

# THE U.P. (REGULATIONS OF BUILDING OPERATIONS) ACT, 1958

(U.P. Act XXXIV of 1958)

(As passed by the Uttar Pradesh Legislature and assented to by the President on October 8, 1958, and published In U.P. Gazette. Extraordinary, dated October 16, 1958.)

*An Act to provide for the Regulation of Building Operations in Uttar Pradesh.*

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Whereas It Is expedient to provide for the regulation of building operations with a view to preventing haphazard development of urban and rural areas:

***It is hereby enacted in the Ninth Year of the Republic of India as follows:***

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

- (1) This Act may be called the Uttar Pradesh (Regulation of Building Operations) Act, 1958.
- (2) It extends to the whole of Uttar Pradesh.
- (3) It shall come into force at once.

## **2. Definitions.-**

In this Act, unless the context otherwise requires-

(a) 'amenity' includes roads, water supply, street lighting, drainage, sewerage, public parks and any other convenience which the State Government may, by notification in the Official Gazette, specify to be an amenity for the purposes of this Act:

(b) 'building' has the same meaning as in the U.P. Nagar Mahapalika Adhiniyam, 1959;

*[Deleted by U.P. Act XI of 1960]*

(d) 'regulated area' means an area in respect of which a declaration under Sub-section (1) of Section 3 is for the time being in force];

(e) 'development' with its grammatical variations and cognate expression, means the carrying out of building, engineering, mining or other operations in, on, over or under land or the making or any material change in any building or land;

(f) 'Prescribed' means prescribed by [rules] under this Act;

(g) 'Prescribed Authority' means a person or body of persons appointed as such by the State Government in respect of a regulated area by notification in the Official Gazette;

(h) 'to erect' in relation to a building means to construct a building for the first time or to after demolishing reconstruct an existing building a it according to some fresh or revised plan.,

(i) 'to re-erect' in relation to a building means the construction for a second or subsequent time of a building or part of a building after demolishing it' on the same plan as has been previously sanctioned :

(j) 'to make material change' in relation to a building means to make any modification in any existing building by way of addition or of any other change in the roof, window or door if such window or door adversely affects light and ventilation of any room, or in any compound wall,, or in the sanitary and drainage system in any respect, whatsoever and includes :

(i) Increasing or decreasing the height or area covered by, or cubical capacity of any room in the building;

(ii) Conversion of a building or its part originally constructed as one dwelling house into more than one dwelling house and vice versa:

(iii) Conversion of a building or a part thereof meant for human habitation in general into a dwelling house or vice versa:

(iv) Conversion of a dwelling house or a part thereof' into a shop, warehouse or factory or vice versa;

(v) Conversion of a building used or intended to be used for one purpose such as shop, warehouse or factory. etc., into one for another purpose;

(vi) Conversion of a building or a part of a building into a brothel, a bar or a gambling den and the like: and

(vii) Constructing in a wall adjoining any street or land not vested in the owner of the wall a door or window opening on such street or land or permanently closing any door or window in an external wall;

but does not include modifications in respect of gardening, whitewashing painting, plastering and other specifications.

### **3. Declaration of regulated area. -**

(1) If in the opinion of the State Government any area within U.P. requires to be regulated under this Act with a view prevention of bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to the development and expansion of that area according to',- proper planning. it may, by notification in the Official Gazette declare the area to be regulated area.

(2) The operation of Chapter. XIII of the Uttar Pradesh, Nagar Mahapalika Adhiniyam 1959, 5[Sections 178. 179, 180. 180-A. 181. 182. 183, 184. 185. 186. 203, 204, 205, 206, 207, 208. 209. 210. and 222 of the U.P, municipalities Act, 19 161 (or the said section as extended under Section 338 thereof or under Section 38 of the U.P.' Town Areas Act. 1914) Sections 29. 30 and 32 of the I.P. Town Improvement Act, 1919, or, as the case may be of-11 Sections 162 to 171 of the Uttar Pradesh Kshettra Samities and Zila Parishads Adhiniyam, 196 1, shall in respect of a regulated area remain suspended for the, period during which the declaration relating to it under Sub-section (1) remains in force, and the provisions of Section 6 of the U.P. General Clauses Act. 1904, shall apply in relation to such suspension as if the suspension amounted to repeal of the said enactments by this Act.

### **4. Controlling Authority.-**

(1) The State Government shall as soon as may be after any area is declared as regulated area under this Act constitute for such area an authority hereinafter called the Controlling Authority for the discharge of functions assigned to such authority under this Act.

5(2) The Controlling Authority shall, subject to the provisions of Sub-section (2-A) consist of the following members not exceeding nine, namely-

(a) 6[\* \*\* ) Commissioner of the Division in which the regulated area is situate, or any other officer, not below the rank of a Sub-Divisional Magistrate, appointed by the State Government, who shall also be the Chairman,

Nominees of the State Government who among others may be-

The President of the District Board of the district in which the regulated area or any portion thereof is situate;

The President of the Municipality or Notified Area, if any, in which the regulated area is situate or which is adjacent to it:

Provided that if the regulated area lies within the limits of more than one local body, the Controlling Authority may co-opt any other President/Presidents of such local body/bodies.

Explanation.- 'President' for the purposes of this section includes any person exercising the powers of a President under the provisions of the U.P. District Boards Act, 1922 or the U.P. Municipalities Act, 1916, as the case may be.

(2-A) The Controlling Authority -Shall have the power to co-opt as members one or two other persons].

(3) The numbers of members necessary to form a quorum and the procedure to be followed by the Controlling Authority in the conduct of its business shall be such as may be prescribed.

(4) The functions of the Controlling Authority may be' exercised notwithstanding any vacancy therein.

(5) *[Deleted]*,

(6) All action taken by the Controlling Authority shall be expressed to be taken in the name of that Authority;' and orders and other instruments made and executed in the name of the said Authority shall be authenticated in such manner as may be prescribed and the validity of an, order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Controlling Authority.

*Added by Section'43 Of U.P. Act 41 of 1976.*

(d) the erection of buildings on any site and the restrictions and conditions in regard to the spaces to be maintained in or around buildings and the height and character of buildings;

(E) the alignment of buildings on any site,

(f) the architectural features of the elevation or frontage of any building to be erected on any site;

the number of residential buildings which may be' erected on any site,

the amenities to be provided in relation to any site of buildings on such site whether before or after the erection of buildings and the person or authority by whom such amenities are to be provided;

the prohibition or restrictions regarding erection' of shops, workshops, warehouses or factories or buildings of a specified architectural feature of buildings designed for particular purposes in any locality.

the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained;

the restrictions regarding the use of any site for purposes other than the erection of buildings.

any other matter which is necessary for the proper planning of any regulated area and for preventing buildings being erected haphazardly in such area.

## **5. Power to issue directions in respect of regulated area.-**

2[The State Government may by notification in the Official Gazette, issue in relation to any regulated area such regulations. not inconsistent with this Act or With the rules as it may consider necessary regarding any or -more of the following matters) namely

the division of any site into plots for the erection of buildings and the manner in which such plots may be allotted to intending purchasers or lessees;

The allotment or reservation of land for road, open spaces. gardens, recreation grounds, schools, markets and other public purposes.,

the development of any site into a township -or colony and the restrictions and conditions subject to which such development may be undertaken or carried out;

### **5A. Master Plan for the regulated area.-**

(1) If in opinion of the state Government any regulated area requires to be developed according to a Master Plan it M#- cause such a plan to be prepared either through the Controlling Authority or through such other agency as it may think fit.

(2) Every such plan shall conform to any rules regulations made in that behalf.

## **6. Control of development and building operations In regulated area.-.**

No person shall undertake or carry out tile development of any site in any regulated area or .;[erect, re-erect or make any material change in] any building or make or extend any excavation or lay-out any means of access to a road in such area except in accordance with the [regulations]5 if any, issued under "[this Act] and with previous permission of the prescribed authority in writing.

## **7. Application for Permission.-**

(1) Every person desiring to obtain the permission referred to in Section 6 shall make an application in writing to the Prescribed Authority in such form and containing such information as may be prescribed in respect of the development, building excavation or means of access to which the application relates.

(2) On receipt of such application the Prescribed Authority, after making such inquiry as it considers necessary, shall by order in writing either grant Permission subject to such conditions, if any, as may be specified in the order or refuse to grant such permission.

(2-A) The only grounds on which permission may refused are the following, namely that the work or the use of the site for the work any of the particulars comprised in the site plan, ground-plan, elevations, sections or specification would contravene the provisions of any lay furnish adequate security to such authority or o- agency in that behalf or undertake to carry out s development and to provide such amenities- hi and execute a bond in that behalf in favour of Governor, with or without sureties', ' to satisfaction of the Prescribed Authority;

that the applicant shall transfer to the S Government or to the local authority concerned land earmarked for roads, public parks and o public utility services either free of cost or on terms and conditions as may be specified.

(2-D) The provisions of Sections 445, 446 ' 447 449 of the Code of Criminal Procedure, 1973, shall muta mutandis apply in relation to any bond executed b Y. applicant under Sub-section (2-C), with -the substitution reference to a Magistrate or Magistrates of the First Class by reference to the prescribed authority, and of references to the Sessions Judge by references to the Controlling Authority.]

(3) Where permission is refused, the grounds of s refusal shall be communicated to the applicant in 8 manner as may be prescribed within ninety days o receipt of such application].

(4) Where no orders are communicated within, period mentioned in Sub-section (3) granting or re the permission. the applicant may by a writing communication call the attention of the Prescribed Authority to the omission or neglect and if such omission or neglect continues for a further period of thirty day Prescribed Authority shall be deemed to have permitted the proposed work:

Provided that nothing in this sub-section shall construed to authorize any person to act contravention of the '2[regulations] issued under Act)3

#### **7-A. Cancellation of permission obtained under fraud. If**

at any time after a permission has been granted under sub-section (2) of Section 7. the Prescribed Authority satisfied that such Permission was granted in consequence of any material misrepresentation made or any fraud statement or information furnished. the Prescribed Authority may cancel such permission. for reasons recorded in writing and any work done thereunder shall be deemed to have been done without such permission.

#### **8. Powers of entry in buildings.-**

The prescribed authority may authorise any person to enter into or upon any .site or without assistant or workmen for the purposes of -

making any enquiry, inspection, measurement or survey or taking levels of such site or building.,

examining works under construction 'or ascertaining the course of sewers or drains;

ascertaining whether any site is being or has been developed or any building is being or has been erected in contravention of [any regulation made under this Act]., or without permission referred to in Section 6 or in contravention of any condition subject to which such - permission has bee granted:

Provided that no entry shall be made except between.' the hours of sunrise and sunset and without giving not less than twenty-four hours" written notice 'to the occupier or if there be occupier. to the owner of the building or land.

1[8-A. The Prescribed Authority may, after obtaining the' . X sanction of the State Government. delegate all or any of its powers and functions to an officer or authority subordinate' to it.]

8-B 2[\* )

## 9. Penalties.-

(1) Any person who undertakes or carries out the development of any site or 3[erects re-erects or makes any material change in any building or makes or extends any excavation or lays out any means of access to a road in contravention of' 4[any regulation invade under the Act] or without the permission referred to in Section 6 in contravention of any condition subject to which site permission has been granted. 5(or in violation of any action taken under Sub-section (2) of Section 10 to stop erection or re-erection of an building or the execution of any work ); shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence. with a further fine which may extend to 1'i@re hundred rupees for every day during which such offence continues after conviction for the first commission of the offence.

(2) Any person who obstructs the entry of a person authorised under Section 8 to enter into or upon. a., building or land or molests such person after such entry- shall be punishable with fine which may extend to thousand rupees.

(3) If the person committing an offence under this 'Act is a company, every person who, at the time of the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(4) Notwithstanding anything contained in Sub-section (3) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable' to any neglect on the part of any director, manager,, secretary or other offence of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that officer and shall be liable to be proceeded against and punished accordingly.

## Explanation.-

For the purposes of this section-

'company' means a body corporate and includes a firm or other association of individuals; and

director' in relation to a firm means partner in the firm.

## **10. Order of demolition of buildings in certain cases.-**

1(1) Where the ,[erection or re-erection of or material [change].; in] any building has been commenced or is being carried on or has been completed in contravention of '[any regulation made under this Act] or without the permission referred to in Section 6 or in contravention of any condition subject to which such permission has been granted, the Prescribed Authority may, ,[without prejudice to the provision of Section 91 make an order directing that such .[erection. re-erection or material (change)10. in] shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order. -and on the failure of the owner to comply with the order the Prescribed Authority may itself [through the local authority concerned or through such other agency as it thinks fit) cause the ( erection, re-erection or material (change)in] to be demolished and the expenses of such demolition shall be recoverable from the owner in the same manner as an arrear of land revenue :

Provided that no such order shall be made unless the owner has been given an opportunity of being heard.

(2) If the prescribed authority is satisfied that the erection or re-erection. of any building or the execution of -any such work as is referred to in Section 6 has been unlawfully commenced or is being unlawfully carried on It may by written notice require the person directing or carrying on such erection or re-erection or execution, to stop the same forthwith and on his failure to do so. cause the carrying on of such erection or re-erection or execution to be stopped and use or employ such reasonable force as may be necessary therefor)

## **11. Jurisdiction of Courts.-**

No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act.

## **12. Previous sanction of the Prescribed Authority for prosecution.-**

(1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Prescribed Authority.

(2) The Prescribed Authority may, and if required by the Controlling Authority shall compound any offence punishable under this Act, either before or after the institution of the prosecution. on such terms (which may include payment of a sum of money by way of composition for the offence) as it or the Controlling Authority, as the case may be, thinks fit].

## **13. Magistrate's power to Impose enhanced penalties:**

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



## **15. Orders granting or refusing permission to be final.-**

(1) Any order made under Sub-section (2) of Section 7 refusing or granting any permission shall, subject to the provisions of Sub-section (2) be final and shall not be questioned in any Court.

Any person aggrieved by an order under section 7 refusing Or granting permissions 1) (or by n order section 7-A Cancelling a permission )2 (or by an order under section 10 directing demolition for any construction of by the initiation of prosecution for any offence punishable under the Act) may within thirty days from the date of such order prefer an appeal to the Controlling Authority shall be final and shall not be called in question in any court.

(3) The Controlling Authority may, pending the Decision of an appeal filed under Sub-section (2) stay the operation of the order appealed against.

An order under Sub-section (3) may be passed on behalf of the Controlling Authority by its Chairman and such order shall be deemed to have been passed by the Controlling Authority anything to the contrary contained in section 4 notwithstanding.)

## **15-A. Revisional Powers of the State Government**

(1) The Statement Government may at any time either of its own motion or on an application made to it in this behalf, call for the record of any case disposed of by the Controlling Authority for the purpose of satisfying itself as to the legality or propriety of any order passed under this Act and may pass such orders in relation thereto as it may think fit:

Provided that the State shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard.

(2) The State Government may, by notification in the Gazette, delegate the powers conferred upon it by sub-section (1) to any officer or authority which shall not be inferior to the Chairman or the Controlling Authority).

**16. Protection of action taken in good faith.** No suit prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or the regulation made thereunder.

## **16-A. Crediting of fees. etc. in the funds of local authority.-**

(1) All fees realised under this Act and all sums realised under Sub-section (2) of section 12 in relation to of the performance of the functions of the Prescribed Authority or the Controlling Authority within the limits of a City (as defined in the Uttar Pradesh Nagar Mahapalika Adhiniyam 1959) shall be credited to the fund of the Nagar Mahapalika concerned.

The State Government may by notification in the Gazette extend the provisions of sub section (1) to any Municipality as defined in the United Provinces Municipalities Act, 1916, with effect from such date as it may direct, and thereupon the references in that sub-section to a city shall in relation to that Municipality be construed as including references to that municipality.

The State Government may by notification in the Gazette direct that the provisions of Sub-section (1)-shall cease to apply to any City and thereupon the provisions of Sub-section (1) shall cease to apply to such city and likewise may rescind any notification under Sub-section (1),2) and thereupon the provisions of Sub-section (1) shall cease to apply to the municipality concerned.

Every Nagar Mahapalika or Municipal Board to which the provisions of Sub-section (1) for the time being apply shall, when so requested by the Prescribed Authority or the Controlling Authority, make available to it such staff as may be necessary for the performance of the functions of that authority,, within the limits of the City or the Municipality. as the case may be].

#### **17. Effect of provisions of the Act Inconsistent with other laws.-**

the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in [any other law in force at the commencement of this Act].,

#### **18. Savings.-**

Nothing in this Act shall apply to- the carrying 'out of works for the maintenance, improvement or other alteration of any building. being works which effect only the Interior of the building. or which do not materially effect the external appearance of the building; by any department of the State

the carrying out Government of any works for the purpose of inspecting, repairing. or renewing any sewers. mains, pipes, cables or other apparatus, including the breaking open, of any street or other land for that purpose;

the erection of a building not being a dwelling house is such building is required for the purposes subservient to agriculture,

[Deleted by U.P. Act XXVI of 19611.

the erection of a place of worship or a tomb or cenotaph or of a wall enclosing a graveyard, place. of worship, or a tomb or a cenotaph samadhi, on land which at the commencement of this Act Is occupied. by or for the purposes of such place of worship. tomb, cenotaph. graveyard or samadhi;

excavation (including wells) made in the ordinary course of agricultural operation:

the construction of unmetalled road intended to give access to land solely for agricultural purposes.

#### **19. Power to make regulations.-**

(1) The State (Government, may by notification in the official Gazette, make [rules]. to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such [rules]. may provide for all or any of the following matters, namely-

(a) the summoning and holding meetings of the Controlling Authority, the time and place where such meetings are to be held, the procedure to be followed by the Controlling Authority, the conduct of all business to be transacted by the Controlling Authority and the numbers of members necessary to form a quorum:

(b) the procedure to be observed by the Prescribed e Authority in the discharge of its fu this Act;

the manner of authentication of orders and other instruments of the Controlling Authority and of the prescribed Authority;

(d) the form in which an application under Sub-section (1) of the section shall be made and the information to be furnished in such application'.

(e) the regulation of the laying out of means of access to roads;

(f) the principles on which application for permission under this Act may be granted

(g)the manner of filing appeal under Section the procedure of the Controlling Authority appeal.,

(gg) Levy of fee on application etc. for the levy of fee on an application for grant of permission under section 7(1) of this Act in respect matters specified in Sections 5 and 14 thereof and for [inspection or obtaining copies of documents maps, etc., and on a memorandum of appeal filed under Sub-section (2) of Section 15 of the Act, 3(and)

(h) any other matter which may be prescribed.

## **20. Laying Of regulations before legislature.-**

All regulations made under this Act shall. as soon as may be they are made, be laid before each House of the State Legislature, which it is in session, for a total period of thirty days, which may be comprised in its one Session or in two or more Successive sessions, and shall, unless some later date is appointed take effect from the date of their publication in the Gazette subject to such modifications or annulments as to the two Houses of the Legislature may during the said period, agree to make, so however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done there under).