

New Unified UDCPR Rules Compare with Old Rules in Residential Building

Supriya Tulsidas Yeole¹, Dr. Pankaj Pitamber Bhangale²

¹P G Student, S.S.G.B. C.O.E.T. Bhusawal

²H.O.D., Civil Engineering Dept, S.S.G.B. C.O.E.T. Bhusawal

Abstract - Housing is the prime necessity of human beings. Government has made many policies to encourage the housing activity. Building Byelaws affect housing activities very significantly in terms of its utilization and cost. Building Byelaws control the numbers of dwelling units, in some cases, that can be accommodated in a given parcel of land by implementing the essential clauses such as Built-Up Area, FSI/FAR, Maximum Building Height, Margins to be kept open in front and around the buildings, etc. Attempt has been made in this paper to compare new rules with old one and how the new rules are more beneficial to Development of residential projects as per new unified rules.

Index Terms - building regulation, building permission, development control rules, floor space index.

1. INTRODUCTION

Development Control Regulations are a set of rules that are planned to ensure the proper and effective development of a city, as well as the general welfare of the public. Regulation is necessary to ensure planned development. It depends on a “plan-led system” whereas development plans are made, and the public is consulted. It is a mechanism that controls the development and use of land. This involves the construction of new buildings, the extension of the existing ones, and the change of use of the building or land to another use. Developing new houses/industrial buildings/shops are important for supporting economic progress. At the same time, it is also necessary to protect or improve the quality of towns, villages, countryside, etc. Under the UDCPR, the Metropolitan Commissioner is the supreme authority for review of its provisions and his decision would be final. The Metropolitan Commissioner could use his power to approve provisions of these regulations excluding the provisions associated with FSI.

Development plan of the city or town attempts to evolve scientific and rational policies to meet the functional needs of the city and aspirations of its citizens. Planning of land use and construction activities require control on it by some regulations, which are General Development Control Regulations, may suitably be renamed as General Development Promotion Regulations. In India, it is the field of legislation pertaining to the state government to frame development control regulations. These regulations affect many parameters of urban development like housing, population density, infrastructure requirement, environment, etc. This impact directly depends upon the development control regulations for the city. And highrise buildings type development. Thus, this study is limited to only residential use and five building forms of development type Municipal council is the legitimate authority to prepare land use plan; it takes care of plan implementation, controls the development and manages the growth of town. The main aim is to ensure plan development, promoting healthy urban environment, reducing congestion and crowd, preventing development of conflicting land use and at micro level violation of building control rules during construction etc., to ensure a sustainable development of at own.

2. OLD RULES BUILDING IN NEWUDCPR

Finally Urban development department of Maharashtra state has notified the UDCPR (Unified Development Control and Promotion Regulations). It's just a simple matter, to convert the old rules in new UDCPR. Likewise, Maharashtra government is all set to implement a unified development control rules policy.

A. APPLICABILITY OF REGULATIONS

Essentially its make an appearance to difference in existing regulations for all the planning authorities, like Nagar Panchayats /Municipal Corporations, Municipal Councils, Metropolitan Region Development Authorities etc. Let's have a look of a many cases where the UDCPR regulations are applicable

1. Development and Construction

Except as here in after otherwise provided, these regulations shall apply to all development, redevelopment, erection and/ or re-erection of a building, change of user etc. as well as to the design, construction or reconstruction, additions and alterations to a building.

2. Part Construction

Here the whole or part of a building is demolished or altered or reconstructed or removed, except where otherwise specifically stipulated, these Regulations apply only to the extent of the work involved.

3. Change of Occupancy/Use

Where the occupancy or the user of a building is changed, except where otherwise specifically stipulated, these regulations shall apply to all parts of the building affected by the change.

4. Reconstruction

There is construction in whole or part of a building which has ceased to exist due to an accidental fire, natural collapse or demolition, having been declared unsafe, or which is likely to be demolished by or under an order of the Authority and for which the necessary certificate has been given by the Authority shall be allowed subject to the provisions in these regulations.

5. Development of sites or/and subdivision or amalgamation of land

Where land is to be developed, subdivided, or two or more plots are to be amalgamated, or a lay-out is to be prepared; these Regulations shall apply to the entire area under development, sub-division, amalgamation and layout. Provided that, where a developed land, an existing lay-out/subdivision plan is being altered, these Regulations shall apply only to that part which is being altered.

6. Revised permission

Any development permission granted earlier may be revised provided that, third party interest established in pursuance of such permissions, if any, are not adversely affected. In such case, consent of the adversely affected persons shall be necessary, if required under RERA. While granting the revised

permission, the approved plans and commencement certificate of the earlier permission with office, shall be stamped as 'SUPERSEDED' by the Authority.

7. Exclusions

Nothing in these regulations shall require the removal, alteration or Abandonment or prevent the continuance of the lawfully established use or occupancy of an Existing building or its use, unless in the opinion of the Authority, such a building is unsafe or constitutes a hazard to the safety of adjacent property.

B. SAVINGS

Notwithstanding anything contained in UDCPR 2020 regulations, any development permission granted or any development proposal for which any action is taken under the erstwhile regulations shall be valid and continue to be so valid, unless otherwise specified in these regulations. Subsequently, if any development permission has been issued before the date of coming into force of these regulations and if work is not commenced within validity period and such permission is not renewed, then the said development permission shall be deemed to have been lapsed.

Let's have a look of a many cases where the UDCPR regulations applicable to convert old building rules-

1. Either continue to develop the project as approved under the erstwhile regulations in to and for that limited purpose erstwhile regulation shall remain in force.

2. Apply for grant of revised permission under the new regulations, if the project is on-going and the occupation certificate has not been granted fully. In such cases, charges/premium etc. Paid earlier shall be adjusted against the revised charges/ premium under these regulations.

3. In case the development is started with due permission before these regulations have come into force, and if the owner/developer, at his option, there after seeks further development of plot/layout/buildings as per these regulations, then the provision of these regulations shall apply to the balance development. The development potential of such entire plot shall be computed as per these regulations from which the sanctioned FSI of buildings/part of buildings which are proposed to be retained as per approved plans shall be deducted to arrive at the balanced development potential of such plot.

4. For the on-going buildings for which balconies are allowed to be enclosed as free of FSI by charging premium, these free of FSI items are allowed to that extent only and for the remaining balance potential balcony shall only be allowed as mentioned in these regulations.

5. The existing marginal distances including front margin may be allowed for higher floor / floors subject to step margin as per these regulations.

6. For the on-going buildings for which passages, stairs, lifts, lift rooms etc. are allowed as free of FSI by charging premium, in such cases these free of FSI items are allowed to that extent only and for the remaining balance potential, provisions for free of FSI items of these regulations shall be applicable.

7. For the cases where occupation certificate is fully granted, revised permission as per these regulations, may be granted subject to provisions of Real Estate (Regulations and Development) Act, 2016, as may be applicable.

8. If the project proponent applies for occupation with minor amendment in plans approved prior to this UDCPR, then amendment to the extent of 5% built-up area / dimensions per floor within the permissible FSI as per then regulations may be considered.

The State Government will issue guidelines for implementation about a) to h) above separately. Subsequently, Megacity Project approved under regulation no.15.4.3 of Mumbai Metropolitan Regional Plan shall remain valid till completion of the said project as per said regulation.

3. OLD DCR RULES

Salient Features

1. The Development Control Regulations (DCR) for Greater Mumbai, 1991, apply as a regulatory compulsion on building activities and development work in areas under the jurisdiction of Municipal Corporation of Greater Bombay.

2. The Regulation came into force on March 25, 1991 which replaced the DC Rules for Greater Bombay framed under Maharashtra Regional and Town Planning Act, 1966.

3. The regulation states that every person who wishes to carry out development or redevelopment of a building or alter any building or part of a building is to give a notice to the

Commissioner, along with plans and statements. Construction is to be carried out in conformity to the regulations.

4. Under the DCR, the Metropolitan Commissioner has been the final authority for interpretation of its provisions and his decision would be final. The Metropolitan Commissioner could use his discretion to condone provisions of these Regulations except the provisions related to FSI.

5. The following are not counted in FSI calculations:

- Basements
- Stilt Parking
- Staircases
- Lifts and lift lobby (lobby area to an extent equal to lift area, additional lobby areas are counted)
- Pump rooms, utility areas, security cabins
- Shafts
- Society Office up to 12 m² if there are less than 20 apartments, and 20 m² if more
- Gymnasium up to 2% of FSI area
- One Servants' toilet per floor up to 2.2 m² with access from lift lobby
- Refuge Areas and terraces

Normally, 15% of the plot must be reserved as a recreation area. If the plot area is greater than 2,500m², then this 15% is also subtracted from the total FSI of the plot. Note that this explanation pre-dates the concept of "Fungible FSI". See below for an explanation of fungible

4. FLOOR SPACE INDEX(FSI)

FSI or floor space index is the upper limit to the built space you may construct on a given plot. It is the ratio of allowed built-up area to the plot area. For example, on a 10,000 ft² plot which has an FSI of 2, you may construct a maximum of 20,000 ft² of area, and no more. FSI can also be called FAR or floor area ratio. Certain types of spaces, such as basements, parking areas, and utility rooms, are exempt from FSI, which means that they do not need to be counted in the FSI calculations. As of 2015, this system is used to govern buildings in CRZ areas within Mumbai.

Fungible FSI

The word fungible - from the latin root fungibilis - describes something that acts as a replacement for something else. The municipal corporation of Mumbai

introduced this system to curb misuse of existing building regulations by developers. Developers would build space over and above the allowable FSI by the means of some grey areas in the building regulations. These grey areas centered on things that were free of FSI, or not counted in FSI calculations, such as flower beds, services shafts, and balconies. In the fungible FSI system, the allowable FSI on a plot is increased by 35%, with a maximum cap on the total construction area, with no exemptions. This serves to reduce 'overbuilding' on plots by developers. The fungible FSI seeks to act as a replacement for or a legalization of the misuse of regulations, but with a clear mathematical limit that should not be exceeded. As of 2015, fungible FSI is applicable to all plots in Mumbai with the exception of those that fall under Coastal Regulation Zone (CRZ) limits.

5. TRANSFERABLE DEVELOPMENT RIGHT (TDR)

Can be an additional 1 on FSI in normal areas, not in CRZ areas. Areas given to road setbacks and recreational grounds (15% of the plot area) should be deducted from the TDR. Therefore, if there are no setbacks, the TDR will be 0.85. Transferable Development Rights are a mechanism to reduce new construction in crowded areas and shift it to less dense parts of the city. In Mumbai, TDR was initiated to prevent new construction in south Mumbai and shift it northwards. It works as follows: say you own a 10,000 ft² plot with an FSI of 1.3 in South Mumbai, on which you have an existing building with 8,000 ft² of built-up area. To utilise your full FSI allowance, you would have to build $10,000 \times 1.3 = 13,000$ ft² of extra capacity in your plot which you are not using. With TDR you can then sell this right to build 5,000 ft² to someone north of you. You then cannot build more than the existing 8,000 ft² on your plot.

3. Height of Building depends on location and proximity to airport. Height of a room should not be less than 4.2m.

4. Setbacks / Open Spaces:

Required around building: Ht/3 for living spaces (bedrooms, living rooms) and Ht/5 for dead walls and toilets. This can be overcome by paying a premium to the BMC. However the CFO will demand a clear 6m x 6m for fire engine movement.

5. Min Size of Rooms: as follows:

Min Area Min Width Habitable Rooms 9.5 m² 2.4m
Toilets 2.2m²

Toilets (separate) 1.1 m² (WC) 1.5 m² (area of bath)

Kitchens (1 BHK Flats) 5.5 m² 1.8m

Kitchens (2 BHK Flats) 7.5 m² 2.1m

6. Balconies: upto 10% of the FSI area per floor allowed free of FSI. Flower beds upto 1.2m in width allowed all around the building. If a flower bed is placed in front of a balcony, then its width should not exceed 0.6m.

7. Refuge Areas: one every 24m in height, area not less than 4% of the occupied space existing till the next refuge area.

8. Staircases: not less than two if the floor plate is more than 500m² or the height more than 24m. Each should be 1.5m wide, enclosed by a 230mm brick wall, ventilated to the outside, and accessed via a fire door. Higher buildings will require 2m stairs.

9. Shafts: min dimension of 0.6m.

10. Service Floors: should have a minimum clear height of 1.5m.

11. Parking:

In residential buildings, for tenements up to 70m² in area, 1 car per tenement, 2 for bigger flats (except in A Ward, where 4 are required). After this, add 10% for visitors. (50% of spaces can be 4.5 x 2.3m, the rest not less than 5.5 x 2.5m).

In educational buildings, it is one car per every 35m² of carpet area of the administrative offices and public services spaces only.

6. CHANGES HAVE BEEN MADE NEW UDCPR

balcony, flowerbeds, terraces, voids, niches would be counted in the FSI. These were not earlier considered in FSI calculations.

35% for residential developments and 20% for industrial and commercial developments. This can be used for bigger habitat area or flowerbeds, voids etc. industrial and commercial developments respectively. Without premium and without being counted in FSI, which would bring some much-needed relief to developers and end-users alike.

could bring in transparency and curb corruption as they limit discretionary powers of authorities and provide a level playing field for all developers. Brihanmumbai Municipal

Corporation (BMC) expects to earn up to Rs.1,000 crores a year, which would be used in infrastructure developments in Mumbai.

New rules apply to all buildings

The new DCR rules do not apply to cessed, non-cessed old buildings, Mhada layouts, chawls and slums undergoing redevelopment. This would mean waiver of premium for buildings meant for rehabilitation. The compensatory floor space index (FSI) for the saleable component of these structures will, however, be governed by the new rules.

Builder or flat owner will have to pay for additional space. Among the beneficiaries could be tenants living in the over 16,000 old and dilapidated cessed buildings in the island city. Tenants are currently entitled to 300 – 700 square feet houses free when their buildings are redeveloped. But if the flat is larger than 700 sq ft. Builders provide an equivalent area to the tenant in there developed property. The compensatory FSI for the rehab portion is “Free of Premium”, but it is up to the Builder to provide the extra area to the tenant or flat owner. The 35% extra FSI will be on the built-up area of the existing flat.

BENEFITS OF NEW UDCPRRULES

Tenants, Housing Society members and Slum Dwellers can now demand more space from Builders redeveloping properties. Amended Development Control Rules approved by the State Government in last January 2012 grant 35% compensatory Floor Space Index (FSI) free to the rehab component of the redevelopment project. But it is not known if the

7.PERMISIBLE FSI AS PER NEWUDCPR

Permissible basic FSI, additional FSI on payment of premium, Permissible TDR Loading on a plot in non-congested area for Residential and Residential with mixed uses and other buildings in developable zones like residential, commercial, public-semi-public etc. shall be as given in Table below.

Table 6 G								
Sr. No.	Road width in meters	Basic FSI	For all Municipal Corporations			For remaining authorities/areas		
			FSI on payment of premium	Maximum permissible TDR loading	Maximum building potential on plot including in-situ FSI	FSI on payment of premium	Maximum permissible TDR loading	Maximum building potential on plot including in-situ FSI
1	2	3	4	5	6	7	8	9
1	Below 9 m.	1.10	--	--	1.10	--	--	1.10
2	9 m. and above but below 12 m.	1.10	0.50	0.40	2.00	0.30	0.30	1.70
3	12 m. and above but below 15 m.	1.10	0.50	0.65	2.25	0.30	0.60	2.00
4	15 m. and above but below 24 m.	1.10	0.50	0.90	2.50	0.30	0.70	2.10
5	24 and above but below 30 m.	1.10	0.50	1.15	2.75	0.30	0.90	2.30
6	30 and above	1.10	0.50	1.40	3.00	0.30	1.10	2.50

8.NEW UDCPRRULES

1.In addition to above, ancillary area FSI up to the extent of 60% of the proposed FSI in the development permission shall be allowed with the payment of premium as specified in Regulation

This shall be applicable to all buildings in all zones. Providedthatincaseofnon-residential use, the extent of ancillary area FSI shall be up to 80%. No separate calculation shall be required to be done for this ancillary area FSI. Entire FSI in the development permission shall be calculated and shall be measured

with reference to permissible FSI, premium FSI, TDR, additional FSI including ancillary area FSI added therein.

Provided further that, this ancillary area FSI shall be applicable to all other schemes like TOD, PMAY, ITP, IT, MHADA, etc. except SRA. In the result, free of FSI items in the said schemes, if any, other than mentioned in UDCPR, shall stand deleted.

2.The column of TDR shall not be applicable for the area, where there is no Planning Authority and accordingly, values in subsequent column shall stand modified.

3.Maximum permissible building potential on plot mentioned under column No.6 or 9 shall be exclusive of FSI allowed for Inclusive Housing as per Regulation No.3.8. There is no priority fixed to utilize premium FSI or TDR as mentioned in Column No. 4, 5 and 7, 8. Other conditions of TDR utilization shall be applicable as per the TDR Regulations No.11.2. In respect of service road, shown on development plan or in approved layout, or plots facing on major road, however deriving access from other roads, the width of highway or major road shall be considered for entitlement of building potential as per column 6 or 9 of above table, as the case maybe.

4.Out of quantum of TDR mentioned in Column No.5 or 8 minimum 30% and subject to maximum 50% of TDR shall be utilized out of the TDR generated from Slum Rehabilitation Scheme (Slum TDR)/Urban Renewal TDR / Amenity construction TDR (till generation of URT). If such TDR is not available then other TDR may be used.

5.The restrictions of road width mentioned above shall not be applicable in cases where, the permissible FSI is more than the basic FSI in various schemes such as slum rehabilitation scheme, redevelopment of dangerous buildings, cluster development for congested (core) area, redevelopment of MHADA buildings, TOD etc. in such scheme, regulations of respective scheme shall be applicable.

The maximum limits of FSI prescribed above shall be applicable to (a) fresh permission (viz., green-field development (i.e. building on a vacant plot of land) and brown-field development (i.e., cases of addition to existing building where a permissible FSI has not been exhausted.) and also to (b) an existing building which has not been granted full occupation certificate. The cases of existing buildings shall be subject to

production of stability certificate from structural engineer.

6.Premium-Rate of premium for the premium F.S.I., as mentioned in Column No.4 and 7 above shall be 35% of the rate of the said land mentioned in Annual Statement of Rates without considering the guidelines there in. Apportionment of such a mount between Authority and Government shall be as decided by Government from time to time. The premium of the Government, if to be paid, shall be deposited by the Authority in the specified head of account of the Government. In the area of Regional Plans, entire premium shall be paid to the Government through the District offices of Town Planning and Valuation Department.

7.Basic FSI for unauthorized subdivided plots having area up to 0.4 ha shall be 0.75 and the values of Column No. 3 to 9 shall vary proportionately.

This provision shall be subject to provisions in Regulation No. 3.4.1 (i) (a) and (c) wherein plot shall be entitled for full potential.

8.The utilization of TDR mentioned in above table would be available to an existing road width of 9 m. and above so marked under relevant Act.

9.For plots regularized under Maharashtra Gunthewari Development (Regularisation, Up gradation, and Control) Act 2001, these regulations shall apply and allowance of TDR in column No. 5 and 8 shall be to the extent of 50%.

10.In case plots having approach by dead end road, (point access) the potential of plot mentioned in above table shall be permissible if length of such access road does not exceed 100m.

11.If the strip of land / plot adjacent to road is surrendered by the owner to the authority for road widening, then benefit of widened road in terms of building potential, permissible height shall be granted subject to condition that such road widening shall result in widening of road from junction of roads (or origin of road) to junction of roads (or T junction).

12.Entire area of plot may be considered for calculating the potential of plot in respect of premium FSI +TDR, but not the basic FSI. Basic FSI shall be calculated on area of the plot remaining with the owner after deducting area under D.P. road and amenity space. This shall be applicable in cases where reservation area or amenity space is handed over to the authority.

13.If 6 m. wide road is proposed to be widened to 9 m. by the authority under the provisions of the Municipal Corporation or Municipal Council Act by prescribing line of street and owner of the plot handover 1.5 m. strip along such road to the authority, then he may be entitled for FSI and potential applicable to 9 m. road.

9.CONCLUSION

The impact of building byelaws is significant on housing as parcels of land are sold on available FSI on that parcel of land the rules, regulations and bye-laws are made by the councils or development authorities taking in view the larger public interest of the society and it is the bounden duty of the citizens to obey and follow such rules which are made for their own benefits. If possible, the citizen of the town should self-participate in the process of development of town. Since planning authority is adequately empowered to enforce the act, the rules and byelaws, need is to strengthen the municipal council with the technical manpower and adequate machinery to run the mechanism. Provision of land through town planning scheme should be carried out to augment the supply of land resources for a balanced development. A comprehensive three tier real time information and control system and violation reducing mechanism as suggested will strengthen the municipal council in detecting the deviation in the construction in advance of their occurrence and may be avoided by appropriate and timely action. It will also enhance the public participation for controlling building violation. The present development control rules should also be made dynamic by changing as per the urban development requirement and its validity must be verified periodically. This will inspire new initiatives & stimulate debate in the often neglected area of urban development control rules & regulation for sustainable development.

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