

Heritage Regulations for Greater Bombay 1995

Regulation No. 67 regarding conservation of listed buildings, areas, artefacts, structures and precincts of historical, aesthetical, architectural and cultural value Final sanction to the.....

GOVERNMENT OF MAHARASHTRA

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Bombay 400 032,

Resolution No. DCR. 1090/3197/RDP/UD-11, Dated 21st April 1995

RESOLUTION

MAHARASHTRA REGIONAL AND TOWN PLANNING ACT, 1966.

Whereas, the Municipal Corporation of Greater Bombay (hereinafter referred to as "the said Municipal Corporation") being the Planning Authority for the areas under its jurisdiction under clause (19) of section 2 of the Maharashtra Regional and Town Planning Act, 1966 (Mah. XXXVII of 1966) (hereinafter referred to as "the said Act") has, by a declaration under sub-section (1) of section 23, read with section 38 of the said Act, given notice of its intention to prepare a Revised Development Plan for Greater Bombay, which has been published in the *Maharashtra Government Gazette*, Bombay Divisional Supplement of 13th January, 1977;

And whereas, the Municipal Corporation after following the legal formalities stipulated under the said Act has submitted under sub-section (1) of section 30 of the said Act, the Revised Draft Building By-Laws and Development Control Rules for Greater Bombay to the State Government on 30th April 1985 for sanction;

And whereas, by Government Notice, Urban Development Department, No. DCR. 1089/3814/RDP/UD-11, dated 14th December 1989, published in the *Maharashtra Government Gazette*, Part I, Konkan Divisional Supplement, the draft Development Control Rules for Greater Bombay, 1989 (hereinafter called "said draft Development Control Rules") were published for public objections and suggestions;

And whereas, it was considered expedient to modify the said draft Development Control Rules by the addition of two Regulations No. 67 and 68 as specified in the Schedule appended thereto;

And whereas, by Government Notification, Urban Development Department, No. DCR-1090/3197(a)/RDP/UD-11, dated 20th February 1991, published in the *Maharashtra Government Gazette*, Part I, Konkan Divisional Supplement, the Draft Development Control Regulation No. 67 for Greater Bombay, 1991 was published for inviting suggestions and objections.

And whereas, by the notification No. DCR-1090/3197(b) RDP/UD-11, dated 20th February 1991 a list of such buildings and precincts of historical, aesthetical, architectural or cultural value was also published and objections and suggestions on the said list were also invited;

And whereas, Government had appointed Shri G. S. Pantbalekundri, Deputy Director of Town Planning and *Ex-Officio* Deputy Secretary to Government, Urban Development Department to be the officer for the purpose of hearing objections/suggestions from any person in respect of the said Draft Regulation No. 67 and to submit his report thereon for the consideration of Government;

And whereas, on September 27, 1991, Government had published a subsequent notification setting out the classification of the buildings/precincts in certain grades and indicating the effect of the Draft Regulation No. 67 on the different grades of the said buildings and precincts and called for suggestions on the said notification;

And whereas, the said officer had submitted his report after giving due hearing to the persons who have raised objections and given suggestions on the said Draft Regulation No. 67 and the said classification;

And whereas, in accordance with sub-section (3) of section 31 of the said Act, Government has taken into consideration the objections and suggestions received and report of the said officer;

And whereas, in accordance with first proviso to sub-section (1) of section 31 of the said Act the Government has by its notification No. TPB-4387/716/UD-11 (RDP), dated 23rd February 1995 extended the period for sanctioning the said Development Plan and draft Development Control Regulations up to and inclusive of 31st October 1995;

Now therefore, in exercise of powers conferred by sub-section (1) of section 31 of the said Act and all other powers enabling it in that behalf, the Government hereby—

(a) Sanctions the Development Control Regulation No. 67 alongwith Appendix VIIA as specified in the Schedule appended hereto and;

(b) Fixes 1st June 1995 to be the date on which the said Regulation No. 67 as specified in the Schedule to this notification shall come in to force.

SCHEDULE

Regulation No. 67.—Conservation of listed buildings, areas, artefacts, structures and precincts of historical and/or aesthetical and/or architectural and/or cultural value (heritage buildings and heritage precincts).

1. *Applicability.*—This regulation will apply to those buildings, artefacts, structures and/or precincts of historical and/or aesthetical and/or architectural and/or cultural value (hereinafter referred to as Listed Buildings/Heritage Buildings and Listed precincts/Heritage precincts) which will be listed in notifications(s) to be issued by the Government.

2. *Restriction on Development/Redevelopment/Repairs, etc.*—(i) No development or redevelopment or engineering operation or additions, alterations, repairs, renovation including the painting of buildings, replacement of special features or demolition of the whole or any part thereof or plastering of said listed/heritage buildings or listed/Heritage precincts shall be allowed except with the prior written permission of the Commissioner. The Commissioner shall act on the advice of/in consultation with the Heritage Conservation Committee to be appointed by Government (hereinafter called "the said Heritage Conservation Committee") :

Provided that in exceptional cases for reasons to be recorded in writing the Commissioner may overrule the recommendation of the Heritage Conservation Committee :

Provided that the power to overrule the recommendations of the Heritage Conservation Committee shall not be delegated by the Commissioner to any other officer.

(ii) In relation to religious buildings in the said list, the changes, repairs, additions, alterations and renovations required on religious grounds mentioned in sacred texts, or as a part of holy practices laid down in religious codes shall be treated as permissible, subject to their being in accordance and consonance with the original structure and architecture, designs, aesthetics and other special features thereof. Provided that before arriving at his decision, the Commissioner shall take into consideration the recommendations of the Heritage Conservation Committee.

3. *Preparation of list of Heritage Buildings and Heritage Precincts.*—The said list of buildings, artefacts, structures and precincts of historical, and/or aesthetical, and/or architectural and/or cultural value to which this regulations applies shall not form part of this Regulation for the purpose of Section 37 of the Maharashtra Regional and Town Planning Act, 1966. This list may be supplimented, altered, deleted or modified from time to time by Government on receipt of proposals from the Commissioner or from the said Heritage Conservation Committee, or by Government *suo motu*, provided that before the list is supplimented, altered, deleted or modified, objections and suggestions from the public be invited and duly considered by the Commissioner and/or by Government.

4. *Power to Alter, Modify or Relax Regulations.*—With the approval of Government and after consultation with the said Heritage Conservation Committee, the Commissioner shall have the power to alter, modify or relax the provisions of other Regulations of the Development Control Regulations of Greater Bombay, 1991 (hereinafter referred to as "the said Regulations") if it is needed for the conservation, preservation or retention of historical, aesthetical, cultural or architectural quality of any listed Buildings/heritage building or listed Precincts/heritage precinct.

5. *Hearing etc. to persons likely to be affected.*—Provided that, in case any alterations, modifications or relaxations of any of the provisions of the Development Control Regulation, 1991 will cause undue loss to the owners/lessees of Heritage Buildings/Heritage Precincts, the Commissioner shall give an opportunity of hearing to the said owner/lessee and to the public.

6. *Grant of Transferable Development Rights in cases of loss of Development Rights.*—If any application for development is refused under this Regulation or conditions are imposed while permitting such development which deprive the owner/lessee of any unconsumed FSI the said owner/lessee shall be compensated by grant of Development Rights Certificate (hereinafter referred to as "TDR") of the nature set out in Development Control Regulation No. 34 and Appendix VIIA and as may be prescribed by Government from time to time. The TDR from heritage buildings in the island city may also be consumed in the same ward from which it originated. The extent of TDR Certificates to be granted may be determined by the Commissioner, if required in consultation with the Heritage Conservation Committee and will not be awarded unless sanctioned by Government.

7. *Maintaining Sky Line.*—Buildings included in Listed Heritage Precincts shall maintain the sky line in the precinct (without any highrise development) as may be existing in the surrounding area, so as not to diminish or destroy the value and beauty of the said listed Heritage buildings/Heritage precincts. The development within the precinct shall be in accordance with the guidelines framed by Commissioner in consultation with Heritage Conservation Committee.

8. *Restrictive Covenants.*—Restrictions existing as on date of this notification imposed under covenants, terms and conditions on the leasehold plots either by State Government or by Bombay Port Trust or by Bombay Municipal Corporation shall continue to be imposed in addition to Development Control Regulations. However in case of any conflict with the heritage preservation interest, the said Regulations shall prevail.

9. *Repair Fund.*—Non-cessed buildings included in the said list shall be repaired by the owners/lessees of the said buildings themselves or if they are cessed buildings, those can be repaired by MHADA or by the owner or by the Co-operative Society of the owners and/or occupiers of the old building. With a view to give monetary help for such repairs a separate fund may be created, which would be kept at the disposal of Municipal Commissioner, Bombay Municipal Corporation, who will make disbursement from the funds in consultation with Heritage Conservation Committee. Provision for such a fund may be made through District Planning and Development Council Budget.

10. *Grading of the Listed Buildings/Listed Precincts.*—In the last column of the said list of Heritage buildings Heritage precincts, "Grades" such as I, II or III have been indicated. The meaning of these Grades and basic guidelines for development permissions are as follows:—

Listing does not prevent change of ownership or usage. However such usage should be in harmony with the said listed precinct/building. Care will be taken to ensure that the development permission relating to these buildings is given without delay.

"WHAT POSTERITY WOULD NOT WILLINGLY LET DIE"

Grade-I	Grade-II	Grade-III
A. Definition—		
Heritage Grade-I comprises of buildings, and precincts of national or historical importance, embodying excellence in architectural style, design, technology and material usage; they may be associated with a great historical event, personality, movement or institution. They have been and are, the prime landmarks of the City.	Heritage Grade-II (A & B) comprises of buildings, of regional or local importance, possessing special architectural or aesthetical merit, cultural or historical value, though of a lower scale than in Heritage Grade. They are local landmarks, contributing to the image and identity of the City. They may be the work of master craftsmen, or may be models of proportion and ornamentation, or designed to suit particular climate.	Heritage Grade-III comprises of buildings, and precincts of importance for town scape; they evoke architectural aesthetic or sociological interest though not as much as in Heritage Grade-II. These contribute to determine the character of the locality, and can be representative of life-style of a particular community or region and, may also be distinguished by setting on a street-line, or special character of the facade and uniformity of height, width and scale.
B. Objective—		
Heritage Grade-I richly deserves careful preservation.	Heritage grade-II deserves intelligent Conservation.	Heritage Grade-III deserves protection of unique features and attributes.
C. Scope for Changes—		
No interventions would be permitted either on the exterior or interior unless it is necessary in the interest of strengthening, and prolonging, the life of the buildings or precincts or any part or features thereof. For this purpose, absolutely essential and minimal changes	Grade-II (A) Internal changes, and adaptive reuse will be generally allowed, but external changes will be subject to scrutiny. Care would be taken to ensure the conservation of all special aspects for which it is included in Heritage Grade-II.	External and internal changes and adaptive reuse would generally be allowed. Changes can include extensions, additional buildings in the same plot or compound provided that extension/additional building is in harmony with and does not detract from the existing heritage

Grade-I	Grade-II	Grade-III
would be allowed and they must be in accordance with the original.	Grade-II-B)— In addition to above, extension or additional buildings in the same plot or compound could, in certain circumstances, be allowed provided that the extension/additional building is in harmony with (and does not detract from) existing heritage building(s) or precincts especially in terms of height and facade.	building/precinct especially in terms of height and/or facade. Reconstruction may be allowed when the building is structurally weak or unsafe or when it has been affected by accidental fire or any other calamity or if reconstruction is required to consume the permissible FSI and no option other than reconstruction is available. Reconstruction may also be allowed in case of those buildings which attract the provisions of Regulations 33(6), 33(7) 33(9) and Appendix II and Appendix III of Development Control Regulations, 1991. Reconstruction may be allowed in those buildings being repaired/reconstructed by MHADA. However, unless absolutely essential, nothing should spoil or destroy any special features or attributes for which it is placed in the Heritage List.
D. Procedure.— Development permission for the changes would be given by the Planning Authority on the advice of the Heritage Conservation Committee to be appointed by State Government.	Development permission for the changes would be given by the Planning Authority in consultation with a sub-committee of the Heritage Conservation Committee.	Development permission would be given for changes by the Planning Authority itself but in consonance with guidelines; which are to be laid down by Government in Consultation with the Heritage Conservation Committee.
E. Vistas/Surrounding Development— All development in areas surrounding Heritage Grade-I Shall be regulated and controlled, ensuring that it does not mar the grandeur of or views from, Heritage Grade-I.		

By order and in the name of the Governor of Maharashtra,

D. T. JOSEPH,
Secretary to Government.

APPENDIX VIIA

(Regulation No. 67)

REGULATIONS FOR THE GRANT OF TRANSFERABLE DEVELOPMENT RIGHT TO OWNERS/LESSEES OF HERITAGE BUILDINGS/HERITAGE PRECINCTS AND CONDITIONS FOR GRANT OF SUCH RIGHTS.

1. As provided in Regulation 67 (6) Development Rights of the owner/lessee of any Heritage buildings who suffers loss of Development Rights due to any restrictions imposed by the Commissioner or Government under Regulation 67 shall be eligible for award of Transferable Development Rights (TDR) in the form of Floor Space Index (FSI) to the extent and on the conditions set out below. Such award will entitle the owner of the Heritage Building to FSI in the form of a Development Rights Certificate (DRC) which he may use himself or transfer to any other person.
2. A DRC will be issued only on the satisfactory compliance with the conditions prescribed in this Appendix.

3. If a holder of a DRC intends to transfer it to any other person, he will submit the DRC to the Commissioner with an appropriate application for an endorsement of the new holder's name, i.e. transferee on the said Certificate. Without such an endorsement by the Commissioner himself, the transfer shall not be valid and the Certificate will be available for use only by the earlier original holder.

4. A holder of a DRC who desires to use the FSI credit certified therein on a particular plot of land shall attach to his application for development permission valid DRC's to the extent required.

5. DRC's may be used—

On any plot in the same ward as that in which they have originated or in any ward in the suburbs except as specified in clause (6) below.

6. A DRC shall not be valid for use on receivable plots in the areas listed below :—

(a) On plots falling within 50 m. on roads on which no new shops are permitted as specified in sub-regulation (2) of Regulation 52.

(b) Coastal areas and areas in No Development Zones, Tourism Development Zones, and areas for which the Bombay Metropolitan Region Development Authority or Maharashtra Housing and Area Development Authority is the Special Planning Authority ;

(c) On plots for housing schemes of slum dwellers for which additional FSI is permissible under sub-regulation (10) of Regulation 33 ;

(d) Any heritage building.

(e) Any heritage Precinct except with the prior approval of the Heritage Conservation Committee and subject to compliance with the regulations of the particular precinct.

7. The user that will be permitted for utilisation of the DRCs on account of transfer of development rights will be as under :—

Zone in which designated/reserved plot is situated	User to be permitted in receiving areas
1. Residential	Only residential users and in Residential Zones only.
2. Commercial (C-2)	Commercial (C-2) users if the plot where the FSI is to be utilised is situated in C-2 Zone. Commercial (C-1) if the plot where the FSI is to be utilised is situated in C-1 zone. Residential only in Residential zones.
3. Commercial (C-1)	Commercial (C-1) if the plot where the FSI is to be utilised is situated in C-1 zone. Residential in Residential Zones.
4. Industrial (I-1), (I-2), (I-3)	Residential only in Residential Zones.

8. DRCs may be used on one or more plots of lands whether vacant or already developed or by the erection of additional storeys, or in any other manner consistent with these Regulations, but not so as to exceed in any plot a total built-up FSI higher than that prescribed in clause 9 below in this Appendix.

9. The FSI of a receiving plot shall be allowed to be exceeded by not more than 0.4 in respect of a DR available in respect of a Heritage Building and upto a further 0.4 in respect of a DR available in respect of land surrendered for road-widening or construction of new roads [according to sub-regulation (1) of Regulation 33], where the said road as shown as passing through the receiving plot itself.

10. With an application for development permission, where an owner/lessee seeks utilisation of DRs, he shall submit the DRC to the Commissioner who shall endorse thereon in writing in figures and words, the quantum of the DRC proposed to be utilised, before granting development permission, and when the development is complete, the Commissioner shall endorse on the DRC in writing, in figures and words, the quantum of DRs actually utilised and the balance remaining thereafter, if any, before issue of occupation certificate.

11. A DRC shall be issued by the Commissioner himself as a certificate printed on bond paper in an appropriate form prescribed by Commissioner. Such a certificate will be a transferable " negotiable instrument " after due authentication by the Commissioner. The Commissioner shall maintain a register in a form considered appropriate by him of all transactions, etc. relating to grant of utilisation of DRS.