

# **The Gandhidham (Development and Control on Erection of Buildings) Act, 1957**

GUJARAT

India

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### **Act 19 of 1958**

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The Gandhidham (Development and Control on Erection of Buildings) Act, 1957 Bombay Act No. 19 of 1958 [Dated 13th February 1958] For Statement of Objects and Reasons, see Bombay Government Gazette, 1957 Part V, pages 163-164. An Act to provide for the development of Gandhidham for the control on erection of buildings therein, and for certain other matters. Whereas it is expedient to provide for the development of Gandhidham, for the control on erection of buildings therein, and for certain other matters; It is hereby enacted in the Eighth Year of the Republic of India as follows:-

### **1. Short title, extent and commencement.**

(1) This Act may be called the Gandhidham (Development and Control on Erection of Buildings) Act, 1957. (2) It extends to the whole of Gandhidham in the Kutch area of the [State of Gujarat] [These words were substituted for the words 'State of Bombay' by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.]: Provided that the State Government may, at any time by notification in the Official Gazette, direct that all or any of the provisions of this Act shall cease to extend, on such date as may be specified in the notification, to any area in Gandhidham; and on that date the said provisions shall cease to extend to, and to be in force in, such area, except as respects things done or omitted to be done before such cesser of operation of this Act in such area, and section 7 of the Bombay General Clauses Act, 1904 (Bombay 1 of 1904) shall apply upon such cesser of operation in such area as if it had been then repealed by a Bombay Act. (3) It shall come in to force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. Definitions.**

- In this Act, unless the context otherwise requires-(a) "amenity" includes roads, water supply, street lighting, drainage, sewerage, public parks and any other convenience which the Authority may, by

notification in the Official Gazette, specify to be an amenity for the purposes of this Act;(b)"Authority" means the Gandhidham Development Authority constituted under section 3;(c)"building" means a house, hut, shed or other roofed structure, for whatsoever purpose and of whatsoever material constructed and every part thereof and shall include any wall, underground room or passage, verandah, fixed Platform, plinth, staircase or doorstep, attached to or within the compound of an existing building or constructed on ground which is to be the site or compound of a projected building but shall not include a tent or other such portable temporary structure erected on ceremonial of festive occasions;(d)"development" with its grammatical variations and cognate expressions, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in any buildings or land or in the use thereof;(e)"erection of any building" with its grammatical variations and cognate expressions includes-(i)any material alteration or enlargement of any building;(ii)the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;(iii)the conversion into more than one place for human habitation of a building originally constructed as one such place;(iv)the conversion of two or more places of human habitation into a greater number or such places;(v)such alteration of a building as affect its drainage of sanitary arrangements or materially affect its security;(vi)the addition of any rooms, buildings, out-houses or other structures to any building, and;(vii)the construction in a wall adjoining any street or land not belonging to the owner or the wall of a door opening on to such street or land;(f)"Gandhidham" means the area in the Kutch District lying within the boundaries described in the Schedule;(g)"owner" includes a person for the time being receiving or entitled to receive the rent, or a part of the rent, of any land or building, whether on his own account or as trustee or as agent or as receiver appointed by or under order of a court or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant;(h)"prescribed" means prescribed by regulations made under this Act;(i)"road" includes any street square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of way.

### **3. Constitution and composition of Gandhidham Development Authority.**

(1)The State Government shall, as soon as may be, after the commencement of this Act, constitute for the purpose of this Act an authority to be called the Gandhidham Development Authority.(2)The Authority shall consist of the following members namely:- (a)the District Magistrate, Kutch, Ex-officio;(b)the District Public Health Officer, Kutch ex-officio;(c)five non-official members nominated by the State Government;(d)not more than three persons as may be nominated by the Central Government.(3)The Chairman and the Secretary of the Authority shall be nominated by the State Government.(4)[ (a) the Chairman, Secretary and the members other than ex-officio members, of the Authority nominated by the State Government shall hold office during the pleasure of the State Government;(b)The members nominated by the Central Government under clause (d) of subsection (2) shall hold office, during the pleasure of the Central Government.](4A)[ The Chairman, the members other than members ex-officio and the Secretary, of the Authority shall receive such emoluments as may be prescribed.] [Sub-section (4A) was inserted by Gujarat 12 of 1966, section 2.](5)The Authority may, with the previous sanction of the State Government, appoint such officers, and clerical and other staff, as the Authority considers necessary.

#### **4. Procedure and authentication of order, etc. of Authority.**

(1)The number of members necessary to form a quorum, and the procedure to be followed by the Authority in the conduct of its business, shall be such as may be prescribed.(2)All action taken by the Authority shall be expressed to be taken in the name of the Authority and orders and other instruments made and executed in the name of the Authority shall be authenticated in such manner as may be prescribed, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Authority.(3)[ The Authority may have and use such official seal as may be prescribed.] [Sub-section (3) was inserted by Gujarat 12 of 1966, section 3.]

#### **5. Vacancy or defect in constitution of Authority.**

- No act of the Authority shall be called in question on the ground only of the existence of any vacancy in, or any defect in the constitution of the Authority.

#### **6. Power to issue directions in respect of Gandhidham.**

(1)The Authority with a view to the proper laying out of land, the prevention of haphazard erection of building and growth of sub-standard colonies and generally with a view to developing and expanding Gandhidham according to proper planning may, by notification in the Official Gazette, issue in relation to Gandhidham or any area thereof, such direction as it considers necessary.(2)Without prejudice to the generality of the foregoing power, but regard being had to the objects therein mentioned, the Authority may, in particular, issue directions in relation to all or any of the following matters, that is to say,-(a)the division or sub-division of any site into plots for the erection of buildings, and the manner in which such plots may be allotted to intending purchasers or lessees;(b)the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes;(c)the development of any site into a colony and the restrictions and conditions subject to which such development may be undertaken or carried out;(d)the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings, and the height and character of buildings;(e)the alignment of buildings on any site;(f)the architectural features of the elevation or frontage of any buildings to be erected on any site;(g)the number of residential buildings which may be erected on any site;(h)the amenities to be provided in relation to any site or buildings on such site, whether before or after the erection of buildings, and the person or authority by whom such amenities are to be provided;(i)the prohibition or restrictions regarding erection of shops, workshops, warehouses or factories or buildings of a specified architectural feature or buildings designed for particular purposes in any locality;(j)the regulations of use of any land for the purposes of charcoal-kiln, pottery-kiln or lime-kiln or brick field or brick-kiln;(k)the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;(l)the restriction regarding the use of any site for the purposes other than the erection of buildings; and(m)any other matter, which in the opinion of the Authority, is necessary for the proper planning of Gandhidham and for preventing buildings being erected haphazardly therein.(3)Before a direction is issued under this section, the Authority shall by notice in the Official

Gazette, and advertisement in any newspaper circulating in the locality and also by notice affixed at some convenient place in that locality, inform all persons interested of the intention to issue such a direction, and invite objections thereto within a period therein specified, being a period not less than one month from the date of publication of intention in the Official Gazette as aforesaid. When the Authority has considered all the objections to the proposal to issue a direction, the Authority shall decide whether to issue the direction with or without modification, or whether or not to issue it; and if it is decided to issue the direction then the direction shall be published in the Official Gazette, as provided in sub-section (1).

## **7. Control of development and building operations in Gandhidham.**

- No person shall undertake or carry out the development of any site in Gandhidham, or erect any building or make or extent any excavation, or lay out any means of access to a road in Gandhidham, except in accordance with the directions issued under section 6 and with the previous permission of the Authority in writing.

## **8. Application for permission.**

(1) Every person desiring to obtain the permission referred to in section 7 shall make an application in writing to the Authority in such form, and on payment of such fee, and containing such information, as may be prescribed in respect of the development, building, excavation or means of access to which the application relates: [Provided that no fee shall be payable where the application is made by an officer or a department of Government.] [This proviso was added by Gujarat 35 of 1961, section 2.] (2) On receipt of such application the Authority, after making such inquiry as it considers necessary in relation to any direction issued under section 6 or in relation to any other matter, shall, by order in writing either, grant the permission, subject to such conditions, if any, as may be specified in the order or refuse to grant such permission. (3) Where permission is refused, the grounds of such refusal shall be communicated to the applicant in the prescribed manner.

## **9. Prohibition of use of any land, as brick fields, etc., without licence.**

(1) No land within Gandhidham shall be used for the purposes of a charcoal-kiln, pottery-kiln or lime-kiln, and no land within Gandhidham shall be used for the purposes of a brick-field or brick-kiln except in accordance with the directions issued under clause (j) of subsection (2) of section 6 and under and in accordance with the conditions of, a licence from the authority, which may be renewed annually. (2) Every person desiring to obtain or renew a licence under sub-section (1) shall make an application, to the Authority in such form and containing such information, as may be prescribed. (3) On receipt of an application under sub-section (2), the Authority, after making such inquiry as it considers necessary in relation to any direction issued under section 6 or in relation to any other matter, shall, by order in writing, either grant the licence subject to such conditions in respect thereof and on payment of such fee as may be prescribed, or refuse the licence. (4) Where the licence is refused, the grounds of such refusal shall be communicated to the applicant in the prescribed manner.

## **10. Bar of compensation.**

- No compensation shall be claimed by any person for damage or loss sustained or alleged to have been sustained by him in consequence of-(a)any order made by the Authority under sub-section (2) of section 8 or subsection (3) of section 9; or(b)anything which is in good faith done or intended to be done under this Act.

## **11. Power of entry on building or land.**

- The Authority may authorize any person to enter into or upon any site of building with or without assistants or workmen, for the purpose of-(a)making any inquiry, inspection, measurement or survey, or taking levels of such site or building;(b)examining works under construction or ascertaining the course of sewers or drains;(c)ascertaining whether any site is being or has been developed, or any building is being or has been erected, in contravention of any direction issued under section 6 or without the permission referred to in section 7 or in contravention of any condition subject to which such permission has been granted; or(d)ascertaining whether any land is being or has been used for the purposes of a charcoal-kiln, pottery-kiln or lime-kiln without a licence or in contravention of any condition subject to which such licence has been granted:Provided that no entry shall be made except between the hours of sunrise and sunset, and without giving not less than twenty-four hours written notice to the occupier, or if there be no occupier, to the owner of the building or land.

## **12. Order of demolition of building in certain cases.**

(1)Where the Authority is satisfied that the erection of any building has been commenced, or is being carried on, or has been continued in contravention of any direction issued under section 6 or without the permission referred to in section 7 or in contravention of any condition subject to which such permission has been granted, the Authority may make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months, and on the failure of the owner to comply with the order, the Authority may itself cause the erection to be demolished and the expenses of such demolition shall be recoverable from the owner in the same manner as an arrear of land-revenue:Provided that before causing such erection to be demolished, the Authority shall make a reference [to the District Judge, Kutch, who shall constitute a Board of Appeal under section 19 for deciding the reference.] [These words and figures were substituted for the words and figures 'to the Board of Appeal constituted under section 19' by Gujarat 35 of 1961, section 3.] The Board shall after giving notice to the owner and after giving him reasonable opportunity to show cause why the erection should not be demolished, confirm, modify or cancel the order of demolition. The decision of the Board shall be conclusive, and shall not be liable to be questioned in any suit in a civil or any proceeding in a criminal court.(2)The order directing the demolition of any erection made under sub-section(1) shall not prevent the infliction of any punishment to which the person affected thereby is liable under section 13 or any other law for the time being in force.

### **13. Penalties.**

(1) Any person who—(a) undertakes or carries out the development of any site or erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of any direction issued under section 6 or without the permission referred to in section 7 or in contravention of any condition subject to which such permission has been granted, or (b) uses any land in contravention of the provisions of sub-section (1) of section 9, shall be punished with fine which may extend to ten thousand rupees and in the case of a continuing offence with a further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence. (2) Any person who obstructs the entry of a person authorised under section 11 to enter into or upon any building site or land, or molests such person after such entry shall be punished with fine which may extend to one thousand rupees. (3) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything in sub-section (3), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes of this section,—(a) "company" means a body corporate and includes a firm or other association of individuals; and (b) "director" in relation to a firm, means a partner in the firm.

### **14. Jurisdiction of courts.**

- No court inferior to that of a magistrate of the first class shall try an offence punishable under this Act.

### **15. Previous sanction of Authority or Officer authorised by it for prosecution.**

- No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Authority or an officer authorised by the Authority in this behalf.

### **16. Magistrate's powers to impose enhanced penalties.**

- Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (V of 1898) it shall be lawful for any court of a Magistrate of the first class to pass any sentence authorised by this Act in excess of its powers under this said section.

## **17. Power to delegate.**

- The Authority may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised in such cases and subject to such conditions (if any), as may be specified in the notification by such Officer being an Officer not below the rank of a Deputy Collector or Assistant Collector as may be mentioned therein.

## **18. Right of Appeal.**

- Any person aggrieved by any direction issued by the Authority under section 6 or by an order of the Authority under sub-section (2) of section 8 or of sub-section (3) of section 9 may, within thirty days from the date of the issue of such direction or as the case may be, from the date of communication of such order to him [present an appeal to the District Judge, Kutch, who shall constitute a Board of Appeal under section 19 for deciding the appeals.] [These words and figures were substituted for the words and figures 'appeal to a Board of Appeal constituted under section 19' by Gujarat 35 of 1961, section 4.]

## **18A. [ Compounding of offences. [Section 18A was inserted by Gujarat 12 of 1966, section 4.]**

(1)The Authority or any person authorised by the Authority by a general or special order in this behalf may, either before or after the institution of proceedings for any offence punishable under this Act, accept from any person charged with such offence a sum not exceeding ten thousand rupees by way of composition of the offence.(2)On payment of such sum as may be determined by the Authority or as the case may be, the person so authorised, no further proceedings shall be taken against the accused person in respect of the same offence.] [Sub-section (4) substituted by Gujarat 1 of 1999, dated 9th March 1999]

## **19. Constitution of the Board of Appeal.**

(1)The Board of Appeal shall consist of a President and two Assessors.(2)The President shall be the District Judge, Kutch.(3)The President shall appoint fit and proper persons as Assessors.(4)[ The President and the Assessors shall be members of the Board of Appeal for such period as may be required by such Board to decide a reference under the proviso to sub-section (1) of section 12 or an appeal under section 18.] [This sub-section was substituted for the original sub-section (4) by Gujarat 35 of 1961, section 5.](5)The State Government may, if it thinks fit, remove for incompetence or misconduct or any other good and sufficient reason an Assessor appointed under subsection (3).(6)If any Assessor is removed or dies or refuses or neglects to act or becomes incapable of acting, the President shall appoint forthwith a fit and proper person to take the place of such Assessor.

## **20. Officer appointed by authority to assist Board in advisory capacity.**

- An officer appointed by the Authority in that behalf, shall be present at the proceedings before the Board of Appeal. He shall not be required to give evidence in such proceedings but the President may require him to assist the Board in an advisory capacity.

## **21. Place where the Board may sit.**

- The Board of Appeal may sit either at the headquarters of the President or at any other place in Gandhidham which he may deem convenient for the consideration and decision of any matter before such Board.

## **22. Right to appear by recognised agent.**

- Every party to any proceeding before the Board of Appeal shall be entitled to appear either in person or by his recognized agent.

## **23. Decision of questions of law and other questions.**

- All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors, or by a majority of them.

## **24. Powers of Board to decide matters finally.**

(1)After making such inquiry, as it may think fit, the Board of Appeal may either direct the Authority to reconsider its proposals, or accept, modify or vary the direction or order of the Authority, and shall decide all matters arising out of such direction or order of the Authority.(2)Every decision of the Board of Appeal shall be conclusive and binding on all persons and shall not be liable to be questioned in any suit in a Civil Court.

## **25. Board not be a Court.**

- Nothing contained in this Act shall be deemed to constitute the Board of Appeal to be a Court.

## **26. Remuneration of Assessors.**

- The Assessors shall, save where they are salaried Government Officer, be entitled to such remuneration either, by way of monthly salary or by way of fees or partly in one way and partly in the other, as the State Government, from time to time, determine.



## **27. Decision of Authority to be final in certain matters.**

- Where no appeal has been made under section 18, the direction issued by the Authority under section 6 or its order under sub-section (2) of section 8 or under sub-section (3) of section 9, shall be final and binding on the parties.

## **27A. [ Member, officer and employee of Authority to be public servant.**

**[Section 27A was inserted by Gujarat 12 of 1966, section 5.]**

- Every member and every officer and other employee of the Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).]

## **28. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall lie against the State Government or any person for anything which is in good faith done or intended to be done under this Act or the regulations made thereunder.

## **29. Effect of provisions of Act inconsistent with other enactments and instruments.**

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any instrument having effect other wise than by virtue of this Act.

## **30. Savings.**

- Nothing in this Act shall apply to-(a)the carrying out of works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the buildings but not its drainage or sanitary arrangements or its security or which do not materially affect the external appearance of the building;(b)the carrying out by the Government or local authority in Gandhidham of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;(c)the erection of a building not being a dwelling house if such building is required for purposes subservient to agriculture;(d)the erection of buildings upon land included in the inhabited site of any village within the meaning of the Bombay Land Revenue Code, 1879 (Bombay V of 1879), as applied to the Kutch area of the [State of Gujarat] [These words were substituted for the words 'State of Bombay' by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.].(e)excavations (including wells) made by Government or any local authority in the ordinary course of agricultural operations, or for the purpose of laying, making, altering, repairing, or renewing any sewer, drain or water course for supplying water for drinking;(f)the construction of unmetalled roads intended to give access to land solely for agricultural purpose; and(g)any area within the limits of the major port of Kandla defined or altered as the case may be under the Indian Ports Act, 1908 (XV of 1908), being an area owned or occupied for the purposes of that port by the

Central Government.

### **31. Powers to make regulations.**

(1)The Authority, with the previous approval of the State Government may, by notification in the Official Gazette, make regulations to carry out the purposes of this Act:Provided that the State Government may make the first regulations under this section and any regulations so made may be altered or rescinded by the Authority in exercise of the powers conferred by this section.(2)In particular, but without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-(a)the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the procedure to be followed by the Authority, the conduct of all business to be transacted by the Authority and the number of the members necessary to form a quorum;(aa)[ the emoluments payable to the Chairman, members and the Secretary of the Authority;] [Clause (aa) was inserted by Gujarat 12 of 1966, section 6 (1) (i).](b)[ the official seal of the Authority;] [Clause (b) was inserted by Gujarat 12 of 1966, section 6 (1) (ii).](c)the form in which an application for permission under sub-section (1) of section 8 and an application for licence under sub-section (2) of section 9 shall be made and the information to be furnished in such application;(d)the fee to be charged for an application under section 8;(e)the fee to be charged for the grant and renewal of licences under section 9 and the conditions governing such licences;(f)the manner in which notice under this Act may be served;(g)the regulation of the laying out of means of access to roads;(h)the principles under which applications for permission or licence under this Act may be granted;(i)the officers to whom powers may be delegated under section 17; and(j)any other matter which has to be, or may be, prescribed.(3)[ All regulations made under this section shall be laid for not less than thirty days before the State legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(4)Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.] [Sub-sections (3) and (4) were substituted for the original section by Gujarat 12 of 1966, section 6 (2).]

### **Schedule**

[See Section 2(F)]Gandhidham comprised in the area bounded as follows:-On the South - by the coast line of the Gulf of Kutch starting from the Kandla Creek up to a position to the west at a distance of 13 miles from the New Kandla Port.On the West - by a line drawn in circle at a distance of 13 miles from the new Kandla port starting from the coast line of the Gulf of Kutch up to a position North latitude 23-8' and East longitude 70-7'.On the North - by a line drawn from position North latitude 23-8' East longitude 70-7'along North latitude 23-8' to East longitude 70-15'.On the East - by a line drawn from position North latitude 23-8' and East longitude 70-15' along East longitude 70-15' towards South meeting the Western bank of the Kandla Creek and then along Kandla Creek up to the coast line of the Gulf of Kutch.