



सत्यमेव जयते

NITI Aayog

TRANSFERABLE DEVELOPMENT RIGHTS

Guidelines For Implementation of TDR Tool For
Achieving Urban Infrastructure Transition In India

SEPTEMBER 2020

PREFACE

India acknowledges the role and importance of urbanization in the process of its economic growth and social transformation. The urban landscape of the country is represented by more than 7000 cities / towns of different population sizes, and a population of 377.16 million (Census of India, 2011), about 31 % of the total population of the country. The level of urbanization is bound to accelerate in coming decades offering an opportunity as well as a challenge to meet the substantial infrastructural needs of such transition. The Urban Local Bodies (ULBs) often find it difficult to meet such investments given their limited revenue base. Moreover, the process of land acquisition in urban areas for public purposes such as road widening, provisions of schools, parks etc., is costly and time consuming.

The ULBs need innovative approaches for financing the development of urban services at the desired pace. The most fundamental asset owned or managed by the States/ ULBs is land. The Ministry of Housing and Urban Affairs (MoHUA) had announced a 'Value Capture Finance Policy Framework' in 2017 in which the Transferable Development Rights' (TDR) is one of the ten methods which can be adopted by the Centre/ States / ULBs in their suitable schemes. The TDR method does not directly raise huge revenues for ULBs/ planning authorities but supports in saving the costs required for developing infrastructure.

Presently, this method is being used in Mumbai, Hyderabad, Ahmedabad, and other major cities in India for various purposes like heritage conservation, lake and water bodies conservation, slum improvement, development of public housing, road widening etc. This document presents a framework for preparation of a TDR policy/ scheme which may be adopted as per the context by the States / ULBs under the applicable Value Capture Financing (VCF) policy and the city- specific requirements.

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LIST OF ABBREVIATIONS

AMC	Ahmedabad Municipal Corporation
AMRUT	Atal Mission for Rejuvenation and Urban Transformation
BUA	Built- Up Area
CAGR	Compound Annual Growth Rate
CEPAC	Certificados de Potencial Adicional de Construção (translated as certificates of additional construction potential bonds)
DoLR	Department of Land Resources
DCR	Development Control Regulation
DRC	Development Rights Certificate
FAR	Floor Area Ratio
FSI	Floor Space Index
GHMC	Greater Hyderabad Municipal Corporation
GDP	Gross Domestic Product
HRIDAY	Heritage City Development and Augmentation Yojana
HMDA	Hyderabad Metropolitan Development Authority
IEC	Information, Education and Communication
LARR	Land Acquisition, Rehabilitation and Resettlement Act
MoHUA	Ministry of Housing and Urban Affairs
MoRD	Ministry of Rural Development
MCGM	Municipal Corporation of Greater Mumbai
PPP	Private Sector Participation
SCM	Smart Cities Mission
SBM	Swachh Bharat Mission
TPS	Town Planning Scheme
TDR	Transferable Development Right
ULB	Urban Local Body
URDPFI	Urban and Regional Development Plan Formulation and Implementation
VCF	Value Capture Finance

DEFINITIONS

For purpose of this document, the key terms are defined in this section.

- i. Floor Space Index (FSI) refers to the quotient obtained by dividing the total Built- Up Area (BUA) of all floors by the plot area. For example, the FSI of 1 on a 100 sqm plot translates to 100 sqm of BUA.
- ii. Floor Area Ratio (FAR) is similar in concept to the FSI. The FSI value of 1 can be represented as 100 % FAR.
- iii. Development Control Regulations (DCR) of the city govern the building envelope based on FSI, maximum ground coverage of the building, maximum building height or number of floors, minimum building setbacks and margins, minimum open spaces, minimum parking, and other requirements.
- iv. Base FSI is the basic FSI permitted by the competent authority as a matter of right without any cost.
- v. Chargeable/Premium FSI is the FSI available by additional payment to the competent authority as per the applicable rules.
- vi. Maximum permissible FSI is the FSI that includes the base and chargeable FSI.
- vii. TDR certificate/ Development Rights Certificate (DRC) is a certificate issued by the competent authority to an owner or a lessee of the land on surrender of the gross 'area' of the land which is required for public purpose. Such 'area' of land must be free of cost and free from all encumbrances. The certificate comprises of the details like FSI/FAR 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 or other concerned department for the concerned year.
- viii. 'Sending zones' means a zone of land or part thereof which is proposed to be surrendered to the competent authority in lieu of a TDR certificate. Similarly, 'Originating plot' means the plot in which the development right originated due to surrender of 'Area'.
- ix. 'Receiving zone' means a zone of land or part thereof over which the TDR certificate is proposed or permitted to be utilized.

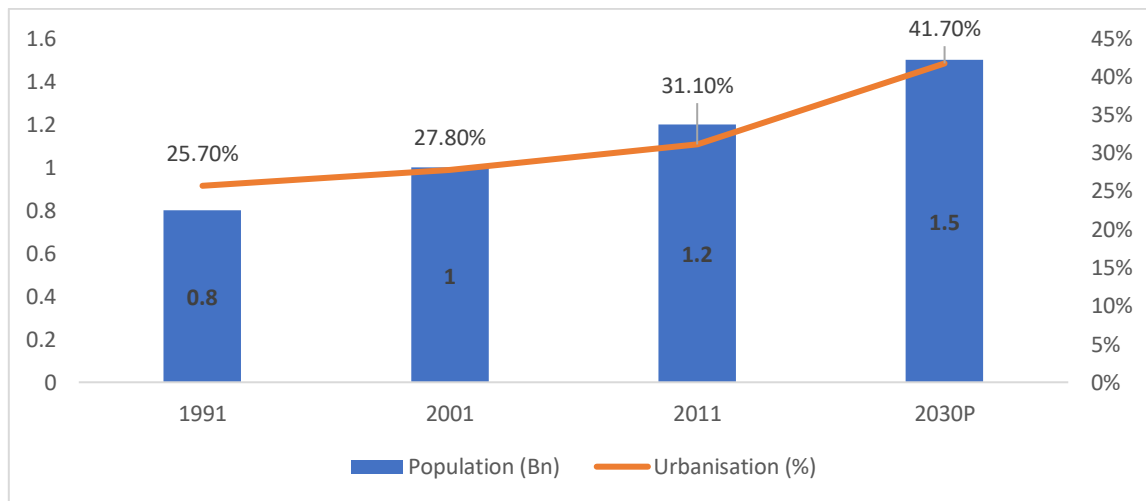
1. BACKGROUND

1.1 INDIA 2030: EVOLVING URBAN LANDSCAPE

- I. By 2030, the economic growth in India shall be accompanied by shift in the underlying demographics. There will be an increasing trend of urbanization, a peaking of the population in the working age group, and a larger share of this population will be employed in the services sector.

- II. As per World Bank data, India’s population has increased at a CAGR of 1.2% during the period 2011-2017 and is expected to reach 1.52 billion by 2030. In the last decade, the urban population in India has increased at an annual rate of 2.4%. It is estimated that around 42% of India’s population would be urbanized by 2030 from 31% in 2011. By 2030, it is estimated that 5 states in India – Tamil Nadu, Gujarat, Maharashtra, Karnataka and Punjab will have > 50% urbanization. (Refer Figure-1 below)

Figure-1: Trend in India’s Population & Urbanization



Source: National Infrastructure Pipeline (2020-25), Ministry of Finance, Government of India

- III. To support this demographic shift and meet the infrastructural needs of present and foreseen urbanization huge investments are required. The Urban Local Bodies (ULBs) often find it difficult to meet such investments given their limited revenue base. Moreover, the process and cost of land acquisition in urban areas is extremely cumbersome and expensive. Cost of the land forms a significant portion of the overall urban project cost. Land acquisition is required for public purpose especially for road widening, parks and playgrounds, schools etc., and is a costly, time consuming process. The ULBs need innovative approaches for financing the development of urban services at the desired pace.

- IV. At present, grants from both state and central governments dominate the municipal financing landscape in India. These grants are substantially lower as compared to the investment requirement of local governments. In order to augment their funding sources, it

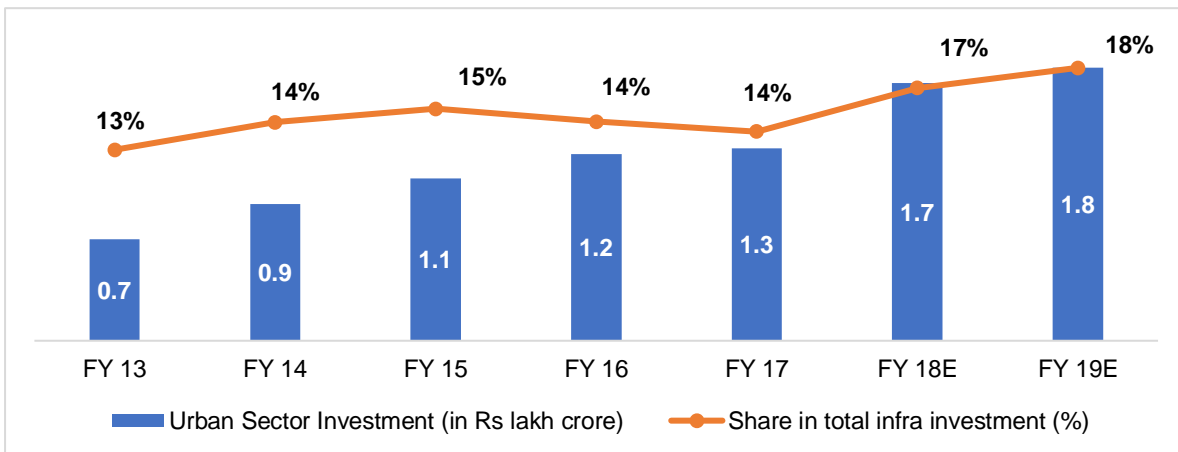
becomes critical that these local governments start tapping alternate sources of finances such as bond markets and value capture finance.

- V. Some of the key steps needed to be undertaken by the local government for raising funds through municipal bonds include (i) improving financial discipline and regular disclosures (ii) augmenting revenue base and buoyancy of revenues of local governments (iii) addressing gap in creditworthiness of local governments through innovative credit enhancement structures and (iv) encouraging pooled bond issuances.
- VI. Further, the most fundamental asset owned or managed by the States/ ULBs is land. Over the last few decades, some States/ ULBs have used other innovative Value Capture methods to raise the resources for infrastructure development.
- VII. Value Capture methods are practiced across the world based on the principle that public investments in infrastructure and policy decisions of the Government has a positive impact on the value of land / buildings in its vicinity. Appropriate tools can be used to capture a portion of this impact. The fund, thus generated, can help in further investments.
- VIII. The Ministry of Housing and Urban Affairs (MoHUA) had announced a 'Value Capture Finance Policy Framework' in 2017 in which the Transferable Development Rights' (TDR) is one of the method which can be adopted by the Centre/ States / ULBs in suitable schemes. (Refer Annexure I). The primary application of TDR tool is not to raise huge revenues for ULBs/ planning authorities but rather to support the ULBs in saving the costs required for developing urban infrastructure projects.
- IX. (Refer Annexure III, IV)
- X. The TDR policy has given a great strength to the State Governments/ ULBs in negotiating with the property owners, thus reducing huge financial burden on Government for speedy acquisition of the properties for major projects.
- XI. The policy instrument provides flexibility to the authorities to compensate landowners through issuing Development Right Certificates (DRC) that can be utilized as per present market value without incurring actual outflow of money
- XII. This document presents a framework for preparation of a TDR policy/ scheme which may be adopted as per the context by the States / ULBs under the applicable Value Capture Finance (VCF) policy and as per state/ city- specific requirements.
- XIII. These guidelines do not intend to substitute for textbooks / manuals on the design of VCF framework/ rules. Also, these guidelines are not meant to address any situation specific needs of any individual city.

1.2 URBAN SECTOR INVESTMENT IN INDIA

- I. Historically in India, investments in the urban sector have been close to 1% of GDP. While the urban population in India increased rapidly, there was no commensurate supply of quality basic urban services. Between 2013 and 2017, the share of urban sector investment in overall infrastructure investment was ~14% (Refer **Figure-2** below).

Figure-2: Urban Sector Infrastructure Investment (Rs lac crore) & Share in Total Infrastructure Investment (%)



Source: National Infrastructure Pipeline (2020-25), Ministry of Finance, Government of India

- II. Investments in the urban sector have traditionally been undertaken by public sector entities through budgetary allocations until recently, when some projects were also undertaken through the PPP/ Private sector route. There has been a steep rise in state investments from fiscal 2013 onwards owing to the launch of flagship schemes such as Smart Cities Mission (SCM), Atal Mission for Rejuvenation and Urban Transformation (AMRUT), Heritage City Development and Augmentation Yojana (HRIDAY), etc.

2. TDR- AN OVERVIEW

2.1 CONCEPT OF TRANSFERABLE DEVELOPMENT RIGHTS

- I. TDR means an award specifying the Built-Up Area (BUA) an owner of a site or plot can either sell or utilize - in-situ / elsewhere, in lieu of the land foregone on account of surrendering / gifting land free of cost to the ULB's (Municipal Body, Urban Improvement Trust, Urban Development Authority), required to be set apart for public purpose as per the Master Plan or for road widening, recreational use zone, etc. The award is in the form of a TDR Certificate issued by the Competent Authority. The TDR Certificate *inter-alia* should mention the area surrendered and the cost of that area as per the circle rate. These certificates are regulated under the building Bye-Laws or in conjunction with TDR guidelines framed by State Governments from time-to-time. (For more details, Refer Box no. 1)

Box no. 1: Transferable Development Rights - a technique of land development

TDR is a technique of land development, which separates the development potential of a particular parcel of land from it and allows its use elsewhere within the defined zones of the city. It allows the owner to sell the development rights of a particular parcel of land to another. This entitlement is over and above the usual FSI available for receiving plot in accordance with the prevailing laws and regulations, which entitles a landowner to construct additional built-up area on his existing building or vacant land.

This is generally used for redevelopment of inner-city zones and for reconstruction/ re-development and has been tried out in numerous cities/ States. However, it has its prospects and consequences as experienced from the implementation in various cities. For instance, unbridled pooling of TDRs could damage the urban form, TOD strategies, quality of public spaces, etc. Hence it should be used carefully within a predefined spatial framework.

Source: The Urban and Regional Development Plan Formulation and Implementation (URDPFI), (MoHUA, 2014)

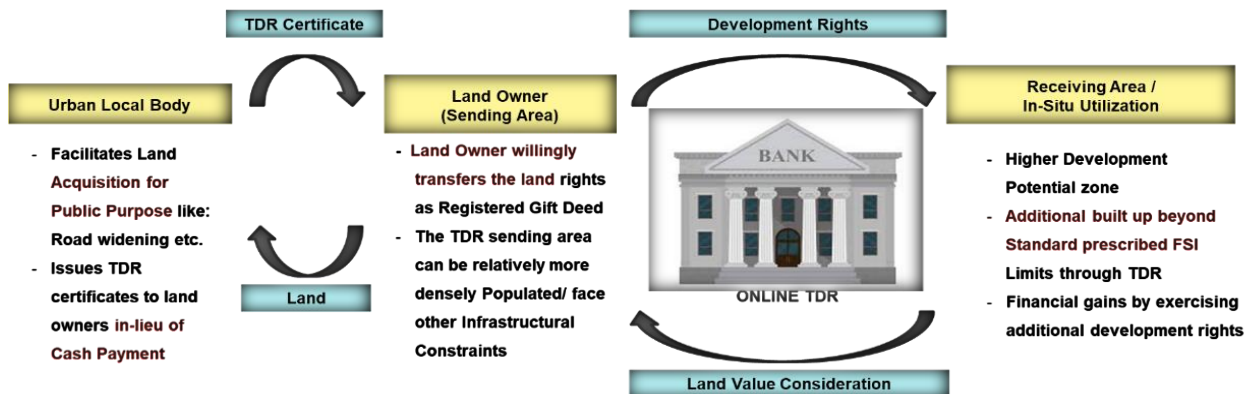
- II. The basic premise of the transferable development rights method is FSI credit which can be traded with real estate developers or any third person for monetizing its value. The method works when the developers are able to use these FSI credits to construct additional floors in the receiving area than would otherwise be permitted, thereby recovering the cost of purchasing TDRs.

2.2 TYPICAL TRANSACTION FLOW

- I. Landowner 'A' (in a so-called Sending area) is not allowed by the government to use his/her land in a particular way which will yield an economic profit. However, the Government has to compensate 'A' for this restriction because 'A' is expected to suffer a financial loss as a result of it. Instead of providing 'A' with financial compensation for the restriction (in India for loss of the land), the government issues a Development Right Certificates ("DRC" or the "TDR Certificate"). This is a right which is valued in terms of money, is transferable and which can be bought by a third-party owning land in a receiving area, who without that right cannot realize the land value to the extent possible. Thus, the landowner 'A' in a sending area sells his right to Landowner 'B' (in a so-called Receiving area), who can then use it to develop his land more intensively than before.
- II. As per present State/ ULB guidelines in India, TDR can be awarded only when such lands are transferred to the Local body / Urban Development Authority, as the case may be, by way of registered gift deed. The award would be in the form of a TDR certificate issued by the Competent Authority / Sanctioning Authority.
- III. From urban planning perspective, receiving areas are generally more suited for higher density developments than the sending areas with environmental, heritage etc. values that the city or town wishes to preserve. Though depending on the zoning & other construction restrictions the Sending and the Receiving area can be the same.

- IV. DRC entitles the receiver to an extra-built up area which extends more than authorized/ permitted FSI/ Floor for the receiving area. These certificates obtained in-lieu of the TDR can either be traded in a different location for extra built up area or be used in-situ for incremental construction.

Figure-2: Transaction Structure



Though depending on the zoning & other construction restrictions the Sending & the Receiving area can be the same.

Source: NITI Aayog Analysis

- V. Generally, the ULB defines FSI as the maximum extent of BUA upto which a plot can be developed. In case of most of the State's that permit TDR's the building regulations of the local body in the City/Area FSI has two components (a) Standard FAR (permissible without charges) and (b) Maximum FAR (permissible on payment of betterment levy). The recipient of the DRC is entitled to construct additional BUA as permitted in TDR, upto the maximum FSI subject to the TDR guidelines or to the provisions of the building regulations of the State/City.
- VI. TDR trading follows the open market principle wherein the pricing is entirely driven by demand and supply.

2.3 GLOBAL EXAMPLES

TDR method is being used in India and Internationally for diverse purposes. Some best practices are summarized in this section.

- I. The New York City pioneered in using the TDR mechanism. The city follows a system wherein the transfer of unused development rights from one zoning lot to another is allowed in limited circumstances. This mechanism is mainly used for preservation of heritage buildings, open spaces or cultural resources and is a way to compensate the property owners for the loss in revenue on their properties. The system is market driven and participation in the TDR programs is voluntary.
- II. The City of São Paulo in Brazil has implemented an instrument called Certificados de Potencial Adicional de Construção, or CEPACs (translated as certificates of additional construction potential bonds) as a tool to create development rights for up-zoning. These rights could be used only in certain areas of the city designated for public investments. The

rights were sold to developers to raise funds which were used for financing infrastructure construction. An important aspect of this instrument was that the total number of CEPACs were capped and determined by the municipality.

- III. The Curitiba city in Brazil also has used the TDR method for environmental protection, heritage preservation and social housing. A natural drainage system was created using TDR method for protecting the city from recurrent floods instead of making investments in installing concrete flood protection structures. TDR sending areas included riverbanks that were converted into parks to absorb overflow and lakes constructed to contain flood waters to prevent flooding downstream.

2.4 EXAMPLES FROM INDIAN CITIES¹

- I. Mumbai- Mumbai has a very high floor space demand; however, the city has limited prospect of horizontal expansion due to its linear geography and land constraints. This along with low overall FSI paved the way towards a successful TDR market in the city. The Maharashtra Regional and Town Planning Act, 1966 has a provision for granting Transferable Development Rights (TDR) against the area of land surrendered free of cost and free from all encumbrances. Accordingly, the TDR provisions are mentioned in the development control regulations of Greater Mumbai, 1991. The compensation in terms of TDR is permissible for- land under various reservations for public purposes, roads, heritage structures, housing for slum dwellers and redevelopment. With 3178 DRCs, MCGM has generated over 12.93 million sq.mt. area out of which only 0.5 million sq.mt of TDR is unutilized till date. The TDR prices are controlled by the market forces. (For more details, Refer Annexure II, Box no. 2)
- II. Ahmedabad- The Government of Gujarat modified the Gujarat Town planning Act, 1976 which paved for implementation of TDR method. TDR is being issued for many purposes in Ahmedabad like slum rehabilitation, heritage conservation, and public housing redevelopment projects. (For more details, Refer Annexure II, Box no. 3)

It is notable that for development of trunk infrastructure, another VCF method – ‘Land pooling/ Readjustment method’ is successfully used in the State. (For more details, Refer box no. 4).

Box no. 2: Land Pooling and Reconstitution method practiced in Gujarat

Legal framework: The Gujarat Town Planning and Urban Development Act, 1976 provides for a two-stage city planning process called ‘Development Plan–Town Planning Scheme’ mechanism.

Planning process: First, the Development Authority of a town or city draws up a statutory, decadal development plan (DP) for the town or city as a whole; showing where the city is

¹ Source: Minutes of the meeting held on 17th July 2020 at NITI Aayog (OM no. NI/TDR/01/2020-MU/FTS-32049, dated 22nd July 2020)

expected to expand into the surrounding countryside. In these new expansion areas, the network of major roads and routes for trunk infrastructure is drawn up by the Development Authority. The expansion area is then divided into a number of smaller areas. The Development Authority then, takes up each of these smaller areas for the development of a Town Planning Scheme (TPS), which is a detailed land reconstitution, infrastructure development, and financing proposal rolled into one.

Provision of infrastructure: The planners identify locations and land area required for provision of public amenities and infrastructure in the TPS. This land area is calculated as a percentage of the total land area of the TPS. Each ‘original plot’ is reduced by this percentage which then becomes a ‘final plot’ to be allocated back to the landowners. Thus, each ‘original plot’ / landowner has to contribute the same proportion of land for the creation of public facilities.

Value Capturing: Public consultations are held with the landowners who then give up a part of their land to the local government, in exchange for better roads, water supply and other amenities. Taking 50 % of the increment in the land value from each plot and deducting the compensation to be paid for the land appropriated, the net demand or betterment charges are estimated. In this method, land does not have to be paid for and infrastructure, planning, administrative costs can be realized from the increments in land value.

Salient features:

- It is simultaneously a technical and legal mechanism.
- Benefits are shared and owners keep a substantial portion of developed land and increment in land value.
- Planning seeks to use the land market and not thwart it.
- Landowners are kept involved in the planning process and their grievances are heard and redressed.
- Mechanism is widely perceived to be fair and equitable.

Source: Balleney S., Patel B., (2009) *Using the ‘Development Plan—Town Planning Scheme’ Mechanism to Appropriate Land and Build Urban Infrastructure*

Available at: <https://www.hcp.co.in/assets/projects/research/docs/7692303.pdf>

- III. Hyderabad- The TDR Policy was originally started in the year 2006 with the ‘Revised Common Building Rules’ issued by the State which were subsequently modified in 2012 and then in 2017. The guidelines for issue and utilization of TDR are specified in these rules. TDR is being used mostly for infrastructural development as well as conservation of lakes, water bodies and heritage buildings. The TDR certificates can be used in the new developing areas where infrastructure is available, and it is generally avoided in the congested areas of the city. The TDR certificates generated within the Greater Hyderabad Municipal Corporation (GHMC) limits can be used in the Hyderabad Metropolitan Development Authority (HMDA) and vice versa. (Refer Annexure II, Box no. 5)

Since 2006, more than 600 TDR certificates have been issued. The issuance of TDR certificates in Hyderabad is voluntary and not compulsory. GHMC has started also established an online TDR bank where digitized versions of TDR certificates are being issued. The platform has connected the buyers and sellers in a transparent manner. The transactions of TDRs can now happen in a way like that of stock market. With introduction and implementation of the new TDR Policy there has been an encouraging response from the real estate sector in the market.

2.5 KEY OBSERVATIONS

The key observations that emerged from the reviewing national and international experience of implementing TDR policy and consultations are postulated in this section.

- I. Globally, TDRs have been used as a policy instrument for curtailment of expenditure in lieu of land acquisition or due to any restriction imposed on allowable FSI/ BUA.
- II. In India, TDR policy has been introduced by amending the relevant Municipal Act/Town Planning Act/ building rules by some States. The TDR is, in general, functioning as one of the elements to achieve an overarching urban development objective.
- III. The TDR method is being used as an incentive for various public purposes like
 - Development of green spaces- parks/ open spaces/playgrounds /water bodies etc. as per the provision of master plan/ sector plan.
 - Development of roads including road widening and strengthening of other trunk infrastructure
 - Development of public parking lots
 - Development of city level facilities/other public purposes as per Master Plan proposals
 - Slum rehabilitation scheme
 - Public housing redevelopment
 - Development of affordable houses under State Affordable Housing Policy
 - Preservation of historical buildings/ landmarks/ heritage structures etc.
 - Conservation of water bodies and lakes

In future, TDR may also be not just as an alternative to acquire land for public purposes but also to build them.

- IV. There are apprehensions among land/property owners about economic value of TDR. TDRs certificates have FSI credits, but their monetary value depends on the overall property market in the city and hence is uncertain. They may also not provide for a timely compensation as the suitable buyers may not be available when money is required by the DRC holders. Therefore, a mechanism of ensuring the value of DRC within the time frame of the given Master plan/ development control regulations, re-valuation/ verification after such time frame expires, hand holding of citizens particularly senior citizens in terms of information and techno-legal aid etc. may be built into the TDR policy to ensure citizen acceptance, prevent fraudulent transactions and also enhance the commercial value of TDR certificates.

- V. The TDR policy offers an economic opportunity by saving the ULBs from outflow of enormous funds required for acquisition of land for public purposes. However, it is not entirely cost-free. The cost of registering TDRs, developing TDR banks, mapping, provision of infrastructure in the receiving areas, capacity building of officials, awareness generation of landowners etc. is also a part of the policy implementation.

3. GUIDING PRINCIPLES

A set of principles are outlined in this section to guide the process of preparation of TDR policies and enable them to ensure its success and acceptability by the State/ City Government.

- I. Any TDR policy can be effective when it meets two basic conditions simultaneously. Firstly, the landowners should be voluntarily willing to accept the TDRs in lieu of the monetary compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR), 2013. Secondly, the city should have a real estate market wherein private sector developers / real estate market players are interested to buy TDRs to utilize them in designated receiving zones – *The basic concept of Demand & Supply*.

Therefore, simply adopting a TDR policy does not warrants its success. The policy instrument shall primarily be effective when:

- Developers want to buy DRCs and transfer them to receiving areas; and
 - Landowners are willing to sell DRCs while permanently restricting their land
- II. The strategic selection of ‘Sending zone’ and ‘Receiving zones’ lays the foundation stone for the success of a TDR policy. The ULBs/ Authorities need to well-define the sending and receiving zones based on the market demand assessment and the infrastructural carrying capacities of the receiving zones
- III. Furthermore, while demarcating both these zones, the key questions to discuss would be a) why the development rights should be sent from a particular zone, and b) where it will be utilized in the city so that development happens in a planned manner. Depending upon the demand in the city, the sending and receiving zones may be also be same with differential possibilities of utilizing the DRC.
- IV. The ULBs/ Authorities should ensure regulatory and policy level consistency to signal confidence to the market participants regarding TDR instrument. They should effectively communicate to the market participants regarding future incremental FSI/BUA in the receiving areas and that this would be achieved in a predictable and a transparent manner. To instill this confidence in the market participants, the ULBs/ Authority may add a dedicated chapter on TDR in the development control regulations of the plan period elaborating the conditions where TDR may be applicable, its capping, utilization norms etc.. Once the period concludes, the TDR certificates may be reverified and any changes in the FSI may be accordingly factored into it.

- V. Maintaining the face value of TDR certificates should be accorded importance by the ULBs/Authorities, however, in doing so, they must refrain from restricting the FSI in the receiving zones so low that viable development becomes possible only by use of TDR. This may create artificial scarcity of developed land in the city. For the same reason, the TDR policy may not restrict the increment in the overall FSI in the city.
- VI. The larger aim of adoption of a TDR policy is to improve the financial status of the ULBs. Hence, the States/ ULBs must also ensure that the use or promotion of TDR policy does not lead to any unintended impacts on city or undermine the very objective of planning and development of the city. e.g. accumulation of immobile TDRs, traffic congestion in the ‘Receiving zones’, etc.

4. PREPARATORY STEPS

The State governments / ULBs/ Planning authorities may follow the steps outlined in this section to arrive at an effective TDR policy.

- I. Step I- Legal framework- Suitable amendments to the existing legal framework is a necessary requirement for introducing a TDR policy. The State Governments would need to make suitable amendments in their respective Town & Country Planning Acts or the existing Municipal Acts.
- II. Step II- Market demand assessment in cities by ULBs- TDR is a market-based tool. Hence, the ULBs / planning authorities would need to conduct a market demand assessment and identify the zones/ corridors / specific land parcels where there may be demand for future development. More specifically, the demand for additional FSI over and above to the maximum permissible FSI must be evident. This assessment may include the aspects of land value, zone-wise supply and demand potential of DRC as per the master plan of the city and suggest appropriate zones or factors to be applied for generation and consumption of TDR.
- III. Step III- Establishment of digital decision-support system- The ULBs / planning authorities may set up a robust digital spatial database of the city linked with plot-wise dynamic database of existing land uses, planned land uses, ownership, abutting road width, and land values. This database would need to be updated regularly and used as a decision support system for demarcating the sending and receiving zones and planning adequate infrastructure in the city. Such a system may aid in avoiding any discrepancies in the TDR issuance and prevent any unforeseen litigations.
- IV. Step IV- Identification of ‘Sending and Receiving zones’
 - a. The ULBs / planning authorities must clearly demarcate the ‘Sending Zones’ in coherence with the Development / Master Plan of the city.

- b. To identify the ‘Receiving Zones’, the ULBs / planning authorities must identify and demarcate the zones where additional density is planned as per the Development / Master Plan of the city and market demand assessment indicates the growth in future.
 - c. In certain cities, as per the market demand assessment and the infrastructural availability, the concept of sending and receiving zones may be based upon a factor multiple. For example, the DRC generated from a high-density zones may be used incrementally (2 times) in low density zones while the DRC generated from low-density zones may be used by applying a decremental factor (0.5 times) in the high density zones.
- V. Step V- Planning for adequate infrastructure in ‘Receiving zones’- The ULBs may estimate the total TDR generation potential in all the ‘Sending zones’. This along with existing infrastructural carrying capacity of the ‘Receiving zones’ shall enable the ULBs to plan for adequate provision of roads, water supply, sewerage and other infrastructure. The digital spatial database system of the city will be instrumental in planning and implementation of such infrastructural provisions.
- VI. Step VI- Revision of building bye laws- The ULBs / planning authorities would need to revise the building bye laws / development control regulations under the overall ambit of the TDR policy.
- VII. Step VII – Assessment of value of DRC award- The value of DRC should be linked to the conferment of market value of land or as may be decided by the competent authority. Appropriate formula should be evolved to factor the impact of land values on the DRCs.
- VIII. Establishment of an Online banking system for trading TDRs (optional)- To further enhance the transparency in the TDR trading mechanism, prevent ,misinformation, facilitate better monitoring and to make the process citizen friendly, an online TDR bank application may be developed by the ULBs. This portal may have various features like details of TDR Certificates issued, TDR area calculations, notification of sale and purchase etc. Such a system may also reduce the transaction cost and eliminate the dependence on broker/middlemen to utilize/ sell the DCR.
- XIV. Step VIII – Stakeholder consultation and announcement of TDR policy- Stakeholder consultation (private sector and citizen) may be conducted once the draft TDR policy is ready. The draft policy may be revised as deemed fit in the public interest. At this step, the State Governments may declare the TDR policy including the details of its purpose, applicable zones, standard operation procedures, formulae of fixing values, time frames of DRC validity, procedures of applying for DRCs, selling the DRCs and utilizing the DRCs, means of techno-legal assistance to the citizens and other detailed rules for its operationalization.
- XV. Overall to inspire more trust in the market and ensure better transparency, municipalities may undertake requisite governance and accounting reforms before they notify TDR policy. This may also be done as per the context of the issuance of Municipal Bonds (Optional).

5. WAY FORWARD

5.1 POLICY IMPLEMENTATION AND REGULATION

- I. The Department of Land Resources (DoLR), Ministry of Rural Development (MoRD) or MoHUA may examine the incorporation of TDR as one of the (voluntary) options while acquiring land for public purposes.
- II. A prescribed authority for regulation of TDR policy may be formed at the State level to perform the function- a) function as a regulator, mediator and enabler, b) resolve issues related to interpretation and implementation of the policy, c) ensure convergence of the said policy with all government projects / schemes/ policy where relevant, d) regulate the pricing mechanism of TDRs to ensure minimum base selling price of DRCs, and e) regulate the time period for validity/revision of the TDRs.
- III. The States / ULBs may prepare the TDR policy, prepare draft amendments in the development control regulations, undertake the stakeholder consultations with builders, citizens, technical experts etc., and submit the policy for approval from competent authorities.
- IV. The States may begin implementation of the TDR policy with selected million-plus cities, potential Class – 1 cities and then expand the scope of this policy to all other cities in the State.
- V. To keep the process transparent, the ULBs may ensure that the ‘Sending and Receiving zones’ are marked in the digital spatial database of the city. The same may be available at the web portal of the concerned ULBs / planning authorities for public viewing soon after the TDR policy gets notified. Also, a suitable grievance redressal mechanism may be developed.

5.2 CONVERGENCE WITH OTHER SCHEMES

- I. The Central, State and Local governments may examine the possibilities of using the TDR method for implementing the infrastructure projects like Transit Oriented Development.
- II. At the time of initiation of a new infrastructure project, the rules and regulations governing the Value capture methods in the State may be assessed. This may be the part of the project feasibility studies.
- III. After finalizing the ‘project’ location, the area of influence of the project, where the land and property values are expected to increase, may be delineated for applying the TDR policy. This may be the part of the Detailed Project Report (DPR).
- IV. Regular monitoring and evaluation of the generated TDR certificates may be undertaken by the concerned Central/ State governments and their agencies.

- V. Once the TDR market matures, it may also be considered as an advantage under PPP projects. In such cases, prior to the bid, the Authority can package DRCs, along with other project specific rights under a suitable PPP model. This would enhance the overall viability of the Project as the concessionaire would get cross-subsidized through the incremental value of the DRCs.

5.3 AWARENESS AND CAPACITY BUILDING

- I. Capacity building activities such as trainings, workshops, and other associated activities for concerned officials at various levels may be undertaken by the State governments for enhancing the use of technology of various stakeholders in implementation of the TDR scheme/ policy.
- II. To enhance the citizen acceptance towards the TDR policy, the State government and Municipal bodies may undertake Information, Education and Communication (IEC) activities by developing and disseminating information with approval of the competent authorities.

Table no. 1: Value Capture Methods and Scale of Intervention

S. No.	Value Capture Method	Frequency of incidence	Scale of Intervention
1	Land Value Tax	Annual rates based on gain inland value uniformly	Area- based
2	Fees for charging land use (agricultural to non-agricultural)	One-time at the time of giving permission for change of land use	Area/ Project-based
3	Betterment levy	One-time while applying for project development rights	Area/ Project-based
4	Development charges (impact fees)	One-time	Area- based
5	Transfer of Development rights	Transaction based	Area/ Project-based
6	Premium on relaxation of rules or additional FSI	One-time	Area (Roads, railways)/ Project (Metro)
7	Vacant land tax	Recurring	Area- based
8	Tax increment financing	Recurring and for a fixed period	Area- based
9	Land acquisition and development	One-time upfront before project initiation	Area/ Project-based
10	Land pooling system	One-time upfront before project initiation	Area/ Project-based

Source: Ministry of Urban Development, Government of India (2017), *Value Capture Finance Policy Framework*. Available at:

<https://smartnet.niua.org/sites/default/files/resources/5901982d9e461VCFPolicyFrameworkFINAL.pdf>

Accessed on 17.07.20

TDR MECHANISM IN FEW INDIAN CITIES**Box no. 3: TDR in Mumbai**

The provision for grant of TDR against the area of land surrendered free of cost and free from all encumbrances is made in the Section 126(1) of Maharashtra Regional & Town Planning Act 1966. The relevant regulations for Accommodation Reservation (Reg. 17), Floor Space Index (Reg. 30) and Transferable Development Rights (Reg. 32) are a part of Development Control & Promotion Regulations 2034.

Regulation 34 of the Development Control Regulation of Greater, Mumbai 1991 (DCR 1991) defines TDR as “In certain circumstances, the development potential of a plot of land may be separated from the land itself and may be made available to the owner of the land in the form of Transferable Development Rights. These rights may be made available and be subject to the Regulations in Appendix VII hereto” of DCR viz. Reservation/Road TDR- Appendix VII, Slum TDR Regulation 33(10) Appendix VII B, Redevelopment TDR Regulation 33(7) and Heritage TDR Regulation 67 Appendix VII A.

i) Concept of Reservation TDR

The owner of the reserved land has to surrender the plot to MCGM free of cost and free of encumbrance after levelling the plot and constructing compound wall and gate. The owner of reserved plot is granted a printed Development Right Certificate (DRC) with FSI credit in the form of TDR equivalent to gross area of the plot surrendered multiplied by permissible zonal FSI. Additional TDR is granted if the owner surrenders constructed amenity. The DRC is a negotiable instrument and is transferable. The DRC holder can utilize the FSI credit certified in the DRC on any other receivable plot or can sell the TDR to any person for utilization on any receivable plot subject to certain conditions.

ii) Concept of Slum TDR

Slum Rehabilitation Project (SRP) is sanctioned by Slum Rehabilitation Authority (SRA). The owner/ developer/ society are permitted additional Built Up Area (BUA) as incentive sale area, in a specified proportion for every sq.mt. of rehabilitation BUA constructed under the project. The FSI sanctioned for the scheme is based on the total of rehab and sale area. In any SRP scheme, the difference between the sanctioned FSI for the scheme and is made available to the developer/ society / owner in the form of TDR. In case vacant unencumbered land is spared by the owner for clearing encumbered required for any vital public purpose, then the owner is granted land TDR in addition construction TDR for the tenements to be constructed by the owner. The extent of TDR to be recommended is decided by SRA based on the progress of rehabilitation component. The DRC is issued by MCGM on the recommendation of SRA.

iii) Concept of Heritage TDR

Owner of heritage building is granted heritage TDR to compensate loss of development rights due to restriction imposed by heritage committee. TDR is permitted with sanction of State Government. TDR can be used in the same ward even in island city or on any plot in the suburbs. Grant of DRC and its utilization is governed by regulation 67 & Appendix VII A. Heritage TDR can be used upto 40% of the net plot area of receivable plot.

Box no. 4 : TDR in Ahmedabad

Legal framework:

The area development authority or any other authority for whose purpose land is designated in the final development plan may acquire the land by an agreement or in lieu of any development right by granting the owner against the area of land surrendered free of cost and free of all encumbrances or under the provision of Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act, 2013. (Section 9, Gujarat Town Planning and Urban Development (Amendment)Act, 2014).

Definitions:

- “Transferable Developmental rights” means transfer/trade/sale of developmental rights from one land to another land. Such rights will be given in the form of certificates showing time-limit and price by Local Self-government or Development authority.(Resolutions no. PRC/ 102013/783/TH, dated 18th July 2013, Policy for in-site rehabilitation of slums situated on public land by PPP under Mukhya Mantri GRUH Yojana under Gujarat Slum Areas Improvement, clearance and rehabilitation Act, 1973).
- "Development right" means a right to develop the land or building or both on any land to be acquired under section 20 to the extent as may be decided in the development plan. (Section 2, Gujarat Town Planning and Urban Development (Amendment)Act, 2014)
- Means an incentivisation mechanism by which the Tradable Floor Space assigned to one building can be traded for use on another building-unit. The competent authority shall identify the buildings eligible for selling the TDR, amount of floor space available for trading as specified in sanctioned GDCR of competent authority. (Gujarat Comprehensive Development Control Regulations - 2017)

Uses:

1. Heritage conservation: TDR is be provided for heritage structures or buildings within a heritage precinct notified in the Heritage conservation plan. Such Heritage Buildings are classified on the basis of their respective heritage value as per Heritage Conservation Plan. The Tradable Floor Space is provided as an incentive for Heritage Buildings on the basis of the respective utilized FSI. i.e. Highest heritage value- 50% of total utilized FSI, High and moderate heritage value- 30% of total unutilized FSI. Maximum 10% of the floor space can be

used for in-situ alterations, rest can be utilized in other zones where chargeable FSI is permissible. (Notification no. GH/V/180 of 2019/EDB-102016-3629-L, Corrigendum date 30.11.2019, Section 7.5.1 GTPUD Act 1976)

2. Rehabilitation of Slums: The policy to rehabilitate slum dwellers in-situ with private developers for slums situated on public land was notified in 2013. The mechanism of policy implementation included selection of developers on the basis of two bid system. They were to be screened technically first and then on the basis of their financial bids for assessing the price of the Slum Rehabilitation Scheme payable by the Prescribed Authority in terms of TDR. And such TDR will be exempted from stamp duty.(Resolutions no. PRC/ 102013/783/TH, dated 18th July 2013, Policy for in-site rehabilitation of slums situated on public land by PPP under Mukhya Mantri GRUH Yojana under Gujarat Slum Areas Improvement, clearance and rehabilitation Act, 1973).
3. Redevelopment of Public housing: For redevelopment of public housing under PPP mode, a scheme to upgrade existing housing stock and creation of additional affordable housing stock was introduced in 2016. The scheme had a provision wherein the developer can redevelop existing public housing, create additional affordable housing stock and create free sale component for own sale. (Section 5.3 of Redevelopment of public housing scheme 2016)

Box no. 5: TDR in Hyderabad

Legal framework:

The TDR Policy in the State was originally started in the year 2006 in the Revised Common Building Rules issued vide G.O Ms. No.86, dated 3.3.2006 with 100% for Master Plan roads widening, 50% for Lakes/Water Bodies and Heritage Buildings. It was subsequently amended in G.O Ms. No.168 Dt:7.4.2012 as 200% for Master Plan roads widening, 100% for Lakes/Water Bodies and Heritage Buildings.Later in the year 2017, the Telangana State Government with a view to encourage the Real Estate Sector and to promote the Issue and Utilisation of TDR, issued G.O Ms. No.330, dated 28.12.2017, wherein a new TDR Policy was issued as 400% for Master Plan roads widening, 200% for Lakes/Water Bodies and 100% Heritage Buildings. In addition, amendments were issued to the Building Rules by the Government wherein the guidelines for Issue and Utilisation of TDR are specified.

Definitions:

Transferable Development Right (TDR) can be awarded only when lands are transferred to the local body/ Urban Development Authority as the case may be by way of registered gift deed. The award would be in the form of a TDR certificate issued by the Competent Authority/ Sanctioning Authority.

(G.O. Ms. No. 168, dated 07.04.2012, Andhra Pradesh Building Rules, 2012, Municipal Administration and Urban Development Department)

Uses:

1. Master plan road/ road development plan undertaken and developed/ peripheral road provided in group development schemes: TDR equivalent to 400% of area surrendered is granted to the land owner. (Rule 17, Building Rules 2012, G.O. 330)
2. Conservation and development of lakes/ water bodies/ Nalas foreshores and recreational buffer development with greenery etc.: TDR equivalent to 200% of recreational buffer area is granted to the landowner when the same is developed at his own cost. (Rule 17, Building Rules 2012, G.O. 330)

Table no. 2: Provisions of Transfer Development Rights (TDR) in States/ UTs Building Bye Laws/ Town and Country Planning Act/ TDR Policy/Rules

Sl. No	States/UTs	State/UT -BBL/TDR Policy	Chapter/Section
1	Andhra Pradesh	Andhra Pradesh Building Rules, 2017, G.O.MS.No. 119 Dated: 28-03-2017	Chapter – XII - Section 166-170
2	Arunachal Pradesh	Arunachal Pradesh Building Bye Laws-2019	No
3	Assam	Guwahati Building Construction Regulation Act, 2010	No
4	Bihar	Bihar Building Bye Laws-2014	No
5	Chhattisgarh	Chhattisgarh Bhumi Vikas Niyam , 1984 (Amendment -2017)	No
6	Goa	The Goa Land Development and Building Construction Regulations, 2010 (Incorporating Amendments upto September, 2018)	Section 25
7	Gujarat	Comprehensive General Development Control Regulations -2017	Section 9.3
8	Haryana	PUBLIC NOTICE - dated on 01.07.2019 - Land owners for utilization of Transferable Development Rights (TDR)	Yes
9	Himachal Pradesh	Town and Country Planning Rules, 2014 (Amended upto 2016)	No
10	Jharkhand	Jharkhand Building Bye laws - 2016	Chapter IV - Section 39.7
11	Karnataka	Karnataka Municipalities Model Building Bye-Laws 2017	Section 13.11
12	Kerala	The Kerala Town And Country Planning Act, 2016	Section 34-3;Sub Section xi, Section 56; sub section ii, Section 80,
13	Madhya Pradesh	Madhya Pradesh Transferable Development Rights Rules, 2010	Yes
14	Maharashtra	Maharashtra Regional & Town Planning Act, 1966	Part IV, Section 4.3 - Table -12
15	Manipur	<i>Manipur Municipality Building Bye-Laws, 2018</i>	No

16	Meghalaya	Meghalaya Building-Bye Laws - 2011	No
17	Mizoram	The Aizawl Municipal Council Building Regulations, 2012 & Amendments 2019	No
18	Nagaland	Nagaland Building Bye-Laws 2012	No
19	Odisha	Odisha Transferable Development Right Rules, 2015	Yes
20	Punjab	Punjab Municipal Building Bye-Laws 2018	Section 4.12
21	Rajasthan	Rajasthan Urban Area Transferable Development Rights (TDR) Policy -2012	Yes
22	Sikkim	Sikkim Building Construction (Amendment) Regulations, 2000	No
23	Tamil Nadu	G.O No -173 - Directorate of Town and Country Planning – Transfer of Development Rights and Special Transfer of Development Rights. G.O (Ms) No. Tamil Nadu Transfer of Development Rights Rules, 2019.	Yes
24	Telangana	Rule 17 of G.O Ms. No.168, Dt:7.4.2012 and as amended vide G.O Ms. No.330, Dt:28.12.2017	Yes
25	Tripura	Tripura Building Rules, 2017	No
26	Uttar Pradesh	Uttar Pradesh Building Bye Laws,2008	No
27	Uttarakhand	Uttarkhand Building Byelaws 2011	No
28	West Bengal	The West Bengal Municipal (Building) Rules, 2007	No
29	A & N Islands.	Port Blair Municipal Council Building Bye-Laws, 1999	No
30	Chandigarh	Chandigarh Building Rules (Urban)-2017	No
31	Delhi	Unified Building Bye Laws For Delhi 2016	No
32	Dadra & Nagar Haveli	Development Control Rules 2014	25.1 Sub-section ii
33	Daman & Diu	Dam& Diu Building Model Bye Laws and Zoning Regulations - 1999	No
34	Lakshadweep	Lakshadweep Building Bye-Laws,2014	No
35	Puducherry	Pondicherry Building Bye-Laws and Zoning Regulations (Amendment), 2010	No
36	Jammu & Kashmir	Building Regulations and Bye-Laws -2010 (Kashmir Division) Jammu Municipal Corporation Building Bye Laws 2011	No
37	Leh & Ladakh	No building Bye laws	No

Source: Research work provided by the Town and Country Planning Organization, MoHUA

STATE/UT WISE DETAILS OF PROVISION OF TDR**Goa - The Goa Land Development and Building Construction Regulations, 2010
(Incorporating Amendments upto September 2018)****25. (A) Transfer of Development Rights (TDR)**

In certain circumstances, the development potential of a plot of land may be separated from the land itself and may be made available to the owner of the land in the form of Transferable of Development Rights (TDR). These rights may be made available by the Government and be subject to the Regulations made at the appropriate time.

The said TDR regulations will be restricted to the following circumstances and purposes:-

(a) In case of private property which is reserved for recreational purposes under zone R in any Plan in force and is transferred to Government/Local Authority/PDA without any monetary compensation, the FAR applicable to the neighbouring zone shall be allowed to be sold for the development of properties of other developable zones in the specially designated areas.

(b) In case of private property which is affected by the road widening as per any Plan in force and the affected area is transferred to Government/Local Authority/PDA without any monetary compensation, then the FAR of the said affected area shall be allowed to be sold for the development of properties of other developable zones in the specially designated areas as under:-

(i) in case the FAR of the said affected area cannot be used fully utilized within the plot, then the unutilized FAR shall be allowed to be sold for the development of properties of other developable zones in the specially designated areas.

(ii) in case the FAR of the said affected area is elected not to be used, within the plot, then the said FAR shall be allowed to be sold for the development of properties of other developable zones in the specially designated areas, provided an undertaking is given towards the permanent surrender of the use of such FAR within the plot.

(c) In case of Conservation zones where full development rights cannot be utilized due to the restrictions as per Plan in force, then the unconsumed FAR shall be allowed to be sold for the development of properties of other developable zones in the specially designated receivable areas in the plans.

Haryana - PUBLIC NOTICE - dated on 01.07.2019 - Land owners for utilization of Transferable Development Rights (TDR)

Applicability of this Policy: To enable aggregation of land for integrated infrastructure development within the urbanisable limits, a TDR Certificate can be issued on such land/ site designated for the following purposes based on the approved sectoral plan:

i.Sector Roads & Green Belts[SRGB]: Such roads, of any width, which are provided in the

development plan, irrespective of whether they serve as a divider between two sectors or two land use zones within a sector are sector roads. In addition to sector roads, all green belts provided in the development plans along such sector roads shall also be considered to be eligible for grant of TDR certificate. The alignment of such sector roads and green belts shall be as that approved in the sectoral plan.

ii. Sectoral Plan Road Pockets [SPRP]: Such internal sector roads, of 30m/24m/18m ROW or otherwise, as approved in the sectoral plans, which function as sub-arterial roads of the development plan and also serve as conduits for external services within a sector are 'sectoral plan roads'. Pockets of land falling in the approved alignment of such sectoral plan road are called as 'Sectoral Plan Road Pockets' or 'SPRP'.

iii. EDC Works site [EDWS]: Such sites as earmarked in the approved sectoral plan against various EDC Works, viz, College, Hospital, ESS etc., as shown in the sectoral plan.

iv. Open Space Zone [OS]: Such sectors or part of sector, excluding the green belt along sector roads, designated as open space zone in the development plan shall be also considered to be eligible for the purpose of issue of TDR certificate.

v. Public & Semi Public Zone (PSP): Such sectors or part of sector, excluding the green belt along sector roads, designated as PSP Zone in the Development Plan shall also be considered to be eligible for the purpose of issue of TDR certificate.

The extent and benefit of TDR against any land pocket shall be governed by various factors, which are taken into account while calculating the 'notional land'

Jharkhand - Jharkhand Building Bye-laws, 2016

39.7 - In case of the plot is affected by a road widening or in the way to construct a new road/ parks/ any public utility and if the owner of the plot voluntarily surrenders the affected portion of his land to the Authority without any claim of compensation or through a TDR (Transfer Development Right) scheme implemented by the Government the owner shall be entitled to build on the total area prior to such surrender. Provided that the surrender of the land shall be affected by a deed of transfer to be executed by the owner in favour of the Authority for widening of road. the plot owner can use this T.D.R for any other new building project with the jurisdiction of the Competent Authority.

Karnataka - Karnataka Municipalities Model Building Bye-Laws, 2017

13.11 Grant of Transferable Development Rights (TDR) in cases of loss of development rights.

If any application for development is refused under this regulation, or conditions are imposed

while permitting such developments, which deprive the owner of any unconsumed Floor Area Ratio (FAR), the said owner/lessee shall be compensated by the grant of a Development Rights Certificate (DRC). The extent of DRCs to be granted and used will be determined by the Rules specially framed for Transfer of Development Rights.

Kerala - The Kerala Town And Country Planning Act, 2016

34. Matters that may be dealt with in the Master Plan. - (3) In particular, the Master Plan shall provide for current issues, prospects and proposals regarding all or any of the following, namely:

(xi) proposals for Transferable Development Rights, Accommodation Reservation, Land Pooling Schemes or any other similar technique for promoting planned development;

56. Powers and functions of Development Authority.—Subject to the provisions of the Kerala Municipality Act, 1994 (20 of 1994) and the Kerala Panchayat Raj Act, 1994 (13 of 1994), the powers and functions of a Development Authority shall include the following:

(ii) promoting planned development as envisaged in the Plans for the development authority area, through tools like Transfer of Development Rights, accommodation reservation etc.;

80. Acquisition of land by way of according Transferable Development Right. - A Development Authority, Municipal Corporation, Municipal Council, Town Panchayat or Village Panchayat may, with the consent of the owner, acquire land for public purposes by way of according Transferable Development Right through issue of Development Right Certificate, to be registered, in lieu of payment towards the cost of land in such manner as may be prescribed:

Provided that the Transferable Development Right expressed in terms of area of total permissible built-up space calculated on the basis of Floor Area Ratio permissible for the concerned land, is utilised as additional built-up space over and above the permissible built-up space by the owner who may use it by himself or transfer it to any other person in full or in part from the present location for use in areas earmarked for the purpose in the Master Plan or the Detailed Town Planning Scheme.

Madhya Pradesh Transferable Development Rights Rules, 2010.

(1) The owner of plot of land which is required for a public purpose in the Master Plan or Zonal Development Plan by way of reservation for open space zone, roads, school, health centre, vehicles parking or any public utility, shall be eligible for the award of Transferable Development Rights in the form of built up area or Floor Area Ratio. But these rights shall not be applicable on land or buildings having historical importance.

(2) Development Rights Certificate will be granted to an owner only for that land which is reserved for public purpose in Development Plan, on the submission of land use certificate. The land use zone of such land where Development Rights Certificate can be utilized as under:-

Zone in which designated / reserved plot is situated	Uses to be permitted in received areas
Public and semipublic road, recreational, public amenities etc.	Residential /Commercial

(3) Development Rights Certificates will be issued by the competent authority. The floor area ratio credit will be in the built-up area, the place and the zone in which the Development Rights Certificates are earned and the areas in which such credit may be utilized in newly developed areas will be clearly mentioned in Development Rights Certificate. It is also mandatory that receiving plot should be abutting 12 metres wide road.

Odisha - Odisha Transferable Development Right Rules, 2015

3. General Terms & Conditions for Issuance of transferable development rights:

(1) The land which is reserved for providing amenities as per approved Development Plan, the owner or lessee of such land shall be eligible for award of Transferable Development Rights equivalent to permissible floor area ratio of 2 (two) for that plot of land to the extent and on conditions, as provided in these rules:—

Illustration:— If owner or lessee of land surrenders 10,000 square feet of his land to Authority under these rules for the purposes as defined under these rules, then he shall be eligible to get transferable development rights certificate to the extent of 20,000 square feet.

(2) An owner or lessee of land shall be issued with a TDR certificate only after completion of procedure prescribed in these rules.

(3) TDR certificate so issued may be utilized to take up development on receiving plot, which is permissible over and above the base FAR for that plot but within the Maximum Permissible FAR as prescribed in Building Regulations and guidelines of the concerned Authority.

(4) The holder of transferable development right certificate may utilize the same either at the remaining portion of the area so surrendered or anywhere else in the said development area, either by himself or by way of transfer to any other person.

(5) The transferable development rights certificates shall be issued only in the name of an individual, a company registered under the Companies Act, 2013, Statutory Corporations or a Society registered under the Societies Registration Act, 1860, but shall not be issued in the

name of partnership firms, nominees, agents or any other such persons: Provided that if the property stands in the name of partnership firms, TDR Certificate shall be issued in the name of all of the partners of partnership firm or as the partners have agreed upon by expressing their willingness in writing.

(6) The transfer and utilization of TDR in favour of Non-Resident Indians (NRI) shall be subject to rules and regulations of the Reserve Bank of India and the Government of India, made from time to time, in this regard.

(7) The specimen signature or thumb impression in application for grant of TDR shall have to be attested by an Executive Magistrate under his official seal.

(8) In respect of property held jointly by several persons, the Competent Authority shall issue only one certificate and delivery of TDR certificate to one of the several joint holders written through a deed of relinquishment duly registered in favour of the holder duly signed by all such persons and the same shall be treated as sufficient delivery to all such holders and accordingly the Competent Authority shall issue TDR certificate in the name of only one owner by deleting name of any co-owner from the TDR certificate.

(9) The TDR certificate shall be valid for five years and can be revalidated for another period of five years.

(10) In case the TDR certificate is defaced, lost or destroyed and sufficient proof thereof is submitted to the Competent Authority, the same may be replaced on payment of a processing fees at the rate of one percentum of present valuation on such date of the sending plot and on submitting the necessary undertaking, indemnity bond, investigative evidences (Copy of FIR), etc. and after giving advertisement in two local newspapers and by following the detailed process to be prescribed by the concerned Authority, in this regard.

(11) If any building , agricultural or horticultural crops is standing, on the land so surrendered as per provisions of these rules, then the owner or the lessee of such land shall be fairly compensated by the Authority following due process of valuation prescribed in this regard.

(12) The transferable development rights can also be granted by Competent Authority for incentivizing development of affordable housing schemes or slum redevelopment projects as per provisions of relevant policy of State Government in force.

(13) Further the lands which are prohibited by order of any Court or subjudice in any manner or lands under acquisition under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 or any other law for time being in force shall not be eligible for grant of TDRs certificate.

(14) Where the site is already a developed one, irrespective of fact whether the development on such land is authorised or not, the part of the land required for providing amenities in accordance with the development plan, the owner or lessee of such land shall be eligible for

award of TDR certificate under these rules.

(15) Where any authorised building is existing over a land and after surrender of the part of the land in accordance with the provisions of these rules then existing building, which is retained on the remaining part of the land even if it violates the existing Building Regulations of the Authority, shall be construed to be in conformity with Building Regulations as long as no addition or alteration or change of use is made to the existing building.

(16) If the Authority acquires a part of land under these rules and on the remaining part of the land, an unauthorized building is existing, the Authority may award TDR certificate for such portion of land, but the existing building in the remaining part of the land shall continue to be unauthorized until it gets regularized following due process of law, or demolished.

(17) The Authority may consider relaxing set back requirements along the dividing line between the land surrendered and the land retained, for a proposed construction in the remaining land, on individual merits of the case, except in the cases of multi storied buildings.

(18) The owner or lessee of the land may withdraw from surrendering his land under these rules at any time before final approval of Competent Authority by filing an application to Competent Authority.

(19) No applications for grant of TDR shall be considered from owner or lessee of the land belonging to Scheduled Castes or Scheduled Tribes Community, if prior approval of Competent Authorities under various laws, which protects rights of these communities in land, is not taken.

(20) No applications for grant of TDR shall be considered on land whose *Kisam* is Forest or reserved Forest.

Punjab - Punjab Municipal Building Bye-Laws 2018

4 .1 Flexible FAR

4.1.1 Additional FAR in lieu of Transferable Development Rights (TDR)

Provision of additional FAR in Group Housing, Hospital, Institutional, and Industrial, Sport and amusement complex, recreational greens and Low Density Sports plot may be considered.

Additional FAR in lieu of TDR may be allowed with the following provision/ conditions:

- (i) No construction shall be allowed beyond the limit of maximum permissible ground Coverage.
- (ii) Parking facilities shall be provided within the plot as per the provisions of the building bylaws.

(iii) No objection certificate from the Airport Authority of India/ Competent Authority shall be obtained for the height of the building.

(iv) Structure design duly checked and verified by the I.I.T/ N.I.T./ Government Engineering College shall be submitted along with the proposal in case where additional floors are being proposed.

(v) No objection certificate for Fire Safety and Environmental Clearance shall be obtained from the Competent Authorities.

(vi) Purchasable FAR shall be applicable only on the basis of assessment of planned and available physical infrastructure.

(vii) Use of purchasable FAR shall be governed by the terms and conditions of lease deed.

(viii) In case where purchasable FAR is allowed, the Authority shall permit increase in the height of building as per requirement.

(ix) Additional proportionate residential units shall be allowed on purchasable FAR for Group Housing.

Note:

i) Purchasable FAR is an enabling provision. It shall not be allowed to any Allottee as a matter of right.

ii) With the consideration of Traffic density, conditions of approach road, availability of physical infrastructure, distance from the protected area and heritage sites or in the light of planning the Authority may identify the zones/ areas where purchasable FAR shall not be allowed.

iii) In case of mixed land use permitted in any pocket/plot:

iv) Permissible FAR for various uses shall be as applicable for respective use including the purchasable FAR. The total FAR in the pocket/plot shall be subject to the overall permissible FAR for the pocket/plot. Purchasable FAR shall be calculated on the basis of the FAR of the individual uses within that pocket/plot.

4.1.2 Additional FAR in lieu of TDR in Group Housing, Hospital and other buildings:-

i. Group Housing on plot size 1acre and above on Road width 100 feet and above and maximum density upto 90 dwelling units per acre with site coverage 35%, FAR of 1:2.50 is permitted in place of permissible 1:2.00; in new projects falling in new areas. This will not be allowed in already sanctioned projects or on sites where construction has already been started.

Note: New areas means areas which are largely vacant as identified by the concerned Urban Local Body from time to time by way of resolution.

ii. Hospital Buildings on plot sizes 250 Sq. yds. & above and above 1000 sq.yds. with site coverage 50% and 40% respectively, FAR of 1:2.00 and 1:1.75 is permitted in place of permissible 1:1.50 and 1:1.25 respectively subject to .

iii.

- The provisions of Punjab Municipal Building Byelaws/Rules such as Height, parking, Setbacks and other relating to safety and security, Environmental / Barrier Free Environment, Rain Water Harvesting etc. shall be strictly complied.
- Additional F.A.R will be available only under the Govt.'s policy regarding TDR (Transferable Development Rights) issued vide notification no. CTP(LG)-2018-1130 on 25/05/2018.

Dadra & Nagar Haveli - Development Control Rules 2014

25. Floor Space Index (FSI) / Floor Area Ratio (FAR), and Volume to Plot Area Ratio (VPR)

ii .The Development Right can be availed by any person if any of his land is required for public purpose, the applicant shall surrender the land to the Government and in lieu of which the Authority may grant additional FSI. This additional FSI shall be to the total Net Area and the owner of the land can utilize the same in his own adjacent land.

Guwahati Metropolitan Development Authority, Assam

To sub-divide or transfer any plot of land, within the jurisdiction of Guwahati Metropolitan Area has to make an online application to GMDA for Planning Permit under Section 5 of the Guwahati Building Construction (Regulation) Act accompanied by the required amount of fees as prescribed in Schedule-1 of the Guwahati Building Construction (Regulation) Byelaws 2014 to the Chief Executive Officer, Guwahati Metropolitan Development Authority. The applicant shall submit the application online through the Registered Technical Persons of GMDA to Counter Clerk. Guwahati Metropolitan Development Authority Act, 1985 uses TDR for development for area for public purpose like road, widening of road, parks etc. The permissible Base FAR and maximum FAR are 1.00 and 1.50 respectively, resulting into 1000 sq. and 1500 sq. built up area to be permitted through Base FAR and maximum permissible FAR respectively.

Mizoram Urban and Regional Development Act, 1990

Subject to the regulations made by the Government, the owner of a plot of land which has been declared to be needed for public purpose under sections 4, 12, 13, 14, 16 and 18 of this Act, the owner will be eligible for the award of Transferable Development Right (TDR) to such extent, and such conditions as may be determined by the Government as amended vide Mizoram Urban & Regional Development (Amendment) Act (Act No.12 of 1996) of 1997.

Nagaland

Based on Urban Development & Housing Department, Promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain unsold on the date of issuance of completion certificate, or first occupation of the project. Provided further that tax payable in terms of the first provision herein above shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining unsold on the date of issuance of completion certificate or first occupation. Additional Floor Area Ratio (FAR)/Floor Space Index (FSI)/ Transferable Development Rights (TDR) and relaxed density norms has been initiated in March 2019.

Tripura Urban Planning and Development Authority

“Development rights” means a right to carry out development or to develop the land or building or both and shall include the transferrable development right in the form of right to utilize the floor area ratio or land utilizable either on the remainder of the land partially reserved for the public purpose or elsewhere as may be provided in the zoning regulations. TDR was introduced by the Tripura act no 12 of 2018.

Bangalore Development Authority

Bangalore development authority uses TDR for development for area for public purpose like road, widening of road, parks etc.

Chennai Metropolitan Development Authority

FSI in form of DRC equals surrendered land area into 1.5 the FSI further by a factor arrived by dividing the guideline value of the surrendered land with the guideline value of land at

Nagpur

TDR Utilize for development of roads and amenities as per section 22 of MRTP Act. Dividing the Zone-A, Zone B and Zone C. DRC shall not be used in zone A/dense areas.

Pune

Dividing the Zone-A, Zone B and Zone DRC shall not be used in zone A/dense areas. DRC not to be used on plots for housing schemes for slum dwellers for which additional FSI is permissible. In zone B DRC not to be used in front of specified arterial roads (30m).

Himachal Pradesh

The land acquired by the State Government under section 58 shall vest in the Town and Country Development Authority on the following terms and conditions;

1. The powers of the Authority with respect to the disposal of the land acquired shall be so exercised so as to secure, as far as practicable, to the person(s) who are living or carrying on business or other activities on the land if they desire to obtain accommodation on the land belonging to the Town and Country Development Authority concerned and are willing to comply with any requirement of the Authority as to its development and rules in operation to obtain thereon accommodation suitable to their reasonable requirement.
2. If the Town and Country Development Authority concerned proposes to dispose of any land, without any development having been undertaken or carried out thereon, it shall transfer the land in the first instance to the persons from whom it was acquired if they desire to purchase it at such price as may be fixed by the State Government.
3. The Town and Country Development Authority shall not dispose of any land by way of gift, mortgage or any other like means.
4. The Town and Country Development Authority may dispose off any land on leasehold basis only.
5. The Town and Country Development Authority shall pay the amount to the Government which has been awarded to the owner(s) of any land by the Government.
6. The Town and Country Development Authority shall pay other charges to the Government which has been incurred by the State Government in connection with the acquisition.
7. The Town and Country Development Authority shall execute an agreement with the Government for transfer of the acquired land.

Bihar

Based on the intensity of development, the city in a State is normally divided into:

- i. Intensively developed (A-zone)
- ii. Moderately developed (B-zone)
- iii. Sparsely developed (C-zone)
- iv. Others (D-zone).

The transfer of Development Rights shall be from intensely developed zone to other zones and not vice versa.

Six conditions:

1. Widening of road
2. Creating civic amenities and infrastructure
3. Par, Playground and open spaces, and for provision of other green areas and civic amenities
4. Maintenance or improvement of heritage buildings or boundaries notified by the State Government
5. Conservation of heritage sites
6. Implementation of Development Control Regulations

Source: *Research work provided by the Town and Country Planning Organization, MoHUA*