway and do all works necessary thereto, and make necessary provision for the safe and convenient use of such highway by the public, including drainage, lighting and roadside trees;
- (b) turns, divert or close any highway, or part thereof either temporarily or permanently;
- (c) widen, alter the level of, improve or repair any existing highway under its control;
- (d) fix the specification, alignment and point of junction of any access roads connecting a highway with adjoining properties;
- (e) utilize for any purpose appropriate to its functions, land forming part of a highway which is not actually required for the passage of traffic, and dispose of the natural produce of such land; and
- (f) regulate the kind, number, and speed of vehicles using any highway or portion thereof by means of barriers, diversion roads, and all other means whatsoever.

6. (1) A Highway Authority may, with due regard to the safety and convenience of traffic on the highway and subject to such conditions as it may impose, permit any person on payment of such fees as it may fix – Encroachments.

(a) to place a movable encroachment on any highway in front of any building owned by him at ground level;

(b) to make a movable structure overhanging a highway;

(c) to deposit or cause to be deposited building materials, goods for sale or other articles on any highway; and

(d) to set up a stall or scaffolding on any highway.

(2) Any person who does any of the acts enumerated in the last preceding sub-section or sets up any fence, hedge or post on highway without the written permission of the Highway Authority, shall be punished with fine which may extend to <sup>1</sup>[three thousand rupees, or in default of payment of fine, with imprisonment which may extend to three months,] and the Highway Authority may, after giving reasonable notice to the offender requiring him to remove the offending structure, fence, hedge, post, deposit, goods, articles, stall or scaffolding, and upon his failing to comply with such notice, within the time specified therein, itself remove the offending structure, fence hedge, post, deposit, goods, articles, stall or scaffolding, and may, recover the cost as hereinafter provided.

(3) The cost of removal and storage of such materials shall be such sum as may be certified by the Highway Authority to be the actual cost of such removal and storage, and if such sum is not paid in response to a notice of demand accompanied by copy of the certificate served on the offender either personally or if he be not readily traceable, by affixation at a conspicuous place close to the site of the offence, within such time as is specified in the notice, the Highway Authority may recover the same by sale of the materials removed, and such sum shall also be recoverable as an arrear of land revenue.

7. (1) A Highway Authority may carry any cable, wire, pipe drain, sewer or channel of any kind through, across under of over any highway under its control, and after giving reasonable notice in writing to the owner or occupier, into, through, across, under, over or up the side of any land or building situated within the boundaries or such highway, for the purpose of establishing telephonic or other similar communication, or of carrying out and establishing or maintaining any system of lighting drainage or sewerage or any purpose connected with the upkeep, Certain works on highways.

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<sup>1</sup>. Subs. for the words “fifty rupees”, by Khyber Pakhtunkhwa Ord. No. x of 1984.

maintenance or betterment of such highway, and may at all times do all acts and things which may be necessary or expedient for repairing and maintaining any such cable, wire, pipe, drain, sewer or channel in an effective state:

Provided that no nuisance more than is necessarily caused by the proper execution of the work is created by any such operation and that where damage is done to any land or building which is not owned by the Highway Authority, reasonable compensation shall be paid to the owner or occupier of such property in respect of such damage.

(2) Notwithstanding anything contained in any other law for the time being in force no person or authority shall do any of the following acts, namely: –

- (a) open or break up the surface of any highway; or
- (b) construct or carry any cable, wire, pipe, drain, sewer or channel of any kind, through, across, under or over any highway; or
- (c) within the boundaries of any highway, repair or alter or execute any works no, or in relation to, any existing cable, wire, drain, sewer or channel of any kind, running through, across, under or over such highway.

unless such person or authority shall have first obtained the consent to the proposed work of the appropriate Highway Authority.

(3) In giving its consent under the last preceding sub-section, a Highway Authority may impose such conditions as it may deem to be necessary and consistent with the performance of its duty as such Highway Authority, and may impose a rent or other charge for any land forming part of the Highway occupied by or applied to the proposed work.

(4) If without the consent of the Highway Authority any person does any act enumerated in sub-section (2) he shall be punished with fine which may extend to <sup>1</sup>[five thousand rupees, or in default of payment of fine, with imprisonment which may extend to six months] and the Highway Authority shall give reasonable notice to the offender requiring him to remove the unauthorized works, and restore the Highway to its former condition, and upon his failing to comply therewith within a reasonable time, may it self remove the said works and restore the highway as aforesaid, and may recover the cost as hereinafter provided.

(5) The costs of removal of such works, storage of the materials and restoration of the highway shall be such sum as may be certified by the Highway Authority to be the actual cost of such removal, storage and restoration, and if such

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<sup>1</sup>. In sub-section (4), subs. for the words “one thousand rupees” by Khyber Pakkhtunkhwa Ord. No.X or 1984.



sum is not paid in response to a notice of demand accompanied by a copy of the certificate served personally on the offender or any person empowered to act on his behalf or if this be found to be impracticable then by affixation at a conspicuous place close to the site of the offending works, within such time as is specified in the notice, the Highway Authority may also be recoverable as an arrear of land revenue.

(6) If any dispute arises between the Highway Authority and any other authority or person, out of or in relation to the exercise of the powers of such Highway Authority under sub-section (1), (2) and (3), such dispute shall be referred to arbitration the <sup>1</sup>[District Magistrate whose decision there on shall be final.]

8. (1) As respects all highways which on or after the date of the coming into operation of this Ordinance are maintained by the Provincial Public Works Department or are provincial property maintained by local bodies, the following restrictions shall apply, that is to say, it shall not be lawful without the consent of the Highway Authority: –

Restrictions on ribbon development on certain Highways.

(a) to construct or layout any means of access to or from the highway,

<sup>2</sup>[(b)to erect or re-erect any building upon land within such distance from the middle of a highway as specified against each such highways in the schedule.]

(2) No restrictions in force under the last preceding sub-section shall apply in relation to –

<sup>3</sup>[(a) \* \* \*]

(b) any works being before the date of the coming into operation of this Ordinance or any works carried out in accordance with a permission granted by any competent authority before that date;

(c) any highway in respect of which a building line has been determined in accordance with section 16.

<sup>4</sup>[(3) Government may, by notification in the official Gazette, add new highways to the schedule or amend the schedule in such manner as it may deem appropriate.

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<sup>1</sup>.In sub-section (6) of section 7, for the words “arbitration” the words “the Distrust Magistrate whose decision thereon shall be final” subs. by Khyber Pakhtunkhwa Ord. No. X of 1984.

<sup>2</sup>. Clause (b) subs, by Ordinance ibid.

<sup>3</sup>.Clause (a) of sub-section (2), omitted by Ordinance ibid.

<sup>4</sup>. Sub-section (3), ins, by Ordinance ibid.

<sup>1</sup>[9, 10 \* \* \*]

11. Any person wishing to obtain the consent of the Highway Authority to construct or layout a means of access to or from or to construct a building <sup>2</sup>[within such distance from the middle of a highway to which restrictions have been applied by or under section 8,] shall apply in writing to the Highway Authority and shall furnish with his application such plans and other particulars as may be prescribed and the Highway Authority may refuse to grant the application or may grant the application subject to such conditions as it may deem fit to impose:

Construction of means of access to or buildings on areas subject to restrictions under section 8 or section 9.

Provided that the application shall not be deemed to have been sanctioned by reason that no order refusing it is passed by the Highway Authority despite the lapse of time.

12. When any highway or portion thereof is temporarily closed for repairs or for any other purpose connected with the function of the Highway Authority under this Ordinance in such manner as to interfere with the passage of traffic, it shall be the duty of the Highway Authority to set up such notices as may be prescribed at each end of the closed portion, and the Highway Authority may also announce the fact by such other means as it may deem proper; and the Highway Authority shall further provide, so far as may be, reasonable means of access to the open portion of the highway from the adjoining areas which have been deprived of access by such closure, as well as reasonable passage for through traffic, and may for these purposes, make temporary access or diversion roads through contiguous lands, after giving reasonable notice to the owner thereof and shall pay reasonable compensation for any damage caused to such lands there by.

Temporary closure of highway.

13. (1) A Highway Authority, intending permanently to close a highway or any portion of a highway, shall give notice of its intention, in the Gazette, as well as by publication in one or more newspapers circulating in the affected area or by display of notice at conspicuous place in such area, or by both these methods.

Permanent closure of highway.

(2) The notice shall invite objections to the proposed closure within a period of not less than a month from the date of publication.

(3) In arriving at its decision, the Highway Authority shall take all such objections into consideration after making such other enquiries as it may deem necessary to ensure that the proposed closure will not cause inconvenience to the inhabitants of the affected area on account of lack of alternative means of access to or movement within such area.

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<sup>1</sup> . Section 9 and 10 omitted Ordinance ibid vide No.X of 1984.

<sup>2</sup> . Subs, for the words "within two hundred and twenty feet of the any highway, to which restrictions have been applied by or under section 8 or section 9, by Khyber Pakhtunkhwa Ord. No. X of 1984.

(4) Where inconvenience as aforesaid is likely to result, the Highway Authority may nevertheless close the highway provided that it is satisfied that an alternative highway or highways, whether previously existing or newly constructed by itself, will more satisfactorily meet the general requirements of the area than the highway proposed to be closed.

(5) A decision by a Highway Authority to close a highway or portion thereof shall be published in the manner provided for publication of notices under sub-section (1) and within thirty days of the last date of publication two or more persons who are aggrieved by such decision, and have obtained the consent in writing of the Advocate General, may appeal to Government against such decision.

(6) Government shall refer such appeal for decision to a Tribunal which shall be composed of a President who shall be a Judge of the High Court to be nominated by the Chief Justice, and two members to be nominated by Government one of whom shall be an official of the Public Works Department, Building and Roads Branch not below the rank of Executive Engineer, and the other shall be a person who has for at least ten years been an Advocate of a High Court.

(7) The Tribunal shall have all the powers of a Civil Court for the purpose of compelling the attendance of parties and witnesses and the production of documents and subject to rules that may be made in this behalf, the proceedings before the Tribunal shall be conducted, as nearly as may be, in the manner provided by the code of Civil Procedure, 1908, for the trial of civil suits.

(8) At the conclusion of the proceedings the Tribunal shall report its findings to Government, which shall transmit such report to the Highway Authority with instructions to act in accordance therewith:

Provided that if Government considers that the report requires reconsideration in respect of any matter, it may refer such matter to the Tribunal for further consideration and the Tribunal may, after such further enquiry as it may think fit, modify its finding in respect of such matter or may confirm such finding.

(9) The cost of the proceedings shall be paid in accordance with such direction as may be made in that behalf by the Tribunal and shall be recoverable as an arrear of land revenue.

(10) When a highway is closed under the provisions of this section, any person who on the date of first publication of a notice under sub-section (1), owned an interest in land or immovable property, and prove that such interest has been directly and injuriously affected by such closure shall be entitled to recover a reasonable compensation for such injury from the Highway Authority, and in the event of dispute as to the amount of such compensation such dispute shall be referred to arbitration.

14. (1) If any interference or damage is caused by reason of any work on a highway which is done by order of the Highway Authority to any existing means of access to such highway, or to any existing drain, water channel, pipe, cable (whether overhead or underground), tramway or railway line, then – Interference or damage resulting from works on highways.

(a) if it be possible, the interference or damage shall be remedied by the restoration of the thing interfered with or damaged, to its previous position and condition at the cost of the Highway Authority; or

(b) if such restoration be not possible, such thing shall at the cost of the Highway Authority be replaced by another providing as nearly as may be the same facility, provided that if there be appreciable diminution of utility by such substitution, the Highway Authority may pay additional compensation in money; or

(c) if neither restoration nor substitution be possible then reasonable compensation shall be paid to persons interested by the Highway Authority.

(2) Any person aggrieved by the action of the Highway Authority may apply to Government and it shall there upon refer the dispute for decision by arbitration.

15. (1) A Highway Authority may prohibit or restrict either permanently or temporarily, the taking of any class of vehicles or animals over a highway or any part thereof, if such prohibition or restriction is, in its opinion, necessary for the public safety or convenience, or for any other sufficient reason. Regulation of classes of vehicles or animals using a highway.

(2) Such prohibition or restriction shall be notified by display of notices at prominent place along the effected highway and where it is intended to be permanent shall also be notified by publication in the gazette and at least in one newspaper circulating in the locality.

## CHAPTER-IV

### IMPROVEMENT OF HIGHWAYS

16. (1) In respect of any such highway <sup>1</sup>[specified in section-8] the Highway Authority may determine a building line, along one or both side of such highway after enquiry, in the manner hereinafter described; Determination of building line.

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<sup>1</sup>. Subs. for the words “specified in section 8, or for which the provisions contained in section 8 have been adopted under section 9 the words “specified in section 8, “by Khyber Pakhtunkhwa Ord. No. X of 1984.

(2) A building line shall not be proposed unless the Highway Authority shall have first examined and taken into consideration, any planning scheme proposed, prepared or enforced in the same vicinity by the local authority and shall first have consulted with such local authority in that behalf.

(3) When a Highway Authority proposes to determine a building line as aforesaid, it shall give notice in the prescribed manner containing such details of the proposal as it may deem necessary, provided that it shall not be necessary to include a plan of the proposed building line in such notice, but a copy or copies of such plan shall be deposited and shall be available for public inspection for a period of not less than thirty days, at one or more places in or near the affected locality, which shall be specified in such notice.

(4) The notice shall invite objections to the proposals to be filed within a period of three months from the date of publication and all objections received within such period shall be taken into consideration by the Highway Authority in arriving at its decision.

(5) The building line so determined by the Highway Authority shall be published in the manner prescribed and shall come into effect from the date of such publication.

(6) Any person aggrieved by the decision of the Highway Authority may apply to Government, and it shall there upon refer the dispute for decision by arbitration.

17. (1) Except as provided by this or any other enactment, it shall not be lawful without the consent of the Highway Authority to construct or lay out any means of access to or from the highway, <sup>1</sup>[\* \* \*] to make any excavation or to construct from or lay out any works, upon land lying between a building line and the highway in respect of which it has been determined.

Construction of building etc between high way and building line.

(2) Should any building (including a wall) or any part thereof lie within the prohibited area, as defined in the last preceding sub-section, the Highway Authority may, whenever such building or part has been either entirely or in greater part burnt or has fallen down, by notice require such building or part when being rebuilt, to be set back to the building line, and if the portion of land thus rendered vacant is included within the boundaries of the highway in relation to which such building line has been determined, such portion shall become part of the highway:

Provided that the Highway Authority shall pay compensation to the owner of such portion of land or of the building which existed thereon for any damage

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<sup>1</sup>. In section 17, in Sub-section (1) the words "to erect or re-erect any building" omitted by Khyber Pakhtunkhwa Ord. No. X of 1984.

caused to him by the setting back of the building.

18. (1) A Highway Authority may acquire any land situated between a building line and the highway to which it relates, if in its opinion, such acquisition is necessary for the construction or improvement of the highway.

Acquisition of land.

(2) If the purchase cannot be effected by agreement, the Highway Authority may certify that the land is required for the construction or, as the case may be, the improvement of a highway, and thereafter acquisition may be effected under the Land Acquisition Act, 1894.

## CHAPTER-V

### DUTIES OF HIGHWAY USERS

19. Every person using a highway, or who is in charge of a vehicle or animal on a highway shall himself conform, and shall cause any such vehicle or animal as aforesaid to conform, to such general rules of traffic as may be prescribed and shall obey all traffic signs fixed on such highway and all lawful directions given to him by any police officer in uniform or other authorized person for the time being engaged in the regulating of traffic.

Conformity with rules, signs and directions of officer regulating traffic.

20. (1) Every person using a highway shall stop and remain stationery, and every person in charge of a vehicle or animal on a highway shall cause such vehicle or animal to stop and remain stationery, for so long as may be reasonably necessary.

Vehicles and animals to be stopped in certain cases.

(a) when required to do so by a police officer in uniform or by any authority lawfully empowered in this behalf under this Ordinance or which is lawfully empowered to levy a toll or tax;

(b) when required to do so by any person in charge of any animal, if such person apprehends that the animal in his charge being alarmed will become unmanageable; and

(c) when the vehicle or animal is involved in the occurrence of any accident to any person, animal or vehicle, or damage to any property, whatever be the cause of such accident or damage.

(2) When any accident or damage such as is mentioned in clause (c) of the last preceding sub-section occurs, the person in charge of the vehicle or animal shall be bound on enquiry to give on the spot his own name and address and if he is not the owner, the name and address of the owner of such vehicle or animal to a police officer, or any other authorised person, and shall also be bound to state these particulars to any person who sustains loss, damages, or injury on account of such

accident or damage, provided that such other person also states his own name and address, and any person who was a witness to the occurrence shall be bound to state his name and address, on demand by the person in charge of the vehicle or animal or by any person who has sustained loss, damage or injury in the occurrence, or by any police officer or other authorised person.

(3) In a case of accident or damage as aforesaid, if any person is injured the person in charge of the vehicle or animal shall, unless he be himself incapacitated by injury sustained in the same occurrence –

(a) take all reasonable steps, such as may appear necessary, to secure medical attention for the person injured; and

(b) if no police officer or other authorised person be present at the spot, report the occurrence at the nearest police station as soon as possible and in any case, within twenty four hours of the occurrence.

21. (1) No person shall himself proceed on a highway or drive any vehicle or animal on a highway so as by such driving or the manner thereof to endanger human life, or be likely to cause hurt to any other person.

Driving of vehicles and animals.

(2) No person shall drive a vehicle or an animal on a highway when he is under the influence of drink or a drug to such an extent as to be incapable of exercising proper control over such vehicle or animal.

22. (1) No person in charge of a vehicle or animal shall cause or allow it to remain on any highway, whether at rest or in motion, in such a condition or in such circumstances, as to cause or be likely to cause danger, obstruction, or undue inconvenience to other users of the highway.

Adequate control and care of vehicles and animals.

(2) If a vehicle or animal is found abandoned or unattended on a highway, the Highway Authority may remove and impound it, and the cost of such removal and any maintenance provided by the Highway Authority shall be recoverable from the owner thereof.

(3) If no person appears to claim the property within seven days of such seizure, the Highway Authority may sell the vehicle or animal by auction, and recover such expenses, from the proceeds, and the balance, if any, shall be payable on application to the person entitled.

23. (1) A police officer in uniform may arrest without warrant –

Power to arrest without warrant.

(a) any person who in his view commits a contravention of section 21, provided that if the contravention be of sub-section (2) of section 21, the person arrested shall be subjected to medical examination within two hours of his arrest, and shall then be released from custody;

- (b) any person concerned or reasonably suspected of being concerned in a contravention of any provision of this Chapter; if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons; or
- (c) any person who, being required under the provisions of this Ordinance, to give his name and address refuses to do so, or gives a name and address which the police officer has reason to believe to be false.

(2) A police officer arresting the driver of a vehicle or a person in charge of an animal under the provisions of this section shall take or cause to be taken reasonable and necessary steps for the safe custody of the vehicle or animal.

## CHAPTER-VI

### PROCEDURE AND PENALTIES.

24. No Court shall take cognizance of any offence punishable under this Ordinance or any rule made there under, except on a report in writing of the facts constituting the offence made by a Highway Authority, or by a person duly authorized by a Highway Authority in this behalf, or by a police officer not below the rank of a head constable. Cognizance of offences.

25. (1) Except as specially provided elsewhere in this Ordinance, whoever contravenes any provision of this Ordinance, or any lawful order of a Highway Authority made under the provisions of this Ordinance, shall be punished with fine which may extend to <sup>1</sup>[five Thousand] rupees or if the offence be similar to one for which he has been previously convicted, with fine which may extend to <sup>2</sup>[ten thousand] rupees. Penalties.

(2) Where the offence committed is a contravention of the provisions of section 8 <sup>3</sup>[\* \* \*] or section 17 or of any order made by a Highway Authority under any one of these sections, the Court <sup>4</sup>[shall] in addition to any penalty imposed under the last preceding sub-section order the accused to demolish the access road he has constructed or re-constructed, or the building or works he has erected, re-erected constructed, formed, or laid out, or to fill up an excavation he has, made within a reasonable time to be specified in such order, and if the accused fails within such time to carry out the order, he shall be deemed guilty of committing a continuing public nuisance and will be liable to the punishment provided in section 291 of the Pakistan Penal Code.

<sup>1</sup>. In section 25, in sub-section (1), for the word "one hundred", the words "five thousand", subs. by Khyber Pakhtunkhwa Ord. No. X of 1984.

<sup>2</sup>. Subs. for the words "two hundred", the words "ten thousand", by Ordinance *ibid*.

<sup>3</sup>. In sub-section (2), for the words and figure "or section 9", Omitted by Ordinance *ibid*.

<sup>4</sup>. In sub-section (2), between the words "Court" and "in addition", for the word "may" subs by Ordinance *ibid*.



## CHAPTER-VII

### MISCELLANEOUS PROVISIONS

26. All person acting under the authority of Government or of any Highway Authority in the carrying out of any of the provisions of this Ordinance or of the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code. Persons deemed to be public servants.
27. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under or in pursuance of this Ordinance or any rules made thereunder. Protection to persons taking action under the Ordinance.
28. (1) Except as specifically provided by this Ordinance, no compensation shall be payable to any person, on account of any order made, or any restriction imposed or any act performed by a Highway Authority. Payment of compensation and its determination.
- (2) Where the amount of compensation payable cannot be agreed upon it shall be determined by <sup>1</sup>[the District Magistrate whose decision thereon shall be final.]
29. (1) Government may after previous publication make rules for the purpose of carrying into effect the provisions of this Ordinance. Powers of Government to make rules.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: –
- (a) the prevention of obstruction to the free and rapid movement of traffic on highways, including obstruction to the vision of persons driving vehicles (including motor vehicles) constituted by trees and their branches, hedges and other vegetation, growing on or overhanging a highway;
  - (b) the prevention of nuisances by the discharge of sullage water or the deposit of matter which is offensive or injurious to health, or the carrying on of dangerous or offensive trades, on or in the immediate vicinity of a highway;
  - (c) the regulation of the exhibition of advertising matter on

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<sup>1</sup>. In sub-section (2) of section-28, for the word “arbitration” Subs by, Khyber Pakhtunkhwa Ord No. X of 1984.

highways and along the boundaries thereof;

- (d) the regulation of the use of sound amplifying apparatus on or in the immediate vicinity of a highway;
- (e) the regulation of the grazing of animals on areas included within the boundaries of highways;
- (f) the regulation of the loading of goods in vehicles on or in the immediate vicinity of a highway;
- (g) the regulation of prohibition of the use of the whole or part of a highway by pedestrians or animals;
- (h) the carrying or wearing by all or any vehicles or animal using a highway of a horn or bell, or other contrivance for giving audible warning of their approach or position;
- (i) the carrying by all or any vehicle of lamps and reflectors and the regulation of the use thereof;
- (j) the regulation of the design of goods vehicles (including the materials and width of their tyres), and the maximum load to be carried thereon;
- (k) the fixing of the maximum weight of vehicles which may use a bridge or any class of bridges, forming part of highway;
- (l) the types of traffic signs which are to be employed on highways;
- (m) the proper provision and maintenance of highways, and the safe, convenient and orderly movement of traffic thereon;

(n) <sup>1</sup>[\* \* \*]

(o) the plans and particulars required to be furnished by any person making application under section 11;

(p) the notices of temporary closure to be set up under section 12;

(q) the procedure to be followed by the Tribunal appointed under section 13;

(r) the manner in which notice of a proposal to determine a building line under section 16 is to be given; and

(s) the manner in which building line determined under section 16 is to be published.

30. (1) The following enactments are here by repealed: –

Repeal and savings.

(a) <sup>2</sup>[\* \* \*]

(b) The North-West Frontier Province Ribbon Development Prevention Act. 1946.

(2) Notwithstanding the repeal of the enactments mentioned in the last preceding sub-section everything done and all action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or power conferred, rule made and notification issued under any of the provisions of the said enactments shall, if not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been respectively done, taken, incurred, commenced, appointed, authorized, conferred, made or issued under this Ordinance

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<sup>1</sup> .Clause (n), Omitted by Khyber Pakhtunkhwa Ord. No. X of 1948.

<sup>2</sup> . In Section 30 in sub-section (1) clause (a) omitted by Khyber Pakhtunkhwa A. L. O., 1975.

<sup>1</sup>[SCHEDULE]  
(See Section 8)

Serial No.	Name of Highway	Distance from center of the Highway
1	2	3

**A –CATEGORY I-HIGHWAYS.**

- |    |  |   |          |
|----|--|---|----------|
| 1. | Khairabad-Peshwar-Jamrud (N-5).                                  | } | 67 Meter |
| 2. | Kara Kuram Highway (JheriKas-Basha) (N-35).                      |   |          |
| 3. | D. I. Khan-Daraban-Zhob (D. I. Khan Zam Tower) (N-50).           |   |          |
| 4. | Peshapwer-Kohat_Bannu D. I. Khan (uptoDera Ghazi Khan Boundary). |   |          |
| 5. | Nowshera-Chkdara-Chitral.  |   |          |
| 6. | Peshawar-Charsadda-Mardan.                                       |   |          |
| 7. | Mardan By Pass.  |   |          |

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<sup>1</sup>. The schedule added by Khyber Pakhtunkhwa Ord. No. X of 1984.

**B –CATEGORY II-HIGHWAYS.**

1.	D. I. Khan-Darya Khan (New Road).	}	50 Meter
2.	D. I. Khan Tank-Jandola (uptoKhirgi).		
3.	Tajazai-Lakki-Deratang.		
4.	Bannu-Isha (uptoDreghundari).		
5.	Kohat-Khushalgarh.		
6.	KohatThall.		
7.	JattaShakardara.		
8.	Peshawar-Michni-Shabqadar.		
9.	Charsadda-Nowshera.		
10.	Naguman-Shabqadar.		
11.	Mardan-Swabi Ghazi.		
12.	Ambar-Topi.		
13.	Mardan-Katlang.		
14.	Shergarh-Lund Khawar.		
15.	Takht-i-Bhai-Rajjar.	}	50 Meter
16.	Jehangira-Swabi.		
17.	Mardan-Dosehra-Nisatta.		
18.	Ghazi Haripur.		
19.	Haripur-Serai Kala.		
20.	Haripur-Khanpur.		
21.	Chakdara-Saidu-Kalam.		
22.	KhawazaKhel-Alpuri-Besham.		
23.	Timergara-Munda.		

**C –CATEGORY III-HIGHWAYS.**

1. Hathala-Kulachi-Daraban.
  2. Kulachi-Rori.
  3. D. I. Khan-Bilot-Chashma.
  4. Kaur-Daraban.
  5. Daraban-Dare Ghazi Khan.
  6. Giloti-Abdul Khel-KirriKaisore.
  7. Pazu-Gul Imam.
  8. Tank Bain-GhazinKhel.
  9. Bannu-JaniKhel.
  10. Gambila-Tajori-KerhuKhel.
  11. Bannu-Kurram-Garhi.
  12. ShahbazKhel-Lakki.
  13. Surdag-Karak-Kabir Kali.
  14. Banda Daud Shah-Thall.
  15. KhushalGarh-Nizampur-Attock.
  16. Shabqadar-Abazia-Tangi-Charsadda.
  17. PirSabak-Jehangira.
  18. Peshawar-Bara.
  19. PirBala-Shagai.
  20. Mathra-Khazana.
- 30 Meter

1

2

3

**C –CATEGORY III-HIGHWAYS. –  
(Concl).**

21. Umarzai-Harichand.
22. Khairabad-Attock old Bridge.
23. Pabbi-Chirat.
24. Sarozai Road.
25. Adina-Lahore.
26. Topi-Utla.
27. ShahbazGarhi-Rustam-Ambela.
28. Mardan-GarhiKapura-YarHussain.
29. ShahbazGarhi-Buxali-Gujrat.
30. Hoti-Toru Shujja Abad.
31. Maqsood Lora-GhoraGali.
32. SeraiSaleha-RehanaMang.
33. Abbottabad-Thandiani.
34. Havelian-Kalabagh.
35. Abbottabad-Sherwan.
36. Shinkiari-Dadar-Battal.
37. Mansehra-Oghi-Shergarh-Darband.
38. Oghi-Batagram.
39. Amandara-Thana-Chirat-Palai-Dargai
40. Batkhela-Kulangi-Loeagra-Dargai.
41. Saidu-Marghuzar.
42. Mingora-Kabal-Shamuzai.

30 Meter

1	2	3
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**C –CATEGORY III-HIGHWAYS. –(Concl'd).**

43.	Mingora-Matta-Madian.	}	30 Meter		
44.	Barikot-Daggar-Ambela.				
45.	Jawar-Pir Baba-Daggar.				
46.	Swarai-Budal.				
47.	Saidu-MalamJabba.				
48.	Munda-Barwa-Shahi-Dir.				
49.	Dir-Shringal.				
50.	LalQilla-Barwa.				
51.	Chitral-Mastuj-Sarlaspur.			}	30 Meter
52.	Drosh-Chitral-West.				
53.	Chitral-Garm Chashma.				
54.	DomelNissar-Arandu.				

**D-CATEGORY IV-HIGHWAYS.**

All other highways in the <sup>1</sup> [Khyber Pakhtunkhwa.]	20 Meter
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<sup>1</sup>. Substituted vide Khyber Pakhtunkhwa Act No.IV of 2011.