

Gujarat Regularisation Of Unauthorised Development Act, 2011

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Gujarat Regularisation Of Unauthorised Development Act, 2011

NOW, THEREFORE, in exercise of the powers conferred by section 17 of the Gujarat Regularisation of Unauthorised Development Act, 2011 (Gujarat Act No.26 of 2011), the Government of Gujarat hereby makes the following rules, namely :-

1. Short Title And Commencement :-

- (1) These rules may be called the Gujarat Regularization of Unauthorized Development Rules, 2012.
- (2) They shall come into force on their publication in the Official

Gazette.

2. Definitions :-

(1) In these rules, unless the context otherwise requires,-

(i) Act means the Gujarat Regularization of Unauthorized Development Act, 2011;

(ii) Architect means a person registered as such under GDCR;

(iii) Area means development area declared under section 3 of the Gujarat Act.

(iv) Change of use means use other than the use in respect of which the permission is granted under the Bombay Act or Gujarat Act and includes the residential use where the permission is not obtained for the same.

(v) Development Area means the area declared under section 3 of the Gujarat Town Planning and Urban Development Act, 1976 (President Act No. 27 of 1976);

(vi) Engineer means a person possessing the qualifications as prescribed in the GDCR, whether registered or not under the GDCR;

(vii) Form means form appended to these rules;

(viii) Jantri means annual statement of rates as declared by the Revenue Department as applicable on 28 th March 2011;

(ix) Schedule means Schedule appended to these rules;

(x) Structural Designer means a person registered as such under GDCR;

(2) The terms and expressions not defined in these rules shall have the meanings as assigned to them in the Act or the Gujarat Act or the rules or regulations made there under, or the Bombay Act, as the case may be.

3. Manner Of Public Awareness :-

(1) The Designated Authority shall immediately after coming into force of the Act, publish in at least two Gujarati newspapers having wide circulation within the area, the substance and the purpose of the Act explaining the provisions of Act in detail. The designated authority may also use other means to publicize.

(2) The substance may include:

(a) The manner of making an application, the period within which the application may be made;

(b) List of architects, engineers, structural designers with their responsibilities;

(c) Salient features of the GDCR for making the people aware

regarding unauthorized development carried out by them;
(d) Consequences which the owner or the occupier will have to face in case of failure to get the unauthorized development regularized.

4. Manner Of Making An Application For Regularization Of The Unauthorized Development In Cases Where There Is No Breach Of Parking Regulation And Sanitary Regulations :-

(1) The Designated Authority may serve a notice to the owner or occupier of an unauthorised development, under sub-section (2) of section 5, in Form-A-1, within, a period of six months from the commencement of the Act or within such period as may be extended requiring him to furnish such particulars and documents within a period of one month from the receipt of the notice.

(2) On receiving the notice served under sub-rule (1), the owner or the occupier, as the case may be, shall reply in Form B-1-A or Form B-2-A respectively and furnish all relevant particulars and documents attaching therewith the Form-D1, Form D2 and Form-D3 duly filled in .

(3) Any owner or occupier may, suo-motu, within a period of 6 months from the commencement of the Act or within such period as may be extended, make application in Form B-1-A if he is an owner or in Form B-2-A if he is an occupier and furnish all relevant particulars and documents attaching therewith the Form-D1, Form D2 and Form-D3 duly filled in.

(4) On receipt of the reply under sub-rule (2) or an application under sub-rule (3), the designated authority shall, after making an inquiry in the manner as it deems fit, is of the opinion that the development can be regularised, pass an order in Form-C-1 requiring the owner or the occupier to pay the fees for the regularization of unauthorized development: Provided that the Designated Authority shall not pass any order in FormC1 in respect of the cases of unauthorized development falling under the provisions of section 9 of the Act till the procedure as per the scheme, issued by Revenue Department under section 9 of this Act is followed.

5. Manner Of Making An Application For Regularization Of The Unauthorized Development :-

(i) in cases where there is a breach of only parking regulations or sanitary regulations or both or in cases where there is a breach of other regulations including the breach of parking and sanitary

regulations.

(1) The Designated Authority may serve a notice to the owner or occupier of an unauthorized development, under sub-section (2) of section 5, in Form-A-2, within, a period of six months from the commencement of the Act or within such period as may be extended requiring him to furnish such particulars and documents within a period of one month from the receipt of the notice.

(2) On receiving the notice served under sub-rule (1), the owner or the occupier, as the case may be, shall reply in Form B-1-B or Form B-2-B respectively and furnish all relevant particulars and documents attaching therewith the Form-D1, Form D2 and Form-D3 duly filled in .

(3) Any owner or occupier may, suo-motu, within a period of 6 months from the commencement of the Act or within such period as may be extended, make application in Form B-1-B if he is an owner or in Form B-2-B if he is an occupier and furnish all relevant particulars and documents attaching therewith the Form-D1, Form D2 and Form-D3 duly filled in.

(4) On receipt of the reply under sub-rule (2) or an application under sub-rule (3), the designated authority shall, after making an inquiry in the manner as it deems fit, is of the opinion that the development can be regularised and provisions of rules 6 and 7 are not attracted, pass an order in Form C- 2 requiring the owner or the occupier to pay the fees for the regularization of unauthorized development: Provided that the Designated Authority shall not pass any order in Form C-2 in respect of the cases of unauthorized development falling under the provisions of section 9 of the Act till the procedure as per the scheme, issued by Revenue Department under section 9 of this Act is followed.

6. Procedure To Be Followed Where The Parking Facility Cannot Be Provided For Regularizing The Unauthorized Development Under Rule 5 :-

(1) On receipt of the reply under rule 5(4), if the designated authority is of the opinion that the unauthorised development cannot be regularised since it is not feasible for the owner or the occupier to provide, with respect to the actual built-up area, the required parking facility in the unauthorized development then, the designated authority shall direct by an order in Form C-3 to provide such facility at suitable location which is within 500 meters of such unauthorized development within a period of six months from the

date of the order.

(2) The owner or occupier shall, as required under sub-rule (1) to provide parking facility within the stipulated time limit, give a compliance report to the designated authority giving therein the details of the place where such parking facility either is provided.

(3) In case where it is not feasible for the owner or occupier to provide such parking facility fully or partly, he shall send a report to the designated authority along with necessary evidences, documents etc. with regard to the genuineness of the efforts made by him to provide such parking facility.

(4) On receipt of the report stated in sub-rule (3), the designated authority shall refer the matter to the Committee constituted under sub-rule (1) of rule 11. The Committee shall process the matter as provided in rule 11 and shall suggest suitable option or options to the designated authority and the designated authority, after considering the same, pass suitable order as it deems fit to be complied with by the owner or occupier within six month a reasonable period that the designated authority deems fit.

(5) On receipt of the compliance report under sub-rule (2) or after the compliance of the order made under sub-rule (4), as the case may be, the designated authority shall, if he is of the opinion that other unauthorized development can be regularized in respect of other matters, pass an order in Form C-2 requiring the owner or the occupier to pay the fees for the regularization of unauthorized development.

7. Procedure To Be Followed Where The Sanitary Facility Cannot Be Provided For Regularizing The Unauthorized Development Under Rule 5 :-

(1) On receipt of the reply under rule 5(4), if the designated authority is of the opinion that the unauthorised development cannot be regularised only on the ground that the adequate sanitary facilities as required under the GDCR have not been provided then the designated authority shall direct the owner or occupier, as the case may be, to improve upon or augment the existing facility within a period of sixty days. (2) On compliance of the direction under sub-rule(1), the designated authority shall, if he is of the opinion that unauthorized development can be regularized in respect of other matters, pass an order in Form C-2 requiring the owner or the occupier to pay the fees for the regularization of unauthorized development.

8. Fire Safety Measures :-

Before making an order in Form-C1 or Form C2 as the case may be, the designated authority shall have due regard to the provisions of sub-section (3) of section 8 of the Act and accordingly shall, if required, consult the Chief Fire Officer who shall, after due inquiry, suggest the measures with regard to fire safety and on compliance of such measures by the owner or occupier, shall issue a certificate to that effect and on issuance of such certificate, if the designated authority is of the opinion that unauthorized development can be regularized in respect of other matters, pass an order in Form C-1 or Form C- 2 as the case may be.

9. Unauthorized Development Made Without Any Non-Agriculture Permission :-

The designated authority may in case where the unauthorized development has taken place on the land for which the non-agriculture permission under the provisions of the Gujarat Land Revenue Code 1879, was required but has not been taken, regularize such unauthorized development irrespective of the fact whether proceedings for such permission are pending or whether such permission is not taken. However, while regularizing unauthorized development on such land, the designated authority shall inform the concerned District Collector about not having obtained any such permission.

10. Order To Regularise Or Refuse To Regularize :-

The designated authority shall pass the order of regularization of the unauthorised development in Form-E and if is of the opinion that the unauthorised development cannot be regularised, shall pass an order in Form F to that effect.

11. Development Which Cannot Be Regularized Under Section 10 :-

(1) No unauthorised development in respect of matters specified in subclause (i) to (vii) of sub-section (1) of section 10 of the Act shall be regularised in case of the following:

- (a) Restricted zone where the permissible FSI is less than 1.0;
- (b) Uses not permitted in obnoxious and hazardous industrial zone;
- (c) Uses of obnoxious and hazardous nature in any other zone other than the zone wherein the same is permitted;
- (d) "Hazardous building" or part thereof used for,- 1. storage, handling or manufacture or processing of radio-active substances or

of highly combustible or explosive materials or products which are liable to burn with extreme rapidity and/or producing poisonous fumes or explosive; 2. storage, handling, manufacture or processing of, which involves highly corrosive, toxic obnoxious alkalis, acids or other liquids, gases or chemicals producing flame, fumes, and explosive mixtures or which result in division of matter into fine particles and capable of spontaneous ignition;

(e) Construction in the land occupied by the graveyards, kabrastans, burial grounds and crematoria.

(2) No unauthorised development shall be regularised in respect of any other matter in relation to the buildings used for performance of drama, cinema theatres, multiplex, auditorium, exhibition halls, marriage hall, skating rings, gymnasia, stadia, dance halls, clubs, and stations for public transportation by road, air, sea if there is a breach of parking regulations (3) The designated authority shall not regularise any unauthorised development unless the same is in conformity with the following,-

(a) the Building line and Control line prescribed under the Government Resolution for the classified roads of the State Government and the Panchayat;

(b) Right of user acquired under the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962;

(c) Development regulated and controlled in the vicinity of an oil well installed by Oil & Natural Gas Commission according to provisions of the Indian Oil and Mines Regulations -1933;

(d) Development regulated in the vicinity of the Grid Lines laid by the power company under the Indian Electricity Rules, 1956;

(e) Development in the funnel of Airport as regulated by Ministry of Civil Aviation, Government of India;

(f) Development in the vicinity of the Railway Boundary regulated by the standing orders or instructions of the Railway Authorities.

(g) Development in the vicinity of monuments being protected or conserved under the relevant Law;

(h) Development regulated under the provisions of Coastal Regulation Zone.

(4) No unauthorised development shall be regularised with respect to road width considering the length of the road or set back required as required under GDCR. In case where the road width is not provided and maintained, the unauthorised development may be regularised after the plot is deducted in such manner that, half the road width or the setback as per GDCR is maintained from the centerline of the existing road.

12. Constitution Of The Committees :-

The Committees consisting of such members for parking facility as provided in clause (vi) of sub-section (1) of section 10 of the Act shall as under;

(1) (i) For each of the areas as specified in Schedule I, a Committee shall consist of the following members.-

1.	Deputy Municipal Commissioner	Chairman
2.	Representative of Chief Executive Authority who is not below the rank of Class-I officer.	Member
3.	Collector of the District or his representative	Member
4.	Chief Town Planner or his representative	Member
5.	City Engineer	Member
6.	An Expert in the Urban Planning or Transport Planning. i. The Chairman shall appoint the expert possessing the qualification stated below; "A degree in civil engineering or architecture or degree or diploma in city town planning or regional planning or transport planning of a recognized university or institution or a membership obtained by examination of Institute of Town Planners of India and has about fifteen years experience in relevant field	Member

i. The Chairman shall appoint the expert possessing the qualification stated below; "A degree in civil engineering or architecture or degree or diploma in city town planning or regional planning or transport planning of a recognized university or institution or a membership obtained by examination of Institute of Town Planners of India and has about fifteen years experience in relevant field" Member

(i) A person from the Town Planning Department of the Municipal Corporation as appointed by the Chairman shall be the Secretary of the Committee.

(2) (i) For each of the Area Development Authority as specified in Schedule II, a Committee shall consist of the following members.- 1 Senior Town Planner of the Region of Town Planning and valuation Department Chairman 2 Chief Executive Authority Member 3 Collector of the District or his representative Member

(ii) A person from the concerned development authority as appointed by the Chairman shall be the Secretary of the Committee.

(3) (i) For the areas comprising in each of the Regions namely North Gujarat, South Gujarat and Saurashtra and Kachchha as specified in Schedule III, a Committee shall consist of the following members.- 1 Senior Town Planner of the Region of Town Planning and valuation Department Chairman 2 Chief Officer of concerned area development authority of the Region Member 3 Mamlatdar of concerned area of the Region Member

(ii) The Town Planner or Junior Town Planner as the case may be of the concerned branch office of each of the concerned area of the Region shall be the Secretary of the said Committee.

13. Infrastructure Development Funds Under Section 13 :-

The designated authority shall credit all the fees arising on regularisation of the unauthorised development in a separate corpus fund, for which the designated authority shall maintained a separate account. Such funds shall be utilized by the designated authority for the purpose of augmentations, improvements or creation of an infrastructure facility.

14. Single Window System :-

For the receipt of applications or any other documents or for any other inquiry or assistance in the matter the designated authority shall make an arrangement of single window system

15. Contents Of An Application And Manner Of Preparing Plans For Regularization Unauthorized Development :-

(1) Any owner or occupier intending to get the unauthorised development regularised shall along with the application or reply in Form-B1-A or B1-B B2-A or B2-B as the case may be submit the following:-

(a) the extract from the Property Register for city survey lands or an extract from the Record of Rights for Revenue lands or the copy of the index of registered sale deed as the case may be;

(b) the copy of application if made, for regularization of land under section 9 of the Act;

(c) the certified copy of approved layout plan of final plot or revenue survey number or city survey number. (d) an undertaking on a non-judicial stamp paper of Rs.100 certified by a notary in Form-D-3.

(e) a plan prepared in scale not less than 1:200 showing the existing building clearly indicating as follows:

	Particular	Site Plan	Bldg. Plan
1.	Plot line	Thick black	Thick black
2.	Existing Street	Green	-----
3.	Future Street if any/ TP or DP road line / any other road line prescribed by the Authority.	Green dotted	-----
4.	The portion of building which is permitted or is permissible.	Thick black dotted	-----
5.	Existing work	Blue	Blue
6.	Drainage and sewerage work	Red dotted	Red dotted
7.	Water supply work	Black dotted	Black dotted

(f) a key plan prepared in scale not less than 1:500 showing the location of building with, the parking space, means of access from the street to the building or buildings or the site from the street, the frontage of the plot, the margins, the width of the street or streets, any physical feature such as trees, wells, drains, O.N.G.C. well and pipeline, high tension .Line, railway line, existing streets or the T.P./D.P. road line or the line of public street declared under Bombay Act;

(g) the area statement, the spaces for parking and the floor plan of each floor clearly indicating and dimension of all the parts of the building and its use, the

thickness of walls and floor slabs, height of building, height of rooms or any part of the building. The plans shall have also include the sanitary facilities which has been provided or which is to be provided

(h) elevation and at least one section taken through the staircase showing the levels of each floor

(i) the plan showing facilities provided for fire safety.

(2) The owner or occupier shall get the plans prepared by registered or authorized architect or engineer.

16. Liability :-

(1) Any owner or occupier undertaking any alteration, modification or addition in the unauthorised development so as to get the unauthorised development regularised shall continue to be wholly and solely liable for any injury or damage or loss whatsoever that may be caused to any one in or around the area during carrying out such work and no liability whatsoever in this regard shall be cast on the designated authority.

(2) Regularization of unauthorisation development shall not in any way mean the acceptance of any statement, documents, structural report, structural or drawings and shall not discharge the owner or occupier, engineer or architect and structural designer from the responsibilities imposed upon them under the relevant Act or GDCR.