

THE APPLICATION, ASSESSMENT AND COLLECTION OF REGULARISATION FEE (CHENNAI METROPOLITAN AREA) RULES, 1999.

PREAMBLE

In exercise of the powers conferred under clause (cc) in sub-section (2) of section 122 of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972), the Governor of Tamil Nadu hereby makes the following Rules with effect from 1st March 1999

1. Short Title.--

(1) These rules may be called the Application, Assessment and Collection of Regularisation Fee (Chennai Metropolitan Area) Rules, 1999 (2) It extends to the whole of the Chennai Metropolitan Planning Area.

2. Definitions.--

In these rules, unless the context otherwise requires,--

- (a) "Act" means The Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);
- (b) "banned area" means the aquifer recharge area banned for any development, which is bounded by the Chennai city limit in the north, the Chennai Metropolitan Area limit in the south Buckingham Canal in the west and the sea shore in the east excluding the plots in approved layouts.
- (c) "Chennai Metropolitan Area" means the Chennai Metropolitan /Planning area referred to in clause (23-a) of Section 2 of the Act;
- (d) "competent authority" means The Chennai Metropolitan Development Authority or a local authority concerned to whom the Chennai Metropolitan Development Authority has delegated the powers for issue of Planning Permission;
- (e) "current rate" means the rate of charge or fee prevailing on the date of issue of permission ;
- (f) "development" means carrying out of any of the works or change of use of land defined in clause section 2 of the Act;
- (g) "Development Control Rules" shall means the Development Control Rules for the Chennai Metropolitan area forming part of the Master Plan for the Chennai Metropolitan Area;
- (h) "floor space index" means the ratio defined in rule 30 of the Development Control Rules;
 - (i) "group development" means the building defined in rule 19(b) II of the Development Control Rules;
 - 1[(ii) "lay-out" means division of land into plots exceeding eight in numbers;]
- (j) "local authority" means the Municipal Corporation of Chennai, Municipality, Township, Town Panchayat, Panchayat Union or Village Panchayat within the Chennai Metropolitan Area;
- (k) "multi-storeyed building" means the building defined in rule 17(a) of the Development Rules;
- 1[(kk) "Ordinary building" means a residential of commercial building which does not fall within the definition of Special building, Group development or multi-storeyed building;]
- (l) "parking space" means an area covered or open, sufficient in size to park vehicle together with another way connecting the parking lot with road or street and permitting ingress or egress of the vehicle defined in rule 20 of the Development Control Rules;
- (m) "regularisation fee" means a fee for exempting the development of any land or building or class of lands or buildings referred to in section 113 A of the Act;
- (n) "section" means a section in the Act;
- (o) "setback" means open space across front or sides or rear of a plot between the building and street alignment or boundary of the plot, as the case may be;
- (p) "special building" means the building defined in rule 19(b) (1) of the Development Control Rules ;
- 1[(pp) "Sub-division" means division of land into plots not exceeding eight in numbers;]
- (q) "Zoning regulation" means the land use zoning regulation stated in the Development Control Rules.
- 1[(r) other terms used in these rules unless the context otherwise requires, shall have the meaning as defined section 2 of the Act and in the Development Control Rules".

3. 3[Application.--

- (1) (a) Application for regularisation shall be made for any unauthorised or deviated development completed on or before the 2[31st July, 2001.]

Explanation.--For the purpose of these rules, when the outer walls and roof in respect of any building are constructed but the inside of such building is not completed on or before the 2[31st July, 2001], such building shall be treated as a completed building.

- (b) In respect of a partly completed building application shall be made for regularisation in respect of that part of the building which has been completed.

- (2) The application shall be accompanied by the following :--

- (a) Application Form A or Form B, as the case may be prescribed in the Development Control Rules;

- (b) Five copies of plans showing the construction as per site conditions including its usage, duly signed by the applicant and a Licensed Surveyor or a Chartered Civil Engineer or a Civil Engineer who is a member of the Institution of Engineers (India) or a qualified Architect who is a member of the Council of Architects;

- (c) A copy of ownership document duly attested by a Notary Public;

- (d) If there is an earlier approval for existing developments within the plot, a copy of the approved plan, duly attested by a Licensed surveyor or a Chartered Civil Engineer or Civil Engineer who is a member of the Institution as Engineers (India) or a qualified Architect who is a member of the Council of Architects ;

- (e) (i) A copy of Patta with FMB sketch or PLR extract duly attested by a Revenue Official or a Notary Public.

- (ii) Where there is an earlier approved plan, if the site boundaries shown in the plan applied for match with the approved plan, then item (i) will not apply.

- (iii) In cases of applications for ordinary buildings, item (i) will not apply.

- (f) Demand Draft or Banker's Cheque from any Nationalised Bank in Chennai Metropolitan Area towards scrutiny fee at the rate of Rs.1.50 per square metre for total floor area of buildings within the site or seventy five paise per ten square metres of total plot area in case of vacant plots drawn in favour of the Member Secretary, Chennai Metropolitan Development Authority;

- (g) Declaration of the violated plot or floor area category-wise and self assessment of the regularisation fee payable with detailed working sheets duly signed by both the applicant and a Licensed Surveyor or a Chartered Civil Engineer or a Civil Engineer who is a member of the Institution of Engineers (India) or a qualified Architect, who is a member of the Council of Architects;

- (h) Demand Draft or Banker's Cheque from any Nationalised Bank in Chennai Metropolitan Area for the sum worked out in clause (g) as payment in advance towards self-assessed regularisation fee drawn in favour of the Member Secretary, Chennai Metropolitan Development Authority. Such payment in advance shall be adjusted against the regularisation fee eventually assessed by the competent authority and other fees or charges leviable for issue of planning permission;

- (i) A Notarized Undertaking in a non-judicial stamp paper of value not less than Rs.10 agreeing to remit the balance regularisation fee, if any, as assessed by the competent authority after adjusting the advance payment made, and also all other fees and charges normally leviable for planning permission from time to time, by the competent authority;

- (j) 2[In the case of flatted developments, for considering regularisation of the whole development,] the application shall be made jointly from a majority (i.e. above 50 per cent) of flat owners in the plot or their association authorised by the resolution to do so, paying self-assessed regularisation fee for the total violated area within the site and furnishing an undertaking to pay the balance regularisation fee and also all other fees and charges normally leviable for planning permission, from time to time by the competent authority for the whole building, within the plot;

- 4[(k) In case of flatted developments for considering regularisation of individual flat, the application shall be made by the flat owner and such application shall be accompanied by the documents specified in clause (a) to (i) above with advance payment of self-assessed regularisation fee and scrutiny fee for that flat. The applicant shall also execute an indemnity bond in the format specified by Chennai Metropolitan Development Authority.;

(3) Any application made by any person for regularisation who does not have any right over the land or building shall be summarily rejected.

(4) No building with any encroachment including aerial encroachment on to a public road or street or on a Government poramboke land shall be regularised;]

4. Assessment of regularisation fee.--

Regularisation fee shall be assessed and levied, separately for the development exempted under section 113 A over and above the ordinary fees or charges normally leviable as the case may be from time to time by the competent authority.

5. [Regularisation fee for unauthorised or deviated development.--

(1) The unauthorised or deviated development shall be considered in its entirety for its classification as per Development Control Rules such as ordinary building, special building or multi-storeyed.

(a) Where the unauthorised or deviated development is not in conformity with Development Control Rules, regularisation fee shall be levied for the unauthorised or deviated plot or floor areas which are not in conformity with Development Control Rules as prescribed in rule 6.

(b) In cases of deviated developments, already approved part of the existing development shall not be liable for levy of regularisation fee, only if it is substantially relatable to the earlier approved plan geometrically in shape, size and in usage including number of dwellings. If not relatable, that portion shall also be treated as unauthorised, and regularisation fee assessed accordingly.

(2) When any development or construction is made without prior approval or in excess of earlier approval, but the whole development is in conformity with the Development Control Rules, in such case, only development charges and other charges normally leviable at current rates are leviable and collectable. In that case, any previous fees or charges remitted shall be duly adjusted or subtracted, on proof of remittance.

6. Categorisation for levy of regularisation fee.--

(1) The deviations or violations with reference to the Development Control Rules shall be categorised for the purpose of assessing the regularisation fee as follows and the regularisation fee shall be levied as specified in the respective Tables:--

Category A (i) : Plot in an unauthorised sub-division or layout or plot extent or plot frontage violation :

Irrespective of whether any plot/land is vacant, partially or fully built, if, there is violation in terms of unauthorised sub-division or lay-out, or plot extent or frontage, the plot or land alone shall first be considered for regularisation as one category and regularisation fee shall be assessed as specified in Table A (i) subject to the following conditions:--

(a) In case of a plot in an unauthorised layout, the plot shall abut a road of width not less than 4.8 metres and the unauthorised layout roads shall be connected to a public road or street maintained by the local body evidenced by their resolution.

(b) In case of plot in an unauthorised sub-division, the plot shall abut on a public road or street or gain access through an exclusive or a common passage of width not less than one metre and connected to a public road or street maintained by the local body evidenced by their resolution.

(c) No part or whole of any unauthorised layout as such is regularisable. Only individual plot shall be considered for regularisation, provided it has been divided and registered on or before the 31st July 2001.]

Category A (ii) : Land Use Violation :

Floor area constructed in violation of Development Control Rules by virtue of its being in,--

(a) Non-conforming usage to land use zoning regulations;

(b) Areas not designated for multi-storeyed buildings ;

(c) Banned areas ; and

(d) Street alignment,

Shall be assessed for levy of regularisation fee, as specified in Table A (ii)

Provided that regularisation of a building of a particular use under these rules shall not mean that the site is deemed to have been reclassified to that conforming use zone of Master Plan or Detailed Development Plan:

Provided further that for making any additional development fresh application has to be made for reclassification of the site into a conforming use zone and site got reclassified following due process and on its merits.

Category A (iii) Road Width Passage, Width Violation :

Where a building has been constructed on a plot abutting a road width not conforming to the minimum requirement of Development Control Rules, the part of the floor area upto prescribed maximum F.S.I, as per Development Control Rules shall be assessed for levy of regularisation fee under this category as specified in Table A (iii).

Category B : Floor Space Index (F.S.I.) Violation :

For excess built up area constructed in violation of maximum Floor Space Index prescribed in Development Control Rules; and the covered parking space converted into any other use, regularisation fee shall be assessed as specified Table B.

Category C- Setback Violation :

For built up area in violation of setback requirements prescribed in Development Control Rules not amounting to excess built up area covered in Category-B, regularisation fee shall be assessed as specified in Table C.

Category D- Parking Violation :

For parking violation not amounting to Categories B and C, regularisation fee shall be assessed as specified Table D.

(2) If there is more than one category of violation, the regularisation fee shall be leviable for each category and shall be cumulative of the amounts assessed for violations of Category A (i),

Category A(ii), Category A(iii) Category B, Category C and Category D.]

4[(3) In case of application for individual flat under clause (k) of sub-rule (2) of rule 3,--

(a) When a plan showing construction made as per site condition in respect of all the flats/developments within the site including sub-division details were furnished by the applicant, the development as a whole within the site shall be examined, and exemptions such as maximum permissible Floor Space Index prescribed in Development Control Rules, road width violation fee only upto maximum permissible Floor Space Index limit provided in these rules shall be allowed and regularisation fee shall be assessed for the whole development and levied for the flat as follows:--

(i) On pro-rata basis of deviated floor areas in respect of deviated development when it is relatable as in rule 5(1) (b); and

(ii) On pro-rata basis of unauthorised floor areas in respect of unauthorised developments;

(b) When a plan showing construction made as per site condition, in respect of all the flats/developments within the site was not furnished by the applicant, the regularisation fee shall be assessed and levied as follows:--

(i) if the flat is in deviation to the earlier approved plan and the same,--

(a) is relatable to the said approved plan as in rule 5(1)(b), the regularisation fee shall be assessed for the floor area of the flat constructed in deviation to the approved plan at the rates specified in table B (treating it as Floor Space Index violation, in the absence of details) and also at the rates specified in Table A (ii)-- Land use violation, if applicable;

(b) is not relatable to the earlier approved plan as in rule 5(1)(b), the entire flat shall be treated as unauthorised and regularisation fee shall be assessed as in sub-clause (ii) below at the rates specified in Table B and also Table A (ii), if applicable;

(ii) If the flatted development is unauthorised, then in the absence of details and plans for examination of the flatted development as a whole, the total floor area of the unauthorised individual flat including its proportionate common area in that floor shall be treated as the floor area attracting regularisation fee and assessed at the rates specified in Table B and also Table A (ii), if applicable.;

7. (1) The competent authority shall, on receipt of an application made under rule 3, examine the same with reference the provisions of the Act or other laws, for the time being in force and rules and regulations made thereunder, call for any additional details or particulars, if necessary, and decide on the regularisability of the development. If it is found regularisable, the competent authority shall assess the regularisation fee and issue to the applicant a demand notice for the payment of regularisation fee along with other fees and charges normally leviable ¹[after adjusting the advanced amount.]

⁴[Provided that if the additional details or particulars called for by the competent authority are not furnished within forty five days from the date of receipt of the communication by the applicant, it will be presumed that the applicant is not serious in furnishing the details or particulars called for, to enable the application to be processed further and getting the demand notice for regularisation fee payable. In such a case, the application shall be rejected and 40 per cent of the advance made under clause (h) of sub-rule (2) of rule 3 shall be forfeited.]

(2) On receipt of the demand notice, the applicant is liable to pay to the competent authority the regularisation fee and other charges within thirty days from the date of communication of the said demand notice. If payment is not made within the time stipulated above, it shall attract interest at the rate of six per cent per annum. If the above said amount not remitted within ninety days from the date of receipt of the demand notice ³[the advance made under clause (b) of sub-rule (2) of rule 3] above, shall be forfeited and the planning permission shall be refused.

¹[(3) In cases where the self-assessed regularisation fee amount paid as advance is less than seventy five percent of the amount assessed by the competent authority, then the balance regularisation fee payable shall attract an interest at the rate of eighteen per cent per annum from ³[1st December 2001.]

8. Any person aggrieved by an order passed by any officer or authority under rule, 7 may prefer an appeal to the government within thirty days from the date of receipt of the order.

¹[Provided that no appeal shall be entertained unless it is accompanied by satisfactory proof of the payment of the self-assessed regularisation fee advance.]

9. (1) Any application under these rules shall be in conformity with the following:--

- (a) The Coastal Zone Regulations of the Ministry of Environment and Forest under the Environment (Protection) Act, 1986 (Central Act 17 of 1986);
- (b) The Civil Aviation Regulations of the Ministry of Tourism and Civil Aviation under the Aircraft Act, 1934 (Central Act XXII of 1934) ;
- (c) The Ministry of Defence Regulations for developments in the vicinity of the Air force Stations within 900 metres around ;
- (d) Regulations of the Chennai Regional Advisory Committee constituted by the Ministry of Communications;
- (e) Any development for regularisation shall abut on public road or gain access from a road or passage over which the applicant has right of access.
- (j) In case of multi-storyed developments, No Objection Certificate from the Directorate of Fire Services with regard to the fire protection measures shall be furnished by the applicant ;
- (g) No development shall be regularised in the lands affected by the alignments of proposed Inner Circular (Rail) Corridor, Inner Ring Road, National Highways By-pass Road, Outer Ring Road and Mass Rapid Transit system (Rail) projects.
- (h) No special hazardous industry or an industry categorised as "RED" by Tamil Nadu Pollution Control Board shall be regularised in a nonconforming zone. Even in a conforming zone, it shall be regularised only by clearance from the Tamil Nadu Pollution Control Board.
- (i) No industry categorised as "ORANGE" by the Tamil Nadu Pollution Control Board shall be regularised in any use zone without the clearance from the Tamil Nadu Pollution Control Board; and
- (j) Any development or regularisation shall conform to the rule 79 and 80 of Indian Electricity Rules 1956 in respect of clearance from high tension and extra high voltage lines.

10. Disclaimer.--

If any planning permission has been issued to regularise the developments in any area which land acquisition proceedings have already been initiated under the Land Acquisition Act, 1894 (Central Act 1 of 1894) by the Government; that does not confer any right on the applicant to obliterate acquisition proceedings and to compensation for the building so regularised contrary to the provisions contained in the said Land Acquisition Act, 1894.

11. When a competent authority refuses to grant, permission regularising the development to any person it shall record in writing the reasons for such refusal and communicate the order to the applicant.

12. 1[Transitory provisions.--

(1) (a) All the applications for regularisation under these rules pending before the competent authority shall be disposed of in accordance with the rate of regularisation fee as revised under these

(b) All appeals pending before the Government shall be remitted to the competent authority and the competent authority shall dispose of the cases in accordance with the rate of regularisation fee as revised under these rules.

Provided that the disposal under this sub-rule shall be effected on payment of self-assessed regularisation fee advance, along with the working sheet.

(2) Any person whose application was rejected or refused under these rules immediately before the 2[31st August 2001] may make an application afresh satisfying the provisions of these rules as amended.]

