New Proposed DCR Rules: - A review with the old

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 re-development 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. **FSI in Mumbai**: for residential buildings is **1.33** from South Mumbai till Mahim in the West and Sion in the centre. North of that it is **1.0**.
6. For educational, healthcare and hospitality projects, FSI is **1.33 plus 300% extra**, which is 1.33 x 4 = 5.32.
7. 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 upto 12 m2 if there are less than 20 apartments, and 20 m2 if more
   - Gymnasium upto 2% of FSI area
   - One Servants' toilet per floor upto 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 FSI.

   What is 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.

What is Fungible FSI?

The word fungible - from the latin root fungiblis - 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 around 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 legalisation 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.

2. **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.

What is TDR?

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 x 1.3 = 13,000 ft2 of space. This means you have 5,000 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 6mx6m 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 upto 70 m2 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 may 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.

NEW DCR RULES

In January 2012, the Government of Maharashtra announced further amendments to the Development Control Rules (DCR) for Mumbai with the primary motive of bringing in transparency and reducing arbitrary and discretionary decision-making. The new rules would mean pricing based on maximum available FSI, eliminating the ambiguity that was largely prevalent earlier with respect to disproportionate saleable area.

What changes have been made?

- Under the new DCR, areas for balcony, flower-beds, terraces, voids, niches would be counted in the FSI. These were not earlier considered in FSI calculations.
- To compensate for this loss in FSI, the government has allowed compensatory fungible FSI of up to 35% for residential developments and 20% for industrial and commercial developments. This can be used for bigger habitat area or flowerbeds, voids etc.
- Fungible FSI will be available at 60%, 80% and 100% of the ready reckoner rates for residential, industrial and commercial developments respectively.

- Under the new norms developers will have an option of 25% more parking over the DCR limit without premium and without being counted in FSI, which would bring some much needed relief to developers and end-users alike.
- These rules would 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 upto Rs.1,000 crores a year, which would be used in infrastructure developments in Mumbai.

Do the 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.

Benefits of New DCR Rules

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 Builder or flat owner will have to pay for the 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 the redeveloped property.

The compensatory FSI for the rehab portion is “Free of Premium”, but it is upto 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.

Will this bring down costs for home buyers?

Theoretically, the following results should be achieved as a result of these changes:

- With the new rules, Mumbai will witness increase in net FSI at 1.79 in the island city and 2.7 in the suburbs, which should ideally bring down costs. The earlier practices where market prices reflected disproportionate saleable area had resulted in an increase in cost.
- The given FSI cap would bring cost rationalisation as developers would need to invest in quality design, maximising revenue by offering maximum value to end-users. However, in reality since no additional concessions are being given to commercial developments, the premium for additional FSI would increase developer costs and reduce profit margins by upto 10-30%, if the incremental costs are not passed on to the buyers. The government has also issued a directive for 20% of apartments in all big projects to be distributed at construction cost to economically weaker sections.
- In the immediate term developers may not resort to a price increase but be happy to cut down on the margins, as if they increase prices this would further aggravate the situation of already stagnated sales given interest rates are at peak levels.