

Chandigarh Conversion of Land Use of Industrial Sites into Commercial Activity/ Services in Industrial Area, Phase I and Phase II, Chandigarh Scheme, 2005

*[Published in Chandigarh Administration Gazette dated 19.9.2005 at
page 683]*

No. 28/8/51-UTFI(3)-2005/6658. - In exercise of the powers conferred by Section 7 and 22 of the Capital of Punjab (Development and Regulation) Act, 1952 and the rules made thereunder, the Administrator, Union Territory, Chandigarh is pleased to make the following scheme, for conversion of land use of industrial activity to commercial activity, namely :—

1. This Scheme may be called “Chandigarh Conversion of Land Use of Industrial Sites into Commercial Activity/Services in Industrial Area, Phase I and Phase II, Chandigarh Scheme, 2005.”

2. It shall come into force from the date of its publication in the Official Gazette and shall remain in force for a period of two years.

¹[3. The Designated Agency for this scheme will be the Estate Office, Union territory, Chandigarh.]

4. In this scheme, unless the context otherwise requires :—

All words and expressions used in the scheme but not defined hereunder shall have the meaning attached thereto in the Capital of Punjab (Development and Regulation) Act, 1952 and the rules made thereunder :—

- (i) “Industrial Site” means site allotted/sold/leased out by the Chandigarh Administration for whatever purpose in Phase-I and Phase-II, Industrial Areas, Chandigarh.
- (ii) “Conversion Fee” means the fee fixed by the Chandigarh Administration in this scheme.
- (iii) “Commercial Activity” shall broadly be what is understood by the tertiary sector and shall inter alia include shops, offices, banks, hotels, restaurants, training institutions etc. Residential use and red category trades as notified by the Department of Environment with the exception of hospitals and nursing homes shall not be permitted.

5. Provisions for converting land use of an Industrial Site into Commercial :- Commercial activity can be started in Industrial plots after payment of conversion

1. Substituted by Chd. Admn. Gaz. Notification No. 28/8/51-UTFI(3)-2008/4268 dated 13.6.2008

fee in the manner prescribed in the scheme either by converting the land use or by fresh construction in accordance with the guidelines of the architectural controls attached at Annexure 'A'.

¹[(i) The conversion shall only be allowed for industrial plots measuring two *kanal* or more;

provided that a plot allotted under two *kanals* category but having actual area lessor up to 5% shall be treated as a two *kanal* plot and shall be eligible for conversion under the scheme;

provided further that two or more adjoining industrial plots allotted under less than two *kanals* category can also be considered for conversion if, after the amalgamation of these plots with the permission of competent authority, prior thereto, the total area become two *kanals* or more.]

²[(ii) The Industrial site/plots for which the conversion into commercial activity is to be opted under the Scheme shall be governed by Zoning Plans and conditions contained therein, duly approved by the Department of the Urban Planning, U. T., Chandigarh.]

6. Conditions for conversion of land use of Industrial sites to commercial:

(i) The lessee/owner/GPA holder or tenant (with the consent of owner) shall make an application to the Designated Agency in the prescribed pro forma as per Annexure 'B' along with conversion fee as and in the manner prescribed in this scheme in the shape of D.D./Pay Order drawn on any scheduled bank in favour of Designated Agency. The application from the sub-lessees of CITCO shall be submitted with recommendations of the CITCO. The owner/applicant will clear all pending dues payable on account of sale/allotment, if any.

¹[(ii) The conversion fee to be paid by the applicant who applied for conversion will be 50% of the average price of the commercial sites fetched in the auctions held in the last 3 years. The fee will further be reduced by 50% in view of locational disadvantage of sites in the Industrial Area, Phase I & II. 10% concession shall be given to those applicants who apply for conversion within one year of the notification of the Scheme. Concession @ 5% shall be given to those applicants who apply for conversion thereafter upto 17.3.2007. For the purpose of calculation, the FAR allowed for commercial properties auctioned by the Estate Office in the last 3 years is taken as 3.0 and the FAR after conversion in the Industrial Area, Phases I&II will be 2.0, with the ground coverage upto 50% shall be allowed in all the cases where 40% ground coverage is allowed under the present conversion policy. See Annexure (c) (Statement showing calculation of conversion fee).

A lower ground floor will be allowed which is more than half of its height above the mean ground level and rest of the height below the mean ground level.

These will be subject to the mandatory set backs as per provisions of Fire Safety Act and National Building Code guidelines.]

(iii) The Designated Agency will process the cases of conversion and convey the decision within a period of 15 days of receiving the

1. Substituted by Chd. Admn. Gaz. Notification No. 28/8/51-UTFI(3)-2008/4268 dated 13.6.2008

2. Added by Chd. Admn. Gaz. Notification No. 28/8/51-UTFI(3)-2008/2120 dated 18.3.2008

3. Substituted by Chandigarh Administration Gaz. dated 29.3.2007 at page 865

application. If no decision is conveyed within stipulated period, permission will be deemed to have been granted.

- (iv) All arrears of lease money, premium or part due, interest etc. in respect of Industrial Sites shall be paid by the applicant, before the application for conversion is submitted.
- (v) In case where the site is resumed/cancelled, conversion shall not be allowed until the resumption/cancellation order is set aside and the site is restored to the owner.
- (vi) Conversion of land use shall not be allowed in cases where the title of the property is disputed.
- (vii) Industrial sites which have been mortgaged with the Bank/Financial Institutions will be allowed conversion only when the lessee/allottees submit "No Object Certificate" from the mortgagee.
- (viii) Sites which were allotted on lease hold or free hold basis will remain as such, after conversion.
- (ix) Fragmentation of sites will be permitted subject to the condition that no sub-divided site will measure less than a standard acre. However, sub-division/fragmentation will be permissible only after conversion of the whole plot.
- (x) If an applicant after making an application for conversion of Industrial site/plot into commercial activity under the scheme intends to withdraw the application before the approval of same, the request for such a withdrawal shall be allowed by forfeiting 0.1% of the total conversion fee applicable subject to a maximum amount of Rs. 50,000 (Rs. Fifty thousand only).]

COMMENTS

Valuation – Conversion charges – Conversion charges fixed in 2003 and 2004 were not in perpetuity – Charges fixed by Scheme, 2005 are dynamic and not static – These charges are not fixed for ever but they change from time to time particularly these are ratable to the time when person applies for conversion of property – In the present case, appellant was fully aware that Rs. 20,000/- per sq. yds had to be paid as conversion charges – But he remained silent for 2 and half years as no objection against the charges was raised – Now, at this stage, he cannot be allowed to raise any objection at such a belated stage – Appeal dismissed - *Chandigarh Administration v. Mrs. Neera Goyal*, 2014(2) Haryana Law Reporter 227 D.B.

²[7. The applicant may pay conversion fee up front in a lump sum or in 2, 3, 4 or 5 annual instalments. (a) First instalment will be paid along with the application for conversion by a demand draft, and post dated cheques for the remaining instalments attached with the application; and (b) that the amount due after the first instalment will bear interest at the rate of 7% per annum provided the instalments are paid within five years. In case the lessee/owner/applicant opts to pay the conversion charges upto ten annual equated instalments, his request can be considered for increase in number of instalments beyond five years on receipt of specific request subject to payment of higher rate of interest of 8.25% per annum. In case of default, apart from any other liabilities, the property will be subject to resumption:]

1. Added by Chd. Admn. Gaz. Notification No. 28/8/51-UTFI(3)-2008/2120 dated 18.3.2008

2. Substituted by Chandigarh Administration Gaz. dated 10.7.2006 at page 917

¹[Provided that no interest shall be charged on the balance conversion fee for the period for which the building plans, after completion of all the necessary/requisite formalities by the applicant, remain pending with the competent authority for approval due to various administrative reasons.]

²[Provided further that no interest shall be charged on the balance conversion fee from the applicants of two kanal plots who could not submit their revised building plans due to late finalisation of zoning of these plots.]

8. The application for conversion shall be accompanied by an attested copy of Occupation Certificate or letter of Release of Sewerage Connection.

9. The conversion fee shall be charged for the whole of the size of the plot.

10. The conversion of industrial plot into multiplex, marriage palace or banquet hall shall be allowed only if the area of the plot is one acre or above.

11. Designated Agency shall keep the conversion fee received by it in an account separate from all its other accounts. The accumulated funds will not count as income of the Designated Agency. These funds and any interest accruing thereupon shall be kept as 'Special Fund', Rules of governance of this special fund shall be framed and got approved from Government of India and utilized accordingly exclusively for the purpose of developing the infrastructure in Industrial Area, Phase I and II or in any other areas of Chandigarh, as may be specified by the Administrator, Union Territory, Chandigarh.

12. Any construction not in accordance with the prescribed norms shall be demolished at any time by the Enforcement Wing of the Estate Office.

13. Any activity not permissible under the scheme shall not be allowed.

14. The conversion shall be subject to all laws and rules applicable generally or specifically to the trade. The conversion shall not create any rights other than those specified in this scheme.

³[15. There shall be no bar on transfer of the property/industrial site in respect of which conversion from industrial to commercial activity, in accordance with the terms and conditions as applicable, has been allowed by the Competent Authority;

Provided that the applicant transferee shall pay the balance amount of conversion fee in lump sum or in such due instalments which are pending as on the date of application for transfer, by way of fresh post-dated cheques payable on the same due dates in lieu of the cheques previously submitted by the owner/lessee/GPA holder. The instalments shall bear interest at a rate to be decided by the designated agency:

Provided further that the transferee shall have to submit an indemnity bond equal to the balance conversion fee and in case of any default in payment of balance conversion fee, the property shall be subject to resumption, apart from any other liabilities. Subject as above, the terms and conditions on which conversion was allowed by the competent authority shall continue to bind the transferee.]

16. For conversion, the Administration will recognize applications from the GPA holders.

1. Added by Chandigarh Administration Gaz. dated 17.9.2007 at page 1750

2. Added by Chandigarh Administration Gaz. Notification No. 28/8/51-UTFI(3)-2008/5481 dated 7.8.2008

3. Substituted by Chd. Admn. Gaz. Notification No. 28/8/51-UTFI(3)-2009/1255 dated 2.3.2009

17. The applications under this scheme will be exempted from the payment of unearned increase as provided under Rule 17(10) of Chandigarh Lease Hold of Sites and Building Rules, 1973.

¹[17-A. The Conversion of Land Use of Industrial Sites into Commercial Activity/Services in Industrial Area, Phase I and II, Chandigarh Scheme, 2005, notified. - vide No. 28/8/51-UTFI(3)-2005/4980-4984, dated 11th July, 2005 is hereby repealed.]

²[18. Submission of building plan alongwith the conversion application is not a mandatory requirement. However, revised building plans shall be got approved later.

19. Plot up to 2 Kanals in Industrial Area, Phase II, having architectural control shall be at par with the plots of Industrial Area, Phase-I. Norms on ground coverage, height, FAR, Parking etc. shall be followed while getting the building plans approved.

20. On the pattern of liberalization of trade in the city shifting from one kind of manufacturing activity to any other manufacturing activity is allowed subject to observance of provisions of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Hazardous Waste (Management and Handling) Rules, 1989, Environmental Impact Assessment Notification, if applicable, and norms of the Chandigarh Pollution Control Committee. The change in Trade (manufacturing activity) is allowed without conversion charges.]

³[21. Twin level basement in the built up area is permissible in commercial plots of more than 1 acre. If the applicant wants to extend this basement beyond the building plan, the same can be considered for approval subject to the condition that the total car parking generated by commercial site is more than which could be accommodated in the twin level basement and the parking allowed at the surface further subject to the norms determined by the Town Planning and Architecture Departments which are based on National Building Code, building bye-laws and the Fire Act.]

⁴[Provided the access to parking in the basement is as per the norms of the National Building Code in plot size of one acre and above. In the case of plots below one acre size, one ramp and a staircase preferably in opposite direction shall be scrutinized by the Committee, in case the owner wants to avail the relaxation in clause 10.9 of Part 3 of National Building Code and makes an application under 7.6 of Part 2 of the said Code for the purpose.]

⁵[22. The relevant clause of allotment letter and lease deed which put any kind of embargo on transfer/sale of lease rights for a period of 15 years shall be treated as *nonest* under this Scheme.

For the removal of doubts, it is clarified that where such a transfer has already taken place for any site/building before the expiry of 15 years and the lessee(s) of that site/building have opted to convert their site/building under the "Chandigarh Conversion of Land Use of Industrial Sites into Commercial Activity/Services in Industrial Area, Phase I and II, Chandigarh Scheme, 2005" by making application for conversion and conversion has already been approved by

1. Inserted by Chandigarh Administration Gaz. dated 19.1.2007 at page 137

2. Clauses 18, 19 and 20 inserted by Chandigarh Administration Gaz. dated 8.5.2006 at page 381

3. Inserted by Chandigarh Administration Gaz. dated 10.7.2006 at page 916

4. Inserted by Chandigarh Administration Gaz. dated 29.3.2007 at page 865

5. Inserted by Chd. Admn. Gaz. Notification No. 28/8/51-UTFI(3)-2008/746 dated 1.2.2008

the Single Window Committee, the condition of 15 years shall not apply even if the transfer has already taken place.]

'ANNEXURE 'A'

- (i) Plots governed by architectural controls can have maximum ground coverage of 60% and FAR of 1.5.
- (ii) Plots governed by zoning plan can have a maximum ground coverage of 40% and maximum FAR of 1.5.
- (iii) Area devoted exclusively for parking shall not be taken into account for calculating the FAR. No claim shall lie on the Administration for providing parking facilities.
- (iv) 15% of the site area shall be kept reserved for parking.

ANNEXURE 'B'

To

The Estate Officer,
Union Territory, Chandigarh.

Subject: Application for conversion of Land Use of Industrial site into commercial.
I/We intend to convert the land use of my/our Industrial Site into commercial.
The details of the property is as under :-

- | | | | | |
|--|-----|--------|-------|--------|
| 1. Site No./Allottee's Name & Address | | | | |
| 2. Industrial Area, Phase | | | | |
| 3. Plot Area (in Sq.Yds.) | | | | |
| 4. File No. | | | | |
| 5. Name of the applicant | | | | |
| 6. Father's/Husband's name | | | | |
| 7. Address | | | | |
| 8. Status of applicant | GPA | Lessee | Owner | Tenant |
| 9.(a) If the applicant is GPA, attested copy of GPA to be attached. | | Yes | No | |
| (b) An affidavit to the effect that the GPA has not been revoked. | | Yes | No | |
| 10. If the applicant is tenant, consent of owner be attached. | | Yes | No | |
| 11(a) Whether any disputes about the title/ownership is pending in any Court of law. | | Yes | No | |
| (b) If yes, details. | | | | |
| 12. Whether site stands mortgaged, if yes, whether NOC of Mortgagee attached. | | | | |
| 13. If the building is constructed, attach attested copy of Sewerage/Completion certificate. | | | | |
| 14. Specific activity for which conversion is being sought. | | | | |

1. See Chandigarh Administration Gaz. dated 19.1.2007 at page 137

402 Chd. Conversion of Land Use of Industrial Sites into Commercial Activity in Industrial Area, Ph. I & Ph. II, Scheme, 2005

- 15(i) Amount of conversion charges being paid
(ii) Name of Bank
(iii) D.D./Pay Order No.

It is requested that the land use of the above said Industrial site may kindly be converted into commercial (specify details).

Date:

Place:

Signature of applicant

Name in Block Letters

ANNEXURE 'B'

AVERAGE PRICE ON THE BASIS OF LAST THREE YEARS AUCTION OF COMMERCIAL SITES SOLD BY THE ESTATE OFFICE.

DATE OF AUCTION	AVERAGE PRICE (Per sq.yards)(in Rs.)
30.01.2002	75447/-
16.12.2002	56042/-
27.01.2003	55432/-
08.12.2003	85991/-
09.12.2003	73006/-
27.02.2004	90567/-
11.12.2004	117534/-
Total	554019/-
Average Price	79145.57(say Rs.80,000.00)

- (i) Average price shown above is the conversion charges for sites in the Industrial Area.
(ii) FAR of commercial properties in the city varies from 2.5 to 4.0. For the purpose of this scheme the average FAR of commercial properties auctioned in the city is taken as 3.0.
(iii) These charges are discounted by 50% as the maximum FAR after conversion in the Industrial Area, Phase-I & II is 1.5 allowed.
(iv) These charges are further discounted by 50% in view of locational disadvantage of sites in the Industrial Area, Phase-I & II.
(v) 10% concession is given to those applicants who apply for conversion within one year of the notification of the scheme.
