

**GOVERNMENT OF ANDHRA PRADESH
MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT (M1) DEPARTMENT**

Memo No. 3135/M1/2008

Dated: 08- 05-2008.

Sub: - Municipal administration and Urban Development Department- Dept –
Building penalization Scheme and Layout Regularization Scheme –
Certain clarifications – Issued.

Ref: - 1. G.O. Ms. No. 901 M.A. & U.D. (M1) Dept Dated: 31-12-2007.
2. G.O. Ms. No. 902 M.A. & U.D. (M1) Dept Dated: 31-12-2007.
3. G.O. Ms. No. 02 M.A. & U.D. (M1) Dept Dated: 02-01-2008.
4. G.O. Ms. No. 112 M.A. & U.D. (M1) Dept Dated: 30-01-2008.
5. G.O. Ms. No. 113 M.A. & U.D. (M1) Dept Dated: 30-01-2008.
6. G.O. Ms. No. 271 M.A. & U.D. (M1) Dept Dated: 28-03-2008.
7. G.O. Ms. No. 272 M.A. & U.D. (M1) Dept Dated: 28-03-2008.
8. G.O. Ms. No. 301 M.A. & U.D. (M1) Dept Dated: 11-04-2008.
9. G.O. Ms. No. 328 M.A. & U.D. (M1) Dept Dated: 30-04-2008.
10. G.O. Ms. No. 329 M.A. & U.D. (M1) Dept Dated: 30-04-2008.

The attention of the Commissioners of all Municipal Corporations and the Vice Chairmen of all Urban Development authorities in the State is invited to the twin schemes of Building Penalization Scheme and the Layout regularization Scheme introduced by Government in the reverences cited and they are informed that a number of clarifications / doubts have been expressed by the public, the Commissioners of certain Municipalities and Corroborations, in implementation of the schemes and sought clarifications. The Government after careful consideration hereby issue the following clarifications, namely:

SI	Issue raised	Clarification
1	Unauthorized building uses falling in appeal clause i.e, permissible on appeal, by the Competent Authority should be considered by Commissioner or Municipal Council.	Such cases should be considered by the Commissioner only.
2	Residential Apartments in commercial land use for stilt + 5 floors, but constructed cellar floor and ground floor with shops. Can these be considered under BPS.	Yes, however shops constructed in area earmarked for parking (stilt floor) cannot be considered under BPS.
3	Cases of individual commercial buildings on plot area of less than 300 sq m unauthorized construction with cellar floor used for shops, Can such shops be considered under BPS?	No. Cellar cannot be used for conducting business.
4	Construction coming within 100 ft of Railway boundary Can it be considered under BPS?	Such cases have to obtain prior clearance from Railway authorities
5	Is it enough if only conversion charges are levied in LRS without referring change of land use from Government?	Yes, and in all such cases comprehensive change of land use proposals are required to be submitted and incorporated at a later date.
6	Whether building raised in deviation of the sanctioned plan obtained as per G. O. Ms. No. 86 M.A&U.(M1)Department, dated 03-03-2006, in a plot area of 125 sq. yards can be allowed for regularization as per the B.P.S. Scheme.	Cannot be considered
7	Applied for regularization as per earlier BRS scheme under G. O. Ms. No. 419 M.A&U.D(M1)Department, dated	Since earlier BRS is repealed, no regularization can be done under

	30-07-1998, it is requested to permit the pending files disposed as per G. O. Ms. No. 419 M.A&U.D(M1)Dept, dated 30-07-1998.	that scheme. However amounts paid earlier may be adjusted towards the penal amount levied under present BPS
8	<p>A) Permission has been granted for apartments in unapproved layout duly collecting building permission security fee, betterment charges, development charges and 10% shortfall of open spaces. The flat owners are coming up for regularization under BPS; whether the plot has to be regulated under BPS: if deducted from BPS charges: if the plot has to be regulated whether penalization charges be levied on the individual flat owner.</p> <p>B) Permission has been granted for individual residential building in unapproved layout duly collecting BPF, betterment charges, development charges, 10% shortfall of open space charges. The applicants are coming up for regularization deviations, whether plot has to be regulated, if so can the betterment charges, development charges be deducted.</p> <p>C) As per G. O. Ms. No. 423, M.A&U.D(M1)Department Dated 31-07-1998, building line for plots above 300 sq. m can be maintained according to road width, where as the plot areas below 300 sq. m the building line cannot be maintained as the front set back vary according to plot area and is not governed by any road width, whether the building line for plots below 300 sq. m be maintained according to road width or not.</p>	<p>Plots / Flats can be regulated under BPS on payment of full penalization charges as applicable.</p> <p>Plots need not be regulated under LRS where permissions have already been granted in Unauthorized layouts</p> <p>The building line will be front setback for the plots below 300 sq. meters</p>
9	<p>A) The slums in Nuzvid town which are covered partly in all the wards were notified in the year 1994. The posh buildings in the notified slums are also availing 50% reduction in penal amount on par with ordinary building of same land value. Therefore the council members suggested that there should be differentiation in penal amount of posh buildings and ordinary buildings.</p> <p>B) The minimum road width required for regulation of unauthorized layouts in LRS is 30' in most of the unauthorized layouts. The members have suggested that minimum widths should be suitably modified so as to cover unauthorized layouts having road widths below 30'.</p>	<p>If the Municipal commissioner is of the opinion that said building are not part of slums, or categorized as slums , then these need to be processed as per BPS Rules</p> <p>Not agreed</p>
10	Plot holders with GPA, agreement of sale or under installment scheme should also be allowed to get their plots regularized.	In such cases, only Plot holders with registered GPA are eligible for regularization of their plots under LRS.
11	The builder has retained terrace rights of tall the buildings which is mentioned in the sale deed. To clarify as on date who has to file the CDS and Fire Safety NOC application and bear the penalties for the regularization of the construction	The owner of the building/ portion of the building falling in High Rise building has to file the application and obtain NOC from Fire Services Dept.
12	<p>a). When already regularization charges were paid and permission of regularization obtained / not obtained under various schemes from 1992 to 1998, whether rules under reference are applicable to them.</p> <p>b). When local authority has already forfeited the Security deposit for violation of the sanctioned plan, whether the said amount will be deducted from penalization charges payable under these rules.</p> <p>c). when the height of the building is below permitted area</p>	<p>a) If the building is already regularized under earlier scheme, the present rules will not be applicable</p> <p>b) No, Security Deposit can not be deducted from penalization charges</p> <p>c) The constructions made in the</p>

	<p>and constructions are made in the setback sites, there will be excess parking area and in that excess parking area if any construction is made whether it will also be regularized.</p> <p>d). Whether NOC from Fire Department is required for a small room / flat constructed below the water tank on terrace of the 5th floor.</p> <p>e). Whether penalization charges paid earlier can be adjusted.</p>	<p>area earmarked for parking space can not be regularized</p> <p>d) Yes, any residential building of height more than 18 mt requires NOC from Fire Services Department</p> <p>e) Yes . The charges paid under earlier BRS Scheme can be adjusted towards the penal charges under BPS.</p>
13	Buildings constructed in violation of sanctioned plan granted in terms of G.O.Ms.No.86 M.A&U.D. Department, Dated 3-3-06 be included in the BPS scheme in the interest of the large and middle class public.	No
14	<p>a) Penalization of buildings be permitted based on Notarized and Municipal Assessments because most of the constructions are not having registered documents. If this case is considered most of the area can be covered under the Scheme and considerable revenue will come.</p> <p>b). to deduct the fees and charges paid to Municipality on the rejected building applications on technical ground.</p> <p>c). Consider the BPS in case of Residential buildings constructed in Public and Semi public land use area and industrial use area because most of the residential buildings are constructed on the above land use areas.</p>	<p>a) No. penalization can be done in the cases where the applicants have registered documents / title deed</p> <p>b) Not agreed to.</p> <p>c) Agreed to.</p>
15	In an apartment having plot area of 1000 sq. mtrs and permission taken for Residential but constructed a retail shops in ground floor with a floor area of 20.00 to 25.00 sq. meters in each shop. Now the shop owner having registered documents for retail sop only is liable to pay double the penal charges for commercial @ Rss.40/= (below 100 sq. meters of use or Rs.200/- (above 1000 sq. meters of use for entire apartment.	The penal rates for plots area of above 1000 sq. meter have to be insisted in such cases.
16	Rule 9.1 states that buildings that are not in conformity with land use approved in Master Plan / ZDP shall not be regulated under the scheme whereas Government issued revised orders in G.O.Ms.No. 112 M.A&U.D(M1) Department,Dated 31-01-2008, wherein the said rule was deleted, Accordingly the buildings that are constructed in contravention to the master plan land use can also be regularized under BPS. In such case whether conversion charges according to land use need to be collected where the buildings constructed in non confirming land uses are regulated, apart from penalization charges	Conversion charges according to land use need to be collected where the buildings are constructed in non conforming land uses.
17	Smt. V. Swarna Kumari has filed a case in the Legal Services Authority in Gudivada regarding BRS 1998. The application was not disposed in time. The applicant t has filed P.L.C. in the Legal Services Authority Gudivada on 12-1-07. The Hon'ble Judge has instructed to clarify with the superior authority whether the BRS application can be disposed.	Since earlier BRS Act is repealed, no regularization can be done under that scheme.
18	To clarify whether the plans can be approved by the Municipality without handing over of the layout by VGTMUDA under the BPS Scheme as Municipality is the competent authority to approve the plans under BPS.	Yes. Commissioner of the concerned Municipality/ Corporation is the competent authority to approve the plans under BPS.

19	As per Government orders LPS Scheme is applicable to layouts where plots have been sold by Registered sale deed before the date of Notification i.e 31-12-2007 M/s. Munickchand Farms developed a layout and 80% plots have been sold and 20% plots unsold. They have requested to regularize the unsold plots. Sri. T. Papa Rao and another have purchased 11430 sq. yards land and subdivided into plots without obtaining prior permission, and have not yet sold out any plot. Whether they can be considered under LRS Scheme.	In case of unsold plots, the land owner/ layout owner have to make application for approval of layout for the unsold portion. As some of the plots have come up for regularization, the layout pattern as regularized will be freezed and the same will be adopted for unsold plots also. However the shortfall of open space for the unsold area shall be earmarked and all fees and charges have to be paid as per the present rates.
20	Building plans were approved as per G.O.423 M.A&U.D (M1) Department Dt.31-07-1998, and are at various stages of construction, and they have filed under BPS and these are not processed. To clarify whether they can be considered under BPS.	As per BPS rules, all the constructions which have been completed (slab laid) before 15-12-07 are eligible for penalization.
21	BRS. 22 applications though complete in all respects, proceedings have not been issued, in respect of 84 applications though complete in all respects the competent authority has not passed orders, and in respect of 308 applications only part penal amount was paid, and the applicant is requesting to adjust against the present scheme.	Since earlier BRS Act is repealed, no regularization can be done under that scheme. The applicants have to apply under present BPS. However the amounts paid earlier under BRS will be adjusted against penal charges under present BPS.
22	In BPS, Rules it is presumed that the buildings constructed in residential zone being used for commercial, double penalization charges shall apply. And in case buildings constructed with residential permission in commercial zone then penalization charges shall apply as per annexure - I (Table A),.	In case of commercial buildings constructed without any permission, the penal charges shall be double the penal charges of commercial buildings as in the case buildings which have permission but been converted from other uses to commercial use.

S.P.SINGH
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner and Director of Municipal Administration,
A.P. Hyderabad.
The Commissioner and Special Officer,
Greater Hyderabad Municipal Corporation, Hyderabad.
The Vice Chairman,
Hyderabad Urban Development Authority, Hyderabad.
The Commissioner,
Greater Visakhapatnam Municipal Corporation, Visakhapatnam.
The Director of Town and Country Planning, A.P. Hyderabad.
The Vice Chairmen of all Urban Development Authorities in the State.
The Commissioners of all Municipal Corporations and Municipalities in the State,
Through CDMA.

Copy to:
P.S to M (MA).

//FORWARDED BY ORDER//

SECTION OFFICER.