



International Environmental  
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## Model Bill For Flood Plain Zoning, 1975

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**Model Bill For Flood Plain Zoning****A bill**

to provide for the zoning of flood plains of rivers in the state of -----Be it enacted by the legislature of the State of -----in the Twenty-----year of the Republic of India as follows:

**CHAPTER 1****PRELIMINARY****Short title, Extent and**

1.(1) This Act may be called the Flood Plain commencement

(2) It extends to the whole State of-----

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the state government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and for different areas or different rivers.

**Definition**

2.(1) In this Act, unless the context otherwise requires-

(a) 'flood plain includes water channel, flood channel and that area of nearby low land susceptible to flood inundation.

(b) 'flood plain zoning' means retracting any human activity in the flood plains of a river where the plains are created by overflow of water from the channels of rivers and Streams;

(c) 'flood zone' means the area which is required to carry the flow of the maximum probable floods;

(d) 'Flood Zoning Authority' in relation to a river, means the authority appointed by the State Govt. under Section 3;

(e) 'land' includes interest in lands, benefits arising out of lands and things attached to the earth or permanently fastened to anything attached to the earth;

(f) 'occupier' in respect of any land, means any person who has an interest in the land and cultivates the land himself or by his servants or by hired labour and includes a tenant;

- (g) 'Owner' in relation to any land includes any person having interest in such land;
  - (h) 'prescribed' means prescribed by rules made by the State Govt. under this Act;
  - (i) 'river' includes its tributaries;
- 'water channel' means the channel in which the flows of a river are generally confined.

## CHAPTER II

### FLOOD ZONING AUTHORITY AND ITS POWERS

#### Declaration of flood plain zoning

- 3.(1) Where the state government considers it necessary or expedient so to do, it may, by notification in the official Gazette and in the Gazette of every District in which any part of a river flows, declare that flood plain zoning shall be made in the manner hereinafter specified.
- (2) The state government may direct that a survey be made of a river for the purpose of determining the limits within which the provisions of the Act are to be applied and that proper charts and registers be prepared specifying all boundaries and landmarks and any other necessary matter for the purposes of ascertaining such limits.
- (3) The state government may by notification in the Official Gazette, appoint the Collector of the District or such other authority as that government considers necessary, as the Flood Zoning authority for the purposes of making a survey of the area as required under sub-section (2) and may specify in such notification, the duties to be discharged by such authority.

#### Powers and functions of the Flood Zoning Authority

4. The Flood Zoning authority shall exercise the powers and discharge the duties in accordance with the provisions of this Act and the terms and conditions specified in the notification under sub-section (3) of section 3.

## CHAPTER III

### SURVEYS AND DELINEATION OF FLOOD PLAIN AREA

#### Survey

- 5.(1) The flood Zoning Authority shall carry out surveys of flood plains of the rivers and determine the nature and the extend of flood plains of the rivers.
- (2) The Flood Zoning authority shall, on the basis of the survey carried out under sub-section (1), establish flood plain zones and delineate

the areas which are subject to flooding including classification of land with reference to relative risk of flood plain use intended to safeguard the health, safety and property of the general public.

- (3) The Flood Zoning Authority shall prepare charts and registers indicating the areas delineated under sub-section (2).

**Power to take up survey**

- 6.(a) to enter upon and survey and take levels of any land within its or his jurisdiction;
- (b) to mark such levels, boundaries and lines by placing marks or boundary stones;
- (c) to measure the land;
- (d) to do all other acts necessary for the purposes of ascertaining the limits referred to in sub-section (2) of section 3;
- (e) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of standing crop, fence or hudge;

Provided that no Flood Zoning Authority or any other officer shall enter into any building or open any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier atleast seven days notice in writing of its or his intention to do so.

**Payment of damages**

- 7.(1) The Flood Zoning Authority or any other officer generally or specially authorised by it in this behalf, who has entered upon any land under section 5 shall, before leaving, tender compensation to the owner or occupier of such land for any damage which may have been caused and in case of dispute as to the sufficiency of the amount so tendered, the Flood Zoning Authority or such officer shall refer the matter to the -----for his decision.
- (2) The decision of the officer under sub-section (1) shall be final and no suit shall lie in a civil court to have it set aside or modified,

**CHAPTER IV**

**NOTIFICATION OF LIMITS OF FLOOD PLAINS**

**Declaration of intention of State Govt. to demarcate flood plain areas**

8. The State Govt. may, on the basis of a report from the Flood Zoning Authority or otherwise, by notification in the Official Gazette, declare its intention to demarcate the Flood Plain areas and either prohibit or restrict the use of land therein.

**Public Notices**

9. (1) The Flood Zoning Authority shall, on the issue of notification under section 8, cause public notice of the substance of such notification to be given at convenient places in the area.
- (2) The Flood Zoning Authority shall also give notices individually to the owners of the lands situated in the area.
- (3) The Flood Zoning Authority shall exhibit records, charts, maps, registers and such other documents showing the river channel, flood channel and the flood plain area, specifying the nature and extent to which the use of limits of the area is either prohibited or restricted, the office for inspection by the general public at the timings specified therein.

**Objections**

- 10.(1) Any person who desires to raise any objection to the limits and either the prohibitions or restrictions specified in the public notice referred to in section 9, may within a period of sixty days from the date of publication of the notification in the official gazette, forward to the Flood Zoning Authority a statement in writing setting forth his objections.
- (2) After the expiry of period aforesaid, the Flood Zoning Authority shall issue a notice in the manner prescribed and consider the objections after giving the party concerned a reasonable opportunity of being heard in the matter.

The Flood Zoning Authority shall forward to the State Govt. its or his proposals together with the records referred to in sub-section (3) of section 9.

**Decision of the State Government**

- 11.(1) The State Govt. shall, after considering the report of the Flood Zoning limits of the areas as it considers necessary.
- (2) The decision of the state government shall be final.
- (3) The state government shall, by notification in the official Gazette, declare that the provisions of this Act shall apply to the said river with boundaries and limits as specified.
- (4) The areas delineated and approved by the state government shall be deemed to be the flood plain and the limits shall, where necessary, be marked either by boundary stones or other suitable marks.
- (5) The Flood Zoning Authority shall maintain the charts and registers of such areas so delineated and such charts and registers shall form part of the permanent records of the office.

- (6) The charts and registers maintained under sub-section(5) shall be furnished to the Collector of the District in which any part of the river is situated and shall be open for inspection by the general public at such times as may be prescribed.

## CHAPTER V

### **Powers to prohibit obstruction, etc. in**

### **PROHIBITION OR RESTRICTION OF THE USE OF THE FLOOD PLAINS**

- 12.(1) Where the State Govt. is satisfied that it is necessary to do so in the interest of public health, safety, or property in the interest of reducing the flood plain area inconvenience to the general public or that it is necessary to prohibit or restrict the activities in the flood plain, that government may, by notification in the Official Gazette, specify the area where such prohibition or restriction is to be enforced and the nature and extent of such prohibition or restriction.

Provided that no notification under this sub-section shall be issued after the expiry of six months from the date of publication of notification under section-8.

- (2) Upon the publication of a notification under sub-section (1) notwithstanding anything contained in any law, custom, agreement or instrument for the time being in force, the prohibition or restriction specified in such notification shall prevail.

- (3) No person shall undertake any activity within the prohibited area or restricted area except with the previous permission of the Flood Zoning Authority. Provided that where a person makes an application to the Flood Zoning Authority for permission under this sub-section to undertake any activity and the Flood Zoning Authority does not, within a period of ninety days from the date of receipt of such application, communicate to the person that permission applied for has been refused, it shall be presumed that the Flood Zoning Authority has granted such permission.

### **Penalty**

13. If any person commences or carries on or attempts to carry on any activity in the area specified in the notification under sub-section (1) of section 12 contrary to the terms and conditions specified in such notification, he shall be punishable.
- (a) With fine which may extend to five hundred rupees or in default, of payment of fine, to simple imprisonment for a term which may extend to two months; and
- (b) With further fine which may extend to one hundred rupees for each day after the conviction under clause (a).

**Power to Compound**

14.(1) Subject to such conditions as may be prescribed, any officer authorised by the State Govt. by a general or special order in this behalf may, either before or after the institution of proceedings under this Act accept from the person who has committed or is reasonably suspected of having committed an offence, a sum of money not exceeding-----rupees.

(2) On the payment of such sum of money, such person shall be discharged and no further proceedings shall be taken against him in respect of such offence.

**Appeal**

15.(1) Any person aggrieved by any decision of the Flood Zoning Authority may refer an appeal to the prescribed authority within a period of ninety days from the date on which such decision was communicated to him;

Provided that the prescribed authority may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The prescribed authority may after giving a reasonable opportunity to the appellant of being heard in the matter, make such orders as it deems fit and the decision thereof shall be final

**Revision**

16.(1) Where no appeal has been preferred under section 15, the State Govt. may, for the purpose of examining the legality, propriety or correctness of any inquiry or proceedings of the Flood Zoning Authority, call for the records of any inquiry or proceedings of the Flood Zoning Authority and make such order in the case as it thinks fit;

Provided that no such records shall be called after the expiry of six months from the date of such order.

(2) No order of the Flood Zoning Authority shall be varied by the State Govt. so as to prejudicially affect any person without giving such person a reasonable opportunity of being heard in the matter.

**CHAPTER VI****COMPENSATION****Payment of compensation**

17.(1) Where any permission to undertake any activity in the flood plain has been refused to any person or whereas a result of prohibition or restriction imposed on any person under this Act, such person suffers any damage, he shall be entitled to the payment of

compensation not exceeding the difference between the value of the land as determined under section 23 of the Land Acquisition Act, 1894 and the value which it would have, had the permission for carrying on any (Central Act 1 of 1894) activity had been granted or the prohibition or restriction had not been imposed.

- (2) In determining the amount of compensation under sub-section (1), any restriction to which the land is subjected to under any other law for the time being in force in regard to the right of the person claiming compensation to carry on any activity on the land or otherwise to the use of the land shall be taken into consideration.

**Determining the compensation and apportionment by consent**

18. (1) The person to whom the compensation under section 17 is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the Flood Zoning Authority and the person or persons claiming interest therein.

- (2) In default of any such agreement, the Flood Zoning Authority shall, after holding such enquiry as it considers necessary, make an award determining:-

- (a) the amount of compensation to be paid under section 17 and
- (b) the apportionment, if any of such compensation among persons known or believed to be interested therein;

Provided that where the amount of compensation exceeds Ten thousand rupees, no award shall be made without the previous approval of the State Govt. or such other officer as the State Govt. may authorise in his behalf.

**Compensation not admissible**

19. (1) No compensation shall be awarded.
- (a) if any in so far as the land is subject substantially similar restriction in force under some other law in force on the date on which the restrictions were imposed by or under this Act; or
  - (b) if compensation in respect of the same restrictions imposed by or under this Act or substantially similar restrictions in force under some other law has already been paid in respect of the land to the claimant or any predecessor in interest of the claim; or
  - (c) for removal of any encroachment.



- (2) If any person has unauthorisedly undertaken any activity, then any increase in the value of land from such activity shall not be taken into account in estimating the value of land.

**Application against award** 20.(1) Any person aggrieved by the Award of the Flood Zoning Authority under sub section(2) of section 18 may by an application in writing, apply to the State Govt. or such other officer as the State Govt. may authorise in this behalf.

- (2) Any application under sub-section(1) shall be made in such form and in such manner as may be prescribed and shall be made within forty five days from the date of communication of the award.

- (3) The application under this section shall be disposed of in such manner as may be prescribed.

**Procedure & Powers of authorities in deciding** 21.(1) An application under section shall be deemed to be proceedings within the meaning of section 141 of the code of Civil Procedure, applications 1908 and in the trial thereof, the authorities empowered to decide reference may exercise on the powers of civil court.(Central Act 5 of 1908).

- (2) The scope of inquiry shall be restricted to the consideration of the matter referred to the State Govt. or such other officer as the State Govt. may authorise in this behalf.

**Decision enforceable** 22. The decision under section 21 shall be enforceable as a decree of as decree of civil court civil court

**Payment under award** 23. On the determination of the compensation under sub-section (1) of section 18, or on the making of an award under sub-application is made under section 20 against such award after decision of the authority, the compensation shall be paid by flood Zoning Authority and the provisions of section 31 to 35(both inclusive) of the land Acquisition Act, 1894, shall apply to such payment (Central Act 1 of 1894).

## CHAPTER-VII

### POWER TO REMOVE OBSTRUCTIONS AFTER PROHIBITION

**Power to remove obstructions** 24.(1) The Flood Zoning Authority may, in accordance with the provisions of this Act, within such time as may be specified by it direct any owner or occupier of land to do any act or remove any unauthorised obstruction within such time as may be specified by it and such owner or occupier shall do such act or remove the obstruction.

- (2) If the owner or occupier fails to comply with the order of the Flood

Zoning Authority within time specified under sub-Section (1), the Flood Zoning Authority may cause the act to be performed or cause the obstruction to be removed.

(3) All expenses incurred by the Flood Zoning Authority under this section shall be recovered from such owner or occupier as arrears of land revenue.

## CHAPTER VIII

## MISCELLANEOUS

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| <b>Preventing Flood Zoning.</b>   | 25. Any person who prevents the Flood Zoning Authority in discharging Authority from doing an act any act imposed on such Authority by or under this Act, shall be deemed to be offence to have committed an offence under section 186 of the Penal Code.(Central Act 45 of 1860).  |
| <b>Flood Zoning Authority</b>     | 26. The Flood Zoning Authority and other officers and employees and other officers to be authorised under this Act shall be deemed to be public servants within public servants the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).  |
| <b>Protection of action taken</b> | 27.(1) No suit, prosecution or other legal proceeding shall lie against in good faith the State Govt. or any authority or person exercising any power or performing any duty under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or order made hereunder.<br><br>(2) No suit or other legal proceeding shall lie against the State Govt. for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under. |
| <b>Recovery of fine</b>           | 28. All fines imposed under this Act shall be recovered in the manner provided in the Code of Criminal Procedure, 1898.(Central Act 5 of 1890).   |
| <b>Power of Court</b>             | 29. A civil court shall have jurisdiction to settle, decide deal with any question which is by or under this Act required to be settled., decided or dealt with by the Flood Zoning Authority or such other officer authorised by the State Govt. in this behalf.   |
| <b>Power to make rules</b>        | 30 (1) The State Govt. may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.  |

- (2) In particular and without prejudice to the generally of the foregoing provisions, such rules may provide for.
  - (a) The manner in which charts and records shall be maintained.
  - (b) The form and manner in which application under section 20 shall be made and the manner in which such application shall be disposed of;
  - (c) Any other matter which has to be, or may be, prescribed.
- (3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or two or successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.