

Item No..... Agenda item no. of CMM Meeting.....
Yearly..... Date of Meeting of Council of Ministers.....
Confidential.....
Copy No.....

**Government of Punjab
Department of Local Government, Punjab
(Local Government - 4 Branch)**

Memorandum for Council of Ministers

Minister In-Charge: Minister, Local Government
Secretary In-Charge: Principal Secretary, Local Government

Subject: One-Time Settlement of non-compoundable violations in the buildings constructed in violation of the Building Byelaws in the municipal areas.

1.0 Local Government Department in the year 2004 enacted "The Punjab One-Time Voluntary Disclosure and settlement of violations of the buildings constructed in violation of the Building Byelaws in the Corporations and the Municipalities Act 2004."

1.1 The aforesaid Act was stayed by the Hon'ble High Court in CWP No. 4099 of 2004 and 6026 of 2007 titled as Resurgence India v/s State of Punjab and others, but later on the CWP's were disposed of by the Hon'ble High Court vide orders dated 19.02.2013 upholding the Act of 2004 and directing the Government to fix responsibility for unauthorised constructions.

1.2 However the Punjab Act No. 6 of 2004 (published on 05.04.2004) was applicable to those buildings only which have been constructed on or before 11.09.2003 and the voluntary disclosure was to be done within a period of 3 months on its commencement. Accordingly the Punjab Act No. 6 of 2004 virtually has become infructuous.

1.3 There are a large number of unauthorised buildings where the building plans have not been approved. Most of the

violations are non-compoundable and therefore such buildings cannot be regularized under the existing provisions. These unauthorised constructions have been coming up for the last many years and at this stage, neither it is not possible to demolish such buildings nor it is desirable to demolish. State Government therefore, feels that the best course of action to deal with such buildings is to regularize them provided these buildings meet parking, fire and safety standards.

1.4 The matter has been considered by the Local Government Department. After considering all the issues, the Department formulated a draft of "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance, 2017" for all unauthorized constructions which have come up till 30.09.2017.

1.5 The matter was referred to Legal Remembrancer for his 4 point advice. The Legal Remembrancer vide his U.O.No. 550/Leg.371/2017 dated 10.10.2017 has advised as under:-

"1. The object in view cannot be achieved, except by making a law on the subject. Hence, the need to legislate is there.

2. The subject matter of the proposed legislative measure is related to entries 5, 18, 32, 64, 65 and 66 of the State List given in the Seventh Schedule to the Constitution of India. As such, the State Legislature is competent to enact the proposed legislation.

3. Under article 213 of the Constitution of India, if at any time, except when the Legislative Assembly of a State is in session, the Governor is satisfied that circumstances exist, which render it necessary for him to take immediate action, he may promulgate an Ordinance as the circumstances appear to him to require. At present, the Legislative Assembly of the State of Punjab is not in session, therefore, His Excellency the Governor is competent to promulgate the proposed Ordinance.

Previous instructions from the Hon'ble President of India for promulgating the proposed Ordinance are not required.

4. The provisions of the proposed legislative measure are not inconsistent with the provisions of the Constitution of India, particularly, with those relating to the fundamental rights."

1.6 The matter was also referred to Finance Department for comments. The Finance Department vide I.D.No. 15/92/2017-4विख्यात/1084130/1 dated 13.10.2017 has sent the following comments:-

"ਵਿੱਤ ਵਿਭਾਗ ਪ੍ਰਬੰਧਕੀ ਵਿਭਾਗ ਦੀ ਤਜਵੀਜ਼ ਨਾਲ ਸਹਿਮਤੀ ਇਸ ਸ਼ਰਤ ਤੇ ਪ੍ਰਗਟ ਕਰਦਾ ਹੈ ਕਿ ਪ੍ਰਬੰਧਕੀ ਵਿਭਾਗ ਰੈਗਲਰਾਈਜ਼ ਚਾਰਜਿਜ਼ ਵੱਚੋਂ ਪ੍ਰਾਪਤ ਹੋਣ ਵਾਲੀ ਫੀਸ ਰਾਜ ਦੇ ਸਰਕਾਰੀ ਖਜਾਨੇ ਵਿੱਚ ਜਮ੍ਹਾਂ ਕਰਵਾਉਣਾ ਯਕੀਨੀ ਬਣਾਏਗਾ।"

1.7 Advice of Finance Department is not acceptable because as per the Act, the building fee including the composition fee is to be deposited with the ULBs. The regularization charges are nothing but composition fee. Basically non-compoundable violations made before 31.03.2018, are being made compoundable during this period.

1.8 "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance, 2017" was placed before the Council of Ministers for approval in its meeting dated 16.10.2017. The Council of Ministers after considering the issue directed that "ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਦਾ ਯਾਦ ਪੱਤਰ ਮਿਤੀ 14 ਅਕਤੂਬਰ, 2017 ਨੂੰ ਮਲਤਵੀ ਕਰਦੇ ਹੋਏ ਮੰਤਰੀ ਮੰਡਲ ਨੇ ਪ੍ਰੇਖਣ ਕੀਤਾ ਕਿ ਮੰਤਰੀ ਮੰਡਲ ਦੀ ਅਗਲੀ ਮੀਟਿੰਗ ਵਿੱਚ ਇਸ ਮੁਤਲਕ ਮਕਾਨ ਉਸਾਰੀ ਤੇ ਸਹਿਗੀ ਵਿਕਾਸ ਵਿਭਾਗ ਦੀ ਤਜਵੀਜ਼ ਵੀ ਪੇਸ਼ ਕੀਤੀ ਜਾਵੇ।"

1.9 The matter was referred to Housing and Urban Development Department, Punjab and vide memo no. 2896-CTP(Pb)/SP-477 dated 03.05.2018, the Housing and Urban Development Department has sent the following comments:-

"The Department of Housing and Urban Development has no objection regarding compounding of Non-Compoundable violations in buildings within municipal limits subject to fulfillment of provisions of the Ordinance-2018."

1.10 Local Government Department intends to promulgate The Punjab One-Time Voluntary Disclosure and Settlement of

violations of the buildings Ordinance, 2018 which is placed at Annexure -I. The salient features of this Ordinance are as below:-

- i) The person who has made a non-compoundable building violation may disclose voluntarily such violation and apply online along with photographs of the building within a period of one month to the concerned Competent Authority.
- ii) The applicant shall submit the requisite information / documents / Plans and prescribed application fee thereafter within a period of two months.
- iii) The violation of land use in the Town Planning / Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Schemes formulated under any other Act, Encroachment on any public / private land or on public space by virtue of any Scheme or Restricted areas under any Act prohibiting the construction of buildings in a particular area.
- iv) The one time settlement shall, however, be without any prejudice to the disciplinary action, already initiated against the concerned officer or official of the Municipal Corporation or Municipal Council or Nagar Panchayat, as the case may be, who is found responsible for aiding or abetting such violation.
- v) The non-compoundable building violations in Residential Plotted Buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the Competent Authority on as is where is basis (except mandatory front setback), after spot verification, subject to maximum height of 50'-0" and maximum 50% excess of the permissible FAR, as one-time measure by realizing the composition fee of five hundred rupees per square feet, of the total non-compoundable area on all floors being compounded under this Ordinance, in the case of Municipal Corporation, four hundred rupees in the case of Class – 1 Municipal Council and three hundred rupees in the case of Class – 2 and 3 Municipal Council and Nagar Panchayats.
- vi) The non-compoundable building violations in non – residential buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the Competent Authority, on as is where is basis (except the mandatory Front setback, fire safety and parking requirements as mentioned in Schedule-I and public safety / security and public convenience shall not be compromised), after spot verification, subject to maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee of two thousand rupees per square feet, of the total non-compoundable area on all floors being compounded under this Ordinance, in the case of Municipal Corporation, sixteen hundred rupees in the case of Class – 1 Municipal Council and twelve hundred rupees in the case of Class – 2 and 3 Municipal Council and Nagar Panchayats .
- vii) The applicant shall have to make structural changes in the building, if required, to fulfill the required front setback and requirements of fire safety and parking within a period of three months from the date of application and shall also submit mandatory clearances from

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- other departments, if required along with a certificate from the Structural Engineer that the building fulfills the structural safety requirements as per B.I.S. norms.
- viii) In case, the unauthorized building does not fulfill the parking norms, on the request of an applicant or a group of applicants an alternate parking site within a distance of 250 meters of such building / buildings may be permitted either individually or collectively which shall be transferred free of cost to the concerned Municipal Authority and shall be used only for parking in future and maintenance mechanism of such parking sites shall suitable worked out.
 - ix) In case the owners of the unauthorized buildings do not apply for settlement of violations or the applicant fails to make structural changes in the building to fulfill the requirements of mandatory Front setback, fire safety and parking requirements within the prescribed period, the water supply / sewerage connections to the whole building will be disconnected without any further notice followed by sealing and demolition of the building at the cost of the owner.

2.0 The proposal of the Department of Local Government is placed before the Council of Ministers with a request to approve the proposed ordinance which is placed at Annexure-I. The draft ordinance approved by Council of Ministers shall be got vetted from Legal Remembrancer Punjab. The Chief Minister Punjab may be authorized to approve the amendments, if any, after vetting by the Legal Remembrancer before it is promulgated by His Excellency, the Governor, Punjab.

3.0 The schedule for implementation of the said proposal is placed at Appendix-A.

4.0 The Council of Ministers is requested to approve the proposals as stated in Para 2.0 of this memorandum.

5.0 The Local Government Minister, Punjab as Minister-in-charge of Local Government Department has seen and approved the proposals of this Memorandum.

6.0 The approval of the Hon'ble Chief Minister, Punjab has been obtained to place this memorandum before the Council of Ministers.

Date: 25/05/2018
Chandigarh


A. Venu Prasad
Principal Secretary

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"THE PUNJAB ONE-TIME VOLUNTARY DISCLOSURE AND SETTLEMENT OF VIOLATIONS OF THE BUILDINGS ORDINANCE 2018"

An Ordinance to provide for one-time settlement for non-compoundable building violations made in respect of buildings constructed in the Municipal Corporations, Municipal Councils and Nagar Panchayats and for the matters incidental thereto.

**Short title,
application and
commencement**

1. (1) This Ordinance may be called 'The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance 2018'.
 - (2) It shall come into force on and with effect from the date of its publication in the Official Gazette.
 - (3) This Ordinance shall be applicable in the areas falling under the jurisdiction of the Municipal Corporations, Municipal Councils and Nagar Panchayats in the State of Punjab.
 - (4) It shall cease to operate on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897 shall apply.

Definitions

2. In this Ordinance, unless the context otherwise requires:-
 - (a) "Competent Authority" means authority appointed under section 3 of this Ordinance.
 - (b) "non-compoundable violation" means construction made in violation of the sanctioned plan or without getting the plan sanctioned from the Competent Authority, whole or part of which is non-compoundable as per clause 3.15 of the Building Bye-laws made under the Punjab Municipal Corporation Act, 1976 and the Punjab Municipal Act, 1911;
 - (c) "Scheme area" means the Town Planning /Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Scheme formulated under any other Ordinance;
 - (d) "Public land" means land owned by the Central or the State Government, Boards and Corporations owned by the Central or the State Government, Public Sector Undertakings constituted under any law and the local authorities;
 - (e) All other expressions used in this Ordinance shall have their respective meanings as assigned to them in the Punjab Municipal Act, 1911/ the Punjab Municipal Corporation Act,

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| | 1976 or the Municipal Building Byelaws framed thereunder or in the Punjab Town Improvement Act, 1922 or Schedule of Clauses appended to any Scheme framed under the Punjab Town Improvement Act, 1922. |
| Competent Authority | <p>3. Competent Authority shall be:-</p> <p>(a) In case of a Municipal Corporation, the concerned Commissioner of Municipal Corporation, for all categories of buildings;</p> <p>(b) In case of a Municipal Council or a Nagar Panchayat,</p> <p>(i) For residential buildings, concerned Executive Officer;</p> <p>(ii) For non-residential buildings concerned Regional Deputy Director, Urban Local Bodies.</p> |
| Mode of Application | <p>4.</p> <p>(1) Within a period of one month from the date of coming into force of this Ordinance, any owner of the building who has committed a non-compoundable building violation while constructing such building, may disclose voluntarily such violation and apply online in the prescribed Form along with photographs of such building, duly signed by the owner, to the concerned Competent Authority.</p> <p>(2) Thereafter within a period of two months, the applicant shall submit the required information in prescribed Form alongwith all the requisite documents/ Plans and prescribed application fee.</p> |
| One-time Settlement | <p>5.</p> <p>(1) (A) <u>Non-compoundable building violations in a Residential Plotted Building</u></p> <p>The non-compoundable building violations in Residential Plotted Buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the Competent Authority on as is basis (except mandatory front setback), after spot verification, subject to maximum height of 50'-0" and maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee, namely:-</p> <ul style="list-style-type: none"> i. in the case of Municipal Corporation / Improvement Trust, five hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance; ii. in the case of Class - I Municipal Council / Improvement Trust, four hundred rupees per square |

- feet of the total non-compoundable area on all floors being compounded under this Ordinance ; and
- iii. in the case of Class – II and III Municipal Council and Nagar Panchayat / Improvement Trust, three hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance.

(B). Non-compoundable building violations in a Non – Residential Building

The non-compoundable building violations in non – residential buildings, disclosed voluntarily under, sub-section (1) of section 4, may be settled by the Competent Authority, on as is where is basis (except the mandatory Front setback, fire safety and parking requirements as mentioned in Schedule-I and public safety / security and public convenience shall not be compromised), after spot verification, subject to maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee, namely:-

- i. in the case of Municipal Corporation / Improvement Trust, two thousand rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance;
 - ii. in the case of Class – I Municipal Council / Improvement Trust, sixteen hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance; and
 - iii. in the case of Class – II and III Municipal Council and Nagar Panchayat / Improvement Trust, twelve hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance.
2. The applicant shall have to make structural changes in the building, if required, to fulfill the required front setback and requirements of fire safety and parking within a period of one month from the date of submission of details in Form as per section 4(2) and shall also submit mandatory clearances from other departments, if required along with a certificate from the Structural Engineer that the building fulfills the structural safety requirements as per B.I.S. norms.

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| | <p>3. The owner shall be responsible for the conformity of the drawings to the actual constructions made in the site and the details therein. It shall be the responsibility of the owner and the Structural Engineer concerned, who has issued the Structural Stability Certificate as per the provisions, to ensure the structural stability of the building.</p> <p>4. For violation of parking requirements, the Competent Authority, if deem fit, may on the request of an applicant or a group of applicants, permit either individually or collectively, an alternate parking site within a distance of 250 meters of such building / buildings.</p> <ul style="list-style-type: none"> i) Provided that such site shall be transferred free of cost to the concerned Municipal Authority and shall be used only for parking in future. ii) Such site shall either be maintained by the owners of the concerned buildings or if maintained by the Municipal Authority, the owners of concerned buildings shall be liable to pay maintenance charges as prescribed by the Municipal Authority. |
| Non Compoundable violations to be covered under the Ordinance | <p>6.</p> <ul style="list-style-type: none"> (1) The Ordinance shall apply to those non compoundable violations only which have been made on or before the 31th day of March, 2018. (2) The cases of non-compoundable violations, which have already been detected by the competent authorities and in respect of which the proceedings are still pending with the concerned authorities, shall also be settled in accordance with this Ordinance. However, for getting such cases settled, the owner shall have to apply afresh under this Ordinance. (3) The non-compoundable violations made after the date specified in sub-section (1), shall not be compounded. (4) The one-time settlement shall, however, be without any prejudice to the disciplinary action, already initiated against the concerned officer or official of the Corporation, Municipal Council or Nagar Panchayat, as the case may be, who is found responsible for aiding or abetting such violation. |
| Finalization of action under the Ordinance and time limit | <p>7.</p> <ul style="list-style-type: none"> (1) The Competent Authority shall pass the final order <ul style="list-style-type: none"> (i) granting permission unconditionally; or (ii) granting permission subject to such conditions as it may think necessary to impose; or |

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| | <p>(iii) refusing permission; and</p> <p>(iv) where permission is granted subject to the conditions or is refused the ground of imposing such conditions or such refusal shall be recorded in the order and such order shall be communicated to the applicant.</p> <p>(2) The competent authority shall finalize the matter under this Ordinance within a period of nine months after coming into force of this Ordinance:</p> <p>(3) After the expiry of a period of nine months as specified in sub section (1); there shall be no settlement of non-compoundable violations, which have not been disclosed within the aforesaid stipulated period or if disclosed, but not finally settled within the period. Such violations shall be identified by the Competent Authority and action shall be taken as per the provisions of the Punjab Municipal Corporation Act, 1976 or the Punjab Municipal Act, 1911, whichever is applicable.</p> |
| Appeal against the orders of the Competent Authority | <p>8.</p> <p>(1) Any person aggrieved by any order of the competent authority under this Ordinance, may within a period of thirty days from the communication of the order to him, prefer an appeal to the Director, Local Government, Punjab in such form and manner, as may be specified.</p> <p>(2) the appellate authority may, after giving an opportunity to be heard to the parties and to the competent authority, pass such order, as it may deem fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing and the order of the appellate authority shall be final.</p> <p>(3) In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 of a civil court while deciding an appeal.</p> |
| Restrictions of Regularization in certain cases | <p>9. During the period of operation of this Ordinance, no relief shall be available under the provisions of the Ordinance in respect of the following categories of non compoundable building violations, namely:-</p> <p>(a) any non compoundable building violations made after the 31st day of March, 2018;</p> <p>(b) encroachment on public land;</p> <p>(c) area, which is notified under the Land Acquisition Act, 1894, the Right to Fair Compensation and Transparency in Land</p> |

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| | <p>Acquisition, Rehabilitation and Resettlement Act, 2013, the Forest (Conservation) Act, 1980, the Punjab Land Preservation Act, 1900, the Environment (Protection) Act, 1986 and Works of Defence Act, 1903 or restricted area covered under any other Central or State Act prohibiting the construction of buildings in a particular area; and</p> <p>(d) The violation of land use in the Town Planning/ Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Schemes formulated under any other Act.</p> <p>(e) violations of mandatory Front setback for residential buildings; violations of Front setback, fire safety and parking requirements as mentioned in Schedule-I and public safety / security for non-residential buildings;</p> <p>(f) any type of building as may be decided by the Government</p> <p>10. No person shall be entitled to claim any benefit or relief unless all the terms and conditions have been fulfilled and the requisite fee and development charges, as specified by the Government, have been deposited.</p> <p>11. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Ordinance or the rules or regulations made thereunder.</p> <p>12. Notwithstanding anything inconsistent contained in the Punjab Municipal Act, 1911 and the Punjab Municipal Corporation Act, 1976 and the rules, regulations and bye-laws made thereunder or in any other law enacted by the State Legislature, which is in force in the State of Punjab, the provisions of this Ordinance shall have an overriding effect.</p> <p>13. The Punjab One-time Voluntary Disclosure and Settlement of Violations of the Buildings constructed in Violation of the Building Bye-laws in the Corporations and the Municipalities Act, 2004 (Punjab Act No. 6 of 2004), is hereby repealed.</p> |
| Bar of Jurisdiction of Courts | |
| Over-riding effect | |
| Repeal and Saving | |



STATEMENT OF IMPLEMENTATION SCHEDULE

Subject:- One-Time Settlement of non-compoundable violations in the buildings constructed in violation of the Building Byelaws in the municipal areas.

| Gist of decision required | Project benefits / results | Time - frame and manner of implementation/ reporting to Cabinet Secretariat |
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| One-Time Settlement of non-compoundable violations in the buildings constructed in violation of the Building Byelaws in the municipal areas. | To provide one time opportunity to the violators within municipal areas who have made non-compoundable violations in the buildings for regularization without compromising on parking, public safety / security and convenience. | The decision of Council of Ministers will be implemented within two months from the date of approval. |

Signature A.C.
Name (A. VENU PRASTAD)
Designation P.S.L.
Telephone No. 99140 35399

Press Note

There are large number of unauthorised buildings where the buildings plans have not been approved. Most of the violations are non-compoundable and therefore such buildings cannot be regularized under the existing provisions. These unauthorised constructions have been coming up for the last many years and at this stage it is not possible to demolish such buildings nor it is desirable to demolish. State Government therefore, feels that the best course of action to deal with such buildings is to regularise them provided these buildings meet fire, parking and safety standards. Hence "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance, 2018" has been promulgated for all unauthorized constructions which have come up till 31.03.2018.



Principal Secretary to Government of Punjab
Department of Local Government

ਆਈਟਮ ਨੰ: ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਦ ਦੀ ਬੈਠਕ ਲਈ ਏਜੰਡਾ ਆਈਟਮ ਨੰ:....
 ਸਾਲਾਨਾ..... ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਦ ਦੀ ਬੈਠਕ ਦੀ ਮਿਤੀ,
 ਗੁਪਤ
 ਕਾਪੀ ਨੰ:....
 ਪੰਜਾਬ ਸਰਕਾਰ
 ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ
 (ਸਥਾਨਕ ਸਰਕਾਰ - 4 ਸ਼ਾਖਾ)

ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਦ ਅੱਗੇ ਪੇਸ਼ ਕਰਨ ਲਈ ਮੈਮੋਰੰਡਮ

ਮੰਤਰੀ ਇੰਚਾਰਜ਼:
 ਸਕੱਤਰ ਇੰਚਾਰਜ਼: ਸਥਾਨਕ ਸਰਕਾਰ ਮੰਤਰੀ, ਪੰਜਾਬ
 ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ, ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ, ਪੰਜਾਬ

**ਵਿਸ਼ਾ:- One-Time Settlement of non-compoundable violations
in the buildings constructed in violation of the Building
Byelaws in the municipal areas**

- 1.0 ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ, ਪੰਜਾਬ ਵਲੋਂ ਸਾਲ 2004 ਵਿੱਚ "The Punjab One-Time Voluntary Disclosure and settlement of violations of the buildings constructed in violation of the Building Byelaws in the Corporations and the Municipalities Act 2004" ਜਾਰੀ ਕੀਤਾ ਗਿਆ ਸੀ।
- 1.1 ਉਕਤ ਐਕਟ ਤੇ ਮਾਨਯੋਗ ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈ ਕੋਰਟ ਵੱਲੋਂ ਸੀ.ਡਬਲਯੂ.ਪੀ ਨੰ:4099 ਆਫ 2004 ਅਤੇ ਸੀ.ਡਬਲਯੂ.ਪੀ ਨੰ:6026 ਆਫ 2007 - ਰੀਸਰਜੈਸ ਇੰਡੀਆ ਬਨਾਮ ਪੰਜਾਬ ਰਾਜ ਅਤੇ ਹੋਰ ਵਿੱਚ ਰੋਕ ਲਗਾ ਦਿਤੀ ਗਈ ਸੀ। ਪ੍ਰੰਤੂ ਬਾਅਦ ਵਿੱਚ ਮਾਨਯੋਗ ਹਾਈ ਕੋਰਟ ਵੱਲੋਂ ਹੁਕਮ ਮਿਤੀ 19.02.2013 ਰਾਹੀਂ ਇਹ ਸਿਵਲ ਰਿੱਟ ਪਟੀਸਨਾਂ ਡਿਸਪੋਜ਼ ਆਫ ਕਰਦੇ ਹੋਏ 2004 ਦੇ ਐਕਟ ਨੂੰ ਕਾਇਮ ਕਰਾਰ ਦਿਤਾ ਗਿਆ ਸੀ ਅਤੇ ਸਰਕਾਰ ਨੂੰ ਅਣ-ਅਧਿਕਾਰਤ ਉਸਾਰੀਆ ਲਈ ਜਿਮੇਵਾਰੀ ਨਿਰਧਾਰਿਤ ਕਰਨ ਦੀ ਹਦਾਇਤ ਕੀਤੀ ਗਈ ਸੀ।
- 1.2 ਪ੍ਰੰਤੂ ਕਿਉਂ ਜੋ ਪੰਜਾਬ ਐਕਟ ਨੂੰ 6 ਆਫ 2004 (ਮਿਤੀ 05.04.2004 ਨੂੰ ਪ੍ਰਕਾਸ਼ਿਤ) ਸਿਰਫ ਉਹਨਾਂ ਇਮਾਰਤਾਂ ਤੇ ਲਾਗੂ ਸੀ, ਜਿਹੜੀਆਂ ਮਿਤੀ 11.09.2003 ਤੱਕ ਉਸਾਰੀਆਂ ਜਾ ਚੁਕੀਆ ਸਨ ਅਤੇ ਸਵੈ-ਇੱਛਤ ਖੁਲਾਸਾ ਇਸ ਐਕਟ ਤੇ ਅਰੰਭ ਹੋਣ ਤੋਂ 3 ਮਹੀਨੇ ਦੇ ਅੰਦਰ-ਅੰਦਰ ਕੀਤਾ ਜਾਣਾ ਸੀ। ਇਸ ਤਰ੍ਹਾਂ ਪੰਜਾਬ ਐਕਟ ਆਫ 2004 ਲਗਭਗ ਪ੍ਰਭਾਵਹੀਨ ਹੋ ਗਿਆ ਸੀ।
- 1.3 ਮਿਉਨਿਸਪਲ ਹਦੂਦਾਂ ਅੰਦਰ ਅਜਿਹੀਆਂ ਬਹੁਤ ਸਾਰੀਆਂ ਅਣਅਧਿਕਾਰਤ ਇਮਾਰਤਾਂ ਹਨ, ਜਿਹਨਾਂ ਦੇ ਨਕਸੇ ਪ੍ਰਵਾਨ ਨਹੀਂ ਹਨ। ਇਨ੍ਹਾਂ ਇਮਾਰਤਾਂ ਵਿੱਚ ਜਿਆਦਾਤਰ

ਉਲੰਘਣਾਵਾਂ ਨਾ-ਰਾਜੀਨਾਮਾ ਯੋਗ ਹਨ, ਜਿਸ ਕਾਰਨ ਇਹ ਮੌਜੂਦਾ ਉਪਬੰਧਾਂ ਅਨੁਸਾਰ ਨਿਯਮਿਤ ਨਹੀਂ ਹੋ ਸਕਦੀਆਂ ਹਨ। ਇਹ ਅਣਅਧਿਕਾਰਤ ਉਸਾਰੀਆਂ ਪਿਛਲੇ ਕਾਫੀ ਸਮੇਂ ਤੋਂ ਮੌਜੂਦ ਹਨ ਅਤੇ ਇਨ੍ਹਾਂ ਉਸਾਰੀਆਂ ਨੂੰ ਗਿਰਾਉਣਾ ਨਾ ਤਾਂ ਮੁਮਕਿਨ ਹੈ ਅਤੇ ਨਾ ਹੀ ਉਚਿਤ ਹੈ। ਇਸ ਲਈ ਰਾਜ ਸਰਕਾਰ ਵੱਲੋਂ ਮਹਿਸੂਸ ਕੀਤਾ ਗਿਆ ਹੈ ਕਿ ਅਜਿਹੀਆਂ ਇਮਾਰਤਾਂ ਵਿਚੋਂ ਜਿਹੜੀਆਂ ਪਾਰਕਿੰਗ, ਫਾਇਰ ਅਤੇ ਸੁਰੱਖਿਆ ਮਾਪਦੰਡਾਂ ਨੂੰ ਪੂਰਾ ਕਰਦੀਆਂ ਹਨ ਨੂੰ ਨਿਯਮਿਤ ਕਰਨਾ ਉਚਿਤ ਹੋਵੇਗਾ।

1.4 ਮਾਮਲਾ ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਵੱਲੋਂ ਵਿਚਾਰਿਆ ਗਿਆ। ਸਾਰੇ ਮੁੱਦਿਆਂ ਤੇ ਵਿਚਾਰ ਕਰਨ ਉਪਰੰਤ ਵਿਭਾਗ ਵੱਲੋਂ ਮਿਤੀ 31.03.2018 ਤੱਕ ਹੋਂਦ ਵਿੱਚ ਆ ਚੁੱਕੀਆਂ ਅਜਿਹੀਆਂ ਅਣਅਧਿਕਾਰਤ ਇਮਾਰਤਾਂ ਨੂੰ ਨਿਯਮਿਤ ਕਰਨ ਲਈ "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance, 2018" ਦਾ ਖਰੜਾ ਤਿਆਰ ਕੀਤਾ ਗਿਆ।

1.5 ਮਾਮਲਾ ਕਾਨੂੰਨੀ ਮਸ਼ੀਰ ਨੂੰ 4 ਨੁਕਤੀ ਸਲਾਹ ਲਈ ਢੇਜਿਆ ਗਿਆ ਸੀ। ਕਾਨੂੰਨੀ ਮਸ਼ੀਰ ਵਲੋਂ ਅਪਣੇ ਯੂਦਿ ਨੰ. 550/ਲੀਗਲ 371/2017 ਮਿਤੀ 10.10.2017 ਰਾਹੀਂ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਰਾਇ ਦਿੱਤੀ ਗਈ ਹੈ:-

"1. The object in view cannot be achieved, except by making a law on the subject. Hence, the need to legislate is there.

2. The subject matter of the proposed legislative measure is related to entries 5, 18, 32, 64, 65 and 66 of the State List given in the Seventh Schedule to the Constitution of India. As such, the State Legislature is competent to enact the proposed legislation.

3. Under article 213 of the Constitution of India, if at any time, except when the Legislative Assembly of a State is in session, the Governor is satisfied that circumstances exist, which render it necessary for him to take immediate action, he may promulgate an Ordinance as the circumstances appear to him to require. At present, the Legislative Assembly of the State of Punjab is not in session, therefore, His Excellency the Governor is competent to promulgate the proposed Ordinance.

Previous instructions from the Hon'ble President of India for promulgating the proposed Ordinance are not required.



4. The provisions of the proposed legislative measure are not inconsistent with the provisions of the Constitution of India, particularly, with those relating to the fundamental rights."

1.6 ਮਾਮਲਾ ਵਿੱਤ ਵਿਭਾਗ ਨੂੰ ਟਿੱਪਣੀ ਹਿੱਤ ਭੇਜਿਆ ਗਿਆ ਸੀ। ਵਿੱਤ ਵਿਭਾਗ ਵੱਲੋਂ ਆਈ.ਡੀ.ਨੰ:15/92/2017-4ਵਿਖ6/1084130/1 ਮਿਤੀ 13.10.17 ਰਾਹੀਂ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਟਿੱਪਣੀ ਪ੍ਰਾਪਤ ਹੋਈ ਹੈ:-

"ਵਿੱਤ ਵਿਭਾਗ ਪ੍ਰਬੰਧਕੀ ਵਿਭਾਗ ਦੀ ਤਜਵੀਜ਼ ਨਾਲ ਸਹਿਮਤੀ ਇਸ ਸਰਤ ਤੇ ਪ੍ਰਗਟ ਕਰਦਾ ਹੈ ਕਿ ਪ੍ਰਬੰਧਕੀ ਵਿਭਾਗ ਰੈਗੁਲਰਾਈਜ਼ ਚਾਰਜਿਜ਼ ਵੱਚੋਂ ਪ੍ਰਾਪਤ ਹੋਣ ਵਾਲੀ ਫੀਸ ਰਾਜ ਦੇ ਸਰਕਾਰੀ ਖਜਾਨੇ ਵਿੱਚ ਜਮ੍ਹਾਂ ਕਰਵਾਉਣਾ ਯਕੀਨੀ ਬਣਾਏਗਾ।"

1.7 ਵਿੱਤ ਵਿਭਾਗ ਦੀ ਟਿੱਪਣੀ ਮੰਨਣ ਯੋਗ ਨਹੀਂ ਹੈ। ਕਿਉਂਕਿ ਐਕਟ ਅਨੁਸਾਰ, ਬਿਲਡਿੰਗ ਫੀਸ ਸਹਿਤ ਕੰਪੋਜ਼ੀਸ਼ਨ ਫੀਸ ਸਹਿਰੀ ਸਥਾਨਕ ਸੰਸਥਾਵਾਂ ਕੋਲ ਜਮ੍ਹਾਂ ਹੁੰਦੀ ਹੈ। ਰੈਗੁਲਰਾਈਜ਼ੇਸ਼ਨ ਚਾਰਜਿਜ਼ ਸਿਰਫ਼ ਕੰਪੋਜ਼ੀਸ਼ਨ ਫੀਸ ਹੈ। ਮਿਤੀ 31.03.2018 ਤੱਕ ਹੋਈਆਂ ਨਾ-ਰਾਜੀਨਾਮਾ ਯੋਗ ਉਲੰਘਨਾਵਾਂ ਨੂੰ ਰਾਜੀਨਾਮਾਂ ਯੋਗ ਕੀਤਾ ਗਿਆ ਹੈ।

1.8 The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance, 2017 ਨੂੰ ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਦ ਦੀ ਮਿਤੀ 16.10.2017 ਦੀ ਮੀਟਿੰਗ ਵਿੱਚ ਪ੍ਰਵਾਨਗੀ ਲਈ ਪੇਸ਼ ਕੀਤਾ ਗਿਆ ਸੀ। ਜਿਸ ਨੂੰ ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਦ ਵੱਲੋਂ ਵਿਚਾਰਦੇ ਹੋਏ ਹੁਕਮ ਕੀਤੇ ਕਿ "ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਦਾ ਯਾਦ ਪੱਤਰ ਮਿਤੀ 14 ਅਕਤੂਬਰ, 2017 ਨੂੰ ਮੁਲਤਵੀ ਕਰਦੇ ਹੋਏ ਮੰਤਰੀ ਮੰਡਲ ਨੇ ਪ੍ਰੇਖਣ ਕੀਤਾ ਕਿ ਮੰਤਰੀ ਮੰਡਲ ਦੀ ਅਗਲੀ ਮੀਟਿੰਗ ਵਿੱਚ ਇਸ ਮੁਤੱਲਕ ਮਕਾਨ ਉਸਾਰੀ ਤੇ ਸ਼ਹਿਰੀ ਵਿਕਾਸ ਵਿਭਾਗ ਦੀ ਤਜਵੀਜ਼ ਵੀ ਪੇਸ਼ ਕੀਤੀ ਜਾਵੇ।"

1.9 ਮਾਮਲਾ ਮਕਾਨ ਉਸਾਰੀ ਤੇ ਸ਼ਹਿਰੀ ਵਿਕਾਸ ਵਿਭਾਗ ਨੂੰ ਭੇਜਿਆ ਗਿਆ ਅਤੇ ਮਕਾਨ ਉਸਾਰੀ ਤੇ ਸ਼ਹਿਰੀ ਵਿਕਾਸ ਵਿਭਾਗ ਵੱਲੋਂ ਮੀਮੋ ਨੰ: 2896-CTP(Pb)/SP-477 ਮਿਤੀ 03.05.2018 ਰਾਹੀਂ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਟਿੱਪਣੀ ਭੇਜੀ ਗਈ ਹੈ:-

"The Department of Housing and Urban Development has no objection regarding compounding of Non-Compoundable violations in buildings within municipal limits subject to fulfillment of provisions of the Ordinance-2018."

1.10 ਮਾਮਲਾ ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਵੱਲੋਂ ਜਾਰੀ ਕੀਤੇ ਜਾਣ ਵਾਲੇ "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the

Buildings Ordinance, 2018" ਜੋ ਕਿ ਅਨੁਲਗ-I ਤੇ ਰੱਖਿਆ ਗਿਆ ਹੈ। ਜਿਸ ਦੀਆਂ ਮੁੱਖ ਵਿਸ਼ੇਸ਼ਤਾਵਾਂ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਹਨ:-

- i) The person who has made a non-compoundable building violation may disclose voluntarily such violation and apply online along with photographs of the building within a period of one month to the concerned Competent Authority.
- ii) The applicant shall submit the requisite information / documents / Plans and prescribed application fee thereafter within a period of two months.
- iii) The violation of land use in the Town Planning / Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Schemes formulated under any other Act, Encroachment on any public / private land or on public space by virtue of any Scheme or Restricted areas under any Act prohibiting the construction of buildings in a particular area.
- iv) The one time settlement shall, however, be without any prejudice to the disciplinary action, already initiated against the concerned officer or official of the Municipal Corporation or Municipal Council or Nagar Panchayat, as the case may be, who is found responsible for aiding or abetting such violation.
- v) The non-compoundable building violations in Residential Plotted Buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the Competent Authority on as is where is basis (except mandatory front setback), after spot verification, subject to maximum height of 50'-0" and maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee of five hundred rupees per square feet in the case of Municipal Corporation, four hundred rupees in the case of Class – 1 Municipal Council and three hundred rupees in the case of Class – 2 and 3 Municipal Council and Nagar Panchayats.
- vi) The non-compoundable building violations in non – residential buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the Competent Authority, on as is where is basis (except the mandatory Front setback, fire safety and parking requirements as mentioned in Schedule-I and public safety / security and public convenience shall not be compromised), after spot verification, subject to maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee of two thousand rupees per square feet in the case of Municipal Corporation, sixteen hundred rupees in the case of Class – 1 Municipal Council and twelve hundred rupees in the case of Class – 2 and 3 Municipal Council and Nagar Panchayats.
- vii) The applicant shall have to make structural changes in the building, if required, to fulfill the required front setback and requirements of fire safety and parking within a period of three months from the date of application and shall also submit mandatory clearances from

other departments, if required along with a certificate from the Structural Engineer that the building fulfills the structural safety requirements as per B.I.S. norms.

- viii) In case, the unauthorized building does not fulfill the parking norms, on the request of an applicant or a group of applicants, , an alternate parking site within a distance of 250 meters of such building / buildings may be permitted either individually or collectively which shall be transferred free of cost to the concerned Municipal Authority and shall be used only for parking in future and maintenance mechanism of such parking sites shall suitable worked out.
- ix) In case the owners of the unauthorized buildings do not apply for settlement of violations or the applicant fails to make structural changes in the building to fulfill the requirements of mandatory Front setback, fire safety and parking requirements within the prescribed period, the water supply / sewerage connections to the whole building will be disconnected without any further notice followed by sealing and demolition of the building at the cost of the owner.

2.0 ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ ਦੀ ਤਜਵੀਜ ਪੰਜਾਬ ਮੰਡਰੀ ਪ੍ਰੀਸ਼ਦ ਦੇ ਸੰਨਮੁੱਖ ਪੇਸ਼ ਕਰਕੇ ਬੇਨਤੀ ਕੀਤੀ ਜਾਂਦੀ ਹੈ ਕਿ ਤਜਵੀਜਤ ਅਧਿਆਦੇਸ਼ ਦਾ ਖਰੜਾ, ਜੋ ਕਿ ਅਣਲੱਗ-*I* ਤੇ ਚੱਖਿਆ ਗਿਆ ਹੈ, ਨੂੰ ਪ੍ਰਵਾਨਗੀ ਦੇਣ ਦੀ ਕਿਰਪਾਲਤਾ ਕੀਤੀ ਜਾਵੇ। ਪੰਜਾਬ ਮੰਡਰੀ ਪ੍ਰੀਸ਼ਦ ਤੋਂ ਪ੍ਰਵਾਨਤ ਅਧਿਆਦੇਸ਼ ਦਾ ਖਰੜਾ ਕਾਨੂੰਨੀ ਮਸ਼ੀਰ, ਪੰਜਾਬ ਤੋਂ ਵੈਂਟ ਕਰਵਾਇਆ ਜਾਵੇਗਾ। ਕਾਨੂੰਨੀ ਮਸ਼ੀਰ ਤੋਂ ਵੈਟਿੰਗ ਕਰਵਾਉਣ ਉਪਰੰਤ ਪਰਮ ਸ੍ਰੇਸ਼ਟ ਰਾਜਪਾਲ ਪੰਜਾਬ ਜੀ ਵੱਲੋਂ ਅਧਿਆਦੇਸ਼ ਜਾਰੀ ਕਰਨ ਤੋਂ ਪਹਿਲਾਂ, ਅਧਿਆਦੇਸ਼ ਅੰਦਰ ਜੇਕਰ ਕੋਈ ਸੋਧ ਲੋੜੀਂਦੀ ਹੋਵੇਗੀ ਤਾਂ ਅਜਿਹੀਆਂ ਸੋਧਾਂ ਕਰਨ ਲਈ ਮੁੱਖ ਮੰਡਰੀ ਪੰਜਾਬ ਨੂੰ ਅਧਿਕਾਰਿਤ ਕਰ ਦਿੱਤਾ ਜਾਵੇ।

3.0 ਤਜਵੀਜਾਂ ਲਾਗੂ ਕਰਨ ਸਬੰਧੀ ਅੰਤਿਕਾ-ਏ ਨੱਥੀ ਹੈ।

4.0 ਮੰਡਰੀ ਪ੍ਰੀਸ਼ਦ ਨੂੰ ਇਹ ਬੇਨਤੀ ਕੀਤੀ ਜਾਂਦੀ ਹੈ ਕਿ ਉਹ ਉਪਰੋਕਤ ਪੈਰਾ 2.0 ਵਿੱਚ ਦਰਜ ਤਜਵੀਜਤ ਅਧਿਆਦੇਸ਼ ਨੂੰ ਪ੍ਰਵਾਨਗੀ ਦੇਣ ਦੀ ਕਿਰਪਾਲਤਾ ਕਰਨ।

5.0 ਇਸ ਮੈਮੋਰੰਡਮ ਵਿੱਚ ਦਿੱਤੀ ਗਈ ਤਜਵੀਜ ਸਥਾਨਕ ਸਰਕਾਰ ਮੰਡਰੀ ਜੀ ਵੱਲੋਂ ਬਤੌਰ ਸਥਾਨਕ ਸਰਕਾਰ ਮੰਡਰੀ ਇੰਚਾਰਜ ਪ੍ਰਵਾਨ ਕੀਤੀ ਗਈ ਹੈ।

6.0 ਇਸ ਮੈਮੋਰੰਡਮ ਦੀਆਂ ਤਜਵੀਜਾਂ ਨੂੰ ਮੰਡਰੀ ਪ੍ਰੀਸ਼ਦ ਅੱਗੇ ਪੇਸ਼ ਕਰਨ ਦੀ ਪ੍ਰਵਾਨਗੀ ਮਾਨਯੋਗ ਮੁੱਖ ਮੰਡਰੀ ਪੰਜਾਬ ਜੀ ਵੱਲੋਂ ਦਿੱਤੀ ਗਈ ਹੈ।

ਮਿਤੀ: 25|05|2018
ਚੰਡੀਗੜ੍ਹ


ਈ.ਵੇਨੂੰ ਪ੍ਰਸਾਦ,
ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ।

DRAFT

"THE PUNJAB ONE-TIME VOLUNTARY DISCLOSURE AND SETTLEMENT OF VIOLATIONS OF THE BUILDINGS ORDINANCE 2018"

An Ordinance to provide for one-time settlement for non-compoundable building violations made in respect of buildings constructed in the Municipal Corporations, Municipal Councils and Nagar Panchayats and for the matters incidental thereto.

Short title,
application and
commencement

1. (1) This Ordinance may be called The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance 2018.
 - (2) It shall come into force on and with effect from the date of its publication in the Official Gazette.
 - (3) This Ordinance shall be applicable in the areas falling under the jurisdiction of the Municipal Corporations, Municipal Councils and Nagar Panchayats in the State of Punjab.
 - (4) It shall cease to operate on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897 shall apply.
2. In this Ordinance, unless the context otherwise requires:-
- (a) "Competent Authority" means authority appointed under section 3 of this Ordinance.
 - (b) "non-compoundable violation" means construction made in violation of the sanctioned plan or without getting the plan sanctioned from the Competent Authority, whole or part of which is non-compoundable as per clause 3.15 of the Building Bye-laws made under the Punjab Municipal Corporation Act, 1976 and the Punjab Municipal Act, 1911;
 - (c) "Scheme area" means the Town Planning /Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Scheme formulated under any other Ordinance;
 - (d) "Public land" means land owned by the Central or the State Government, Boards and Corporations owned by the Central or the State Government, Public Sector Undertakings constituted under any law and the local authorities;
 - (e) All other expressions used in this Ordinance shall have their respective meanings as assigned to them in the Punjab Municipal Act, 1911/ the Punjab Municipal Corporation Act,

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| Competent Authority | <p>1976 or the Municipal Building Byelaws framed thereunder or in the Punjab Town Improvement Act, 1922 or Schedule of Clauses appended to any Scheme framed under the Punjab Town Improvement Act, 1922.</p> |
| Mode of Application | <p>3. Competent Authority shall be:-</p> <ul style="list-style-type: none"> (a) In case of a Municipal Corporation, the concerned Commissioner of Municipal Corporation, for all categories of buildings; (b) In case of a Municipal Council or a Nagar Panchayat, <ul style="list-style-type: none"> (i) For residential buildings, concerned Executive Officer; (ii) For non-residential buildings concerned Regional Deputy Director, Urban Local Bodies. |
| One-time Settlement | <p>4.</p> <ul style="list-style-type: none"> (1) Within a period of one month from the date of coming into force of this Ordinance, any owner of the building who has committed a non-compoundable building violation while constructing such building, may disclose voluntarily such violation and apply online in the prescribed Form along with photographs of such building, duly signed by the owner, to the concerned Competent Authority. (2) Thereafter within a period of two months, the applicant shall submit the required information in prescribed Form alongwith all the requisite documents/ Plans and prescribed application fee. |
| | <p>5.</p> <p>(1) (A) <u>Non-compoundable building violations in a Residential Plotted Building</u></p> <p>The non-compoundable building violations in Residential Plotted Buildings, disclosed voluntarily under sub-section (1) of section 4, may be settled by the Competent Authority on as is where is basis (except mandatory front setback), after spot verification, subject to maximum height of 50'-0" and maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee, namely:-</p> <ul style="list-style-type: none"> i. in the case of Municipal Corporation / Improvement Trust, five hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance; ii. in the case of Class - I Municipal Council / Improvement Trust, four hundred rupees per square |

- feet of the total non-compoundable area on all floors being compounded under this Ordinance ; and
- iii. in the case of Class – II and III Municipal Council and Nagar Panchayat / Improvement Trust, three hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance.

(B). Non-compoundable building violations in a Non – Residential Building

The non-compoundable building violations in non – residential buildings, disclosed voluntarily under, sub-section (1) of section 4, may be settled by the Competent Authority, on as is where is basis (except the mandatory Front setback, fire safety and parking requirements as mentioned in Schedule-I and public safety / security and public convenience shall not be compromised), after spot verification, subject to maximum 50% excess of the permissible FAR, as one-time measure by realizing the following composition fee, namely:-

- i. in the case of Municipal Corporation / Improvement Trust, two thousand rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance;
 - ii. in the case of Class – I Municipal Council / Improvement Trust, sixteen hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance; and
 - iii. in the case of Class – II and III Municipal Council and Nagar Panchayat / Improvement Trust, twelve hundred rupees per square feet of the total non-compoundable area on all floors being compounded under this Ordinance.
2. The applicant shall have to make structural changes in the building, if required, to fulfill the required front setback and requirements of fire safety and parking within a period of one month from the date of submission of details in Form as per section 4(2) and shall also submit mandatory clearances from other departments, if required along with a certificate from the Structural Engineer that the building fulfills the structural safety requirements as per B.I.S. norms.



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| | <p>3. The owner shall be responsible for the conformity of the drawings to the actual constructions made in the site and the details therein. It shall be the responsibility of the owner and the Structural Engineer concerned, who has issued the Structural Stability Certificate as per the provisions, to ensure the structural stability of the building.</p> <p>4. For violation of parking requirements, the Competent Authority, if deem fit, may on the request of an applicant or a group of applicants, permit either individually or collectively, an alternate parking site within a distance of 250 meters of such building / buildings.</p> <ul style="list-style-type: none"> i) Provided that such site shall be transferred free of cost to the concerned Municipal Authority and shall be used only for parking in future. ii) Such site shall either be maintained by the owners of the concerned buildings or if maintained by the Municipal Authority, the owners of concerned buildings shall be liable to pay maintenance charges as prescribed by the Municipal Authority. |
| Non Compoundable violations to be covered under the Ordinance | <p>6.</p> <ul style="list-style-type: none"> (1) The Ordinance shall apply to those non compoundable violations only which have been made on or before the 31th day of March, 2018. (2) The cases of non-compoundable violations, which have already been detected by the competent authorities and in respect of which the proceedings are still pending with the concerned authorities, shall also be settled in accordance with this Ordinance. However, for getting such cases settled, the owner shall have to apply afresh under this Ordinance. (3) The non-compoundable violations made after the date specified in sub-section (1), shall not be compounded. (4) The one-time settlement shall, however, be without any prejudice to the disciplinary action, already initiated against the concerned officer or official of the Corporation, Municipal Council or Nagar Panchayat, as the case may be, who is found responsible for aiding or abetting such violation. |
| Finalization of action under the Ordinance and time limit | <p>7.</p> <ul style="list-style-type: none"> (1) The Competent Authority shall pass the final order <ul style="list-style-type: none"> (i) granting permission unconditionally; or (ii) granting permission subject to such conditions as it may think necessary to impose; or |

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| | <p>(iii) refusing permission; and</p> <p>(iv) where permission is granted subject to the conditions or is refused the ground of imposing such conditions or such refusal shall be recorded in the order and such order shall be communicated to the applicant.</p> <p>(2) The competent authority shall finalize the matter under this Ordinance within a period of nine months after coming into force of this Ordinance:</p> <p>(3) After the expiry of a period of nine months as specified in subsection (1); there shall be no settlement of non-compoundable violations, which have not been disclosed within the aforesaid stipulated period or if disclosed, but not finally settled within the period. Such violations shall be identified by the Competent Authority and action shall be taken as per the provisions of the Punjab Municipal Corporation Act, 1976 or the Punjab Municipal Act, 1911, whichever is applicable.</p> |
| Appeal against the orders of the Competent Authority | <p>8.</p> <p>(1) Any person aggrieved by any order of the competent authority under this Ordinance, may within a period of thirty days from the communication of the order to him, prefer an appeal to the Director, Local Government, Punjab in such form and manner, as may be specified.</p> <p>(2) the appellate authority may, after giving an opportunity to be heard to the parties and to the competent authority, pass such order, as it may deem fit, either confirming, modifying or setting aside the order of the competent authority, and record its reasons in writing and the order of the appellate authority shall be final.</p> <p>(3) In discharging its functions, the appellate authority shall have all the powers under the Code of Civil Procedure, 1908 of a civil court while deciding an appeal.</p> |
| Restrictions of Regularization in certain cases | <p>9. During the period of operation of this Ordinance, no relief shall be available under the provisions of the Ordinance in respect of the following categories of non compoundable building violations, namely:-</p> <p>(a) any non compoundable building violations made after the 31st day of March, 2018;</p> <p>(b) encroachment on public land;</p> <p>(c) area, which is notified under the Land Acquisition Act, 1894, the Right to Fair Compensation and Transparency in Land</p> |

A.D.

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| | <p>Acquisition, Rehabilitation and Resettlement Act, 2013, the Forest (Conservation) Act, 1980, the Punjab Land Preservation Act, 1900, the Environment (Protection) Act, 1986 and Works of Defence Act, 1903 or restricted area covered under any other Central or State Act prohibiting the construction of buildings in a particular area; and</p> <p>(d) The violation of land use in the Town Planning/ Building Schemes, Improvement Trust Schemes, Urban Estates, Industrial Focal Points or Schemes formulated under any other Act.</p> <p>(e) violations of mandatory Front setback for residential buildings; violations of Front setback, fire safety and parking requirements as mentioned in Schedule-I and public safety / security for non- residential buildings;</p> <p>(f) any type of building as may be decided by the Government</p> <p>10. No person shall be entitled to claim any benefit or relief unless all the terms and conditions have been fulfilled and the requisite fee and development charges, as specified by the Government, have been deposited.</p> <p>11. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Ordinance or the rules or regulations made thereunder.</p> <p>12. Notwithstanding anything inconsistent contained in the Punjab Municipal Act, 1911 and the Punjab Municipal Corporation Act, 1976 and the rules, regulations and bye-laws made thereunder or in any other law enacted by the State Legislature, which is in force in the State of Punjab, the provisions of this Ordinance shall have an overriding effect.</p> <p>13. The Punjab One-time Voluntary Disclosure and Settlement of Violations of the Buildings constructed in Violation of the Building Bye-laws in the Corporations and the Municipalities Act, 2004 (Punjab Act No. 6 of 2004), is hereby repealed.</p> |
| Bar of Jurisdiction of Courts | |
| Over-riding effect | |
| Repeal and Saving | |

STATEMENT OF IMPLEMENTATION SCHEDULE

Subject:- One-Time Settlement of non-compoundable violations in the buildings constructed in violation of the Building Byelaws in the municipal areas.

| Gist of decision required | Project benefits / results | Time - frame and manner of implementation/ reporting to Cabinet Secretariat |
|--|--|---|
| One-Time Settlement of non-compoundable violations in the buildings constructed in violation of the Building Byelaws in the municipal areas. | To provide one time opportunity to the violators within municipal areas who have made non-compoundable violations in the buildings for regularization without compromising on parking, public safety / security and convenience. | The decision of Council of Ministers will be implemented within two months from the date of approval. |

Signature 

Name A. VENU PRASAD

Designation P S LG

Telephone No. 99140 35399

ਪ੍ਰੈਸ ਨੋਟ

ਮਿਉਂਸਪਲ ਹਦੂਦਾਂ ਅੰਦਰ ਅਜਿਹੀਆਂ ਬਹੁਤ ਸਾਰੀਆਂ ਅਣ-ਅਧਿਕਾਰਤ ਇਮਾਰਤਾਂ ਹਨ, ਜਿਹਨਾਂ ਦੇ ਨਕਸੇ ਪ੍ਰਵਾਨ ਨਹੀਂ ਹਨ। ਇਨ੍ਹਾਂ ਇਮਾਰਤਾਂ ਵਿੱਚ ਜ਼ਿਆਦਾਤਰ ਉਲੰਘਣਾਵਾਂ ਨਾ-ਗਜੀਨਾਮਾ ਯੋਗ ਹਨ, ਜਿਸ ਕਾਰਨ ਇਹ ਮੌਜੂਦਾ ਉਪਬੰਧਾਂ ਅਨੁਸਾਰ ਨਿਯਮਿਤ ਨਹੀਂ ਹੋ ਸਕਦੀਆਂ। ਇਹ ਅਣ-ਅਧਿਕਾਰਤ ਉਸਾਰੀਆਂ ਪਿਛਲੇ ਕਾਫੀ ਸਮੇਂ ਤੋਂ ਮੌਜੂਦ ਹਨ ਅਤੇ ਇਨ੍ਹਾਂ ਉਸਾਰੀਆਂ ਨੂੰ ਗਿਰਾਉਣਾ ਨਾ ਤੁਂ ਮੁਮਕਿਨ ਹੈ ਅਤੇ ਨਾ ਹੀ ਉਚਿਤ ਹੈ। ਇਸ ਲਈ ਰਾਜ ਸਰਕਾਰ ਵੱਲੋਂ ਮਹਿਸੂਸ ਕੀਤਾ ਗਿਆ ਹੈ ਕਿ ਅਜਿਹੀਆਂ ਇਮਾਰਤਾਂ ਵਿਚੋਂ ਜਿਹੜੀਆਂ ਫਾਇਰ, ਪਾਰਕਿੰਗ ਅਤੇ ਸੁਰੱਖਿਆ ਮਾਪਦੰਡਾਂ ਨੂੰ ਪੂਰਾ ਕਰਦੀਆਂ ਹਨ ਨੂੰ ਨਿਯਮਿਤ ਕਰਨਾ ਉਚਿਤ ਹੋਵੇਗਾ। ਇਸ ਲਈ ਮਿਤੀ 31.03.2018 ਤੱਕ ਹੋਂਦ ਵਿੱਚ ਆਂ ਚੁੱਕੀਆਂ ਅਜਿਹੀਆਂ ਅਣ-ਅਧਿਕਾਰਤ ਇਮਾਰਤਾਂ ਨੂੰ ਨਿਯਮਿਤ ਕਰਨ ਲਈ "The Punjab One-Time Voluntary Disclosure and Settlement of Violations of the Buildings Ordinance, 2018" ਹੋਂਦ ਵਿੱਚ ਲਿਆਂਦਾ ਜਾ ਰਿਹਾ ਹੈ।



ਪੁਰਖ ਸਕਤਰ, ਪੰਜਾਬ
ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ

CHECK LIST FOR CABINET MEMORANDUM

| Sr. No. | Question | Answer | Remarks |
|---------|--|--------|---------|
| A. | FINANCE AND PLANNING DEPARTMENT (RULE 7) | | |
| 1. | Does the proposal contained in the Memorandum involve any financial implication? | Yes | |
| 2. | If so, has it been referred to the Department of Finance | Yes | |
| 3. | Has the advice of the Department of Finance been reproduced verbatim in the Memorandum? | Yes | |
| 4. | Does the proposal contained in the Memorandum involve any Financial implications on the Plan side? | No | |
| 5. | If so, has the advice of the Department of Planning been obtained? | N/A | |
| 6. | Has the advice of the Department of Planning been reproduced in the Memorandum? | N/A | |
| B. | LEGISLATION (LR) (RULE 36) | | |
| 1. | Does the proposal contained in the Memorandum involves initiation of any legislation? | Yes | |
| 2. | If so, has the 4 point advice of the Department of Legal and Legislative Affairs been obtained? | Yes | |
| 3. | Has the advice of the Department of Legal and Legislative Affairs been reproduced in the Memorandum? | Yes | |
| C. | SERVICE RULES | | |
| 1. | Does the proposal contained in the Memorandum involve framing/amendment of Department Service Rules? (Para 3(1)-Department of personnel instructions No 6780-SSII(2)-73, dated 5/11/1973 | No | |
| 2. | DOP-if so, has the matter been Referred to the Department of Personnel and Administrative Reforms? | -- | |
| 3. | Has the advice of the Department of Personnel and Administrative Reforms been reproduced in the Memorandum? | -- | |
| 4. | FD-Has the matter been referred to the Department of Finance? | -- | |
| 5. | Has the advice of the Department of Finance been reproduced in the memorandum? | -- | |
| 6. | PPSC-Has the matter been referred to the Punjab Public Service Commission? | -- . | |
| 7. | Has the advice of the Punjab Public Service Commission been reproduced in the Memorandum? | -- | |
| 8. | L.R-Has the draft of service rules been vetted by the Department of Legal and Legislative Affairs? (Para 3(3) of 1973 instructions) | -- | |
| D. | OTHER DEPARTMENTS | | |



| | | | |
|----|--|-----------------|--|
| 1. | Does the proposal contained in the Memorandum concern any other Department? (Rules 15 &22) | No | |
| 2. | If So, name of the Department concerned. | -- | |
| 3. | Have the views of the Departments mentioned in Para 2 above been reproduced in the Memorandum | -- | |
| E. | MEMORANDUM-FORMAT | | |
| 1. | Have the paragraphs of the Memorandum been numbered? | Yes | |
| 2. | Have copies of the Memorandum been numbered and marked as "SECRET"? | Yes | |
| 3. | Has the proposal contained in the Memorandum been summed up in Para 2 of the Memorandum? | Yes | |
| 4. | Has the approval of the Chief Minister been obtained for placing the Memorandum before the Council of Ministers? | Yes | |
| F. | SUBMISSION OF MEMORANDUM | | |
| 1. | Whether required 35 copies have been supplied? | Yes | |
| 2. | Is the quality of the print of the copies of the Memorandum satisfactory? | Yes | |
| 3. | Is the Memorandum being submitted to the Cabinet Affairs Branch at least one week before the proposed CMM meeting? | -- | |
| 4. | If not, what is the urgency for placing the matter before the CMM? | Public Interest | |
| 5. | Has the Permission of the Chief Minister been obtained for circulating the memorandum during the Cabinet Meeting? (Rule 16(3)) | Yes | |

Dated 25/05/2018


 Principal Secretary to Government Punjab
 Department of Local Government,

ਪੰਜਾਬ ਸਰਕਾਰ
ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ
(ਟਾਊਨ ਪਲੈਨਿੰਗ ਵਿੰਗ)
(ਪੰਜਾਬ ਮਿਉਨਿਸਪਲ ਭਵਨ, ਪਲਾਟ ਨੰ: 3, ਸੈਕਟਰ 35-ਏ, ਚੰਡੀਗੜ੍ਹ)

ਵਿਸ਼ਾ:- One-Time Settlement of non-compoundable violations in the buildings constructed in violation of the Building Byelaws in the municipal areas.

ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ, ਆਮ ਰਾਜ ਪ੍ਰਬੰਧ ਵਿਭਾਗ (ਮੰਤਰੀ ਮੰਡਲ ਮਾਮਲੇ ਸ਼ਾਖਾ) ਕ੍ਰਿਪਾ ਕਰਕੇ ਉਪਰੋਕਤ ਵਿਸੇ ਵੱਲ ਧਿਆਨ ਦੇਣ ਦੀ ਕ੍ਰਿਪਾਲਤਾ ਕਰਨ।

2. ਉਪਰੋਕਤ ਵਿਸੇ ਬਾਰੇ ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਟ ਦੇ ਵਿਚਾਰ ਲਈ ਮੈਮੋਰੈਂਡਮ ਦੀਆਂ 35 ਕਾਪੀਆਂ (ਅੰਗਰੇਜ਼ੀ ਅਤੇ ਪੰਜਾਬੀ) ਨੱਥੀ ਕਰਦੇ ਹੋਏ ਬੇਨਤੀ ਕੀਤੀ ਜਾਂਦੀ ਹੈ ਕਿ ਇਸ ਨੂੰ ਮੰਤਰੀ ਪ੍ਰੀਸ਼ਟ ਦੀ ਹੋਣ ਵਾਲੀ ਮੀਟਿੰਗ ਮਿਤੀ 08.05.2018 ਵਿਚ ਪੇਸ਼ ਕਰਨ ਦੀ ਕ੍ਰਿਪਾਲਤਾ ਕੀਤੀ ਜਾਵੇ। ਚੈਕ ਲਿਸਟ ਵੀ ਨੱਥੀ ਕੀਤੀ ਜਾਂਦੀ ਹੈ।



ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ

ਸਥਾਨਕ ਸਰਕਾਰ ਵਿਭਾਗ, ਪੰਜਾਬ

ਸੇਵਾ ਵਿਖੇ

ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ,
ਆਮ ਰਾਜ ਪ੍ਰਬੰਧ ਵਿਭਾਗ,
(ਮੰਤਰੀ ਮੰਡਲ ਮਾਮਲੇ ਸ਼ਾਖਾ)

ਅ.ਵਿ.ਪੱਤਰ ਨੰ: ਮੀ.ਈ.ਪੀ(ਜਗ)-੨੦੧੮/੧੬੭੯

ਮਿਤੀ 25/5/18