

(5) If the person fails to inform the Tahsildar within the period specified in sub-section (4), he shall be liable to pay in addition to the non-agricultural assessment <sup>1</sup>[such fine not exceeding five hundred rupees or such amount as may be prescribed, whichever is higher, as may be directed by the Collector].

(6) When the land is permitted to be used for a non-agricultural purpose, a sanad shall be granted to the holder thereof in the form prescribed under the rules.

It shall be lawful for the Collector either of his own motion or on the application of a person affected by the error, to direct at any time the correction of any clerical or arithmetical error in the sanad arising from any accidental slip or omission.

### COMMENT

**Application for conversion of use of land.**—Once the application is submitted for conversion of use, on failure of Collector to grant or refuse permission within prescribed period of 90 days, sub-section (3) of Section 44 of Maharashtra Land Revenue Code would come into operation and permission will be deemed to have been granted for conversion of use subject to conditions in that behalf. Once the time expires, Collector ceases to have jurisdiction. Therefore, subsequent refusal of permission will not affect applicability of sub-section (3) of Section 44 of the Code. [*Ganesh G. and P. Co. v. State of Maharashtra*, 2005 (4) MhLJ 263 (Bom) : 2005 (5) Bom CR 69 : AIR 2005 Bom 324].

<sup>2</sup>[44-A. **No permission required for bona fide Industrial use of land.**—(1) Notwithstanding anything contained Section 42 or 44 where a person desires to convert any land held for the purpose of agriculture or held for a particular non-agricultural purpose situated,—

- (i) within the industrial zone of a draft or final regional plan or draft *interim* or final development plan or draft or final town planning scheme, as the case may be, prepared under the Maharashtra Regional and Town Planning Act, 1966 or any other law for the time being in force; or within the agricultural zone of any of such plans or schemes and the development control regulations or rules framed under such Act or any of such laws permit industrial use of land; or
- (ii) within the area where no plan or scheme as aforesaid exists, <sup>3</sup>[for a *bona fide* industrial use; or
- (iii) within the area undertaken by a private developer <sup>4</sup>[as an Integrated Township Project], then no permission for such conversion of use of land shall be required, subject to the following conditions, namely :—
  - (a) the person intending to put the land to such use has a clear title and proper access to the said land;
  - (b) such person has satisfied himself that no such land or part thereof is reserved for any other public purpose as per the Development plan (where

1. These words were substituted for the words "such fine as the Collector may, subject to rules made in this behalf direct not exceeding five hundred rupees" by Mah. 21 of 2017, Sec. 3 (w.e.f. 18.1.2017).  
 2. This section was inserted by Mah. 26 of 1994, Sec. 2.  
 3. This portion was substituted for the portion beginning with the words "for a *bona fide* industrial use" and ending with the words "conditions, namely" by Mah. 26 of 2005, Sec. 2(a)(i) (w.e.f. 6.3.2004).  
 4. These words were substituted for the words "as a special township project" by Mah. 19 of 2015, Sec. 2(I)(a) (w.e.f. 24.4.2015).

such plan exists) and the proposed *bona fide* industrial use <sup>1</sup>[<sup>2</sup>or Integrated Township Project], as the case may be] does not conflict with the overall scheme of the said Development plan;

- (c) no such land or part thereof is notified for acquisition under the Land Acquisition Act, 1894 or the Maharashtra Industrial Development Act, 1961 or covers the alignment of any road included in the 1981-2001 Road Plan or any subsequent Road Plan prepared by the State Government;
- (d) such person ensures that the proposed industry <sup>3</sup>[<sup>4</sup>or Integrated Township Project], as the case may be] does not come up within thirty metres of any railway line or within fifteen metres of a high voltage transmission line;
- (e) 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 benefitted zones of irrigation projects and also those pertaining to environment, public health, peace or safety :

<sup>5</sup>[Provided that, the provisions of this sub-section shall not apply to the area notified as the Eco-sensitive Zone, by the Government of India];

(2) The person so using the land for a *bona fide* industrial use <sup>6</sup>[or Integrated Township Project] as the case may be shall give intimation of the date on which the change of user of land has commenced and furnish other information, in the prescribed form, within thirty days from such date to the *Tahsildar* through the village officers, and shall also endorse a copy thereof to the Collector :

Provided that, where such change of user of land has commenced before the rules prescribing such form are published finally in the *official gazette*, such initiation and information shall be furnished within thirty days from the date on which such rules are so published:

(3)(a) If the person fails to inform the *tahsildar* and the Collector, as aforesaid, within the period specified in sub-section (2) or on verification it is found from the information given by him in the prescribed form that, the use of land is in contravention of any of the conditions specified in sub-section (1), he shall be liable to either of, or to both, the following penalties, namely :—

1. This was inserted by Mah. 26 of 2005, Sec. 2(ii) & (iii) (w.e.f. 6.3.2004).
2. These words were substituted for the words "or special township project" by Mah. 19 of 2015, Sec. 2(1)(b) (w.e.f. 24.4.2015).
3. This was inserted by Mah. 26 of 2005, Sec. 2(ii) & (iii) (w.e.f. 6.3.2004).
4. These words were substituted for the words "or special township project" by Mah. 19 of 2015, Sec. 2(1)(d) (w.e.f. 24.4.2015).
5. Proviso was inserted by Mah. 26 of 2005, Sec. 2(a)(iv) (w.e.f. 6.3.2004).
6. These words were substituted for the words "or special township project" by Mah. 19 of 2015, Sec. 2(1)(c) (w.e.f. 24.4.2015).

- (i) to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of this Code, <sup>1</sup>[such penalty not exceeding rupees ten thousand or such amount as may be prescribed, whichever is higher, as the Collector may direct :]

Provided that, the penalty so levied shall not be less than twenty times the non-agricultural assessment of such land irrespective whether it does or does not exceed rupees ten thousand;

- (ii) to restore the land to its original use.

(b) Where there has been a contravention of any of the conditions specified in sub-section (1) such person shall, on being called upon by the Collector, by notice in writing, be required to do anything to stop such contravention as directed by such notice and within such period as specified in such notice; and such notice may also require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied within the period specified in the notice.

(4)(a) If any person fails to comply with the directions or to take steps required to be taken within the period specified in the notice, as aforesaid, the Collector may also impose on such person a <sup>2</sup>[further penalty not exceeding five thousand rupees or such amount as may be prescribed, whichever is higher, for such contravention, and a daily penalty not exceeding one hundred rupees or such amount as may be prescribed, whichever is higher,] for each day during which the contravention continues.

(b) It shall be lawful for the Collector himself, to take or cause to be taken such steps as may be necessary; and any cost incurred in so doing shall be recoverable from such person as if it were an arrears of land revenue.

(5) As soon as an intimation of use of land for *bona fide* industrial use <sup>3</sup><sup>4</sup>[or Integrated Township Project], as the case may be,] is received under sub-section (2) and on verification it is found that the holder of the land fulfills all the conditions specified in sub-section (1), a sanad shall be granted to the holder thereof in the prescribed form <sup>5</sup>[within a period of sixty days in case of *bona fide* industrial use and ninety days in case of Integrated Township Project from the date of receipt of such intimation].

Where there is any clerical or arithmetical error in the sanad arising from any accidental slip or omission, it shall be lawful for the Collector either of his own motion or on the application of a person affected by the error to direct at any time the corroboration of any such error.

1. These words were substituted for the words "such penalty not exceeding rupees ten thousand; as the Collector may subject to the rules, if any, made in this behalf direct" by Mah. 21 of 2017, Sec. 4(a) (w.e.f. 18.1.2017).
2. These words were substituted for the words "further penalty not exceeding five thousand rupees for such contravention, and a daily penalty not exceeding one hundred rupees" by Mah. 21 of 2017, Sec. 4(b) (w.e.f. 18.1.2017).
3. These words were inserted by Mah. 26 of 2005, Sec. 2(b).
4. These words were substituted for the words "or special township project" by Mah. 19 of 2015, Sec. 2(III)(a) (w.e.f. 24.4.2015).
5. These words were added by Mah. Act 19 of 2015, Sec. 2(III)(b) (w.e.f. 24.4.2015).

**Explanation <sup>1</sup>[I].**—For the purposes of this section "*bona fide industrial use*" means the activity of manufacture, preservation or processing of goods, or any handicraft, or industrial business or enterprise, carried on by any person, <sup>2</sup>[or the activity of tourism, within the area notified as the tourist place or hill station, by the State Government] and shall include construction of industrial buildings used for the manufacturing process or purpose, or power projects and ancillary industrial usages like research and development, godown, canteen, office-building of the industry concerned or providing housing accommodation to the workers of the industry concerned, or establishment of an industrial estate including co-operative industrial estate, service industry, cottage industry, *gramodyog* units or *gramodyog Vasahats*".

<sup>3</sup>[**Explanation II.**—For the purposes of this section, "Integrated Township Project" means Integrated Township Project or projects under the Regulations framed for development of Integrated Township Project by the Government, under the provisions of the Maharashtra Regional and Town Planning Act, 1966.]

**45. Penalty for so using without permission.**—(1) If any land held or assessed for one purpose is used for another purpose—

- (a) without obtaining permission of the Collector under Section 44 or before the expiry of the period after which the change of user is deemed to have been granted under that section, or in contravention of any of the terms and conditions subject to which such permission is granted; or
- (b) in contravention of any of the conditions subject to which any exemption or concession in the payment of land revenue in relation to such land is granted, the holder thereof or other person claiming through or under him, as the case may be shall be liable to the one or more of the following penalties, that is to say—
  - (i) to pay non-agricultural assessment on the land leviable with reference to the altered use;
  - (ii) to pay in addition to the non-agricultural assessment which may be leviable by or under the provisions of this Code such fine as the Collector may, subject to rules made by the State Government in this behalf, direct;
  - (iii) to restore the land to its original use or to observe the conditions on which the permission is granted within such reasonable period as the Collector may by notice in writing direct; and such notice may require such person to remove any structure, to fill up any excavation or to take such other steps as may be required in order that the land may be used for its original purpose or that the conditions may be satisfied.

(2) If any person fails within the period specified in the notice aforesaid to take steps required by the Collector, the Collector may also impose on <sup>4</sup>[person a penalty not exceeding

1. The existing Explanation shall be renumbered as Explanation I and Explanation II shall be added by Mah. 26 of 2005, Sec. 2(c).
2. This portion was inserted by Mah. 26 of 2005, Sec. 2(d).
3. *Explanation-II* was substituted by Mah. Act 19 of 2015, Sec. 2(IV) (w.e.f. 24.4.2015).
4. These words were substituted for the words "person a penalty not exceeding three hundred rupees for such contravention, and a further penalty not exceeding thirty rupees" by Mah. 21 of 2017, Sec. 5(w.e.f. 18.1.2017).