

**THE PUNJAB COMMISSION ON
IRREGULAR HOUSING SCHEMES ORDINANCE 2021
(XVII of 2021)**

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TEXT

¹THE PUNJAB COMMISSION FOR REGULARIZATION OF IRREGULAR HOUSING SCHEMES ORDINANCE 2021

(XVII of 2021)

[13th April 2021]

An
Ordinance
to make provisions for establishment of a Commission for regularization of irregular
housing schemes.

Whereas it is expedient to establish a Commission to examine the matters of private housing schemes and land sub-divisions which are being developed or have been developed in an irregular manner or without the approval of the competent authority.

And whereas the Government feels the need to ensure due compliance of the laws and to discourage illegal and irregular Housing Scheme and as far as possible to alleviate the grievances of the affectees and residents of such schemes and land sub-divisions in a judicious, transparent, and sustainable manner keeping in mind the public interest.

Provincial Assembly of the Punjab is not in session and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action.

In exercise of the powers conferred under clause (1) of Article 128 of Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement.- (1) This Ordinance may be cited as the Punjab Commission for Regularization of Irregular Housing Schemes Ordinance 2021.

(2) This Ordinance extends to whole of the Punjab other than the areas notified as cantonments under the Cantonments Act, 1924 (II of 1924), or the Cantonments Ordinance, 2002 (CXXXVII of 2002), and such other areas under possession and direct control of the Armed Forces of Pakistan that may be notified by

the Government for this purpose.

(2-a) This Ordinance shall not apply to any land:

- (i) owned by the Federal Government;
- (ii) owned by the Government;
- (iii) owned by any local government;
- (iv) vesting in the Evacuee Trust Property Board or Waqf property taken under the Punjab Waqf Properties Ordinance, 1979 (IV of 1979).

(2-b) Any illegal or irregular housing scheme in the aforesaid area excluded from the operation of this Ordinance will not be regularized under this Ordinance but shall be dealt with by the competent authority in accordance with law.

(3) This Ordinance shall come into force at once.

(4) The Government may, by notification in the official Gazette, exempt any area from any or all of the provisions of this Ordinance.

2. Definitions.- (1) In this Ordinance:

- (a) "applicable laws" includes the following laws and the rules and regulation made thereunder:
 - (i) Punjab Local Government Act, 2019 (XIII of 2019);
 - (ii) Lahore Development Authority Act, 1975 (XXX of 1975);
 - (iii) Punjab Development of Cities Act, 1976 (XIX of 1976);

¹This Ordinance was Promulgated by the Governor of the Punjab on 9 April 2021; and, was published in the Punjab Gazette (Extraordinary), dated: 9 April 2021, pp. 8015-8022.

- (iv) Cooperative Societies Act 1925 (VII of 1925); and
- (v) Punjab Housing and Town Planning Agency Ordinance, 2002 (LXXVIII of 2002);

(aa) "built up area" means an area established in a non-planned area;

(b) "Chairperson" means the Chairperson of the Commission;

- (c) "Commission" means the Commission constituted under this Ordinance;
- (d) "competent authority" means the relevant authority empowered to approve a private housing or land sub-division under the applicable laws;
- (e) "Government" means Government of the Punjab;
- (f) "Government agency" includes:
 - (i) a department, bureau, section, commission, board, office or unit of the Government;
 - (ii) a local government; and
 - (iii) a development authority or any other public authority, company or corporation owned or controlled by the Government or a local government;
- (g) "irregular housing scheme" means a private housing scheme or a land sub-division or a built-up area which has been developed or a part of which is being developed or sold without approval of the competent authority or in violation of the approved layout plan or the applicable laws or with the approval of the authority not competent to approve the housing scheme;
- (h) "member" means a member of the Commission and includes the Chairperson;
- (ha) non-conforming use" means the land use that does not conform to the permitted or permissible land use but it is existing at site;
- (hb) "non-planned area" means an area of the local government other than the planned area;
- (hc) "planned area" means an area of the local government or a development authority with defined land uses as per approved schemes or master plan or Outline Development Plan;

- (i) "residents welfare association" means a society or an association of owners or allottees of an irregular housing scheme or a built-up area registered under any law for the time being in force;
- (j) "regularization" means approval of an irregular housing scheme by the Commission; and
- (k) "sponsor" means a firm, company, cooperative society, residents welfare association, owner of a land or a scheme or any other person who has developed a scheme wholly or partly or is developing the scheme with or without approval under the applicable laws.

(2) The words, terms or expressions used but not defined in this Ordinance shall have the same meaning as provided in the applicable laws.

3. Establishment of Commission.- (1) The Government shall, by notification in the official Gazette, establish a Commission for carrying out the purposes of this Ordinance.

(2) The Commission shall stand dissolved upon expiry of one year of commencement of this Ordinance unless the Government, by notification in the official Gazette, extends its term for a further period of one year.

4. Composition.- (1) The Commission shall comprise the following:

(a)	"a retired Judge of the Supreme Court of Pakistan or a retired Judge of the Lahore High Court, Lahore in consultation with the Chief Justice of the Lahore High Court, Lahore".	Chairperson
(b)	a town planner/architect having at least twenty years experience and accreditation from national or international professional bodies:	member
(e)	a legal expert having at least twenty years experience in the applicable laws; and	member
(f)	any other expert of the relevant profession from public or private sector.	Co-opted by the Commission

(2) Subject to subsection (1), the Government shall nominate the members.

(3) The Government shall provide secretarial and logistic support to the Commission.

(4) The Government shall provide requisite funds for proper functioning of the Commission.

(5) The Commission shall frame its regulations to conduct its business.

(6) Chief Minister, Punjab shall appoint a Registrar of the Commission from amongst the officers of the Government, not below basic scale 19, to perform such duties as may be assigned by the Commission.

(7) The Commission may hire any firm or expert on such fee as the Commission may determine for carrying out any of its functions under this Ordinance.

(8) The members and the Registrar of the Commission shall receive such honorarium as may be determined by the Chief Minister.

(9) In case of non-availability of any member or members the functions of the Commission may be performed by the Chairman and at least one other member.

5. Functions and powers.-

(1) The Commission shall have the powers to:

- (a) take cognizance of any irregular housing scheme on an application or on its own;
- (b) issue directions to a local government or a development authority concerned under the applicable laws for sustainable development of the area after taking into account the violation of planning standards in an irregular housing scheme;
- (c) direct local government or development authority or any other agency concerned, on application of a resident / owner in any unapproved housing scheme to finalize long pending applications and cases under applicable law within a stipulated period of time;
- (d) direct a local government or a development authority or any other agency concerned to take punitive actions in accordance with the applicable laws including initiation of criminal proceedings under any other law against the sponsor of a housing scheme for any illegality or violation of law which cannot be regularized under this Ordinance or the Sponsor fails to seek regularization under this Ordinance: provided that the Commission may direct the competent authority to exclude residents or a person

having ownership in the said irregular housing scheme from the purview of such direction;

- (e) impose any penalty upon sponsors under this Ordinance;
- (f) recommend disciplinary action including initiation of criminal proceedings against the officers and officials responsible for establishment of irregular housing schemes and for non-compliance of the directions of the Commission;
- (g) warn public at large in respect of any illegal or irregular housing schemes through print and electronic media; and
- (h) recommend amendments in the applicable laws and the rules made thereunder.

(2) In exercise of its functions, the Commission may:

- (a) call for record of any land from the relevant Government agency;
- (b) summon any officer of the relevant Government agency to produce requisite record, information and provide assistance; and
- (c) summon the owners or sponsors of irregular housing schemes, or the persons having interest therein, or any other persons required for the purpose of disposal of the matter under consideration.

(2a) Notwithstanding anything contained in subsection (1) the Commission shall not exercise its powers in respect of inquiries, investigations or references related to any housing schemes that are under process with the National Accountability Bureau under the National Accountability Ordinance 1999 (XVIII of 1999) regarding irregular housing schemes.

(3) In the discharge of its functions under this Ordinance, the Commission shall have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908).

(4) All proceedings of the Commission shall be deemed to be judicial

proceedings within the meaning of section 193 and 228 of the Code of Criminal Procedure, 1898 (V of 1898).

(5) The Commission shall decide each application preferably not later than ninety days from the date of initiation of proceedings.

6. Responsibility of local governments and development authorities.- A

local government or a development authority, as the case may be, shall be responsible to:

- (a) provide secretarial support to the Commission;
- (b) prepare and submit data bank of irregular housing schemes falling within its territorial jurisdiction to the Commission through representative of the local government or the development authority concerned;
- (c) provide record of irregular housing schemes including all documents and lay-out plans, approved or unapproved, either under process or not in process with the concerned local government or a development authority, and in case record of an irregular housing scheme is not available with a local government or a development authority, the local government or the development authority shall obtain the record from the developers of such scheme for onward submission to the Commission; and
- (d) provide any other information required by the Commission.

7. Data bank.- The data bank shall contain the following information:

- (a) name of the housing scheme;
- (b) name and Computerized National Identity Card number of the developer or the sponsor;
- (c) complete description of the housing scheme comprising area, layout and ownership of land parcel on which the irregular housing scheme has been developed or a part of which has been developed or is being developed by moving an application for preliminary planning permission or sanction of the housing scheme;

- (d) date of commencement of physical development of the irregular housing scheme;
- (e) complete details of violations committed during development of the housing scheme including violation of layout plan, if approved by a local government or a development authority or any other authority concerned;
- (f) categorization of irregular housing schemes according to nature of violations; and
- (g) any other ancillary information.

8. Submission of applications.-

- (1)**– a residents' welfare association, or a person having ownership or interest in the housing scheme shall be eligible to submit an application to the Commission for regularization of an irregular housing scheme existing prior to the date of the commencement of this Ordinance.
- (2) Notwithstanding the provisions of Sub Section (1), the following persons may also submit an application before the Commission for regularization of an irregular housing scheme existing prior to date of the commencement of this Ordinance:
- (a) to a resident / owner whom a notice has been served in respect of any violation under any of the applicable law;
or
 - (b) who is running an irregular housing scheme or a built-up area.

9. Regularization and fines.-

(1) The Commission may regularize, through an order an irregular housing scheme, after affording opportunity of being heard to the applicant and the concerned local government or, as the case may be, the concerned development authority.

(2) In case of nonpayment of fine, non-rectification, non-fulfillment of a condition or any other penalty imposed under subsection (1) within the stipulated time, the order of regularization shall cease to have effect and action shall be taken as per the applicable law.

(3) The rectification or fine in case of the following violations shall be imposed as under:

Sr. No	Type of Violation	Rectification or fine
1	Missing parks or open spaces	
	(i) up to 25 percent missing as per planning standards	(i) Two times of the value of deficient land as per residential value in the latest applicable valuation table
	(ii) more than 25 percent missing as per planning standards	(ii) Non compoundable and shall be vacated and developed as per planning standards
2	Missing graveyard	Two times of the value of deficient land as per residential value in latest applicable valuation table or

		provision of alternate land within a radius up to five kilo meters from the irregular housing scheme
3	Public buildings	
	(i) up to 25 percent missing as per planning standards	(i)Three times of the value of deficient land as per residential value in the latest applicable valuation table
	(ii) more than 25 percent missing as per planning standards	(ii)Non compoundable and shall be vacated and developed as per planning standards
4	Access road width is less than the required planning standards	Access road abutting the irregular housing scheme shall be widened as per the required planning standard. In case of non-availability of land, as determined by the Commission, three times of the value of deficient land as per latest applicable residential valuation table
5	(i) Internal road width is less than the prescribed planning standards	(i) Two times of the value of deficient land as per latest applicable residential valuation table
	(ii) Internal road width is less than the prescribed standards where plots are open on the entire street / road from one intersection to next	(ii) The shorten width will be vacated from both sides plots

6	Missing development works	Non-compoundable, the sponsor or registered society of residents may provide surety bond along with mechanism & schedule to execute the missing development works
7	Change of location of public amenities (parks, graveyard, public buildings etc.)	If relocation of amenities does not change the required percentage under the rules, then the Commission may regularize after examining the technical details and subject to imposition of fine as determined by the Commission
8	Non-transfer of roads, amenities, parks, graveyard etc	In case of built-up area & developer is not available, then registered society of residents will submit an affidavit / surety duly registered from sub-registrar regarding surrender of areas under roads, amenities, parks, graveyard etc. on behalf of developer

(4) The amount of fine collected under this Ordinance shall be deposited into the account of the concerned local government or the concerned development authority concerned as the case may be, and the proceeds from the fine shall only be spent on provision of missing amenities in the regularized housing schemes.

“Explanation:

- (a) only the violations mentioned in subsection (3) of section 9 may be regularized by the Commission;

- (b) the violations and illegalities other than those mentioned in subsection (3) of section 9 shall be dealt with in accordance with laws; and
- (c) any violation including those mentioned in subsection (3) of section 9 if committed after the coming into force of this Ordinance shall not be regularized.

10. Indemnity.- The members shall be indemnified from any act done, function performed or power exercised in good faith under this Ordinance.

11. Jurisdiction of courts barred.- No court shall take cognizance of any matter covered under the provisions of this Ordinance.

12. Power to make rules.- The Government may make rules for carrying out the purposes of this Ordinance.

13. Power to make regulations.- The Commission may make regulations for carrying out the purposes of this Ordinance.

14. Overriding effect.- The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.