

Non-agriculture permission procedure
under section 65 of Land Revenue Code

Gujarat Government,
Revenue Department,
Resolution No. NAP/1006/425/K
Sachivalya, Gandhinagar
Date: 1-7-2008

Read:-

(1) Resolution No. JPV/1079/2064/K of Dated 17.7.80 of Revenue Department

Preface:

Provisions of using as non agriculture to Agricultural Land, proceed for penalty and deciding rate of Conversion has been made in 65,65/K, 66,67 sections. In regard any land having for Agricultural purpose or making non-agriculture use of any part of land, provision of seeking permission of Collector/District Panchayat has been made.

With a view to make speedy and simple procedure of seeking Non agriculture permission, State Government has after due consideration, suspended current resolutions stated in Annexure-1 and continued provisions of resolutions read in preface and decided to follow below procedures.

Resolution:

1. Empowered authority to permit for Non-Agriculture and make penalize procedure, deciding non-agriculture shape and conversion tax:

Sl. No.	Empowered Officer	Covered Area
(A)	Collector	Area containing in to Mahanagar Palika, Urban Area Development Authority, Notified Area and Cantonment Area and 'A' and 'B' category Nagarpalikas.
(B)	Territory Officer	'C' and 'D' category Nagarpalikas
(C)	Taluka Panchayat	As per last census limited to 2 acre land in villages having less than five thousand population.
(D)	Killa Panchayat	Rural Areas not included in above (A), (B) and (C) para.

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2. Method of application for non-agriculture permission:

- (A) Under section 65 of Land Revenue Code 1879, only legal holder/Occupant will be eligible to obtain non agriculture permission. If possession holders are more than one, then Possession holders have to make application with joint signature.
- (B) Applicant has to make application in 3 (three) copies to obtain non-agriculture permission in prescribed sample (Annexure-2).
- (C) Applicant has to compulsorily produce evidences shown in Annexure-3 along with application of non-agriculture permission.

Said procedure has to be followed by Collector, District Development Officer, Territory Officer, Taluka Development Officer while making application. Except these evidences and method application will not be accepted.

3. Procedure to be followed by Empowered Officer/Office after receiving application for non-agriculture permission under section 65 of Land Revenue Code:

- (A) After receiving non-agriculture permission, empowered Officer has to verify evidences as per Annexure-3 and of application is acceptable and applicant has given in personal then receipt of such application to given immediately and if application is received through post then receipt should be provided within 7 days.
- (B) As per provision under section 65 of Land Revenue Code, application for non-agriculture permission, Empowering Officer/ authority has to inform about his decision within constitutional limit of three months to applicant. That means with completion of three months time limit Applicant should be given letter/certificate, Approval letter or non permission letter.
- (C) At present empower authorities are deciding for giving non-agriculture permission after receiving 'no objection certificate' of different 12 (twelve) departments/offices, but now instead of that they will decide after getting opinion from Collector office for below stated points as per provisions of only Land Revenue Code and Land Revenue rules. For opinions of other offices/departments after serving notice as per section (18) of Annexure-5, Empowered authority has to follow such procedures.

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Collector office has to give his opinion for below stated matters within 21 days.

- ❖ Revenue Authorities such as Collector, Deputy Collectors and Territory Officers will have responsibilities to issue No Objection Certificate for ownership title of land (Title) in question.
- ❖ If land in a question belongs to new condition is as per tenancy act or prohibited authority type or not? If Yes then, Collector has ordered for approval for use of land in question for non-agriculture purpose or not? Whether premium amount has been deposited as prescribed by Collector or not?
- ❖ If land in question is under land acquisition?
- ❖ Whether land in question has been included into Urban Land Ceiling Act or not?
- ❖ If any case, dispute or appeal procedure is going on or not for land in question?
- ❖ If Government has any outstanding for land in question or not?

If Collector Office does not opine within prescribed time limit then will be deemed as they don't require opining and Empower Authority has to decide further.

(D) If Collector has power to permit for non-agriculture in particular case then, Collector has to verify said points within 21 days through internal resources. Moreover, whatever the matters to checked, vide land revenue code or revenue rules on by District Development Officer on behalf of District Collector of Panchayat Department in behalf of Revenue Department occasionally and clearly mentioned in approval order where no objection. Moreover from Authority except Railway, Electricity Company, Airport, Indian Air force, ONGC, Central Archeological Department declared for protected statues under Central Government, protected Forest Sanctuary or National Gardens reply positively within 21 days as per section 18 (5) of Annexure-5, then its approval should be clearly mentioned in its order. (So that after non-agriculture use approval such Applicants may assured that whose approval is still pending or there is no hinders from such Authority in its Construction amongst all empowered authority).

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- (E) Permission authority Which District Development Officer/Territory Officer/ Taluk Development Officer have any case, will be verified within 10 days of receipt and forward it to Collector office and proceed for obtaining opinions stated above. After receiving opinion of Collector, Empowered Authority has to decide about non-agriculture permission within time limit.
- (F) In which areas TP scheme has been finalized under Town Planning Act Scheme and final plots have been notified, Collector need not to seek opinions of the office, where opinions are verified by plan approving empowered officer. Collector Office will have to make procedures regarding only titles of land, new condition/premium recovery in prohibited authority type land and deciding Non-agriculture shapes.

4. Procedure to be followed by District Development Officer/ Taluk Development Officer:-

- (A) District Development Officer/ Taluk Development Officer have to verify case of non-agricultural land permission and after getting opinion from Collector Office and along with own opinion have to present with Empowered Authority of District/Taluk Panchayat.
- (B) As per under section 65 of Land Revenue Code, any decision about application has to be taken within three months, if any District/Taluk Panchayat empowered authority does not decide upon this application within three months of constitutional time limit then in that case as per provision under Section-65 of Land Revenue code District Development Officer/ Taluk Development Officer will inform applicant about permission of non-agricultural.
5. Empowered Authority which is giving permission for non-agricultural has to comply strictly guidance instructions stated into Annexure-5.
6. At present for all areas of the state, three months constitutional time limit has been fixed for permission of non-agricultural. Despite of that to get work speedily of simplification and non-agricultural permission as stated in procedure, below stated time limit has been decided.

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(A) Maximum 30 days' time limit for non-agricultural permission for residential purpose in the whole state.

(B) Maximum 45 days' time limit for non-agricultural permission for other purpose in the whole state.

In this regard, more it is clarified that said (A) and (B) are administrative instruction hence, if disposal of such non-agricultural use application is not possible within said time limit, then it would not deemed as non-agricultural permission has been granted automatically.

7. Map approving empowered officer cannot pass without non-agricultural permission, but construction approval cannot be given without non-agricultural permission.

8. Each empowered authority has to enclose Annexure-4 without fail along with order of non-agricultural permission and has to clarify applicant clearly that permission is given as per terms of Annexure-4. Order should be contained clearly stating that Applicant has to comply with conditions mentioned into it and if Applicant violate any of the terms then violating actions shall be taken against it.

9. Said provisions should be made available for consideration to all empowered officers and these provisions should be strictly implemented in the state.

As per order of Governor of Gujarat and on his name,

Encl: Annexure 1 to 5.

(S.S.Joshi)
Deputy Secretary
Revenue Department

Copy dispatched to:

- Hon'ble Secretary of Governor, Rajbhavan, Gandhinagar (Thorough Letter)
- Chief Secretary of Hon'ble Chief Minister, Sachivalya, Gandhinagar
- Private Secretary of Hon'ble Minister (Revenue), Sachivalya, Gandhinagar.
- Private Secretary of all Hon'ble Ministers, Sachivalya, Gandhinagar.
- Private Secretary of all State level Hon'ble Ministers, Sachivalya, Gandhinagar.
- Deputy Secretary of Principle Secretary, Sachivalya, Gandhinagar.
- Additional Chief Secretary, finance Department, Sachivalya, Gandhinagar.
- Deputy Chief Secretary, Urban Development and Urban Housing Development Department, Sachivalya, Gandhinagar.
- Chief Secretary, Panchayat, Rural Housing Development and Rural Development Department, Sachivalya, Gandhinagar.

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- Secretary, Road and Housing Department, Sachivalya, Gandhinagar.
- Other Departments of Sachivalya
- Revenue Investigation Commissioner, Block No. 11, Sachivalya, Gandhinagar
- Settlement Commissioner and Land Record Director, Gujarat state, Library House, Third Floor, Sector 17, Gandhinagar
- Secretary (Dispute), Revenue Department, Polytechnic Compound, Ahmedabad
- All Collectors
- All District Development Officers
- All Territory Officers
- All Taluka Mamlatdar
- All Taluka Development Officers
- Accountant General, Gujarat State, Ahmedabad/Rajkot
- Chief Executive Officer, Urban Area Development Authority, Ahmedabad, Surat, Vadodara, Rajkot, Jamnagar, Bhavnagar, Gandhinagar
- Municipal Commissioner Ahmedabad, Surat, Vadodara, Rajkot, Jamnagar, Bhavnagar, Junagadh
- Chief Officer, All Nagarpalikas
- All Branches, Revenue Department
- C.I.O, Revenue Department (for uploading on Website)
- File Selecting
- Branch Storage

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Annexure-1

List of suspended resolutions after reading by Revenue Department:

1. Resolution No. BKP/1081/612/K of R.D; dated 25.3.81
2. Resolution No. BKP/1083/530/K of R.D; dated 5.4.1983
3. Resolution No. BKP/2880/85972/K of R.D; dated 25.7.1983
4. Resolution No. LRR/1089/150/K of R.D; dated 28.7.89
5. Resolution No. BKP/1082/3201/K of R.D; dated 12.12.1989
6. Resolution No. BKP/102001/2685/K of R.D; dated 15.11.2001
7. Resolution No. BKP/1193/UO-88/K of R.D; dated 24.4.2006
8. Resolution No. BKP/102001/2685/K of R.D; dated 16.2.2004

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Annexure-2

Sample of Application for Non-Agricultural permission being done under section-65 of Land Revenue Act

Rs. 3-00 Court Fee Stamp

To,
District Collector/District Development Officer/
Territory Officer/Taluk Development Officer

Subject: To permit Non-Agriculture under Section 65 of Land Revenue Act.

Purpose.....

(1) Full Name of Possession Holder and Address:

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.....

.....

(2) Which land is to be taken for
non-agricultural use

(A) Name of Village:

(B) Taluk:

(C) District:

(D) Survey No:

(E) Block No:

(F) City Survey No:

(G) Final Plot No:

(H) T.P. Scheme No:

(I) Land Area (Sq. M):

(3) Location of land which is to be done
Non-Agriculture? Tick the box to show it

(A) Mahanar Palika Area

(B) Urban Area Development Authority

(C) Notified Area

(D) Cantonment Area

(E) Nagarpalika Area

(F) Rural Areal less than 5000 population

(G) Rural Area except stated above

(4) Purpose of Non-Agricultural permission sought (A) Residential

(B)Charity

(C) Educational

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- (D) Mineral, Bricks production and other Industry
- (E) Commercial
- (F) Other.....

(5) In which zone land in question is located?

- (A) Residential
- (B) Industry
- (C) Commercial
- (D) Other....

(6) If Non-Agricultural permission is sought Temporary/provisional then how much time and for which purpose?

- (A) Time: Days..... Month..... Year.....
- (B)..... Purpose

(7) Authority kind of Land?

- (1) New Condition
- (2) Prohibited authority type
- (3) Old Condition
- (4) Land under agriculture land top ceiling
- (5) Under donations
- (6) Other

(8) In cans of land pertains to new condition/ Prohibited type land: -

- (1) ordered by Collector to convert into old condition for non-agricultural purpose, if yes then order No:
Date:
- (2) Copy of the receipt of premium paid

(9) Whether it was applied earlier to get permission for non-agriculture for land in question? If yes then produce its details.

Yes:
No:

(10) If construction has been started in a land of question before applied for that?

Yes:
No:

Whatever the details have been produced by us for seeking N.A. permission is true as per our knowledge. If there are any terms of Government then we bound to comply it.

Place:

Date:

Signature of Occupant/Possession Holder
Name of Applicant:

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Instruction: (1) In case of more than one occupant than all possession holders should sign the application.

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Annexure-3
Checklist

Applicant has to enclose certified copy of the below stated evidences along with non-agriculture application P (it is in source file)

- (1) With which entry Applicant has obtained ownership rights of land including All changes note/entry, copy of village sample:
- (2) Latest Copy of Village sample 7/12:
- (3) Copy of Account number village sample 8 (A):
- (4) If the land is premium then copy of the order of Collector and copy of premium paid for conversion of new condition land to old condition:
- (5) Copy of challan of fees paid for measurement of a land to be made non-agricultural:
- (6) Supporting/evidences for mortgages if deducted (Certificate of lending Institution /bank):
- (7) "F" form for allotment of area under T.P. :
- (8) Certificate of Zone issued by Chief Executive Officer in Urban/Area Development Authority:

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Annexure-4

Terms to be applied by application seeking non-agricultural permission:

(This Annexure should be enclosed with order giving non-agricultural permission by Empowered Authority issuing non-agricultural permission)

- (1) Original remark border should be mentioned in measurement sheet issued by District Inspector of Land Records. Produced plan and lay-out plan should be approved by competent level.
- (2) Map of construction should be get approved by Empowered officer before commencing construction, but Applicant cannot get construction approval letter without obtaining non-agriculture permission.
- (3) Construction should be done as per GDCR and Zoning rules in Urban Areas where town planning scheme has been approved.
- (4) In terms of Medical and health, provision of disposal of waste water as per approved map.
- (5) Applicant has to maintain distance between center of road considering type of respective road under Urban Development Rules, otherwise it will be responsibility of Applicant.
- (6) If the permission is sought for industrial purpose then before commencing construction after obtaining approval from District Industry Approval further proceedings will be perform.
- (7) For non agriculture use like Flour Mill, Cinema/Touring Cinema/ theatre, first of all, approval of District Magistrate will be obtained and there after further proceedings will be performed.
- (8) For non agriculture use like Petrol, Diesel, Kerosin, CNG pump installations, first of all, approval of District Magistrate will be obtained and there after further proceedings will be performed.
- (9) For making non agriculture procedure for Manganese, fireworks, crackers as per Indian Explosive Act, first approval of District Magistrate will be obtained and there after further proceedings will be performed.
- (10) If the land in question is near Jail then construction will be done keeping 184 meter distance.
- (11) If the land in question is near to railway border, then construction will be made leaving 30 meter from railway border.
- (12) If there is electricity grid wire/high tension power pole exists from above or besides in a land in question then construction should be made complying those rules.
- (13) If a land for which non-agriculture demand is made, falls within 20 km vicinity of Airport then for height of Airport and "No Objection Certificate" necessary as per Airport should be obtained from Civil Aviation Department and will have to comply rules of Civil Aviation Department.
- (14) Construction should be made out of 900 meter vicinity from Indian Air force and Installations.
- (15) In case land is located near ONGC well then Applicant should follow related rules.
- (16) If the land falls near Narmda Canal/other irrigation canal then Applicant has to comply rules related to distance for proposed construction.
- (17) Applicant, where necessary has to comply with prevailing provisions of keeping distance of 100 meter from notified protected monuments under rules of Central or State Government.
- (18) Applicant, where necessary has to comply with provisions of keeping distance from forest/land notified as reserved forest land or protected forest under Indian Forest Rule.

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(19) Applicant, where necessary has to comply with provisions of keeping distance from border of any area notified as Sanctuary or National Garden under Forest life conservation rule 1972.

Applicant has to comply strictly with above instructions. Failing which, Competent Officer will take action considering as violation of terms.

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Annexure-5

(Guidance instructions to be followed by Competent Authority while giving non-agriculture permission)

- (1) When non agriculture application is rejected then Applicant should be answered stating the reason by which such application have been rejected.
- (2) Which land is not included into Nagarpalika/Municipality/Grampanchayat, such a Isolated area's approval rights belongs to concerned Jilla Panchayat/Taluk Panchayat under section-65 of Land Revenue code, in such cases permission procedure for non agriculture should be done by District Development Officer/Taluk Development Officer.
- (3) Till whole amount of conversion tax is not paid to Government exchequer, do not order non agriculture permission or covenant. Competent officer has to strictly comply this instruction.
- (4) As instructed by Petroleum Ministry of Indian Government, if installation centre are erected or to be erected for petrol/oil storage then take care that non agriculture permission cannot be granted for residential purpose in the vicinity of such area. If any demands comes for non agriculture permission in such area, the opinion of Indian Oil Corporation will be sought and if it does not hinder in view of security, then such permission will be granted.
- (5) As per instruction of letter No. 5.2.82 ((PRY)-CONS of Agriculture Ministry of Indian Government, dated 11.1.1982, non agriculture permission will not be granted in the vicinity of 500 meters of maximum high tide on lands near sea shore. Still as respect to this instruction, fishing activities projects will be permitted as per below conditions.
 - (A) There should not be pollution at sea shore so there would not any damage to beauty to beach areas.
 - (B) There should not be any reversal in the quality of environment.
 - (C) There should not be any related concrete and permanent structure for such activities.
- (6) Below stated condition be always kept while granting non agriculture permission.

“Every house/multi storey houses (as per the permission granted by Authority having power to approve maps) would arrange percolating bore for underground transmission/storage.”

Page 15

- (7) While granting for non agriculture use under section 65 of Land Revenue Code, penalty provisions should be inserted without fail in permission order.
- (8) After establishment of Panchayati Raj, District Development/ Taluk Development Officers have right to permit for non agriculture use under section 65 of Land Revenue Code, when such a case of granting permission arise, a copy of its order should dispatch to Collector without fail.
- (9) In a order of non agriculture use and issuance of grant under it, as per the permission of non agriculture into land converted into non agriculture, there is a condition inserted that permission granted officer should be informed within a month after commencing construction, just like that after completion of construction for that purpose, possession holder has to inform to permission officer within a month. Such a note should be done in permission granting order.

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Not only area of land to be constructed to be mentioned into grant, but whole area of converted in to non agriculture land should be mentioned.

- (10) Competent Officers has to send a copy of non agriculture permission orders to District Land Record Superintendent without fail and office of District Land Record Superintendent will undertake measurement procedure based on it, has to inform Competent Officer after making a note.
- (11) Procedure should not be dual in a connection to granting permission for non agriculture use, Competent Officer has to take due care of it.
- (12) After receiving application for non agriculture permission, after totally verifying application, only one time query should be done for missing details and confirming the same, no again query should be made for the same missing points.
- (13) In case of non agriculture permission is sought for temple, mosque and other religious then a proposal should be made for obtaining permission from Government including no objection certificate from District Police Commissioner and District Magistrate. Without prior permission of Government non agriculture permission should not granted for religious purpose.
- (14) For poultry farm business non agriculture permission would not require up to 10 acre land, but construction plan to perform for the same to be get approved with competent Officer. Also applicable taxes should be paid as for agriculture land on this land and if the business of poultry farm is to be carried out in more than 10 acre land then appropriate non agriculture permission will have to taken.
- (15) For the purpose that land is not divided into pieces, there are provisions of Pieces Act in force; in that case there is difficulty for granting non agriculture permission. When Land is used for non agriculture, Piece Act does not hinder. Hence due to violation of Piece Act, there is no hindrance for granting permission for non agriculture use.
- (16) For acquired land, acquiring companies does not require to obtain non agriculture use permission under section 65 of Land Revenue Code for using as non agriculture. From which date possession of acquired land is given to acquiring companies, it would be deemed as non agriculture use permission has been given from that date. The land which has been acquired by Acquiring Companies under Land Revenue Rules 117 (B) conversion tax of the said land should paid by Acquiring Companies within 15 days from date of possession assigned. And grant should be given after receiving such amount. On which date possession of acquired land was given to Acquiring Companies, from that date itself, non agriculture shape and other taxes shall be recovered.
- (17) in a case that if land belongs to new/prohibited authority type then non agriculture process should be start after verifying the order whether order has been made for conversion into old condition land or not. Otherwise Competent Officer will return the application and after confirming payment of premium after making changes into land authority type, application should be accepted for non agriculture use.

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(18) When a notice is issued by Competent Officer for obtaining no objection certificate for any department/office, then they will have to add condition stated as below.

“if any department/office authority has no objection regarding conversion of land in question within 21 days from the date of notice issuance, then after completion of 21 days it would be deemed as no authority has objection and non agriculture permission process will be started.

All Competent Authority has to comply strictly with said provisions.

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