THE UTTAR PRADESH
ROADSIDE LAND CONTROL
RULES, 1964

In exercise of the powers under Section 17 of the U. P. Roadside Land Control Act, 1945 (U. P. Act No. X of 1945) the Governor of Uttar Pradesh is pleased to make the following rules after their previous publication with Notification No. 4887 C/XXIII-PWC II-C-16, dated 16th September, 1963. as required under sub-section (3) of the said section of the said Act.

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FIRST SCHEDULE
SECOND SCHEDULE

SYNOPSIS

1. Modification of rules under Section 21 of the General Clauses Act.

Section 21 of the General Clauses Act.

2. Publication of draft rules.

1. Modification of rules under Section 21 of the General Clauses Act.—The provisions of Section 21 of the General Clauses Act can well be invoked for modifying the rules framed under the Act. The Section 21 of the General Clauses Act is reproduced below:


commercial scale or is being operated in such a way or in such a place as to cause inconvenience to the public, the Collector may at any time serve a notice on the owner or tenant of the land in which the brick field or kiln is situated requiring him to apply for a licence under the Act and in the meantime to discontinue the use of the brick field or kiln, and from the time of service of the notice the brick field or kiln shall be deemed to be one which is unlicensed and for which a licence is necessary.

15. The Collector shall inform the Chief Engineer, Public Works Department or any officer designated by him in this behalf, of all permissions granted by him and conditions imposed, if any, under clause (a) of sub-section (2) of Section 6 of the Act.

16. The Collector shall inform the Chief Engineer, Public Works Department or any officer designated by him in this behalf, and the Health Officer, of all licences granted by him and the conditions imposed, if any, under Section 12 of the Act.

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**FIRST SCHEDULE**

**FORM I**

(Referred to in Rules 3, 4 and 5)

*Form of Application*

To

The COLLECTOR

............................

Sir,

In pursuance of the provisions of sub-section (1) of Section 6 of the U. P. Roadside Land Control Act, 1945 (U. P. Act No. X of 1945), I/we seek permission to.................................................................
in the controlled area adjacent to.................................................................
road.................................................................

The following documents as required by the rules are attached:

(a) Certified extract of village records about the land in question.
(b) Site-plan.
(c) Building plan.
(d) Specification of the proposed construction.
(e) Further information (if any).

Yours faithfully,

Signature............................

Dated............................

Full address of applicant
FORM II
(Referred to in Rule 6)

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Name of road adjacent to which construction is desired</th>
<th>Name of pargana of village</th>
<th>Details of construction applied for along with Khasra Nos. and situation, etc.</th>
<th>Order in brief along with conditions imposed, if any</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2</td>
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<td>6</td>
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<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note.—The register will be maintained Tahsil-wise. Entries in each register will be made road-wise and pargana-wise. Entries in columns 1 to 5 will be made on receipt of application and in column 6 after the decision by the Collector.

FORM III
(Referred to in Rule 9)

Application for a licence to establish and operate a brick field/kiln

To

The COLLECTOR,

..............................

Sir,

With reference to Rule 9 of the Uttar Pradesh Roadside Land Control Rules, 1964, I/we hereby apply for a licence under these rules to establish and operate a brick field/charcoal/pottery/lime kiln in the locality specified below. Particulars of the proposed brick field/kiln are given in this form.

A sum........................................rupee, being the fee for the licence desired has been deposited in the..............................Treasury and a receipt thereof is attached.

Dated.................................

1. Particulars (full name, parentage, etc. and full address of applicant).

2. If the applicant is a company or firm or if the applicant proposes to operate the brick field/kiln through an agent, give the name (with full particulars and address of the Managing Director, agent, or others)

Yours faithfully,

(Signature of applicant)
3. Description of the land in which the brick field/kiln is proposed to be established.

District, Pargana, Mauza, field (Khasra) Number, (Indicate whether the whole of each field will be included or a part only).

4. Period for which it is expected that the brick field/kiln will be in use.

5. Number of labourers likely to be employed and the arrangements proposed for their housing.

In case of brick field only

1. Number of brick kilns proposed to be set up in the brick field with the location and capacity of each.

2. Type of bricks to be maintained.

Signature of applicant.

FORM IV

(Referred to in Rule 10)

Licence to establish and operate a brick field/charcoal/pottery/lime kiln


This licence is granted to.................................................to establish and operate a brick field/charcoal/pottery/lime kiln in the land hereinafter described subject to the conditions set forth in the Second Schedule to the rules cited and to the further conditions specified in the licence.

Unless renewed, this licence shall cease to be effective after............... months from the date of issue.

(Signature of the Collector).

Note.—Deposit required under Rule 13 (5) of the U. P. Roadside Land Control Rules, 1964, Rs..............................................................

(The above sum has been deposited in the........................................Treasury under Head..............................................................

Vide Challan No...............................................................dated..................................................)

Signature of Licensing Clerk.                                              Signature of the Collector.
**Description of the land included in the brick field/charcoal/pottery/ lime kiln**

<table>
<thead>
<tr>
<th>District</th>
<th>Pargana</th>
<th>Mauza</th>
<th>Field (Khasra No) Indicate whether the whole of each field/kiln will be included or a part only</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

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Total:

(Here add such further description as may seem necessary to enable the land to be identified).

**Conditions on which the licence is granted**

The licence is granted subject to the general conditions set forth in the Second Schedule to the Uttar Pradesh Roadside Land Control Rules, 1964, with the following special modifications:

1. Renewed up to the ... ... ...  
   Signature of the Collector
2. Renewed up to the ... ... ...  
   Signature of the Collector
3. Renewed up to the ... ... ...  
   Signature of the Collector

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**SECOND SCHEDULE**

**FORM V**

(Referred to in Rule 11)

**Conditions applicable to all licences**

I. (1) The holder of the licence shall provide—

(a) Adequate and suitable accommodation for the labourers working at the brick field.

(b) A supply of wholesome water for drinking and other domestic purposes.

(c) Sufficient and suitable latrines and urinals for the labourers and an adequate staff of sweepers at a minimum rate of Rs........................................ for every hundred labourers to attend conservancy arrangements.

(2) Work shall not be begun in the brick field/kiln until the requirements of sub-paragraph (1) above have been complied with to the satisfaction of the Health Officer and a certificate to
II. The holder of the licence shall not permit any person suffering from any contagious or infectious disease to enter or be upon the licensed brick field/kiln.

III. No excavation shall be made in any part of the brick field to a depth of more than seven feet below the surface level whether for the removal of clay to be used for making bricks or any other purpose.

IV. The holder of the licence shall comply with all directions that may be given by the Collector for regulation of the excavation and the provision of proper drainage or with a view to ensuring that rain or flood water shall collect at one place or at a few places in the brick field or kilns instead of at a number of places and on completion of operations shall level, dress and tidy the site to the satisfaction of the Collector.

V. The holder of the licence shall treat every collection of water in the brick field/kiln with oil or other larvicide once a week often to the satisfaction of the Health Officer.

VI. The holder of a licence shall comply with all direction that may be given by the Collector for the provisions of chimneys which shall have a height of not less than 30 feet from the general level of the area and other devices for the control, abatement or proper treatment of smoke, gases or odours emanating from the kiln.

VII. The whole area of the kiln or the brick field/kiln shall be open at all times to be inspected by the Collector or the Health Officer or by any official deputed by the Collector, or a Health Officer to inspect on their behalf.

VIII. The licence shall be kept at all time in the licensee's office at or near the site of the kiln and shall be produced on demand to any official making an inspection under the preceding condition.
(i) it shall be drawn to a scale not less than 1/16th of an inch to a foot in the case of sites not exceeding one acre, 1/32nd of an inch to a foot in case of sites exceeding one acre but not exceeding 10 acres and 1/64th of an inch to foot in case of sites exceeding ten acres;

(ii) it shall be prepared with sufficient accuracy to enable the site being identified and shall be submitted in triplicate in cloth backed ferro-prints or tracings;

(iii) the plan shall show—

(1) the scale,

(2) boundaries of the site,

(3) direction of the north point to the plan of building or proposed building,

(4) streets or roads adjoining the site with their width clearly mentioned, all existing roadside trees, lamp posts, aerial electric line, if any, and any other features or structures likely to affect the approach to the building or proposed building,

(5) levels of the site and of plinth of the building or proposed building in relation to those of neighbouring road or roads by an elevation section,

(6) all existing buildings or structures on or over or under the site or projecting beyond it,

(7) surrounding buildings in outline within a distance of 20 feet from the boundaries of the site in relation to the boundaries and the building or proposed building and, if known, the names of adjoining houses and premises or vacant land,
"21. Power to issue, to include power to add to, amend, vary or rescind, notifications, orders, rules or bye-laws.—Where, by any Central Act, or regulation, a power to issue notifications, orders, rules, or bye-laws is conferred, then that power, includes a power, exercisable in the like manner and subject to the like sanction, and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued."

2. Publication of draft rules.—The provision regarding the previous publication of the rules is mandatory in nature.\(^1\)

1. Short title and commencement.—(1) These rules may be called "The Uttar Pradesh Roadside Land Control Rules, 1964."

(ii) They shall come into force at once.

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context,—

(a) "Act" means the U. P. Roadside Land Control Act, 1945 (Act No. X of 1945);

(b) "Health Officer" means the District Medical Officer of Health or the Municipal Medical Officer of Health having jurisdiction within the area concerned; and

(c) "Government" means the Government of Uttar Pradesh.

3. Application to erect or re-erect, etc.—Every person desiring to obtain permission to erect or re-erect any building or make or extend any excavation or lay out any means of access to a road in a controlled area shall make an application in writing to the Collector in Form 1.

4. Documents to accompany application to erect or re-erect building.—In case of an application to erect or re-erect a building, the applicant shall submit with his application—

(a) certified extracts from village records showing the names of the owners, tenants and other particulars of the land to which the application relates.

(b) a site-plan fulfilling the following requirements:

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(9) area of the courtyard of the building or proposed building or of the open space about the building or proposed building;

(c) the building plan on a scale of not less than 1/8th of an inch to a foot. It shall be submitted in triplicate in cloth backed ferro-prints or tracings, and shall show—

(1) the scale,

(2) the direction of the north point to the plan,

(3) a plan of the ground floor and other floors of the building or proposed building with front elevation and other elevation and typical section,

(4) the plinth level of the building or proposed building with reference to the level at the centre of street which the building or proposed building is to abut,

(5) the level of the courtyard and open space in the building or proposed building in relation to the level of the centre of the street towards which the building or proposed building is to be drained,

(6) the proposed method of draining the building, or proposed building, the position and dimensions of all privies, urinals, drains, stables, dhobighats, cattle sheds, wells, compound wall, gate pillars and other appurtenances and the methods of disposals of sewage, sullage and storm water,

(7) the size of the doors, windows, openings and other method of ventilation of each room,

(8) the means of access to the building or proposed building and its several floors,

(9) the number of storeys of the building or proposed building;

Note—In the case of a proposed addition to or alteration of an existing
(d) specifications of the proposed constructions should be given in detail, such as,—

(1) purpose for which the building or proposed building is intended to be used,
(2) materials to be used in the constructions,
(3) number of storeys,
(4) position and dimensions of all doors, windows and opening for ventilation,
(5) number of persons for which the accommodation is intended to be provided in the building or proposed building,
(6) particulars of walls, latrine, etc., to be provided,
(7) whether the site was previously built upon, if so, the nature of the former constructions.

5. Documents to accompany application to make or extend excavation etc.—In the case of an application to make or extend an excavation or laying out means of access to a road, the applicant shall submit with his application—

(a) certified extracts as mentioned in Rule 4 (a);
(b) drawing and specifications, sufficient to enable the intention of an applicant to be readily and unmistakably understood;
(c) when an open drain is to be covered, a plan and section showing clearly how it is proposed to cover the drain in question and where a culvert is to be built showing the exact tunnel size of culvert.

Note.—The plans shall conform to the requirements of Rule 4 (b) (i).

6. Register of application.—On receipt of an application under Rule 3 the Collector shall cause it to be entered in a register to be maintained in his office in Form II.

7. Principles on which permission will be granted.—In determining the grant of permission on an application, the Collector shall take into consideration the following:

(i) Bus stands should be set back sufficiently from the general building line limit prescribed for the road so as to permit of a service road subject to a minimum distance of 100 feet from the centre of the road. Access to the stand should be limited to the one point on the main road.

(ii) Construction of buildings shall not be allowed within the building lines, i.e., within the distances...
<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Categories of roads</th>
<th>Open and agricultural areas</th>
<th>Urban and industrial areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>National and Provincial Highways</td>
<td>...</td>
<td>75</td>
</tr>
<tr>
<td>2</td>
<td>Major District Roads</td>
<td>...</td>
<td>60</td>
</tr>
<tr>
<td>3</td>
<td>Other District Roads</td>
<td>...</td>
<td>50</td>
</tr>
<tr>
<td>4</td>
<td>Village Roads</td>
<td>...</td>
<td>20</td>
</tr>
<tr>
<td>5</td>
<td>Cement Concrete Tracks</td>
<td>...</td>
<td>30</td>
</tr>
<tr>
<td>6</td>
<td>Motor Roads (in hill)</td>
<td>...</td>
<td>50</td>
</tr>
<tr>
<td>7</td>
<td>Bridle Roads (in hills)</td>
<td>...</td>
<td>25</td>
</tr>
</tbody>
</table>

(2) The opening of sullage towards the road shall not be permitted.

(3) The approach should be in such a manner as not to interfere with or endanger the flow of traffic on the road.

(4) No construction or excavation likely to affect public health shall be allowed within the controlled area except after obtaining the advice of the Health Officer.

**SYNOPSIS**

1. Whether reasonable restriction. 
2. Whether bad delegated legislation.

1. **Whether reasonable restriction.**—The said rule has been enacted for the purpose of placing guidance to the Collector in the matter of granting licence in respect of charcoal kiln, pottery kiln and lime kiln referred in Section 12 of the Act.

Though the tests of "reasonableness" laid down in clauses (2) to (6) of Article 19 of the Constitution might in great part coincide with that of judging of "due process" it would not be assumed that these are identical for it has to be borne in mind that the Constitution framers deliberately avoided in this context the use of expression 'due process'. ¹ Article 19 contemplates a balancing of the right to hold property with the need of social control in order that the individual subserve the larger need-moral, social, economic of the community. Restrictions have to be judged by the magnitude.²

It is well established that the bare possibility of abuse of powers given in a statute would not result in its invalidity.³
2. Whether bad delegated legislation.—Whether the rule is violative of Articles 14, 19 and 265 of the Constitution is to be examined. While dealing with Custom Houses Agents Licensing Rules, 1960, the Supreme Court held the rule as perfectly legal and valid.1

8. Restriction on grant of permission of kilns etc.—No licence shall be granted for the establishment of any charcoal, kiln, pottery kiln, lime kiln or brick kiln or brick fields within the double limits of the building lines specified in Rule 7 (1) (ii).

9. Application for licences.—Subject to the provisions of Rule 14, every person desiring to use any land within a controlled area for the purpose of a brick field or brick kiln, lime kiln, charcoal kiln or pottery kiln shall make an application in Form III to the Collector and shall furnish the following particulars—

(a) a full and clear description of the land in which the brick field or kiln is proposed to be established with the name of the district, pargana and the mauza in which the land is situated and the field numbers, if any, along with an extract from the latest village maps;

(b) the number of kilns which are proposed to be set up in the brick field and the location of each;

(c) the total period for which it is expected that the brick field or kiln will be in use;

(d) any other information which the Collector may require to be furnished.

Note.—Before considering application the Collector may require the applicant to demarcate the boundaries of the proposed brick field or kiln at the site.

10. Grant of licence.—(1) Before making an order in Form IV on any application, the Collector may obtain the opinion of—

(a) the Health Officer whether the proposed site is suitable with regard to the maintenance of the health of the public generally and whether the sanitary arrangements proposed to be made are adequate; and

(b) the Executive Engineer, P.W.D. concerned or the local body incharge of the road with a view to ascertaining the requirements of traffic including its needs for future expansion.
(2) The Collector shall refuse to grant a licence if the land on which it is proposed to establish the kilns or brick field is situate at a place less than 1,000 feet from an inhabited site or sites likely to become inhabited.

11. Conditions of licence.—Every licence granted under these rules shall be deemed to be granted subject to the conditions set forth in the Second Schedule except in so far as those conditions may be modified by the Collector in any case, and subject to any further conditions which the Collector may consider it desirable to attach with a view to securing the safety, health or convenience of the public.

12. Terms of licences.—Every licence granted under these rules shall be effective for a period of one year from the date of issue, but may be renewed by the Collector as often as he may think fit.

13. Fee.—(1) The following fees shall be payable in advance for licences issued under these rules:

A. Brick kilns and brick fields—
   (a) For the initial grant of a licence for a brick field including not more than one brick kiln of standard size.—Rs. fifty a year.
   (b) For the renewal of a licence for each year of renewal—Rs. twenty-five.
   (c) Additional fee payable for every additional brick kiln after the first—Rs. 25.
   (d) Additional fee payable in respect of any brick kiln which exceeds standard size—Rs. 25 a year.

B. Charcoal kiln, pottery kiln and lime kiln;
   (a) For the initial grant of a licence for—

<table>
<thead>
<tr>
<th>Kiln</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charcoal kiln</td>
<td>25.00</td>
</tr>
<tr>
<td>Pottery kiln</td>
<td>10.00</td>
</tr>
<tr>
<td>Lime kiln</td>
<td>50.00</td>
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</tbody>
</table>

   (b) For the renewal of the same for each year of renewal—

<table>
<thead>
<tr>
<th>Kiln</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charcoal kiln</td>
<td>15.00</td>
</tr>
<tr>
<td>Pottery kiln</td>
<td>5.00</td>
</tr>
<tr>
<td>Lime kiln</td>
<td>25.00</td>
</tr>
</tbody>
</table>
The renewal fee is payable on the above rates for a licence if the application for renewal is preferred to the Collector not less than one month before the date when the licence is due to expire, if the application for licence is preferred at any later time the fees for renewal shall be the full fee as for a new licence.

(2) The fees set forth in sub-rule (1) shall be payable in full before application is taken into consideration, but if the grant or renewal of the licence is refused, half of the fee shall be refunded.

(3) For the purpose of this rule, a brick kiln of standard size means a brick kiln containing not more than thirty-two chambers each capable of burning twenty-five thousand bricks at one loading.

(4) In addition to the fees set forth in such sub-rule (1) of this rule the Collector may also require an applicant for a licence for a brick field to deposit a sum not exceeding one hundred rupees for each acre included in the area of the proposed brick kiln field as security for the fulfilment of condition IV in the Second Schedule appended to these rules, and if that condition is not fulfilled to his satisfaction, the Collector may himself have the necessary works executed and pay the cost of the same from the amount deposited. When any expenditure is thus made from deposit money while brick-field or kiln is still in use, the holder of the licence shall, on demand of the Collector, deposit a further sum equal to that expended.

(5) The licence fee set forth in sub-rule (1) A and B and the security money set forth in sub-rule (4) of this rule shall be deposited by the applicant in the Government Treasury under the Receipt Head "065—Other Administrative Services-C-Other services-20—Other Miscellaneous Receipts" and the duplicate of the treasury challan sent to the Collector along with the application.

14. **Brick and pottery making in villages.**—No written licence shall be required in the case of bricks made out of the earth dug from village ponds or for brick fields in which small quantities of burnt or sun dried bricks are made by the residents for their own use or for small pottery kilns of the kind popularly as "Awas" which are used to produce pottery or tiles on a small scale: