

(2) The following shall be counted in FSI.

- (i) Covered parking spaces/Garage as provided under Regulation No. 44 (6)(d)
- (ii) Area of fire escape balcony as provided in Regulation No 48(6)
- (iii) Area of Sanitary block for the use of domestic servants engaged in the premises, other than as provided as per Regulation No 31(1) ((XXVI)
- (iv) Part/Pocket/Covered terraces, for whatever purpose, except open terrace above the top most storey and the part terrace at top most storey due to planning constraints but accessible from common staircase, terraces created due to restriction imposed by the Railway Authority and above shopping/Non-residential / Industrial area at one level only with a slope of 1:5, in case of residential / Non-residential/Industrial development on upper floors.
- (v) Area below open to sky swimming pool, clearance exceeding 1.5 m. from floor level.
- (vi) Air conditioning plant room/Air handling unit room, except provided in basement.
- (vii) Service floor other than specified in Regulation No.37(32) and 31(1)(xx).
- (viii) Area of balconies as provided in sub regulation 20 of Regulation No 37.
- (ix) Niches below window sill.
- (x) Area of one public telephone booth and one telephone exchange (PBX) room per building.
- (xi) The ornamental projection, including the voids, flower beds, etc. projecting from the face of the building except at the terrace level other than allowed as per Regulation No 31(1) (ii).
- (xii) Ornamental projection, flower bed etc. over a balcony or gallery other than allowed as per Regulation No 31(1) (ii).
- (xiii) Area of one room for installation of telephone concentrators as per requirements of Mahanagar Telephone Nigam limited.
- (xiv) Letter box room as specified in Regulation No 37(10) (a).
- (xv) Covered areas required on top terrace for antenna/dish antenna/communication tower used for Telecom (basic cellular or satellite telephone) or ITE purposes, V-Sat, Routes, Transponders or similar IT related structure or equipment, in excess of 20.00 sq. m.
- (xvi) The parking floor in excess of required parking under these regulation [31(1)(vi)]and for which the premium has been paid. Deck parking inclusive of car lifts and passages thereto on habitable floors.
- (xvii) Driver's room/sanitary block on podium and or parking floor other than mentioned in Regulation No.31(1)(xxvi).
- (xviii) Covered swimming pool.
- (xix) Area of DG set room at stilt and podium level other than mentioned in Regulation No 31(1)(xxx)

(3) Fungible Compensatory Area: -

Notwithstanding anything contained in the D.C. Regulations 30, 32 & 33, the Commissioner may, by special permission, permit fungible compensatory area, not exceeding 35% for residential/

Industrial /Commercial development, over and above admissible FSI/BUA, by charging a premium at the rate of 50% for Residential and 60% for Industrial and Commercial development of ASR (for FSI 1), which is to be shared between MCGM, State Govt. and MSRDC (for Sea Link) in 50%, 30% and 20% respectively.

Provided that in case of redevelopment under regulation 33(7),33(7)(A), 33(8), 33(9), 33(9)(B), 33(20), and 33(10) excluding clause No.3.11 of the Regulation the fungible compensatory area admissible on AH /R&R component shall be granted without charging premium.

In case of redevelopment under regulation 33(5), 33(6) & 33(7)(B) of the Regulation the fungible compensatory area admissible on existing BUA shall be granted without charging premium.

Provided further that in case of redevelopment schemes of EWS/ LIG category under Regulation 33(5) where rehab entitlement not exceeding 35 sq.mt, then fungible compensatory area on such rehab entitlement shall be granted without charging premium.

Provided further that for redevelopment proposal of existing buildings by availing TDR/Additional FSI on payment of Premium, the fungible compensatory area admissible on FSI consumed in existing building shall be granted without charging premium, if existing user is proposed to be continued in proposed redevelopment then it shall be granted without charging premium.

Provided further that such fungible compensatory area for rehabilitation component shall not be used for free sale component and may be used to give additional area over and above eligible area to the existing tenants/occupants. Fungible compensatory area admissible to one rehabilitation tenement cannot be utilized for another rehabilitation tenement.

Provided that, this Regulation shall be applicable only in respect of the buildings to be constructed or reconstructed.

Provided also that in case of development under Regulation No. 33(15), the fungible compensatory area shall be admissible without charging premium.

"Provided that in case of development under Regulation No. 33(2) excluding buildings of private medical institutions under Regulation No. 33(2)(A), the fungible compensatory area shall be admissible on 50 % rebate in premium to be charged as per this regulation and the development under Regulation No 33(3) shall be admissible without charging premium for MCGM & State Govt. only.

Explanatory Note: -

- i. Where IOD/IOA has been granted but the building is not complete then this Regulation shall apply, only at the option of the owner/developer,
- ii. For plots/layouts, where IOD is granted for partial development, this Regulation will apply for the balance potential of the plot,
- iii. The fungible compensatory area is useable as regular FSI,

Note:

(a) The premium paid for fungible compensatory area prior to coming into force of this Regulation particularly in case of Commercial/Industrial development will not be adjusted for grant of additional fungible compensatory area under this regulation, and premium if any, as per this Regulation shall have to be paid. Fungible Compensatory area granted under Regulation 35(4) of DCR 1991 shall be continued as Fungible Compensatory Area under Regulation 31(3) of DCPR 2034 & no premium shall be demanded or refunded or adjusted for such area.

(b) The premium amount collected shall be kept in a separate Account to be utilized for infrastructure development.

(c) The deficiency in open space created due to utilization of fungible compensatory area shall be condoned by charging premium at 25% of normal premium.

32 Transfer of Development Rights (TDR)

1.0 TRANSFERABLE DEVELOPMENT RIGHTS –

Transferable Development Rights (TDR) is compensation in the form of Floor Space Index (FSI) or Development Rights which shall entitle the owner for construction of built-up area subject to provisions in this regulation. This FSI credit shall be issued in a certificate which shall be called as *Development Right Certificate (DRC)*.

Development Rights Certificate (DRC) shall be issued by Municipal Commissioner under his signature and endorse thereon in writing in figures and in words, the FSI credit in square meters of the built-up area to which the owner or lessee is entitled, the place from where it is generated and the rate of that plot as prescribed in the Annual Statement of Rates issued by the Registration Department for the concerned year.

2. CASES ELIGIBLE FOR TRANSFERABLE DEVELOPMENT RIGHTS (TDR) :-

Compensation in terms of *Transferable Development Rights (TDR)* shall be permissible for-

- (i) lands under various reservations for public purposes, new roads, road widening etc. which are subjected to acquisition, proposed in Draft or Final Development Plan, prepared under the provisions of the Maharashtra Regional and Town Planning Act, 1966;
- ii) lands under any deemed reservations according to any regulations prepared as per the provisions of Maharashtra Regional & Town Planning Act, 1966;
- iii) lands under any new road or road widening proposed under the provisions of Mumbai Municipal Corporation Act, 1888;
- iv) development or construction of the amenity on the reserved land;
- v) unutilized FSI of any structure or precinct which is declared as Heritage structure or Precinct under the provisions of these Regulations, due to restrictions imposed in that regulation;
- vi) in lieu of constructing housing for slum-dwellers according to regulations prepared under the Maharashtra Regional & Town Planning Act, 1966;
- vii) The purposes as may be notified by the Government from time to time, by way of, modification to, new addition of, any of the provisions of sanctioned Development Control & Promotion Regulations.
- viii) If the owner of a unreserved accessible plot not falling in SDZ/NA is willing to offer the land for public purpose and the Municipal Commissioner, MCGM is of the opinion that such land is suitable for public purpose then such land shall be deemed to be a reservation and eligible for grant of TDR under this regulation.
- ix) The TDR of lands owned by Central Govt./State Govt. and its undertakings and which are allotted by payment of market value & which are reserved in Development plan for public purpose shall be eligible. However, TDR shall not be eligible to the lands under reservations which are granted on lease at concessional rates by the Central Govt. and State Govt.

3.0 CASES NOT ELIGIBLE FOR TRANSFERABLE DEVELOPMENT RIGHTS (TDR):-

It shall not be permissible to grant *Transferable Development Rights (TDR)* in the following circumstances:-

