

**Annexure to S.O. \_\_\_\_\_ dated \_\_\_\_\_**

**The Jammu & Kashmir Policy for Grant and Utilization of Transferable Development Rights [TDR], 2024**

**1. Introduction**

1.1 The acceleration in urbanization is creating both opportunities and challenges. The biggest challenge lies in addressing the substantial infrastructural demands of this transition. Urban Local Bodies and Development Authorities often struggle with the financial burdens of this demand for amenities due to their limited revenue sources. Additionally, land acquisition for public purposes such as road widening and for creation of other amenities is both costly and time-consuming.

1.2 To address these challenges, innovative funding methods are necessary to develop urban infrastructure and amenities at the required pace. Transferable Development Rights (TDR) are one such innovative tool in funding urban infrastructure. TDR allows the separation of the development potential of the land from the land itself. While the land is surrendered to the authority for public projects, the development rights of that land are captured in the form of TDRs which can be used on other land parcels or transferred to others in need. These rights entitle the holder to additional development beyond that permitted in the Development Control Regulations (DCRs). In this way, a public resource i.e. development potential of an area, is harnessed to obtain land for public amenities and accelerate the development of infrastructure and amenities. On the other hand, those surrendering land are incentivized by giving them better compensation in terms of TDR, and more expeditiously, compared to what they would otherwise get.

1.3 TDR is already in use in many cities globally as well as in India. Given the benefits observed in other regions, there is a clear need for Jammu and Kashmir to establish its own TDR policy to support seamless economic growth and enhance the welfare of its citizens.

## 2. Definitions

2.1 In the policy, unless the context otherwise requires, the words and expressions used herein shall have the meaning as indicated against each term.

- i. **Additional Buildable Area** means the floor area in square meter which the holder of a TDR Certificate is entitled to build over and above the base Floor Area Ratio as per the prevailing Development Control Regulations. The terms Additional Floor Area Ratio or Additional FAR shall be construed to mean the same thing.
- ii. **Acquisition Act** means the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as amended from time to time.
- iii. **Base Floor Area Ratio** means the Floor Area Ratio, which is available to all plot owners without any cost or charge in the manner prescribed in Master Plan.
- iv. **Competent Authority**: The Vice Chairman of the Jammu Development Authority or the Srinagar Development Authority, as the case may be; or such other authority notified by the Government from time to time.
- v. **Development Control Regulations (DCR)** means the provisions of the Master Plan, Zonal Plan, UBBL 2021 and all other attendant statutory provisions that apply to any given building or development activity.
- vi. **Floor Area Ratio (FAR)** means the quotient obtained by dividing the total Built Up Area (BUA) of all floors by the plot area multiplied by 100. Floor Space Index (FSI), which is obtained by omitting the multiplication with 100, shall be construed to mean the same thing while calculating the entitlement to build.
- vii. **Generating Area** means the area proposed for a public project, including public amenities and facilities, recreation, transportation, public housing or any other infrastructure notified as such in terms of this policy;
- viii. **Government** means the Government of Jammu and Kashmir;
- ix. **Local Area** means the area as notified in terms of Section 3 of the Development Act, 1970 for that Development Authority.
- x. **Market Value** is the value of the land as notified in terms of **Jammu and Kashmir Preparation and Revision of Market Value**

Guideline Rules, 2011 for the year in which the land is surrendered in lieu of TDR.

- xi. **Receiving area** means an area notified by the Competent Authority in terms of this policy, where any person is permitted to use the TDR to build additional floor area.
- xii. **Policy** means The Jammu and Kashmir Policy for Grant and Utilization of Transferable Development Rights (TDR), 2024.
- xiii. **Transferable Development Rights (TDR)** means an award specifying the additional buildable area that an owner of a site or plot is entitled to receive in terms of this policy, in lieu of the land surrendered by him free of cost and free from encumbrances to the Competent Authority, in accordance with the provisions of this policy.
- xiv. **Transferable Development Rights Certificate (TDR Certificate)** means a certificate issued by the Competent Authority as evidence of the entitlement of the holder thereof to additional buildable area in accordance with the provisions of this policy.
- xv. **Transferable Development Rights holder (TDR holder)** means a person or persons, whether natural or juristic, whose name or names, as the case may be, are recorded on the TDR Certificate either by virtue of grant of TDR in their favour by the Competent Authority or by virtue of purchase from an existing holder of TDR, in terms of this policy.

### 3. Notification of the Generating Area and Receiving Area

3.1 Wherever land is required in the local area for a public project envisaged in the Master Plan or Zonal Plan, including for creating roads, transportation, recreation, open spaces, public housing, or any other infrastructure or other special use by the Government and its agencies, the Competent Authority may notify the whole or part of such area as the Generating Area for generating Transferable Development Rights. Provided that no land required by the Development Control Regulations to be kept by a developer as road, parking space, recreational space or otherwise open space in a layout shall be included in the notification as Generating Area.

3.2 The entire area of land required for the project may be notified by the Competent Authority as the Generating Area in one go, or it may be so

notified in a phased manner, before the commencement, during the implementation, or after the completion of the project.

3.3 The notification for Generating Area shall include the following details: -

- a. The infrastructure or amenity proposed to be created;
- b. Particulars of the land area including name of the revenue village, survey numbers of the properties, area of the plots required under the project and the ownership of the land;
- c. Site plan and map including GPS coordinates of the area so required; and,
- d. Assessment of the quantum of Transferable Development Rights to be generated in terms of additional Floor Area Ratio.

3.4 Simultaneous with the notification of the Generating Area, the Competent Authority shall, having regard to the potential for additional development in parts of the local area including considerations of available road with, population density, the level of existing amenities and other such attendant considerations, notify one or more such areas as Receiving Area in which the Transferable Development Rights generated in any Generating Area may be used.

3.5 The notification for Receiving Area shall include the following details: -

- a. Particulars of the road and segments thereof notified as Receiving Area;
- b. The extent in terms of percentage to which additional FAR could be availed of in that area or in parts thereof;
- c. Depth of the road upto which the receiving property could avail of the additional Floor Area Ratio;
- d. Site plan and map including GPS coordinates of the Receiving Area; and,
- e. Assessment of the quantum of Transferable Development Rights that could be received in terms of additional Floor Area Ratio.

3.6 If in the opinion of the Competent Authority, in consequence of the implementation of the project in the Generating Area, the development potential of the Generating Area or the area in the immediate vicinity thereof is

increased, it may include the whole or part of such area in the notification for Receiving Area.

3.7 If in the opinion of the Competent Authority, sufficient capacity for additional Floor Area Ratio continues to remain unutilized in the already notified Receiving Areas, it may, instead of declaring any additional area as Receiving Area, specify in the notification for Generating Area the areas with such spare receiving capacity along with details of the unutilized capacity for additional Floor Area Ratio.

3.8 If in the opinion of the Competent Authority, the outstanding Transferable Development Rights cannot be fully accommodated in the already notified Receiving Areas, it may notify additional areas in the local area as Receiving Areas.

3.9 Before any area is notified as a Generating Area or Receiving Area, the Competent Authority shall publish the notification in draft to give sufficient opportunity to the interested parties to give their objections and suggestions within a period of one month. The Competent Authority shall ensure wide publicity of the proposal, especially in the affected areas. Thereafter, the Competent Authority shall, after considering and disposing of the objections and suggestions received by it and with prior written approval of the Government, notify the area as a Generating Area or a Receiving Area, as the case may be.

#### **4. Grant of Transferable Development Rights**

4.1 Every landowner whose land is notified by the Competent Authority as part of the Generating Area shall, upon transfer of the required land to the Competent Authority by way of a registered gift deed, be entitled to Transferable Development Rights in the manner given hereinafter.

4.2 Upon registration of the gift deed, the land shall vest absolutely in the Competent Authority free from all encumbrances.

4.3 The Competent Authority shall, after the registration of the gift deed, mutation in the revenue records and securing custody of the land required, on an application in this behalf made by the landowner, grant Transferable Development Rights in favour of the landowner within 60 days of receipt of the application.

4.4 The entitlement to Transferable Development Rights shall be as follows:

- i. For land required for construction, widening or any other alteration of a Master Plan Road or any other road specified in the notification for Generating Area, Transferable Development Rights equivalent to 400% of the buildable area of the land surrendered shall be granted to the landowner;
- ii. For land required for conservation and development of lakes, waterbodies, nallas, foreshores and recreational buffers in the notification for Generating Area, Transferable Development Rights equivalent to 250% of the buildable area of the land surrendered shall be granted to the landowner;
- iii. For Development of affordable houses under Jammu and Kashmir Housing, Affordable Housing, Slum Redevelopment and Rehabilitation and Township Policy 2020, Transferable Development Rights equivalent to 100% of the Floor Area Ratio used in developing affordable housing shall be granted to the developer in accordance with that policy; and,
- iv. For land required for development of affordable housing in the notification for Generating Area, Transferable Development Rights equivalent to 300% of the buildable area of the land surrendered shall be granted to the landowner.

4.5 In case the permitted Floor Area Ratio for a land included in the notification for Generating Area is less than 100, the Floor Area Ratio for such land shall be deemed to be 100 for the purpose of calculating the TDR entitlement of the landowner.

4.6 The additional Floor Area Ratio to which the TDR Certificate shall entitle the holder thereof shall be indicated in square meters, and shall be the product of the area surrendered, the base FAR for that land parcel, and the percentage indicated at 4.3 above. For example, if the area surrendered is 500 square meters, the base FAR for that land parcel is 250, and the land is required for affordable housing, then the Transferable Development Rights entitlement for the land surrendered would be  $500 \times (250/100) \times (300/100) = 3,750$  square meters.

4.7 The Competent Authority shall maintain a detailed account of the TDR Certificates issued by it in such a manner as would enable it to ascertain at

any given time the total quantum of TDRs issued, the entitlement already utilized, and the total entitlement outstanding.

## **5. General Terms and Conditions for issuance of TDR Certificates**

5.1 The TDR Certificate shall be issued only in the name of the landowner and shall not be issued in the name of nominees, agents or any other such persons.

5.2 If the land surrendered stands in the name of a partnership firm or any other legal form of organisation, the TDR Certificate shall be issued in the name of all the partners of that firm/organisation.

~~5.3 The TDR Certificate shall be valid for five years from the date of issuance and can be revalidated upon payment of nominal processing charges for a further period of five years at a time till its utilization.~~

5.4 The Competent Authority shall maintain the record of each TDR Certificate including details of its issuance, transfer, and utilization, whether in whole or in part.

5.5 In case the TDR Certificate is defaced, lost, or destroyed and sufficient proof thereof is submitted to the Competent Authority, the same may be replaced on payment of a processing fees at the rate of 0.1(zero point one percent) of current market value of the surrendered plot. Before issuing the duplicate TDR Certificate, the Competent Authority shall satisfy itself that requisite evidence of loss of the certificate and indemnity bond to indemnify the Government and the Competent Authority against any loss, is obtained from the applicant.

## **6. Transfer of TDR Certificates**

6.1 The TDR Certificate shall be a transferable and negotiable instrument and the TDR Certificate holder may transfer it to any person either in whole or in part.

6.2 The transfer of Transferable Development Rights can be made in multiples of 50 square meters only except for the last remainder, on an

application made by the transferor and upon payment of the processing fee prescribed by the Competent Authority.

6.3 Upon authentication of transfer by the Competent Authority after duly satisfying itself of the genuineness of the existing TDR Certificate and the existing holder, the TDR of the existing holder shall stand extinguished to the extent of that transfer and the new holder shall be recorded in the TDR records. The existing TDR Certificate shall be surrendered, cancelled, and kept in the custody of the Competent Authority, and new TDR Certificate or Certificates, as the case may be, shall be issued.

6.4 The Competent Authority shall, from time to time, monitor and supervise the market for Transfer of Development Rights taking all necessary and required action to ensure smooth transactions of TDR Certificates in the open market and to prevent any malpractices leading to distortions in the market.

## 7. Utilization of Transferable Development Rights

7.1 A TDR Certificate may be utilized by the holder in whole or in part on one or more plots or lands in the Receiving Areas whether vacant or already developed fully or partially, by erection of additional FAR or in any other manner consistent with the prevailing Development Control Regulations.

7.2 The utilization of the TDRs shall be in multiples of 50 square meters except for the last remainder.

7.3 At the time of their utilization, the TDR shall be normalized for the relative market values of the generating and receiving land parcels as it stood at the time of surrender of property or allotment of the affordable housing units, as the case may be, and the Additional Buildable Area for utilization in the Receiving Area shall be calculated as follows:

*Additional Buildable Area in the Receiving Area = Additional Buildable Area of the TDR Certificate utilized x (Market Value of generating land parcel in the generating year/ Market Value of the receiving land parcel in the generating year).*



7.4 The TDR Certificate holder desirous of its utilization in full or in part, shall make an application to the Competent Authority giving full particulars of the receiving land parcel including details of revenue record and GPS coordinates.

7.5 The Competent Authority shall, after due verification of the entitlement and the relative market values of the generating and receiving land parcels, and after making requisite entries in the certificates and ledgers, issue the utilization certificate addressed to the relevant Building Permission Issuing Authority, specifying the additional buildable area that the holder is entitled to construct in addition to the base FAR.

7.6 The entitlement to additional buildable area shall extend only to construction of FAR beyond the base FAR and shall be without prejudice to any other requirement of the Development Control Regulations.

7.7 Before issuance of the building permission in the aforementioned case the Building Permission Issuing Authority shall cancel the utilization certificate issued in favour of the applicant by the Competent Authority and return it to the latter who shall keep it in safe custody and make relevant entries in the official records.

7.8 The Competent Authority may restrain the TDR Certificate holder from utilizing his rights in the following circumstances:

- a. Under direction from a Competent Court.
- b. Where the Authority has reason to believe that the TDR Certificate has been obtained by producing fraudulent documents or by misrepresentation.

## **8. Cancellation of TDRs obtained by fraud or misrepresentation**

8.1 Where any owner or lessee of the land acquires TDRs by fraudulent means or by misrepresentation, the TDR Certificate issued in such case shall be liable for cancellation and such person shall be liable for prosecution as per law.

8.2 If the TDRs acquired in the manner mentioned in the above para have been utilized, the value of such TDRs on the date of utilization shall be estimated by the Competent Authority to the best of its satisfaction and shall, without prejudice to any other consequence that such a person may suffer under law, be recoverable from that person as an arrear of land revenue.

8.3 Before proceeding to make any determination to such effect, the Competent Authority shall give the person affected a reasonable opportunity of being heard.

## **9. Online application for issuance, transfer and utilization of TDRs**

9.1 To enable efficiency and transparency in the entire process, the Competent Authority shall develop an online application for generation, holding, transfer, utilization, and transaction records of the TDRs which would preferably be suitably integrated with the Online Building Permission System with adequate safeguards.

9.2 Till the time such an online process is put in place, the records shall be maintained manually as well as electronically in parallel in such a manner as to enable their migration to the online environment as soon as it becomes operational.

## **10. Removal of difficulties**

10.1 In case of any doubt or difficulty arising in the implementation of this Policy, the Government in the Housing & Urban Development Department shall be competent to issue necessary instructions, not inconsistent with this policy, for the removal of such doubt or difficulty.