

Of Use of Land.

Uses to which holder of land for purposes of agriculture may put his land.

41. ¹[(1)] ²[Subject to the provisions of this section, holder of any land] assessed or held for the purpose of agriculture is entitled by himself, his servants, tenants, agents or other legal representatives to erect farm ³[building], construct wells or tanks or make any other improvements thereon for the better cultivation of the land, or its more convenient use for the purpose aforesaid.

⁴[(2) From the date of commencement of the Maharashtra Land Revenue Code (Amendment) Act, 1986 (hereinafter in this section referred to as "such commencement date") before erection any farm building or carrying out any work or renewal of, re-construction of, alterations in, or additions to, any such farm building, or any farm building erected before such commencement date, on any land which is situated,—

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(a) within the limits of—

- (i) the Municipal Corporation of Greater Bombay,
- (ii) the Corporation of the City of Pune,
- (iii) the Corporation of the City of Nagpur,

and the area within eight kilometres from the periphery of the limits of each of these corporations ;

(b) within the limits of any other Municipal Corporation constituted under any law for the time being in force and the area within five kilometres from the periphery of the limits of each such Municipal Corporation ;

(c) within the limits of the 'A' Class Municipal Councils and the area within three kilometres from the periphery of the limits of each such Municipal Council ;

(d) within the limits of the 'B' and 'C' Class Municipal Councils ; or

(e) within the area covered by the Regional Plan, Town Planning Scheme, or proposals for the development of land (within the notified area) or (an area designated as) the site of the new town, whether each of these being in draft or final, prepared, sanctioned or approved under the Maharashtra Regional and Town Planning Act, 1966 ;

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the holder or any other person referred to in sub-section (1), as the case may be, shall, notwithstanding anything contained in sub-clause (d) and (e) of clause (14) of section 2, make an application, in the prescribed form, to the Collector for permission to erect such farm building or to carry out any such work of renewal, re-construction, alteration or additions as aforesaid.

(3) The Collector may, subject to the provisions of sub-section (4) and such terms and conditions as may be prescribed, grant such permission for erection of one or more farm buildings having a plinth area not exceeding the limits specified below :—

¹ Section 41 was renumbered as sub-section (1) of that section, by Mah. 32 of 1986, s. 2.

² These words, were substituted for the words "A holder of any land", *ibid*, s. 2 (a) (i).

³ This word substituted for the word "buildings", *ibid*, s. 2 (a) (ii).

⁴ Sub-sections (2) to (6) were added by Mah. 32 of 1986, s. 2 (b).

(i) if the area of the agricultural holding on which one or more farm buildings are proposed to be erected exceeds 0.4 hectares but does not exceed 0.6 hectares, the plinth area of all such buildings shall not exceed 150 square metres ; and

(ii) if the area of the agricultural holding on which one or more farms buildings are proposed to be erected is more than 0.6 hectares, the plinth area of all such buildings shall not exceed one-fortieth area of that agricultural holding or 400 square meters, whichever is less :

Provided that, if one or more farm buildings proposed to be erected are to be used, either fully or in part, for the residence of members of the family, servants or tenants of the holder, the plinth area of such building or buildings proposed to be used for residential purpose shall not exceed 150 square meters, irrespective of the fact that the area of the agricultural holding on which such building or buildings are proposed to be erected exceeds 0.6 hectares.

(4) The Collector shall not grant such permission—

(a) (i) if the area of the agricultural holding on which such building is proposed to be erected is less than 0.4 hectares ;

(ii) if the height of such building from its plinth level exceeds 5 meters and the building consists of more than one floor, that is to say, more than ground floor ;

(iii) for erection of more than one farm building for each of the purposes referred to in clause (9) of section 2 ;

(b) if any such work of erection involves renewal or re-construction or alterations or additions to an existing farm building beyond the maximum limit of the plinth area specified in sub-section (3) or beyond the limit of the height of 5 meters from the plinth level and a ground floor.

Explanation.—For the purposes of sub-sections (3) and (4), if only one farm building is proposed to be erected on an agricultural holding, “plinth area” means the plinth area of that building, and if more than one farm buildings are proposed to be erected on an agricultural holdings, “plinth area” means the aggregate of the plinth area of all such buildings.

(5) Where an agricultural holding is situated within the limits of any Municipal Corporation or Municipal Council constituted under any law for the time being in force, the provisions of such law or of any rules or bye-laws made thereunder, or of the Development Control Rules made under the provisions of the Maharashtra Regional and Town Planning Act, 1966, or any rules made by the State or Central Government in respect of regulating the building and control lines for different portions of National or State highways or major or other district roads or village roads shall, save as otherwise provided in this section, apply or continue to apply to any farm building or buildings to be erected thereon or to any work of renewal or reconstructions or alterations or additions to be carried out to the existing farm building or buildings thereon, as they apply to the building permissions granted or regulated by or under such law or Development Control Rules or rules in respect of regulating the building and control lines of highways or roads.

(6) Any land used for the erection of a farm building or for carrying out any work of renewal, re-construction, alterations or additions to a farm building as aforesaid in contravention of the provisions of this section shall be deemed to have been used for non-agricultural purpose and the holder or, as the case may be, any person referred to in sub-section (1) making such use of land shall be liable to the penalties or damages specified in section 43 or 45 or 46, as the case may be.]

Permission for non-agricultural use. ¹[42. (1)] No land used for agriculture shall be used for any non-agricultural purposes; and no land assessed for one non-agricultural purpose shall be used for any other non-agricultural purpose or for the same non-agricultural purpose but in relaxation of any of the conditions imposed at the time of the grant of permission for non-agricultural purpose, except with the permission of the Collector.

¹[(2) Notwithstanding anything contained in sub-section (1), no such permission shall be necessary for conversion of use of any agricultural land for the personal *bona fide* residential purpose in non-urban area, excluding,—

(a) the area mentioned in clause (2) of the *Explanation* to section 47A, as a peripheral area of the Municipal Corporation or the Municipal Council ;

(b) the area falling within the control line of the National Highways, State Highways, District Roads or Village Roads ;

(c) the areas notified as the Eco-sensitive Zone by the Government of India.]

Restrictions on use. 43. Subject to the rules made by the State Government in this behalf the Collector or a Survey Officer may regulate or prohibit the use of land liable to the payment of land revenue for purposes such as, cultivation of unarable land in a survey number assigned for public purpose, manufacture of salt from agricultural land, removal of earth, stone, kankar, murum or any other material from the land assessed for the purpose of agricultural only, so as to destroy or materially injure the land for cultivation, removal of earth, stone (other than loose surface stone), kankar, murum or any other material from the land assessed as a building site, excavation of land situated within a *gaathan* ; and such other purposes as may be prescribed ; and may summarily evict any person who uses or attempts to use the land for any such prohibited purpose.

Procedure for conversion of use of land from one purpose to another. 44. (1) ²[Subject to the provisions of sub-section (2) of section 42, if an occupant of unalienated land or a superior holder of alienated land or a tenant of such land—

(a) which is assessed or held for the purpose of agriculture, wishes to use it for a non-agricultural purpose, or]

(b) if land is assessed or held for a particular non-agricultural purpose, wishes to use it for another non-agricultural purpose, or

(c) desires to use it for the same non-agricultural purpose for which it is assessed but in relaxation of any of the conditions imposed at the time of grant of land or permission for such non-agricultural purpose,

such occupant or superior holder or tenant shall, with the consent of the tenant, or as the case may be, of the occupant or superior holder, apply to the Collector for permission in accordance with the form prescribed.

¹ Section 42 was renumbered as sub-section (1) thereof and after the said sub-section (1) as so renumbered, sub-section (2) was added by Mah. 17 of 2007, s. 2

² This portion was substituted for the portion beginning with the words "if an occupant" and ending with the words "for a non-agricultural purpose, or" *ibid*, s. 3.

- (2) The Collector, on receipt of an application,—
- (a) shall acknowledge the application within seven days ;
 - (b) may, unless the Collector directs otherwise, return the application if it is not made by the occupant or superior holder or as the case may be, the tenant or if the consent of the tenant, or as the case may be, of the occupant or superior holder has not been obtained, or if it is not in accordance with the form prescribed;
 - (c) may, after due enquiry, either grant the permission on such terms and conditions as he may specify subject to any rules made in this behalf by the State Government ; or refuse the permission applied for, if it is necessary so to do to secure the public health, safety and convenience or if such use is contrary to any scheme for the planned development of a village, town or city in force under any law for the time being in force and in the case of land which is to be used as building sites in order to secure in addition that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of the occupiers or are suitable to the locality ; where an application is rejected, the Collector shall state the reasons in writing of such rejection.
- (3) If the Collector fails to inform the applicant of his decision within ninety days from the date of acknowledgement of the application, or from the date of receipt of the application—if the application is not acknowledged, or within fifteen days from the date of receipt of application for a temporary change of user or where an application has been duly returned for the purposes mentioned in clause (b) of sub-section (2), then within ninety days ¹[or as the case may be, within fifteen days] from the date on which it is again presented duly complied with, the permission applied for shall be deemed to have been granted, but subject to any conditions prescribed in the rules made by the State Government in respect of such user.
- (4) The person to whom permission is granted or deemed to have been granted under this section shall inform the Tahsildar in writing through the village officers the date on which the change of user of land commenced, within thirty days from such date.
- (5) If the person fails to inform the Tahsildar within the period specified in sub-section (4), he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but not exceeding five hundred rupees.
- (6) When the land is permitted to be used for a non-agricultural purpose, a sanad shall be granted to the holder thereof in the form prescribed under the rules.
- It shall be lawful for the Collector either of his own motion or on the application of a person affected by the error, to direct at any time the correction of any clerical or arithmetical error in the sanad arising from any accidental slip or omission.
- ²[44A. (1) Notwithstanding anything contained in section 42 or 44, where a person desires to convert any land held for the purpose of agriculture or held for a particular non-agricultural purpose, situated,—
- (i) within the industrial zone of a draft or final regional plan or draft, interim or final development plan or draft or final town planning scheme, as the case may be, prepared under the Maharashtra Regional and Town Planning Act, 1966, or any other law for the time being in force ; or within the agricultural zone of any of such plans or schemes and the development control regulations or rules framed under such Act or any of such laws permit industrial use of land ; or

No permis-
sion required
for bona fide
industrial
use of land.

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¹These words were inserted by Mah. 4 of 1970, s. 3.

² Section 44A was inserted by Mah. 26 of 1994, s. 2.

(ii) within the area where no plan or scheme as aforesaid exists, ¹[for a *bona-fide* industrial use ; or

(iii) within the area undertaken by a private developer as a special township project,

then, no permission for such conversion of use of land shall be required, subject to the following conditions, namely :—

(a) the person intending to put the land to such use has a clear title and proper access to the said land ;

(b) such person has satisfied himself that no such land or part thereof is reserved for any other public purpose as per the Development plan (where such plan exists) and the proposed *bona fide* industrial use ²[or special township project, as the case may be,] does not conflict with the overall scheme of the said Development plan ;

(c) no such land or part thereof is notified for acquisition under the Land Acquisition Act, 1894 or the Maharashtra Industrial Development Act, 1961 or covers the alignment of any road included in the 1981-2001 Road Plan or any subsequent Road Plan prepared by the State Government ;

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(d) such person ensures that the proposed industry ³[or special township project, as the case may be,] does not come up within thirty metres of any railway line or within fifteen metres of a high voltage transmission line ;

(e) there shall be no contravention of the provisions of any law, or any rules, regulations or orders made or issued, under any law for the time being in force, by the State or Central Government or any local authority, statutory authority, Corporation controlled by the Central or State Government or any Government Company pertaining to management of Coastal Regulation Zone, or of the Ribbon Development Rules, Building Regulation, or rules or any provisions with regard to the benefitted zones of irrigation project and also those pertaining to environment, public health, peace or safety:

⁴[Provided that, the provisions of this sub-section shall not apply to the areas notified as the Eco-sensitive Zone, by the Government of India.]

(2) The person so using the land for a *bona fide* industrial use ⁵[or special township project, as the case may be,] shall give intimation of the date on which the change of user of land has commenced and furnish other information, in the prescribed form within thirty days from such date, to the *Tahsildar* through the village officers, and shall also endorse a copy thereof to the Collector :

Provided that, where such change of user of land has commenced before the rules prescribing such form are published finally in the *Official Gazette*, such intimation and information shall be furnished within thirty days from the date on which such rules are so published.

¹ This portion was substituted for the portion beginning with the words "for a *bona fide* industrial use " and ending with the words "conditions, namely :- " by Mah. 26 of 2005, s. 2 (a) (i).

² These words were inserted, *ibid*, s. 2 (a) (ii).

³ These words were inserted, *ibid*, s. 2 (a) (iii).

⁴ These proviso were added, *ibid*, s. 2 (a) (iv).

⁵ These words were inserted, *ibid*, s. 2 (b).

(3) (a) If the person fails to inform the *Tahsildar* and the Collector, as aforesaid, within the period specified in sub-section (2) or on verification it is found from the information given by him in the prescribed form that, the use of land is in contravention of any of the conditions specified in sub-section (1), he shall be liable to either of, or to both, the following penalties, namely :—

(i) to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of the Code, such penalty not exceeding rupees ten thousand ; as the Collector may, subject to the rules, if any, made by the State Government in this behalf direct :

Provided that, the penalty so levied shall not be less than twenty times the non-agricultural assessment of such land irrespective whether it does or does not exceed rupees ten thousand ;

(ii) to restore the land to its original use.

(b) Where there has been a contravention of any of the conditions specified in sub-section (1), such person shall, on being called upon by the Collector, by notice in writing, be required to do anything to stop such contravention as directed by such notice and within such period as specified in such notice ; and such notice may also require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied within the period specified in the notice.

(4) (a) If any person fails to comply with the directions or to take steps required to be taken within the period specified in the notice, as aforesaid, the Collector may also impose on such person a further penalty not exceeding five thousand rupees for such contravention, and a daily penalty not exceeding one hundred rupees for each day during which the contravention continues.

(b) It shall be lawful for the Collector himself to take or cause to be taken such steps as may be necessary ; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

(5) As soon as an intimation of use of land for *bona fide* industrial use ¹[or special township project, as the case may be,] is received under sub-section (2) and on verification it is found that the holder of the land fulfils all the conditions specified in sub-section (1), a *sanad* shall be granted to the holder thereof in the prescribed form.

Where there is any clerical or arithmetical error in the *sanad* arising from any accidental slip or omission, it shall be lawful for the Collector either of his own motion or on the application of a person affected by the error to direct at any time the correction of any such error.

²[*Explanation-I*.—For the purposes of this section “ *bona fide* industrial use ” means the activity of manufacture, preservation or processing of goods, or any handicraft, or industrial business or enterprise, carried on by any person ³[or the activity of tourism, within the area notified as the tourist place or hill station, by the State Government] and shall include construction of industrial buildings used for

¹ These words were inserted by Mah. 26 of 2005, s. 2 (c).

² The existing *Explanation* was renumbered as *Explanation-I* and after the *Explanation-I* so renumbered, the *Explanation-II* was added, *ibid*, s. 2 (e).

³ These words were inserted and deemed to have been inserted with effect from 1st July, 2000, *ibid*, s. 2 (d).

the manufacturing process or purpose, or power projects and ancillary industrial usages like research and development, godown, canteen, office -building of the industry concerned or providing housing accommodation to the workers of the industry concerned, or establishment of an industrial estate including co-operative industrial estate, service industry, cottage industry, *gramodyog* units or *gramodyog Vasahats*.]

¹[*Explanation-II*.—For the purposes of this section, “special township project” means special township project or projects under the Regulations framed for Development of Special Township by the Government, under the provisions of the Maharashtra Regional and Town Planning Act, 1966.]

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of 1966.

Penalty for
so using
land without
permission.

45. (1) If any land held or assessed for one purpose is used for another purpose—

(a) without obtaining permission of the Collector under section 44 or before the expiry of the period after which the change of user is deemed to have been granted under that section, or in contravention of any of the terms and conditions subject to which such permission is granted, or

(b) in contravention of any of the conditions subject to which any exemption or concession in the payment of land revenue in relation to such land is granted, the holder thereof or other person claiming through or under him, as the case may be, shall be liable to the one or more of the following penalties, that is to say,—

(i) to pay non-agricultural assessment on the land leviable with reference to the altered use ;

(ii) to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of this Code such fine as the Collector may, subject to rules made by the State Government in this behalf, direct ;

(iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period as the Collector may by notice in writing direct; and such notice may require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied.

(2) If any person fails within the period specified in the notice aforesaid to take steps required by the Collector, the Collector may also impose on such person a penalty not exceeding three hundred rupees for such contravention, and a further penalty not exceeding thirty rupees for each day during which the contravention is persisted in. The Collector may himself take those steps or cause them to be taken; and any cost incurred in so doing shall be recoverable from such person as if it were an arrear of land revenue.

Explanation.—Using land for the purpose of agriculture where it is assessed with reference to any other purpose shall not be deemed to be change of user.

Responsibil-
ity of tenant
or other
person for
wrongful
use.

46. If a tenant of any holder or any person claiming under or through him uses land for a purpose in contravention of the provisions of section 42, 43 or 44 without the consent of the holder and thereby renders the holder liable to the penalties specified in section 43, 44 or 45, the tenant or the person, as the case may be, shall be responsible to the holder in damages.

¹ The existing *Explanation* was renumbered as *Explanation-I* and after the *Explanation-I* so renumbered, the *Explanation-II* was added, by Mah. 26 of 2005, s. 2 (e).

47. Nothing in ¹[section 41, 42,] 44, 45 or 46 shall prevent—

(a) the State Government from exempting any land or class of lands from the operation of any of the provisions of those sections, if the State Government is of opinion that it is necessary, in the public interest for the purpose of carrying out any of the objects of this Code to exempt such land or such class of lands; and

(b) the Collector from regularising the non-agricultural use of any land on such terms and conditions as may be prescribed by him subject to rules made in this behalf by the State Government.

Power of State Government to exempt lands from provisions of ¹[section 41, 42], 44, 45 or 46.

²[47A. (1) There shall be levied and collected additional land revenue, to be called the conversion tax, on account of change of user of lands.

Liability for payment of conversion tax by holder for change of user of land.

(2) Where any land assessed or held for the purpose of agriculture is situated within ³[the limits of Mumbai Municipal Corporation area excluding the area of the Mumbai City District or any other Municipal Corporation area] or of any 'A' Class or 'B' Class Municipal area or of any peripheral area of any of them, and—

(a) is permitted, or deemed to have been permitted under sub-section (3) of section 44, to be used for any non-agricultural purpose ;⁴[***]

(b) is used for any non-agricultural purpose, without the permission of the Collector being first obtained, or before the expiry of the period referred to in sub-section (3) of section 44, and is regularised under clause (b) of ⁵[section 47 ; or]

⁶[(c) is put to a *bona fide* industrial use as provided in section 44A,—] then, the holder of such land shall, subject to any rules made in this behalf, be liable to pay to the State Government, the conversion tax, which shall be equal to ⁷[five times] the non-agricultural assessment leviable on such land, in accordance with the purpose for which it is so used or permitted to be used.

(3) Where any land assessed or held for any non-agricultural purpose is situated in any of the areas referred to in sub-section (2), and—

(a) is permitted, or deemed to have been permitted under sub-section (3) of section 44, to be used for any other non-agricultural purpose ; ⁸[***]

(b) is used for any other non-agricultural purpose, without the permission of the Collector being first obtained, or before the expiry of the period referred to in sub-section (3) of section 44, and is regularised under clause (b) of ⁹[section 47 ; or]

¹⁰[(c) is put to a *bona fide* industrial use as provided in section 44A,—] then, the holder of such land shall, subject to any rules made in this behalf, be liable to pay to the State Government, the conversion tax, which shall be equal to ¹¹[five times] the non-agricultural assessment leviable on such land, in accordance with the purpose for which it is so used or permitted to be used.

¹ These words and figures were substituted for the word and figures "section 42" by Mah. 32 of 1986, s. 3.

² Section 47A was inserted by Mah. 8 of 1979, s. 2.

³ This portion was substituted for the portion beginning with the words "the limits of Greater Bombay" and ending with the word "Solapur" by Mah. 23 of 1999, s. 2 (1) (a).

⁴ The word "or" was deleted by Mah. 26 of 1994, s. 3(a)(i).

⁵ These words and figures were substituted for the word and figures "section 42", *ibid*, s. 3(a) (ii).

⁶ This clause was inserted, *ibid*, s. 3(a) (iii).

⁷ These words were substituted for the words "three times" by Mah. 23 of 1999, s. 2 (1) (b).

⁸ *The words "or" was deleted *ibid*, s. 3 (b) (i).

⁹ These words and figures were substituted for the words and figures "section 42", *ibid*, s. 3 (a) (ii).

¹⁰ This clause was inserted, *ibid*, s. 3 (b) (iii).

¹¹ These words were substituted for the words "three times" *ibid*, s. 2 (2).