

Non Agricultural Land

NON AGRICULTURAL LAND

Land can be called non agricultural land, if any activity in the nature of development is carried over on the land which makes land unfit for cultivation.

Under section 44 of the Maharashtra Land Revenue Code 1966, before carrying out any development on the land, an eligible person has to apply to the collector for the permission to convert the use of agricultural land for any non-agricultural purpose, or to change the use of land from one non-agricultural purpose to another non-agricultural purpose.

Form of application for permission to convert use of land- Every application for permission for the conversion of use of land from one purpose to another as provided in Section 44 is required to make in the form in Schedule I to the Collector.

Document required to attached with the application form

For obtaining N.A. Permission, applicant has to attach documents as mentioned below:

1. Prescribed form duly filled in duplicate with court fee stamp of rupees 5/-
 2. Extract of V.F. 7/12 and its 4 zerox copies,
 3. Copies of the all the relevant mutation entries (V.F. 6) pertaining to land in question....one set,
- i. If record is not available in revenue office, a certificate from the Revenue Officer stating therein that the same is not available with him. (Talathi or Tahasildar as the case may be),
4. Extract of village form 8 A....one copy,
 5. Certified copies of the land map from the Taluka Inspector, Taluka Land Record Office,
 6. 8 copies of site plan and 8 copies of *building plan (*if permission is asked for constructing building),
 7. If the land is not abutting to any classified road and right of way over the boundaries of other survey number/Gat number is acquired, then extract of the relevant V.F.7/12 and V.F. 6 ,
 8. If the land in question is abutting EW, NH or SH, copy of the NOC from Highway Authorities or other appropriate authority,
 9. NOC from concern Grampanchayat/Municipal councils,
 10. If the N.A. permission is already granted and application is to be made for change of use of land, then copy of the NA order and sanctioned plan is to be attached,
 11. If the land is attracting provisions of Bombay Tenancy and Agricultural Lands Act, 1948 then the Sale Permission received under section 43/63,
 12. No dues certificate from farmer's co-op society,
 13. Certificate received from the Talathi stating therein that the land in the question is not under acquisition.
 14. Any other documents such as NOC and clearance certificate etc, if the land attracts provisions of some other laws
 15. If temporary permission is already granted for layout and application is made for final permission under the circumstances, then please attach the below documents:
- i. Copy of temporary NA order permission
- ii. Plan prepared by survey department after subdivision of land in the plots, roads, open spaces and amenity places etc.

- iii. 8 copies of the Architect's plan
- iv. extract of V.F. 7/12 and its 4 zerox copies and
- v. Copy of the mutation entry (V.F. 6) related to the temporary NA permission.

The Collector has to follow the procedure as mentioned below for granting permission to convert the use of agricultural land for any non-agricultural purpose or to change the use of land from one non-agricultural purpose to any other non-agricultural purpose:-

1. Collector has to send a copy of one application form to the concerned Tahasildar for collecting detailed information of the land in question.
2. If the area is within the jurisdiction of a Municipal Corporation or Municipal Council, the Collector consults them with reference to acquiring the building permission.
3. When there is no Municipal Corporation or Municipal Council, the applicant has to submit a "No Objection Certificate" to the Collector, which is to be acquired from the Gram Panchayat of the village, for the change of use of land.
4. If the land falls within the limit of any Regional Plan prepared under provisions of MRTP Act 1966, the Collector shall grant permission in confirmative to Development Control Regulations prepared by planning authorities and special planning authorities.
5. In addition to the Development Control Regulations prepared by the planning authorities and special planning authorities (which are the instruments of regulating development), there are other laws, rules & regulations, policies as well which aid the development control efforts.

There shall be no contravention of the provisions of any law, or any rules, regulations or orders made or issued under any law for the time being in force, by the State or Central Government or any local authority, statutory authority, Corporation controlled by the Central or State Government or any Government Company pertaining to management of Coastal Regulation Zone, or of the Ribbon Development Rules, Building Regulations, or rules or any provisions with regard to the benefited zones of irrigation project and also those pertaining to environment, public health, peace or safety. The collector is required to consult the authorities dealing with these subjects.

These authorities may give clearance for development under some conditions; these conditions shall be binding on the applicant and such other conditions as the collector may, under the order of the State Government impose.

List of some of the authorities .functioning important role In Development Control are given below.

1. Town Planning Department:
2. Health Department
3. The Mumbai Village Panchayat Act, 1958
4. Laws Related to Development Along Roads
5. Mumbai Highways Act, 1955
6. National Highway Act 1956
7. Environment (Protection) Act, 1986
8. Indian Forest Act, 1927
9. Forest Conservation Act, 1980
10. Maharashtra Acquisition of Private Forests Act, 1975
11. Minor Mineral (Extraction) Act, 1955 and Explosives Act, 1984

For more details of these authorities visit "The **other Development Control Authorities**".

Apart from the conditions imposed by these authorities, there are other basic conditions as well, which shall be binding on the applicant and also such other conditions as the collector may, under the order of the State Government impose. The basic conditions are as follows:

1. The grant of permission shall be subject to the provisions of the Code and Rules made therein.
2. The land shall not be used for a purpose other than that for which permission is granted;
3. The applicant should commence the non-agricultural use within one year from the date of order, made by the Collector. Failure to do so, the permission granted shall be deemed to have lapsed, unless the Collector extends the said period from time to time.
4. The applicant shall be liable to pay such altered assessment as may be determined with reference to the altered use under Section 110, or as the case may be, Section 114;

If the permission is for building site, then in addition to the above,

- a) The applicant shall level and clear the land sufficiently to render it suitable for the non agricultural purpose for which the permission is granted;
- b) The applicant shall not use the land and the building erected thereon for any purpose other than the purpose for which the permission is granted. Under a circumstance, where the applicant wants to use the land for any other purpose, he will have to obtain the permission of the Collector under the provision of the code and the rules made therein.
- c) Applicant shall not divide the plot or subplot without prior permission of collector,

Plan annex to the application is sanctioned under the conditions given below:

1. Demarcation is to be done as per provisional sanctioned lay out and should get surveyed through Taluka Inspector, Land Record for obtaining final permission. Permission for building shall be granted only after the completion of this procedure.
 2. It is responsibility of the applicant to maintain the width of the road as per the sanctioned lay out. Also he shall construct a road along with drainage system, suitable for vehicular traffic
 3. Applicant shall attach the sanctioned layout plan while applying for building permission.
- d) Applicant shall plant trees on both sides of the road and it will be his responsibility to ensure the sustainability of this plantation.
 - e) It mandatory for the applicant to provide road entry to the adjacent land's proposed layout.
 - f) If the provision for supply of drinking water system does not exist in the area, then it is the responsibility of the applicant to make the necessary arrangement.
 - g) If the permission is given under 'Gaothan Extension Scheme', then the sale of plot is restricted to local people only.
 - h) It is mandatory for the applicant to not impede the natural ways of water or he will have to provide alternate arrangements.

- i) Applicant shall not sell plot prior to obtain final permission.
- j) Applicant shall inform the Tahsildar in writing through the Talathi the date on which the change of user of land commenced, within thirty days from such date. If the applicant fails to inform the Tahsildar within the period specified above he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but, not exceeding five hundred rupees.
- k) Applicant shall pay fee for survey within one month from the date of NA use. Also he shall fixed compound to outer boundary of the scheme.
- l) Applicant shall execute sanad in prescribed form within one month from the date of NA use.
- m) Applicant shall erect building within three years from the date of grant of sanad. If applicant fails erect building within stipulated period, the collector may extend the period in his discretion. Also he shall liable for fine.
- n) On event of violation of any terms or conditions imposed while granting permission, the permission shall be cancelled. Also applicant shall be liable for fine.
- o) The above terms and conditions are binding on both applicant and holder of the plot.

Collector may refuse permission for conversion of land

Depend upon location of the land collector may require to consult some of the authorities mentioned above. After receiving opinions from them if collector feels that N.A. permission asked for is in contradictory to the laws, rules, regulations and policies which aided the development control efforts, he may reject the application with stating the reasons in writing.

Collector is required to inform his decision within the ninety days from the date of acknowledgement of the application, or from the date of receipt of the application-- if the application is not acknowledged, the permission applied for shall be deemed to have been granted, but subject to N.A. permission asked for is not in contradictory to the laws, rules, regulations and policies which aided the development control efforts.

Date on which NA use started is required to inform the Tahasildar

The person to whom permission is granted or deemed to have been granted under this section shall inform the Tahsildar in writing through the Talathi the date on which the change of user of land commenced, within thirty days from such date. The person has to pay N.A. taxes from the date on which NA use begins.

If the person fails to inform the Tahsildar within the period specified above he shall be liable to pay in addition to the non-agricultural assessment such fine as the Collector may, subject to rules made in this behalf, direct but, not exceeding five hundred rupees.

Grant of Sand-

Where land is permitted to be used for non-agricultural purpose, a Sanad shall be granted to the holder thereof in the form in Schedule IV if the land is situated outside the jurisdiction of the Planning Authority, and in the form in Schedule V if the land is situated within the jurisdiction of the Planning Authority.

Sanad is agreement between government and occupant. Conditions of sanad are binding on both the government and occupant. Sanad is prima facie evidence of title but not conclusive evidence.

Penalties for unauthorised non-agricultural use-

If any land is used for non agricultural purpose by occupant without obtaining permission, it is lawful for the collector to stop its unauthorised use, ask him to pay NA taxes and penalty.

Regularisation of unauthorised use-

Where permission for non agricultural use was possible but occupant had not taken care to apply for permission, under the circumstances collector may regularized his unauthorised use, subject to the following terms and conditions, namely:-

- (i) that the holder shall pay the amount of conversion tax leviable and shall pay non-agricultural assessment on the land with reference to the altered use since the commencement of that use
- (ii) that the holder shall pay such fine not exceeding 10forty times the non-agricultural assessment on the land with reference to the altered use,
- (iii) that the holder shall abide by the conditions specified in column “B” above so far as they are applicable, and such other conditions as the Collector may deem fit to impose.

Continuance of offending unauthorised construction-

- a. Where the unauthorised non-agricultural use is contradictory to land used plan prepared for that area by the concern authorities and the Collector is satisfied that the demolition of the offending unauthorised construction is likely to cause heavy damage and serious inconvenience and hardship, he may, if the holder so desires, and in areas falling within the jurisdiction of Planning Authority, after consulting such Planning Authority, allow such construction to stand, with the sanction of the State government, subject to conditions (i) and (ii) in “G” and the additional conditions-
- b. that the holder shall pay a composition fee not less than fifty percent of the cost incurred on the offending unauthorised construction or forty times the non-agricultural assessment payable on the land with reference to the altered use, whichever is greater 2[and]
- c. that the holder shall agree in writing to demolish the offending unauthorised construction without claiming compensation if after reasonable period thereafter, he is asked to do so by the Collector, in the public interest, failing which the Collector shall do so at the holder’s risk and costs:

3[Provided that, if the Collector having regard to the pecuniary condition of the holder is of opinion that undue hardship will be caused to the holder by the recovery of the amount of composition fee laid down in condition(a), and that the offending unauthorised construction was not constructed by the holder with the knowledge that it was unauthorised, the Collector may, with the sanction of the State government, reduce the amount of composition fee payable by the holder under condition(a) to such extent as he may think fit.]

“forty times the non-agricultural assessment on the land” means forty times the non-agricultural assessment, only on that area of the land which is under unauthorised non-agricultural user.

On Regularisation Sanad shall be granted-

When any unauthorised non-agricultural use permitted to be continued under “**G**” or “**H**”, a Sanad in the form in Schedule VI shall be granted to the holder.