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HARYANA GOVERNMENT

TOWN AND COUNTRY PLANNING DEPARTMENT

Notification

The 10th November, 2017

No. PF-64/2017/7/24/2017-2TCP/28433.— The Governor of Haryana is pleased to notify a Policy for ‘grant of licences and change of land use permissions for setting up of those categories of colonies/activities for which there is a cap on the permissible net planned area’ under Section 9A of the Haryana Development and Regulation of Urban Areas Act, 1975 & Rules thereof and Section 11 of the Punjab Scheduled Roads & Controlled Areas Restriction of Unregulated Development Act, 1963 and Rules thereof and any other corresponding statute governing development of colonies on the subject.

2. The policy, of which the details are given in Annexure-A below, has been concurred by the Finance Department on 23.07.2017 and Law & Legislative Department conveyed concurrence vide UO No. 3641-G(18) Town & Country Planning Department. OP.Br17/276 dated 24.07.2017. Further the policy was approved by the Council of Ministers in its meeting held on 27.09.2017.

3. This policy shall come into effect from the date of its notification. The Director, Town & Country Planning, Haryana, is hereby directed to effectively implement this policy.

ANNEXURE-A
POLICY

1. FOREWORD

The policies regarding grant of licence for developing group housing colony, commercial colony in the residential zone, grant of CLUs in industrial zone; transport & communication zone; public/semi-public zone; and grant of licences in hyper and high potential zones under the provisions of final development plans were deliberated by the Hon'ble Punjab & Haryana High Court in CWP No. 21942 of 2013 titled as Pawan Bhatia & others Vs. State of Haryana. Hon'ble High Court in its order dated 26.08.2015, referring the policy instructions dated 05.07.2012, made following observation:

“..... The development plan as contemplated by the 1975 Act is a Final Development Plan. Still further, we find that the decision of the State Government, to accept application on the basis of Draft Development Plan, in High and Hyper Potential Zones and applications in respect of other areas on the basis of Final Development Plan is without any reasonable basis. It is not a classification based on an intelligible differentia, which can be sustained. The 1975 Act contemplates only the Final Development Plan. Therefore, the action of the respondents in accepting the applications on the basis of the Draft Development Plan is wholly unwarranted, unjustified, illegal, irrational, arbitrary and against the express provisions of 1975 Act.”

Regarding the policy for grant of licence on first come first served basis, Hon'ble High Court directed not to follow first come first serve basis doctrine, rather a transparent method needs to be followed. Hon'ble Apex Court in SLP No. 11082 of 2016 gave liberty to formulate transparent policy guidelines on grant of licence. Hence taking a balanced view of both the orders of Hon'ble High Court and also of Hon'ble Supreme Court, now there is a need to review both the policy decisions i.e. the policy instructions memo No. PF-25/7/18/2005-2TCP dated 5th of July 2012 and the policy for grant of licence on first come first served basis.

Therefore, the Governor of Haryana, exercising the powers under section 9A of the Haryana Development and Regulation of Urban Areas Act, 1975 as well as under section 11 of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 and any other corresponding statutes governing development of group housing colonies, commercial colonies, grant of change of land use permissions on the subject, formulates the following policy guidelines, provided that if there is any contradiction in any other provision relating to the development of such colonies and grant of such change of land use permissions then the provisions of this policy shall prevail.

2. POLICY

2.1 Policy for receipt / validity of applications for grant of Licence vis-a-vis publication of Development Plans:

Vide policy instructions bearing memo No. PF-25/7/18/2005-2TCP dated 5th of July 2012 following two parameters have been issued:

- (i) In the towns/ urban area falling in Hyper & High Potential Zone, the date of publication of Final Development Plan shall be effective date for acceptance and consideration of licence applications.
- (ii) In towns/urban areas falling in Medium & Low Potential Zones, the date of publication of Draft Development Plan shall be effective date for acceptance and consideration of licence applications provided:
 - (a) No further change is envisaged in any subsequent Development Plan of that area for which 'in principle' approval of the Government has been obtained.
 - (b) There is no recommendation of District Planning Committee/State Level Committee to effect amendments in the Development Plan proposals already in vogue of the applied area.

The policy instructions at (ii) above pertaining to medium and low potential zones wherein date of publication of Draft Development Plan shall be effective date for acceptance and consideration of licence application alongwith two provisions at (a) & (b) above are hereby removed. The date of publication of the Final Development Plan in respect of all the controlled areas, whether falling in hyper/high potential zone or in medium and low potential zones, shall be the effective date for acceptance and consideration of licence applications. All the draft development plans will require to be

published as final development plans and further licence applications/CLU applications in respect of all such controlled areas may not be accepted till the publication of the final development plans.

It is clarified that the CLU applications/licence applications, which are permissible in the agriculture zone even otherwise, in absence of publication of final development plan, shall be continued to be considered as per policy/rules. The CLU permissions/licence applications, which are located in agriculture zone of draft development plan, shall be considered as per policy/rules. It is also mentioned that in some cases, the draft development plan for the next perspective year is being prepared which also includes urbanizable area of the earlier final development plan. In such cases, the CLU permissions/licence applications, which are located in the urbanizable zone of earlier published final development plan may also be examined and considered. Since the policy of first come first serve basis has not been followed in respect of licence applications received under Deen Dayal Jan Awas Yojna for the controlled areas falling in medium and low potential zones, in case of the applications received till the notification of the policy the department may continue to process these applications as usual. After the notification of the instant policy, fresh applications under Deen Dayal Jan Awas Yojna also shall be accepted only after the notification of the relevant final development plan.

2.2 Policy for grant of licence to the colonies for which limited net planned area is available-

In respect of following colonies, there is a cap on the availability of net planned areas:

- Group housing colony up to the extent of 20% of the net planned area of residential sector including the group housing colonies under left over pocket policy bearing No.PF-31/7/10/2012-2TCP, dated June 14, 2012.
- Commercial colony upto the extent of 3.5% of the net planned area of residential sector including the commercial colonies under left over pocket policy bearing No.PF-31/7/10/2012-2TCP, dated June 14, 2012. However, as per the policy of the department the restriction of 3.5% does not apply on commercial colonies located on Mehrauli-Gurugram road.

Since, the department has received/ is receiving licence applications for the above colonies; therefore, following policy instructions shall be adopted:

- (i) All the pending licence applications of group housing colonies, commercial colonies and the applications under left over pockets policy shall be returned on the ground that in compliance of the order of Hon'ble High Court and of Hon'ble Supreme Court the Department shall adopt fresh policy guidelines for grant of licence and further licences will be granted as per the fresh policy guidelines and the applicants are free to apply again for grant of licence as per the fresh guidelines, as and when notified by the Govt. Since the applications are being returned on the above ground, therefore, to avoid litigation on the ground of examination of the applications as per the prevailing policies at the time of submission of the applications, the scrutiny fee and part licence fee, if paid, in respect of all such applications shall also be refunded.
- (ii) The licences for group housing colony, commercial colony and CLU permissions in respect of the activities /policies mentioned in para 2.4 of this policy shall be granted through a process of auction which is elaborated as under:-
 - (a) After the notification of the final development plan of the controlled areas declared around a town, the 20% net planned area available for group housing colonies in the residential sectors and 3.5% net planned area available for commercial colonies in the residential sectors will be worked out and hosted on the website of the Department. The Department shall finalise and approve sectoral plans in time bound manner. Thereafter, an opening window of two months for receipt of licence applications for setting up of group housing colonies and commercial colonies shall be made available for the colonisers. The minimum area norms for these colonies will also be informed. HUDA may also initiate planning and development of these sectors simultaneously so that availability of external services to the licenced area can be ensured.
 - (b) After the expiry of the opening window period, the Director shall, within a period of six months, examine all the applications in terms of Rule-3 & policy parameters taking into account the ground situation and prepare a list of eligible applications. The Department will host on departmental website rate of scrutiny fee, licence fee and list of documents required to be submitted. It may be made clear that no opportunity to remove deficiencies will be provided and hence applicants are required to submit applications complete in all

respect as per Rules and policies of the Department. Concerned STP/DTP in the field offices shall be made responsible to submit the field reports within two weeks positively. After the examination of all the applications received during the two months' time window as per Rule-3 and the policy parameters, the Department will host the list of eligible applications on the website of the Department.

Explanation.— *An eligible application under this policy shall mean to be an application with complete scrutiny fee, required licence fee and all the documents required under Rule-3 of the Haryana Development and Regulation of Urban Areas Rules-1976 and fulfills the policy parameters for grant of licence for setting up of group housing colony or commercial colony.*

- (c) The ineligible applications in terms of Rule-3 shall be returned under Rule-7 by forfeiting the scrutiny fee. The ineligible applications on account of non-fulfilment of policy parameters will be rejected by following the provision of Rule-9 of the Haryana Development and Regulation of Urban Areas Rules-1976 by forfeiting the scrutiny fee. However, licence fee will be refunded. Such applicants are free to resubmit their applications after removing the deficiencies but their applications will be examined only after deciding the eligible applications.
- (d) Since the eligible applications will be fulfilling the minimum area norms and may have applied for grant of licence for an area under their ownership which may be more than the minimum area norms, therefore, the Department will work out the fee and charges on per acre basis. The fee and charges will include scrutiny fee + licence fee + conversion charges + infrastructure development charges + complete external development charges.
- (e) The Department through online process will inform all the eligible applicants about the applicable fee and charges on per acreage basis as a "Location Premium" for the group housing colony and commercial colony and invite the applicants to quote their rates over and above the applicable fee and charges on per acreage basis, for obtaining licence of either group housing or commercial colony. The applicant, who will quote the highest rate over and above the applicable fee and charges on per acreage basis, shall have the first right to get the allocation of licence of net planned area to the extent the area has been applied for grant of licence by the applicant. The subsequent applicants will be allotted licence of the net planned area as per the quote of the rate next to the highest rate over and above the fee and charges on per acreage basis, till the availability of net planned area as per norms of the colony i.e. Group Housing Colony or Commercial Colony. If after allocation of net planned area to all the applicants, still the net planned area is available either for group housing or commercial colony, then the same procedure for inviting the applications will be followed in which the applications returned or rejected in first round may also be eligible to apply and this procedure will be followed till the entire available net planned area is exhausted.
- (f) Letter of Intents will be issued to all the successful applicants to comply with terms and conditions within sixty days i.e. as per Rule 10 of the Haryana Development and Regulation of Urban Areas Rules, 1976. Thereafter, on compliance of terms and conditions, licences will be issued as per the provisions of the Act and Rules.
- (g) **Sectors where net planned available area is less than norms of group housing colony and commercial colony:-**

In the existing final development plans, there may be residential sectors, specifically in case of Gurugram-Manesar Urban Complex-2031AD, wherein available net planned area is less than norms of group housing and commercial colony. Some of these sectors may cover in the policy for left over land pockets bearing No.PF-31/7/10/2012-2TCP dated 14.06.2012. However, there may be residential sectors, which may not cover in the above policy. Since in such sectors, licences for setting up of group housing colonies and commercial colonies, already stand granted, therefore, the balance net planned area available in these sectors which is less than norm may be allotted to the existing licensees of the sectors by following the procedure as proposed in para (B) (2) above.

2.3 Policy for left over land pockets located in the developed sectors bearing No. PF-31/7/10/2012-2TCP dated June 14, 2012

As per this policy, the developed sectors in the notified final development plans will be identified and the same procedure as proposed at para 2.2 (ii) above for grant of licence will be followed. After the notification of this policy, all the pending applications, if any, received under the above policy dated June 14, 2012, will be returned in the same manner as is proposed for the pending applications of group housing and commercial colonies in para 2.2 (ii) above.

2.4 Policy Guidelines w.r.t. the various policies prescribing limited area in the sectors for grant of permission for change of land use for the purposes mentioned in those policies.

The following policies prescribe limited area for grant of change of land use permission for various purposes:-

(i) Policy for grant of permission for change of land use for recreational purposes in the residential zone and in the open space zone, bearing No. 5/80/2010-2TCP dated 27.09.2010-

As per policy dated 27.09.2010, in residential zone CLU permission for Recreational Use is allowed with a limit of maximum two facilities in a sector not less than 200 acres and maximum one such facility in a sector less than 200 acres. Further, under this policy, in open space zone areas designated under sub-head "730-green belts/gardens and other recreational uses" for a maximum of 10% of the area designated as such, mini amusement parks, outdoor game facility, canteen and related infrastructure requiring minimal construction activity, is permissible for grant of permission for change of land use.

(ii) Policy for grant of CLU permission for starred hotels and restaurants in residential and commercial sectors of medium and low potential towns bearing No. Misc-287/7/16/2006-2TCP dated 12.04.2012-

Grant of CLU permission for starred Hotels and Restaurants in residential & commercial sectors of medium & low potential zones is considered subject to the availability of the area within the overall limit of 3.5% in residential zone.

(iii) Policy for setting up of Guest/Boarding House in residential zone bearing memo No. M-291/7/16/2006-2TCP dated 31.12.2012-

The Guest/Boarding Houses are allowed in all residential plots of 1000 sq. yards comprising of one single unit or/of 2 plots/ land adjoining each other with maximum permissible area for such activities in a sector not above 5000 sq. yards on first come first served basis. The maximum area for which one applicant can obtain permission for construction of a Guest House in a sector shall not exceed 2000 sq. yards.

(iv) Policy for grant of permission for change of land use for wholesale trade, warehouse and storage in commercial zone of development plans of low and medium potential zones bearing No. Misc-199/2015/7/16/2006-2TCP dated 12.01.2015-

Grant of CLU permission for Wholesale Trade, Warehouse and Storage in commercial zone of Development Plans of low and medium potential zone can be considered upto 10% of the Net Planned area of the commercial sector designated with sub-code 220 and /or 230 in the Development Plan for setting up of such activities. However, no permission is given in the commercial zone wherein sub-code 220 and/ or 230 are not designated in the Development Plan.

(v) Zoning Regulations of the development plan also permits following uses in different land uses: -

Industrial Zone: -

- (a) Dhabas, restaurants, two/three/five star hotels subject to a maximum limit of 3 percent of the total area of the sector as under: -

Sr. No.	Name of facility	Area		No. of facilities in a Sector
		Minimum	Maximum	
1.	Dhabas	500 sqm.	1000 sqm.	2
2.	Restaurants	1000 sqm.	2000 sqm.	2
3.	Two/Three Star Hotels	1.0 acre	2.5 acres	2

4.	Five Star Hotels	2.5 acres	4.0 acres	1
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(b) Health facilities: -

Hospital, Dispensary, Nursing Home, Clinic as per following: -

Sr. No.	Name of facility	Area		No. of facilities in a Sector
		Minimum	Maximum	
1.	Hospital	2.5 acres	5.0 acres	1
2.	Dispensary	1.0 acre	1.5 acres	1
3.	Nursing Home	250 sqm.	500 sqm.	2
4.	Clinic	250 mtrs.	500 mtrs.	2

Public and Semi Public Uses Zone

Provision of Dhabas & Restaurants as per following: -

Sr. No.	Name of facility	Area		No. of facilities in a Sector
		Minimum	Maximum	
1.	Dhabas	500 sqm.	1000 sqm.	2
2.	Restaurants	1000 sqm.	2000 .	2

(vi) Transport & Communication Zone

Provision of Warehouses upto a maximum limit of 5% of the net planned area of the sector is allowed.

Thus for allowing change of land use for all the uses as provided in the above policies and in zoning regulations, the same procedure as proposed in respect of grant of licence for setting up of commercial and group housing colonies as mentioned in para 2.2 (ii) of this policy will be followed.

2.5 This policy shall come into immediate effect from the date of its notification in official gazette of Haryana Govt. In order to implement the policy as above, necessary action pertaining to amendment in Act/Rules, Development Plans may be undertaken immediately. Further, the Director may pass any order for effective implementation of this policy.

ARUN KUMAR GUPTA,
Principal Secretary to Government Haryana,
Town & Country Planning Department, Haryana.