

Acts and Rules

THE ASSAM TOWN AND COUNTRY PLANNING ACT, 1959

(An act to provide for the development of the towns and country sides of the State of Assam)

Preamble - Whereas it is expedient to provide for the development of the towns and the country sides of the State of Assam on sound planning principles with the object of securing proper sanitary conditions to conserve and promote the public health, safety and general welfare of the people living therein;

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

CHAPTER I

Preliminary

1. Short title, extent and commencement: -

(1) This Act may be called the Assam Town and Country Planning Act, 1959.

(2) It shall extend to the whole of Assam excluding the Autonomous Districts: Provided that if any district Council desires that all or any of the provisions of this Act should apply to the Autonomous District concerned, a notification may be issued to that effect and this Act shall then extend to that Autonomous District subject to such exceptions or modifications as may be specified in the notification.

2. Definitions: - In this Act, unless there is anything repugnant in the subject or context: -

(1) "Authority" shall mean the Local or Regional Authority appointed by the State Government for the purpose of administering the Act. Unless otherwise appointed by the State Government, the Authority in case of Municipal Areas shall be taken to mean the Municipal Board for the area constituted under the Assam Municipal Act, 1956 (Assam Act XV of 1957).

(2) "Advisory Council" means the Town and Country Planning Advisory Council constituted under Section 3 of this Act.

(3) "Betterment Fee" means the fee prescribed in respect of an increase in the value of land resulting from the execution of a Development Scheme.

(4) "Building" means any construction of whatsoever purpose and of whatsoever materials constructed and every part thereof, whether used as human habitation or not and includes plinth walls, chimney, drainage works, fixed platforms, verandah, balcony, cornice or projection, or part of a building on anything affixed thereto or any walls, earth bank, fence or other construction enclosing or delimiting or intended to enclose or delimit any land or space.

(5) "Building Industrial" means a building, which is wholly or predominantly used as a warehouse, factory distillery, iron foundry and all other buildings put to or be put to any use permitted in the zone by an authorised scheme applicable thereby.

(6) "Director" means Director of Town and Country Planning or any other officer appointed by the State Government.

(7) "Development" means the carrying out of building, engineering, mining or other operations in on or over the land, or making of any material change in the use of any buildings or of land: Provided that the following operations or uses of land shall not be deemed for the purposes of this Act to mean development of the land, that is to say, -

(a) The carrying out of works for the maintenance, improvement or other alternation of any buildings being works which affect only the interior of the building or which do not materially affect the use and the external appearance of the building;

(b) The carrying out by a local authority of any works required for the maintenance or improvement of road being works carried out on land within the boundaries of the road;

(c) The carrying out by any local authority any works for the purposes of inspecting, repairing, or renewing any sewers, main pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) The use of any building or other land within the cartilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such.

(8) "Factory" means a place to which the provisions of the Indian Factories Act of 1934 or any amendment thereof shall apply.

(9) "Industrial Concern" means a commercial body, e.g., a factory, workshop and a mill or any concern of similar nature where materials are manufactured, repaired altered, or processed.

(10) "Master Plan" means a plan as defined under section 9 and shall comprise of items (a) to (e) of section 11.

(11) "Occupier" includes any person paying or liable to pay the rent or any portion of the rent of the land or building in respect of which the work is due or compensation or premium on account of the occupation of such land and building and also a rent free tenant.

(12) "Open space" means any land whether enclosed or not on which not more than one-twentieth part is cover with buildings and whole of the remainder has been laid out as public garden or used for purposes of recreation or lies waste and unoccupied.

(13) "Prescribed" means prescribed by rules made under this Act.

(14) "Reconstituted plot" means a plot, which is in any way altered by the making of a Development Scheme.

(15) "Road" means and includes any highway, street, lane, pathway, alley, passageway, carriage way, footway square, bridge, whether private or public, whether thoroughfare or not, whether existing or proposed in any scheme and includes all bunds, channels, ditches, drains, culverts, side walks and traffic islands.

(16) "Scheme" means a development scheme and include a plan or plans together with the descriptive matter if any relating to such a Scheme.

CHAPTER II

Constitution of the Advisory Council

3. Constitution of the Town and Country Planning Advisory Council: -

(1) The State Government may constitute, by a notification in the Official Gazette, the Council consisting of the following members to advise the Government on matters referred to it: -

1	Minister-in-charge of Town and Country	Chairman
2	Director of the Town and Country Planning Department	Secretary
3	Secretary, Town and Country Planning Department	Member
4	Chief Engineer, Public Works Department (R&B) or his nominee	Member
5	Chief Engineer, Public Works Departments (Flood Control) or his nominee	Member
6	Public Health Engineer or his nominee	Member
7	Secretary, Local Self-Government or his nominee	Member
8	Secretary, Finance Department or his nominee	Member
9	Secretary, Revenue Department or his nominee	Member
10	Six other non-official members half of whom shall be elected by the Assembly and the rest shall be nominated by the State Government	Member
11	Such number of representatives of Local Authorities falling within the area as may be covered by the Master Plan not exceeding two as may be co-opted by the Council by notification, published in the official Gazette.	Member

(2) Five of the members attending any meeting of the Council shall form the quorum for the purpose of transacting the business of that meeting of the Council.

(3) All members of the Council including the co-opted members shall have one vote each and the Chairman shall have a casting vote in case of equality of divisions, in addition to his own vote.

(4) Nothing done by the Council in its meeting shall be held to be invalid because of any vacancy in the seats of the nominated or elected members or the absence of any of the members for any reason whatsoever.

(5) The Chairman shall preside over the meetings of the Advisory Council and in his absence the members present shall elect one among themselves to be the present for that particular meeting.

4. Resignation of non-official members: - Any non-official member may at any time resign his office, provided that his resignation shall not take effect until accepted by the State Government.

5. Term of office:- The term of office of any non-official member shall ordinarily be three years: Provided that in case of the members representing the Legislature or Local Authorities, their, terms of office shall terminate as soon as they cease to be members of such Legislature or Local Authority as the case may be.

6. Commencement of the term of office of non-official members: - (1) The term of office of non-official members shall commence on such date as may be notified in this behalf by the State Government.

(2) A person ceasing to be member by reason of the expiry of his term of office as described in section 5, shall be eligible for re-nomination or re-election.

7. Removal of non-official members: - The State Government may remove from the Council any member who: - (a) Refuses to act, or becomes incapable of acting or absents himself from three consecutive meetings of the Council and is unable to explain such absence to the satisfaction of the Council; or (b) Has so flagrantly abused in any manner his position as a member of the Council as to render his continuance detrimental to the public interest: Provided that when the State Government proposes to take action under the forgoing provisions of this section, an opportunity of explanation shall be given to the member concerned and when such action is taken, the reasons thereof shall be placed or recorded.

8. Filling of casual vacancies:-

(1) When the place of a member nominated by the State Government becomes vacant by his resignation, removal or death, the State Government shall appoint a person to fill the vacancy.

(2) When the place of a member elected or co-opted becomes vacant, he shall be elected or co-opted by the Legislature or the Council as the case may be.

(3) The term of office of a member nominated or elected or co-opted, as the case may be, under subsection (1) and (2) shall be the remainder of the term of office of the member in whose place he has been nominated or elected or co-opted.