

Andhra Pradesh Regulation and Penalization of Unauthorizedly Constructed Buildings and Building Constructed in Deviation of the Sanctioned Plan Rules, 2007

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-REGULATION-AND-PENALIZATION-OF-UNAUTHORIZEDLY CONSTRUCTED BUILDINGS AND BUILDING CONSTRUCTED IN DEVIATION OF THE SANCTIONED PLAN RULES, 2007

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Andhra Pradesh Regulation and Penalization of Unauthorizedly Constructed Buildings and Building Constructed in Deviation of the Sanctioned Plan Rules, 2007Published vide Notification No. G.O. Ms. No. 901, Municipal Administration & Urban Development (MI), dated 31.12.2007Last Updated 19th September, 2019No. G.O. Ms. No. 901. - In exercise of the powers conferred by Section 455AA of the Hyderabad Municipal Corporations Act, 1955, Section 218(A) of the AP Municipalities Act, 1965, Section 46 (A) of the AP Urban Areas (Development) Act, 1975, the Government hereby makes the following Rules, viz.,

1. Short title, Application and Commencement.

(1)These Rules may be called "The Andhra Pradesh Regulation and Penalization of Unauthorizedly Constructed Buildings and Building Constructed in Deviation of the Sanctioned Plan Rules, 2007".(2)They shall be applicable to existing buildings in the jurisdiction of all Municipal Corporations, Urban Development Authorities and Municipalities in the State of Andhra Pradesh constructed after 1-1-1985 and before 15-12-2007.(3)They shall come into force from the date of publication of the Notification in the Andhra Pradesh Gazette.

2. Definitions.

(1)"Authorized technical personnel" means professionals authorized by the Competent Authority to take up scrutiny of the Application made for regulation and Penalization under these Rules.(2)"Competent Authority" means the Municipal Commissioner in case of areas falling in the Municipal Corporation and Municipal limits; the Vice-Chairman of the Urban Development Authority in case of area falling outside Municipal Corporation or Municipality in the Urban Development Authority Area.(3)"Total Built up area" means the entire built up area covered in the building including common areas and balconies on all floors.(4)"Unauthorized construction" means any building that has been constructed in violation of the sanctioned building plan or without obtaining building permission from the sanctioning authority.

3. Compulsory Application for Penalisation.

- An Application for regulation and penalization of existing unauthorizedly constructed buildings shall be compulsorily made by the owner/G PA/Registered Association to the Competent Authority or officer authorized by him in the prescribed Proforma along with Declaration, Self Assessment, copy of sanctioned building plan, if any, a clear latest photograph of the building, copy of document of ownership title, Indemnity Bond and two sets of drawings showing the sanctioned area and violated area of the building / Complex and in case of totally unauthorized constructions the total built up area along with the [It shall be filed within 90 days from the date of notification of these rules along with penal amount as given in Rule 5. 50% of the total penal amount shall be paid along with submission of application form and the balance 50% amount shall be paid not beyond six months from the date of application after which proceedings shall be issued. If any owner/individual does not apply within the stipulated time, he shall be liable for enforcement action under the law and his building shall not be taken up for regulation and penalization subsequently under these rules] [Substituted, for the words 'site plan' by G.O. Ms. No. 112 MA & UD (MI), Department, dated 31.01.2008]. It shall be filled within sixty days from the date of Notification of these Rules along with full penal amount as given in Rule 5. If any owner/individual does not apply within the stipulated time, he shall be liable for enforcement action under the law and his building shall not be taken up for regulation and penalization under these Rules.

4. Prior clearance from other Authorities/Departments in certain cases.

(1)In the following cases, prior clearance shall be ensured by the Competent Authority before considering the application under these Rules:(a)In respect of cases of residential buildings 18 mts. and above in height, Commercial buildings 15mts. And above in height, and buildings of public congregation like schools, Cinema theatres, function halls and other assembly buildings on plot area of 500 sq. mts. And above or of height above 6 mts. as stipulated in Section 13 of the Andhra Pradesh Fire'Service Act, 1999 from Fire Service Department.(b)From Airport Authority of India wherever applicable.(c)In case of buildings of height above 15 mts., necessary certificate from licensed structural engineer with regard to structural safety compliance of such buildings needs to be submitted.(2)Applicants shall submit such application along with the above details within the stipulated time. However, an additional time period of three months will be allowed for filing the

Clearances as required under Rule 4 (1)(a) and Rule 4(1)(b).

5. Payment of Penal Charges.

(1)The owner/applicant shall pay the Penal Charge as given in Annexure-I and II along with the Application for Penalization and other details. The Penal Charges are levied for the total violated built up area on all floors. The Penal Charges include Building permit fee, Development Charges, Betterment charges, Impact fees, etc. No other fees and charges shall be levied and collected.(2)The above fees and charges shall be remitted by way of Demand Draft Drawn in favour of the Competent Authority.(3)The Penal amount paid are not refundable. However, in cases of rejection, the Competent Authority may refund the amount after retaining 19% of the Penal amount towards scrutiny and processing charges. In case of bona fide error in calculation, the excess amount paid may be refunded.(4)[Buildings constructed prior to 31-12-97 are eligible for reduction of 25% on penalization charges.(5)in case of Residential buildings falling in notified slums, only 50% of penalization charges shall be levied.(6)In case of buildings converted to commercial use from other uses, double the penalization charges, at the rate prescribed for commercial use have to be paid by the applicant on the total built up area which has been converted into commercial use.(7)In case of constructions made within the building line of major roads of width 80 feet and above within the limits of Greater Hyderabad Municipal Corporation, Greater Vishakhapatnam Municipal Corporation, and Vijayawada Municipal Corporation and roads of width 60 feet and above in rest of the urban areas as per Master Plan/Zonal Development Plan, the regulation and penalization shall be done subject to the property owner furnishing a legally enforceable undertaking that he will surrender the land falling within the building line to local body/U DA free of cost as and when required in future for road widening or other public purposes] [Added by G.O. Ms. No 112 (MA & UD (ML)) Department, dated 31-01-2008].

6. Scrutiny, Rejection and Approval by the Competent Authority.

- After receipt of the Application for Penalization in the prescribed Format along with required documents and plans, the Competent Authority shall scrutinize the applications and after carrying out necessary site inspections, communicate it's approval or rejection to the applicant as early as possible but not beyond six months from the last date of receipt of Applications. The Competent Authority may engage the services of licensed technical personnel for scrutiny of the applications and for field inspections. Mere receipt of application or any delay in communication of final orders in the matter will not imply the approval of the application.

7. Violation after submission of Application.

- During verification, if it is found that the applicant has undertaken further additions or extensions to the existing building, then such application shall be summarily rejected duly forfeiting the entire penal amount and necessary action shall be taken against the unauthorized building including demolition as per the law.

8. Exemption.

- Huts, semi permanent houses ["RCC houses of up to two storeys (G+1) in sites up to 100 sq. meters"] [Substituted, by G.O. Ms. No 112 MA & UD (MI), Department, dated 31-01-2008] and are not covered under these Rules.

9. Penalization not to apply to certain sites.

- Penalization of. unauthorized constructions shall not be considered in the following cases and in cases where public interest and public safety are likely to be adversely affected, viz.(a)Encroachment on Government land or property belonging to Public undertakings, Andhra Pradesh Housing Board, Andhra Pradesh Industrial Infrastructure Corporation, Urban Development Authority, Local body, Endowments, Wakf Board etc.;;(b)Land for which the applicant has no title;(c)Surplus land declared under Urban land Ceiling / Agriculture Land Ceiling / lands resumed under Andhra Pradesh assigned Lands (PO T) Act;(d)Buildings affected under alignment of any road or proposed road under Master Plan / Zonal Development Plan / Road Development Plan or any other public roads/MRTS/BRTS;(e)Tank bed and Sikham lands;(f)Areas prohibited for construction under GOMs No. Ill MA & U.D. Dept., dated 8 3-1996 (Protection of Catchment Area of Osmansagar and Himayatsagar lakes);(g)Prohibited areas under the Coastal Regulation Zone and such other environmentally restricted zones as may be prescribed;(h)Layout/Master Plan open spaces/ Areas earmarked for Recreation Use in Master Plan/Zonal development Plan;(i)[to (m) [x x x]

10. Issue of Occupancy certificate.

- In case of approval, the local authority shall issue a Proceeding to the effect that all proceedings and action of enforcement initiated or contemplated against the said construction are withdrawn and then issue Occupancy Certificate to the applicant.

11. Appeal.

(1)Any applicant aggrieved by an order passed by the Competent Authority under Rule 6, may prefer an appeal to the Committee constituted by the Government within thirty days from the date of receipt of the order provided the applicant has paid the necessary charges and submitted documents as specified in Rule 3 of these rules.(2)All the appeals shall be disposed off within 3 months.

12. Failure to come forward for penalization of unauthorized constructions.

- Where an application for regulating and penalizing the unauthorizedly constructed building has not been made as per rule 3:(1)Such unauthorized constructions would be treated as continuing offence and Penalty as per law would be levied.(2)Other enforcement action including demolition shall be initiated by the local authority as per law.(3)No further building approvals shall be considered by the building sanctioning authority in the said site.

12A. [[Rule 12(a) inserted by G.O. Ms. No. 112 MA & UD (MI), Department, dated 31-01-2008]

The builder/developer responsible for construction made with deviations and unauthorized constructions shall be blacklisted]. [Rule 9(i) and Rule 9(m) deleted by G.O. Ms. No. 112 MA & UD (MI), Department, dated 31-01-2008]

13. Amount levied kept in separate account.

(1)The amount collected by the Competent Authority under these rules shall be kept and maintained under the control of the Competent Authority in a separate escrow account and utilized only for improvement of amenities in the area.(2)In respect of Gram Panchayat areas failing in the Urban Development Authority areas, the penal amount so collected will be shared in equal proportion between Urban Development Authority and Gram Panchayat concerned. In respect of Corporation and Municipalities falling in Urban Development Authority areas, the penal amount will be shared between the concerned Corporation/Municipality and Urban Development Authority in the ratio of 70: 30.

14. Constitution of Committee.

- Government will issue separate orders constituting appellate Committees for examining appeals under Pule 11.

15. Government may issue guidelines to operationalize these rules:-

16.

All existing rules, regulations, bye-laws and orders that area in conflict or inconsistent with these rules shall stand modified to the extent of the provisions of these rules.[Annexure I](Table-A)Basic Penalisation Charges (in Rupees/Square feet)

Occupancy or Use	Up to 101		301 to 500 sqm	501 to 1000 sqm	Above 1000 sqm			
	to 100 Sqm	to 300 sqm				up to 30% deviation	above 30% deviation/total un-authorized	Above 30% deviation/total un-authorized
Individual Residential Buildings and	20	30	40	50	50	60	75	100

Other non-commercial
uses

Commercial 40 60 80 100 100 125 150 200

Annexure I (Table-B) Penalisation Charges with Reference to the land Value

Market value of the land as on 01-01-2008 (Sub Register value) in Rupees per Square yard Penalisation Charges (% of basic penal amount)

Above 25,000 100% of 'Basic Penal Amount' as given in Table A

20,001 to 25,000 90% do

15,001 to 20,000 80% do

10,001 to 15,000 70% do

8,001 to 10,000 60% do

5,001 to 8,000 50% do

3,001 to 5,000 45% do

2,001 to 3,000 40% do

1,001 to 2,000 35% do

501 to 1,000 30% do

up to 500 Rupees per Square yard 25% do

[Annexure II] (Table-C) Basic Penalisation Charges for Multiple Dwelling units/Flats/Apartment Complexes/Individual Building Converted into apartments.

Plinth area of Flat Basic Penalisation Charges per Flat (Covered by approved Plan) Basic Penalisation for Unauthorised Rs./Sft. Charges Floors

Up to 600 Sft Rs. 10,000 60

601 to 1200 Sft Rs. 20,000 75

1201 to 2000 Sft Rs. 30,000 90

Above 2000 Sft Rs. 40,000 100

Annexure II (Table-D) Penalization Charges with reference to the land value

Market value of the land as on 01-01-2008 (Sub Register value) in Rupees per Square yard Penalization Charges to be paid (percentage of basic value)

above Rs. 25000/- per yard 100% of Basic Penal amount given in Table "C"

Rs. 15,001-Rs. 25,000 80% do

Rs. 5001 - Rs. 15,000 60% do

Up to Rs. 5,000

50%

do

Annexure - I (Table-A) Basic penalisation charges for individual residential buildings/ Commercial buildings. (In Rupees per square feet) in Annexure-I, (Table-B) penalisation charges to be paid with reference to the land value in (Table-B).The above two Tables have to be read together to arrive at the penalisation charges to be paid.Annexure - II Basic penalisation charges for apartments in (Table-C), and calculation of penalisation charges with reference to the land value in (Table-D).The above two Tables have to be read together to arrive at the penalisation charges to be paid].[Annexures I and II substituted, by G.O. Ms. No. 112 MA & UD (M1), Department, dated 31-01-2008][Annexures I and II substituted, by G.O. Ms. No. 112 MA & UD (M1), Department, dated 31-01-2008]