

**FREEQENTLY ASKED QUESTIONS (Updated on 1.7.2016)
(FAQ)**

Sr. No.	FAQ	Reply
1.	Which areas are covered for regularization?	The areas falling under Planning Areas including Urban Local Bodies and Special Areas notified by the State Govt.
2.	What is the last date of submission of application?	45 days w.e.f. 15.6.2016 i.e. up to 29.7.2016 .
3.	By what date, the application would be disposed off?	On or before 14.6.2017 .
4.	Is there any application fee?	Yes. Application fee is Rs. 1,000/- and e-charges are Rs 100/- (deposit online).
5.	What is the rate of regularization?	As shown in the under mentioned Table .
6.	To what extent number of storeys would be regularized?	To any extent subject to structure stability of building.
7.	What coverage on setbacks would be regularized?	Upto 70%.
8.	Which buildings cannot be regularized?	<ul style="list-style-type: none"> (i) Where coverage on setbacks is more than 70% (ii) Where structure is not stable and safe. (iii) Deviations made in Green/Heritage Areas after the Notification of Green/ Heritage Areas. (iv) Buildings which were granted relaxations or were retained under various previous Retention Policies. (v) Buildings which are constructed on land specified for parks, roads, sewerage etc. (vi) Buildings constructed by way of encroachment on Govt./ ULB/ SADA/ other authorities / other person's land. (vii) Buildings constructed below Highest Flood Level (HFL). (viii) Parking floor(s) as per approved plan, if converted to any other use like residence or shop etc. (ix) Buildings owned by individuals in HIMUDA Colonies which are not maintained by the ULBs.
9.	Will the deviations in Green Areas be regularized?	Yes, provided such deviations are prior to the Notification of Green Areas. Onus of proof lies on the applicant. Green Areas were notified in Interim Development Plan (IDP), Shimla on 7.12.2000.
10.	Will the deviations in Heritage Areas	Yes, provided such deviations are prior to the

	be regularized?	Notification of Heritage Areas. Onus of proof lies on the applicant. Heritage Areas were notified in Interim Development Plan (IDP), Shimla on 22.8.2002.
11.	Who will carry on the Structural Audit?	The Committee(s) constituted by the Director (TCP) notified vide letter No. HIM/ TP/ PJT/ RP/ 2012/Vol-V/11299-11355 dated 16.6. 2016.
12.	What are the qualifications of Structural Engineer?	Graduation in Civil Engineering of recognized Indian or foreign University, or Institute of Engineers (India) with minimum three years experience in structural engineering practice with designing and field work. In the case of post graduate degree of recognized Indian or foreign University in the branch of structural engineering, experience of two years shall be required and in the case of Doctorate in structural engineering, the experience of one year shall be required.
13.	Is Structural Audit compulsory for all buildings?	Yes, except buildings in two floors and having built area upto 150 M ² , provided such buildings are in self occupation for the residential purpose.
14.	Can a person who has not obtained any permission for construction, also apply for regularization?	Yes.
15.	Is there any provision of appeal against the order of competent authority?	Yes, aggrieved person can file an appeal before the Secretary, (TCP) to the Government of Himachal Pradesh, Shimla within 30 days of receipt of Order of Rejection.
16.	Can the applicants residing in HIMUDA developed Colonies, apply for regularization?	Yes, if the colony is maintained by the ULBs.
17.	Whether Attic and Basement will be counted as storey?	Yes, the habitable Attic and Basement will be counted as storey.
18.	Whether Commercial Use includes Hotel and Tourism Use also?	Yes, Hotel and Tourism Use are part of Commercial Use.
19.	Which of the rates will be applicable, if deviations are 36%?	The rates as prescribed for the deviations above 35% and upto 70% shall be applicable.
20.	Whether only those buildings which are 1.50 Metre above road level will be regularized or all the storeys which are above road level will be regularized?	All the storeys which are above the road level will be regularized.
21.	Who will charge fee for Change of Land Use?	All the Officer(s) vested with the powers of the Director (TCP) will allow Change of Land Use and will also charge fee for the same from the applicants.
22.	(i) What will be the rates of	(i) For approval of such building applicant can

	<p>regularization of a Residential approved building converted whole or partly into Commercial use or any Other Use?</p> <p>(ii) What will be the rates of regularization of a Residential approved building converted whole or partly into Commercial use or any Other Use with deviations in setbacks and number of storeys?</p> <p>(iii) What will be the rates of regularization of a Residential building having no approval and converted whole or partly into Commercial use or any Other Use with deviations in setbacks and number of storeys?</p>	<p>apply separately and the same will be dealt under Clause (c) of sub- Rule (2) of Rule 16 of the HPTCP Rules, 2014.</p> <p>(ii) In such buildings the rates for regularization will be as per Serial No. 1 or 2 of Clause (A), as the case may be, of sub-section (8) of Section 30-B of the Ordinance, 2016 with 100% increase in rates for uses other than Residential Use subject to the condition that there should not be more than 70% deviations on the setbacks as were approved.</p> <p>(iii) In such buildings the rates for regularization will be as per Serial No. 3 of Clause (A) of sub-section (8) of Section 30-B of the Ordinance, 2016 with 100% increase in rates for uses other than Residential Use subject to the condition that there should not be more than 70% deviations on the setbacks as would have been approved.</p> <p>Note- In such cases, the setbacks as per changed Building Use shall be taken into consideration. The provision for parking may also be seen.</p>
23.	<p>If as per approved FAR and built up area, applicant was authorised to build 3.25 storeys only but he has constructed 6 storeys. How the fee will be calculated for the 4th floor wherein the permissible FAR was 0.25, but applicant has constructed the complete floor.</p> <p>For example, if an applicant was entitled to build 30 M² on top floor as per approved plan, but he has built the complete floor of say 120 M², will, such floors be considered under deviations in setbacks or storeys?</p>	<p>In such cases, the remaining area of 4th floor i.e. (120 M² - 30 M²) 90M² (as per example) will be considered as deviation in storey and regularization fee will be charged as per Serial No. 2 of Clause (A) of sub-section (8) of Section 30-B of the Ordinance, 2016</p>
24.	<p>What type of fees will be applicable in case of a completely un-authorized building wherein deviations in setbacks as well as deviations in number of storeys are committed and how will be the fee calculated?</p>	<p>In such cases, the regularization fee will be as per Clause (a) or (b) or (c), as the case may be, of Serial No. 3 of Clause (A) of sub-section (8) of Section 30-B of the Ordinance, 2016. However, in such cases the fee for permissible built up area shall be charged as per Serial No.3 of sub-rule (3) of Rule 35 of the HPTCP Rules,</p>

		2014.
25.	Whether un-authorized sub-division of land is compoundable?	Yes. It is compoundable as per the Policy of Section 16 (a) and (c) of HP TCP Act, 1977 issued vide Notification. No. TCP-F (10)-1/2014 dated 24.11.2015.
26.	Whether construction carried out in the controlled width of Roads is compoundable or not?	No.
27.	Whether constructions carried out on the land where possession is on lease basis compoundable?	Yes, such constructions can be compounded.
28.	Whether un-authorized buildings constructed by the Central Govt./ State Govt./Boards/Corporations/Authorities/ Autonomous Bodies compoundable?	Yes.
29.	Whether such buildings where relaxations have been allowed either by the Govt. or the Director (TCP) compoundable or not?	No.
30.	Whether buildings constructed on the land which is on share basis be compounded or not?	Can be compounded but all the co-shares have to apply jointly or NOCs other than the applicant have to be submitted.
31.	Can the buildings which are sub-judice compoundable or not?	Applicant can apply in 45 days but decision on application would be subject to judgment of Court of law.
32.	Can future proposals be considered in the buildings being regularized?	Only such buildings which have been constructed on or before 15.6.2016 can be regularized. No proposals except where roof is to be laid and columns have already been erected and where finality has taken place, can be considered. The competent authorities have to ensure that roof of such building is rendered totally in-effective for further vertical construction in future. Proposal pertaining to internal development of building not affecting horizontal of vertical structure of building can be regularized.
33.	(i) Which of the Set Backs are to be taken into consideration in the building which has Residential Use in say four storeys and Commercial Use in say one storey? and (ii) In the building where Mixed Land Use is involved, what will be the setbacks, whether Residential or Commercial?	(i) and (ii) In case of Mixed Building Use, the predominant building use i.e. the use which is on higher side is to be considered and the Regulations as applicable for higher building use will be applicable. The Change of Land Use and Change of Building Use are very much involved and fee has to be charged accordingly.

34.	Whether Notice(s) are to be issued to such persons who are not getting their deviations and un-authorised buildings regularized under the Ordinance, 2016?	Yes, pro-actively Notice(s) will be served upon to such persons. A list will be prepared indicating such buildings as “ still un-authorised ” and will be uploaded on the Departmental website and action as per Law will be taken against such violators.
35.	Permissions had been and still being granted by HPSIDC in some industrial cases. Is HPSIDC competent to do so?	In case powers have been delegated to HPSIDC, it can grant permission as well as can regularize the cases.
36.	In Deemed Planning Areas, whether buildings can be compounded?	Yes, these can be compounded.
37.	Whether owners of such buildings where FAR are yet to be utilized, can propose construction over existing deviated or un-authorised storeys?	Yes, we cannot restrain applicant from utilizing permissible FAR in future.
38.	Can date be extended beyond 45 days for the persons employed in “Services” and for “Non-Resident Indians” etc.?	No.
39.	Whether Change of Land Use Fee is only to be charged or Change of Building Use fee is also to be charged?	The fee prescribed under Rule 16 of the HPTCP Rules, 2014 for development/ sub-division of land, for building operation, for Change of Existing Building Use and for Change of Land Use under Clause (d) or (e), as the case may be will be charged.
40.	If any person who has taken the advantages of previous Retention Policies in getting his building approved in the past, but after some time he demolished the same and later on he constructed the building without approval of the concerned authority,. Can he apply under this Ordinance?	Yes, since the building where the benefit of previous Retention Policies was taken stand demolished, therefore, the new building can be considered under the Ordinance, 2016.
41.	Whether Basement is to be treated as Ground Floor for the purpose of fee calculation or as subsequent floor.	No. The storeys above or below the Ground Floor will be treated as subsequent floor(s) for the purpose of fee calculation.
42.	Can the violations of Change of Land Use permissible under Section 118 of the Himachal Pradesh Land Reforms Act, 1972 is compoundable or not?	Yes, it is compoundable, if permission under Section 118 of the Act ibid is revised for the instant land use. Applicant will have to make representation himself in this regard to the Revenue Department.
43.	In cases where the lease deed has been made for residential purpose, but lessee has changed the use of the building and has constructed commercial building, whether such cases will be covered under the Ordinance vis-a-vis	Yes, it is compoundable, if permission under Section 118 of the Act ibid is revised for the instant land use. Applicant will have to make representation himself in this regard to the Revenue Department.

	implications of permission taken under Section 118 of the Himachal Pradesh Land Reforms Act, 1972.	
44.	Persons who have purchased a flat in HIMUDA Colony on lease basis and have changed the building use, whether it will be compounded or not?	Yes, if the colony is maintained by the ULB.
45.	Whether flat owners can get their Flats/ Apartments compounded which have been sold to them by the Promoters / Builders.	Yes.
46.	In an approved Colony where deviations in Apartments have been made by the buyers (Both Himachalies and Non-Himachalies), will such Apartments be compoundable or not?	Yes.
47.	If dwelling units in a building consist more than eight & flats have been sold, whether the owner of flats can get their deviations / un-authorized constructions compounded or not?	Yes, but these will be compounded by the Director (TCP) and such cases may be referred to the Director (TCP) for decision.
48.	Regarding un-authorized Colony which has been handed over to the buyers and where flats have been sold by the Promoter to the buyers, whether such flats will be regularized or not?	Yes, but these will be compounded by the Director (TCP) and such cases may be referred to the Director (TCP) for decision.
49.	If the plot area is above 2500 M ² in respect of SADAs, will it be referred to the Director (TCP) or Chairman (SADA) for composition?	If the proposal attracts the provisions of Chapter IX-A and Chapter IX-B of the Himachal Pradesh Town and Country Planning Act, 1977 w.r.t. Apartments and Colonies, the case shall be referred to the Director (TCP).

TABLE
REGULARISATION FEE FOR DEVIATIONS AND UN-AUTHORISED CONSTRUCTIONS

(i) For Residential buildings:-

Sr. No.	Description	Rates
1.	2.	3.
1.	(a) where permission has been taken for development but deviations have been made on the set backs upto to 35 %:	(i) in the case of buildings falling within the jurisdiction of Municipal Area, @ Rs. 800/-per M ² for ground floor level and @ Rs. 400/-per M ² for each subsequent floor level; and

	(b) for deviations on the set backs above 35% and upto 70 %:	(ii) in the case of buildings falling outside the jurisdiction of Municipal Area, @ Rs. 400/-per M ² for ground floor level and @ Rs. 200/- per M ² for each subsequent floor level. the regularization fee shall be double to the rates as given at (i) and (ii) above, as the case may be.
2.	Where permission has been taken for development but deviations have been made in number of storeys:- (a) upto 100 M ² constructed area of the un-authorized storeys: (b) for more than 100 M ² constructed area of the un-authorized storeys:	(i) in the case of buildings falling within jurisdiction of Municipal Area, @ Rs. 1500/-per M ² ; (ii) in the case of buildings falling outside the jurisdiction of Municipal Area, @ Rs. 1000/- per M ² . the regularization fee shall be double to the rates as given at (i) and (ii) above, as the case may be.
3.	(a) Where permission has not been taken for development and deviations on the set-backs have also been made upto 35%: (b) Where permission has not been taken for development and deviations on the set-backs have also been made above 35% and upto 70%: (c) Where permission has not been taken for development and deviations in number of storeys have also been made:-	(i) in the case of buildings falling within the jurisdiction of Municipal Area, @ Rs. 2400/-per M ² for ground floor level and @ Rs. 1200/-per M ² for each subsequent floor level; and (ii) in the case of buildings falling outside the jurisdiction of Municipal Area, @ Rs. 1200/-per M ² for ground floor level and @ Rs. 600/- per M ² for each subsequent floor level. the regularization fee shall be double to the rates as given at. (i) and (ii) above, as the case may be.

	<p>(i) upto 100 M² constructed area of the un-authorized storeys:</p> <p>(ii) for more than 100 M² constructed area of the un-authorized storeys:</p>	<p>(i) in the case of buildings falling within jurisdiction of Municipal Area, @ Rs. 4500/-per M²;</p> <p>(ii) in the case of buildings falling outside the jurisdiction of Municipal Area, @ Rs. 3000/- per M².</p> <p>the regularization fee shall be double to the rates as given at (i) and (ii) above, as the case may be.</p>
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Provided that the fee for each deviation as described above shall be charged combindly:

Provided further that the regularization fee as specified under clause (A) of this sub-section shall be decreased by 50% for the persons falling under the categories of Below Poverty Line (BPL) and Economically Weaker Sections (EWS) of the society.

(B) The regularization fee as specified under clause (A) of this sub-section shall be increased by 100% for Commercial or Hotel or Tourism or Industrial or other uses:

Provided that the change of land use fee, as specified under the Himachal Pradesh Town and Country Planning Rules, 2014, shall be charged separately in addition to the above specified fee, as the case may be, by the competent authorities.
