

# **DEFINITIONS AND RULES OF CAR PARKING**

To have a Car has become supreme necessity then status symbol. The problem of car parking is ever increasing issue in the City of Mumbai as the numbers of cars are increasing day by day. The Housing Societies are allowed to frame their own parking rules. This is to restrict non-members from parking inside the society premises. The rule of thumb is that no member will be eligible for allotment of more than one stilt / covered parking space per flat. If any slots remain vacant for want of applicants, which is sometimes the case for open parking; a second parking space may be allotted to interested members. This procedure is supposed to be followed on an annual basis, provided the empty slots are not required by a member who is yet to bag even one designated parking space. Let us have detailed know-how about various types of car parking and its rules.

## **STILT:**

A pair of poles with foot-rests, enabling the user to walk with feet at a distance above the ground; piles or posts on which a building stands.

## **OPEN:**

Means an area forming an integral part of a site left open to the sky.

## **AUTOMATED:**

Automated Car Parking is a method of automatically parking and retrieving cars that typically use a system of pallets and lifts. The intention is to compact more cars in the same space, reduce the space needed to park the same number of cars. Automated car parks can be situated above or below ground or a combination of both.

## **GARAGE:**

**Private** – A building for housing a motor vehicle or vehicles. An establishment which sells fuel or which repairs and sells motor vehicles.

## **GARAGE:**

**Public** – It means a building or portion thereof , designed other than as a private garage, operated for gain, designed and or used for repairing, servicing, hiring, selling or storing or parking motor driven or other vehicles.

## **PUBLIC PARKING:**

Under DC Rule 33(24), new constructions on a plot of over 1,000 sq mtrs in the island city and over 2,000 sq mts in the suburbs can get FSI of up to 4 if the developer constructs over 50 parking lots and hands them over to the BMC for free. Following this, many builders had come forward to avail the extra FSI. However, the Development Control (DC) Rules restrict the construction of such parking lots up to ground plus four floors.

- a) Parking Rules Co-operative Society can and should frame parking rules. Normally cooperative Society should ask for the details of the vehicles to be parked including a certified copy of the RC book should be insisted upon from the member while submitting the application for parking slot after receipt of the above said paper / documents the Society should allot a parking slot. The Society may even allot a sticker and/or may even instruct the member that without the parking sticker the vehicle shall not be allowed to be parked in the Society compound. b) Policy of allotment of parking spaces, and stilts Under Section 78 of MOFA Act, The allotment of parking space/ stilts shall be made by the committee on the basis of 'first come first served', for unsold and available parking

spaces. However, in case of Parking Space/ stilt allotted by the Society, the member shall have no right to sell or transfer the said allotted parking space/ stilt to anybody. c) Applications for allotment of stilts or parking spaces Under Section 83 of MOFA Act, The member, desiring to have a stilt or a parking space, may make an application to the Secretary of the Society All about the Non-Occupancy Charges in a Housing Society HC on No Pre-Condition of Individual Agreement to Execute Before CC Issued by BMC TDR on Private & Internal Roads Member In Housing Society Cannot Merge Flats Without Bmc Permission GR On Filling Up Of Casual Vacancy In Managing Committee High-Rise Buildings now Permitted on Narrow Roads Tenants of Non-Cessed Buildings to Get Ownership Flats after Redevelopment Redevelopment of Old Buildings and Housing Societies Under Section 33(7), 33(7)a and 33(7)b New Redevelopment Rules under Sect.79 (A) of MCS ACT, 1961 w.e.f. 4Th July, 2019 Consent of 51% for Redevelopment of Mhada, Cessed, SRA and Small Buildings Bombay HC rescues the majority of members to win over redevelopment Fungible FSI in new DCR (Development Control Rules) What is Refuge Area in High Rise Building Difference Between Housing Society and Apartments Owners Association/Condominium Why Occupancy Certificate is Important You are here: Home | Article Showcase | Society Matters | Definitions and rules of car parking Joomla slideshow module from joohopia Home About Us Article Showcase Realty Frauds & Scams Realty Updates Judgments Knowledge Centre Snaps We in Press & Media Contact Us No RERA Help for Projects Under Redevelopment giving necessary details. The procedure for disposal of applications for permission under this bye-law, as laid down under the Bye laws No.65, shall be followed by the Secretary and the committee of the Society.

- d) Eligibility for allotment of stilts or parking spaces Under Section 81 of MOFA Act, A member, having a motor vehicle, will only be eligible to have a stilt or parking space. No member shall normally be eligible for being allotted more than one stilt or a parking space for parking the car owned by him. If any stilts or parking spaces remain nonallotted for want of applicants for allotment, a second or third stilt or parking space may be allotted to the same member who has earlier been allotted the stilt or parking space. Such allotment of 2nd or 3rd stilts/ or parking space shall be made on year to year basis, provided the same is not required by another member, who is not allotted even a single stilts / or parking space. Under Section 82 of MOFA Act, In case the numbers of vehicles of eligible members are in excess then the available parking space/ stilts, the Managing Committee shall allot such parking space/stilts by "lot" on yearly basis.
- e) Car Parking Slots Sale of car parking slots is a controversial matter. It would be of interest to note that the definition of flat in the Model Bye-Laws includes a godown but does not include an open car parking space. It is an open secret that builder sale open car parking. Conflicting judgments have been given by courts on matter related to car parking. In the landmark judgment delivered by the Maharashtra State Co-operative Appellate Court Mumbai in the case of M/s Prakash Auto v/s Aranja Arcade Premises Cooperative Society Ltd. & ors has prevented the Builders from allotting selling or otherwise disposing of the disputed car parking spaces. The implications of the above said judgment is that even if the builder sells car parking space in the basement, a co-operative Society is entitled to allot the car parking space in the basement to their members on the basis of the resolution passed by the Society at its General Body Meeting. Now no builder can sell parking space under stilts separately, the Bombay High Court has ruled in re- Nahalchand Laloochand Pvt. Ltd., that a stilt parking space is a common parking space available to members of the housing Society and not an additional premises or space available for the builder or developer to sale either

to any member of the Society or any outsider and further clarified that even under DC rules the developers had to provide car parking spaces, wherever carpet area of the flat is more than 35 sq. mtrs and estoppels do not work against statutory provisions. Apart from this fact the court has also considered the definition of flat under Maharashtra Ownership of Flats Act, which includes open and parking spaces in area if the flat wherever area is counted as super-built up.

- f) **Parking Space Enclosed or unenclosed, covered or open areas** are to be sufficient in size to park vehicles. Parking space shall be served by a driveway connecting them with a street or alley and permitting ingress or egress of vehicles. Under Section 80 of MOFA Act, marking of parking spaces or stilts is the way that no inconvenience would be caused to any of the member of the Society. Where any stilts have been built or open space in the Society's compound is available for parking of cars, the Society shall number the stilt or the open space for the purpose of no disputes caused between the members of the Society. As per the Development Control Regulations it is necessary 10% car parking space should be kept for the visitors. Under Section 79 of MOFA Act, the restrictions are given on use of car parking and stilt parking that 'No member shall be entitled to utilize more parking spaces / stilts than what is allotted to him by the committee, or which he has purchased'. As per the Development Control Regulations for Greater Mumbai 1991, one is parking space for every 8 sq. mtrs of the floor area up to 800 sq mtrs and one parking space for every additional 160 sq. mtrs of area is required to be provided. For hotels one parking space for every 60 sq. mtrs of the floor area is required to be provided. For Grade I Restaurant, one parking space for every 25 sq. mtrs of area of the restaurant, including hall, dining room, pantry and bar must be provided. For the Grade II and Grade III hotels, the requirement is one parking space for every 80 sq. mtrs of the areas. g) **Parking Charges** Under Section 84 of the MOFA Act, Every member who has allotted the stilt or the parking space shall be required to pay the parking charges at such rate as may be decided by the General body of the Society at its meeting, irrespective of the fact whether he actually parks his motor vehicle or not. The Society can recover different rates for different types of vehicles. The General Body of the Society can definitely fix up the charges for the 2nd and 3rd car etc. Therefore, the member will have to pay the parking charges for a particular month irrespective of the fact that he has parked the vehicle for a few days. Where a member has been allotted more than one stilt parking space, he shall pay parking charges in respect of every such stilt or parking space, as decided by the General Body Meeting. Copyright © Dilip Shah 2012-2013. All rights reserved. Powered by: Web Technologies Group
- h) **Commercial use of Garage** Garage allotted for car parking cannot be used for commercial purpose except with the permission from the Bombay Municipal Corporation. At the time of the construction of garages an undertaking has to be given to the Municipal Corporation that they will be used only for car parking. If Society use car parking for commercial purpose it breaches under Cooperative Laws there is also violation of the Bombay Municipal Corporation Rules. Garage allotted for car parking are exempted from the FSI Calculations. However, if there is extra FSI or the benefits of TDR are available to the said property then such garages used for Car Parking can be regularized for commercial activities.
- i) **Stilt Parking** No member can cover a parking stilt; it is open space. It needs to be emphasized that while submitting the plans certain areas are shown as open space and parking stilt is normally shown as open space. The open spaces are not included in FSI calculations.

- j) Criminal case against the Builder Many times builder gives false promises to the flat purchasers and also does not comply with their statutory obligations as are stipulated in the MOFA (The Maharashtra Ownership Flats Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. In such circumstances the options available to the flat purchasers/ Society include filing a complaint in the Consumer Court as well as initiating criminal action before the criminal court against the Builder. Even selling away the car parking is one of the offences under the MOFA Act. The Society can bring Criminal complaint against such Builder under various sections of Indian Penal Code.
- BMC'S PARKING RULES FOR HOUSING SOCIETIES** While buying a flat, one should keep in mind that parking is either stilt parking, which is in the basement of the building, or open parking Find out from the builder if he/she is selling the space or not. By law, a builder can only sell flats. Unless the builder has used FSI in creating stilt parking, which is usually FSI-free, he cannot legally sell the space By law, a builder can only sell flats that have been constructed with FSI. Open spaces such as terraces or parking lots have to be conveyed to the cooperative Society As per Section 36 (2) of the Development Control Rules, in Malabar Hill, Cumballa Hill, Fort, Colaba, Pali Hill (Bandra), Juhu Vile Parle Development Scheme, Sassoon Docks and Jagmohandas Marg (Nepean Sea Road), one parking space is to be allotted for every:
- Tenement with a carpet area up to 45 sq m 2/3 tenement with carpet area exceeding 45 sq m, but not exceeding 100 sq m 1/2 tenement with carpet area exceeding 100 sq m In addition to parking spaces for these three categories, at least 25% of the entire parking space should be reserved for visitors In the rest of the island city, the suburbs and the extended suburbs, one parking space is to be allotted for every: 4 tenements with carpet area above 35 sq m 2 tenements with carpet area exceeding 45 sq m, but not exceeding 70 sq m 1 tenement with carpet area exceeding 70 sq m In addition to parking spaces for these three categories, at least 10% of the entire parking space should be reserved for visitors.