The study in the previous chapter has made it clear that although the Master Plan of Delhi is progressively getting more specific and detailed but the situation in the city is also getting diversified and complicated day by day. The current master Plan, MPD - 2021 has been prepared based on the vision to make Delhi a global metropolis and a world-class city wherein people would have conducive atmosphere and infrastructure to conduct themselves in productive work with a better quality of life, living in a sustainable environment. The very inquisitiveness remains that how to implement this vision? In Delhi, the situation is diversified from old congested dilapidated areas, unauthorised colonies, unorganised informal sector and slums to complex modern patterns of world class development. The role of local bodies is at stake because they are the final implementing agency in the complex administrative structure of planning and implementation for any Master plan and its inbuilt development controls. Not only this, the end user i.e. public also has to go through along procedural activity for getting building approval before starting of construction and after completion of building. But complicated procedures lead to the violation of development controls and unauthorised construction. For implementation of any plan in its true sense and spirit, strong enforcement of development controls and building bye laws is required. The present chapter is divided into three sections; Section I concentrates on the key inadequacies of Unified Building Byelaws and enforcement model, Section II discusses the building approval process and the issues related to it while Section III deals with issues related to the agencies involved in the preparation and implementation of Development Controls in NCTD.
SECTION I

UNIFIED BUILDING BYELAWS - 1983

During the pre independence period with the growing building activity under Britishers, the first municipal building bye-laws were first made operational for the areas of Sadar Bazar, Subzi Mandi and other suburbs of Delhi in 1881 (Jain 2002). In the post independence period, prior to implementation of MPD - 1962, the development of Delhi was controlled by the local bodies i.e. MCD, NDMC and DCB, according to the regulations and policies mentioned under their respective acts. These building controls and regulations were subsequently modified in 1964 keeping in view the development controls prescribed in MPD – 1962 by all the three local bodies in areas under its jurisdictions. Later, DDA in consultation with the Delhi Administration and other local bodies prepared Unified Building Bye-laws (UBB) in 1983, which was notified by all the local bodies. These unified building byelaws provide guidelines and norms for planning and designing of various buildings and deals with general building requirements, structural safety, health, sanitation, fire safety requirements. Other special requirements for occupancies like size of rooms, building height, setbacks, coverage, floor area ratio for different sizes of plots in different use zones, requirement of light and ventilation, thickness of walls, building materials for roofs, walls, floors, provisions regarding stairways, passages, lifts, elevators etc are also mentioned. These building codes differ from zoning regulations in a way that they are applied uniformly to all land or buildings of same use and character wherever they may be located in the area.

KEY INADEQUACIES OF EXISTING UNIFIED BUILDING BYELAWS - 1983

Public Unawareness: The clause 2.03 of UBB states ‘All Master Plan/Zonal Plan regulations for various categories of buildings including modifications thereon made from time to time are applicable mutatis mutandis in the building regulations.’ This means that all mandatory Master Plan/ Zonal Plan regulations regarding coverage, FAR, setbacks, height, number of storeys, number of DU’s, parking standards etc for various categories of buildings including modifications made from time to time are applicable automatically in the building byelaws. The modifications made in Master Plan though are notified by Government of India but general public by and large remains ignorant
about such changes as revised version of Building Bye-laws is not publicized. The
public is not aware with these notifications and as such is totally at the mercy of
practicing Architects or the concerned staff of local bodies. This results in total loss of
transparency in the working of the local bodies as well as on the part of practicing
Architects.

**Building Byelaws are outdated:** Delhi’s Building Byelaws were framed in 1983 and
since that time, building technology has significantly changed and population pressure
on the existing building stock has increased. All these have brought redevelopment
pressures to the forefront, emergence of new types of building uses and activities and
enhancement in the roles of developers in building provisions. In addition to this,
concerns of heritage protection, importance of seismic safety and energy efficiency
have also come to the forefront. In the absence of any systematic and periodic review
mechanism, UBB – 1983 have not been comprehensively updated (*Patel, et al., 2005*).
In view of all the changes that have taken place over the years, Byelaws seems to be
outdated. Apart from rain water harvesting that has been made mandatory, nothing
related to green building concepts and energy efficient technologies to be practiced
while designing and construction of building has been included in the byelaws. Another
example of outdated regulation is that sub division of plots is not allowed under the
current building byelaws as well as under MPD – 2021. According to MCD, there has
been a sharp decline in the number of joint families with most residents wishing to
divide their property and carry out further construction activities. However MCD is not
allowed to process the building plans for subdivided plot. But the high court ruling has
currently allowed MCD to sanction floor wise building plan but for that the applicant
has to get a No – objection certificate from all floor owners of the building along with
other affidavits and information. This is a practical problem and a tedious task. But in
today’s time, constructing a number of flats on a single plot has become a norm.
Therefore, it is also not surprising that people have resorted to illegal and unsafe
construction.

Delhi has diverse neighborhoods with old congested walled city, New Delhi,
low density cantonment area, haphazard urban villages, unauthorized colonies, plotted
development, group housing societies etc. Despite this, the present system of regulating
building construction seeks to impose a uniform set of Building Byelaws over the entire NCTD. In view of this ignoring of ground realities and diverse areas, it is difficult to enforce the existing building byelaws as clearly visible with the amount of violations noticed in NCTD.

**Absence of provisions and guidelines for Urban Form and aesthetics:** *Unified Building Byelaws* are intended to set out the rules and regulations which cover the primary physical components of building construction and building materials, such as the physical dimensions of floor heights, projections, verandahs, roofs etc. It is noted that these byelaws are concerned with the individual building only in the form of site coverage, floor area ratio (FAR), building height, setbacks etc and they are not concerned with the design, aesthetics and form of the building along with the overall built environment of the area. The present practice in the city for getting the building approval from the local body is to fulfil the minimum requirements as prescribed in building byelaws and other development controls. If all the criteria and conditions are fulfilled and complied, the building design gets approval for the construction without giving any consideration to the urban form and aesthetics.

There is no indication regarding regulations controlling the building facade and frontage of buildings in the existing building byelaws. In the absence of any such controls, architects / builders have undertaken construction according to their own choice without giving any consideration to overall urban form and care for the surroundings. As a result, the streetscape in NCTD seems to be zigzagged i.e. some buildings are flushed to the road with retail shops in the ground floor while some buildings have left over some space in front of the building as their own private space. Each building facade has its own specific character without representing any special character of the area.

**KEY INADEQUACIES OF DELHI’S ENFORCEMENT MODEL**

*Patel, et al., (2005)* while analyzing the regulatory framework of existing building regulations expressed the view that the enforcement model adopted in Delhi is not adequate. Few of the issues related to enforcement model are roles and responsibilities of persons (owners, builders, contractors, architects, engineers) involved
in the construction of new buildings are inadequately defined; developers cannot be held liable for violations; complicated and time consuming administrative procedures; personnel and infrastructure available with enforcement agencies are inadequate; enforcement agencies are widely considered to be corrupt etc. Apart from the mentioned above, the key problems of the enforcement model adopted are the following:

*Unclear Jurisdictions of enforcement agencies:* Jain (2009) while appraising building byelaws identified that the task of enforcing building byelaws lies with the local bodies for their respective areas of jurisdiction. Theoretically, whenever an area is sufficiently developed, DDA transfers the responsibility of development and enforcement of byelaws for subsequent additions and alterations to these local bodies. However, from public’s viewpoint, jurisdictions and responsibilities of the local bodies are not sufficiently well established thus causing considerable hardship to public. The limited involvement in the planning for development of an area handicaps local bodies in effectively enforcing regulations when the areas are transferred to them.

*Insufficiently empowered Professionals for ensuring compliance:* Enforcement procedures followed for ensuring compliance to byelaws and development controls are cumbersome and time consuming. Area under MCD’s jurisdiction is divided under twelve Zonal Offices. Applications for buildings on residential plot up to 400 sq. yards and issue of Occupancy Certificates for all buildings are dealt with by zonal offices. The Head Office deals with applications for all other buildings, policy issues and interpretation of building byelaws and development controls. At present no effective system for testing competence and empanelling professionals exists.

Professionals are also insufficiently empowered to stay construction if owners build without compliance to sanctioned plans. In addition, no system exists to penalize professionals who abet non-compliant construction. On the contrary, there is a provision for allowing regularization of unsanctioned construction by paying compounding fees, which provides a perverse incentive to bypass the official procedure of getting the prior approval.
Institutional Mismanagement: The institutional mismanagement has characterised Delhi governance over the past few decades. Lack of coordination between the MCD, GNCTD and DDA took a dramatic dimension when the Hon’ble Supreme Court entered the question of land use in the city, while MPD – 2021 was in its finalisation phase. As chronologically interpreted by Rewal (2007), in November 2005 the Hon’ble Supreme Court expressed concern over the mushrooming of commercial activities in residential areas, in violation of the MPD - 2001 and asked the MCD to submit list of those areas where such violations were rampant. In response to this, the Central government made amendments to the MPD - 2001 in order to support and protect the defaulters’ shopkeepers. The Hon’ble Supreme Court then ordered the MCD to publish a list of residential premises being used for commercial purposes and requested their owners to stop misuse or face closure. In March 2006, the Delhi RWAs Joint Front objected the mixed land use in residential areas as proposed through amendments in MPD -2001 through DDA. The Hon’ble Supreme Court then ordered that illegal structures and shops functioning in zones designated as exclusively residential be demolished and sealed (18000 in numbers) which in itself was a mammoth task as according to MCD itself, 75% of Delhi buildings are unauthorized. In September 2006, the Central government passed an ordinance allowing mixed land use in residential areas for commercial purposes. Since then, the sealing process in rest of the areas (which were not allowed to have mixed land use even after amendments) has been continuing, albeit intermittently, by MCD thus implementing the orders given by the Hon’ble Supreme Court. In order to avoid this sealing, Central government implemented Delhi Laws (Special Provisions) Act, 2006 where in it was stated that ‘Not withstanding any judgement, decree or order of any court, status quo as on the date of January 1, 2006 shall be maintained in respect of categories of unauthorised development mentioned in Subsection 1’. But the act was declared as ‘wholly void and illegal’ by the Hon’ble Supreme Court later. The Ministry of Urban Development under the Central Government then hurriedly approved MPD -2021 thus regularising all unauthorised colonies and unauthorised constructions/ misuse of premises for commercial purposes in heavily built up areas and major arteries of Delhi. Instead of coordination, these events revealed the generalised practice of fait accompli by public who ignored the law,
by Government who adopted pieces of legislation contradicting the Court’s instructions as well as by Hon’ble Supreme Court ordering MCD, ignoring the Government’s request to consider livelihood of people while pronouncing such decisions.

SECTION II

BUILDING APPROVAL PROCESS

The process of building approval mainly involves four stages i.e. zoning/planning permission, building plan approval, utilities and service connections and finally occupancy/completion certificate. In the recent studies brought out by World Bank (1993) ‘Doing Business in India’, it is revealed that about 12 to 20 procedures are required to be followed for obtaining these approval and permission which involves 176 certificates and affidavits to be filled in and requires the coordination of 114 departments (nodal service providing agencies). The time period varies from 90 days to about 300 days for getting all these clearances. However, the service level benchmarks for e-governance in Municipalities by the Ministry of Urban Development stipulates that building approvals process should be completed between 7-15 days (Chotani, 2012).

According to DMC Act 1957, no person shall erect or re-erect or make alteration or cause the same to be done without first obtaining a separate building permit for each building from MCD. It has been done in the interest of the public to get the Building Plans sanctioned in order to ensure that building constructed has adequate structural strength, provisions for light, ventilation, hygienic conditions and conform to the provisions of Zoning regulations and development controls as specified in the Master Plan. Constructions done without sanction from authorities are liable for demolition under section 343 and 344 of DMC Act and owner/builder can also face regular prosecutions under section 345A along with section 466A of the Act. It is also mandatory under section 346 of the DMC Act to obtain a completion certificate without which no person is permitted to occupy or permitted to use any building or a part thereof affected by any such work until permission has been granted by the Commissioner in this behalf.
BUILDING APPROVAL STAGES

The Engineering department of Municipal Corporation of Delhi has detailed out the procedures and guidelines to be followed for the construction and getting approval of buildings. The procedure of getting building plan approval and obtaining building permit is broadly categorized into three stages i.e. before construction, during construction and after the construction.

Stage I: The procedure for the first stage approval of building permit before construction requires a series of certificates/ affidavits enlisted in various appendices and annexures to be submitted by the person who intends to erect or re-erect or make alterations in a building along with the prescribed building fees depending on the overall covered area as prescribed by clause 6.5 of building byelaws. All the applications shall be submitted in the respective zones for all types of buildings. These submittals required for this stage are mainly as follows:

i) Copies of plan and statements - Normally 4-copies of plans and statements shall be submitted signed by the owner/ licensed Architect registered with CoA (Council of Architecture) as required under clause 6.3 of building byelaws. But in case of sites requiring the clearance of other departments like Delhi Fire Service, DUAC and Land and Development office, the number of copies of the plan varies from 6 to 9.

ii) Proof of Ownership submitted - Self attested by the applicant and the Architect.

iii) Two copies of the specifications of the proposed construction in the prescribed form.

iv) Supervision Certificates (I & II): Certificates in the prescribed form, signed by the licensed Architect/Engineer, supervisor/ Group who is to supervise the construction along with a copy of valid registration certificate of the professional.

v) Structural stability certificate in the prescribed format from a Structural Engineer along with a copy of registration certificate/ copy of degree of the professional.
v) Rain Water Harvesting Certificate in the prescribed format (for plot size more than 100 sq. m).

vii) No nuisance/Mulba Certificate in the prescribed format.

viii) Data to be furnished as required by National Building Organization (NBO) to be filled in triplicate in the prescribed format.

ix) Affidavits and Undertakings to be submitted in the prescribed format:
   
   (a) Indemnity Bond in case of proposal for the construction of a basement
   
   (b) An affidavit for declaration no collaboration agreement.
   
   (c) An affidavit for declaration of collaboration agreement.
   
   (d) An undertaking for not creating any extra dwelling unit.
   
   (e) An affidavit to the affect that building materials shall not be stacked on Government land (for plot size more than 418 sq. m).
   
   (f) An affidavit for third floor.
   
   (g) An affidavit/ undertaking regarding irrevocable Bank Guarantee in support of proposed parking in basement and stilt.

x) No Objection Certificate (NOC)/ No dues certificate from House Tax department or receipt from MCD for the payment of house tax for the year in which approval is being made.

xi) Other documents and clearances required in special cases:

   a) In case of any deviation from the terms and conditions stipulated in the lease deed/ ownership document, necessary clearance from the lessor.
   
   b) NOC from the Competent Authority regarding land use as per Master Plan/ Zonal Plan, if required.
   
   c) Proof of existing structures in the shape of previous sanctioned building plan and completion certificate if the proposals are for additions and alterations.
d) Approval of Delhi Urban Arts Commission wherever required under DUAC Act shall have to be obtained before sanction of building plans.

e) Recommendations of Chief Fire Officer in case of multi-storied buildings, group housing shall have to be obtained.

f) NOC from DVB/ Distribution companies in case of Group Housing Schemes, if ESS is proposed.

g) NOC from ASI in case of plots falling within 300 m of any protected monument.

h) NOC from DMRC in case plot is falling within MRTS corridor.

i) Undertaking regarding provision of Solar Heater for all types of buildings (For residential building, plot having area of 500sq. m or above).

j) NOC from Delhi Jal Board (DJB).

k) Affidavit regarding no bore well without permission of DJB.

l) NOC from Environment Pollution Control Authority (EPCA) wherever required.

m) Cess Form.

n) NOC from Cooperative Group Housing Societies wherever applicable.

o) NOC from Airport Authority of India, wherever applicable.

p) Requirement of Photographs and address proof of Owner, Architect and Structural Engineer.

q) Certificate for provision of stilt for residential plots measuring 100 sq. m and above up to 1000 sq. m including notified roads.

This series of affidavits, NOCs and other papers in the form of certificates from different government agencies are not so easy to obtain. It is important to note here that many of these certificates and affidavits are to be obtained from other sub-departments.
of MCD; only for submission in engineering department of MCD. Therefore, although it is desirable that MCD has the records of almost all the properties but still the owner is required to get those certificates and affidavits for submission to MCD again. This process of resubmitting the certificates and affidavits again to MCD makes the whole process very time consuming and cumbersome. The procedure also includes the attestation and signing of plans as the condition that all the plans has to be duly signed by the owner and licensed Architect and indicate their names, addresses, license and enrolment number. However, plans for the plots up to 500 sq. m and up to 4 storied may be signed by a licensed Engineer and for plots up to 100 sq. m and up to 2 storied by a licensed supervisor. In any of the cases, one has to depend on architects and engineers while they are not ready for taking responsibility of all the works till construction supervision.

**Stage II:** After the necessary approvals and building permits of stage I, the owner can start construction but has to follow certain conditions listed below during construction:

a) To display details of sanctioned building plan preferably on a board of size 1mX0.45m containing information including plot/property number, location, sanction letter number and date, date of validity of sanction, name of owner/architect, contractor, number of stories, details of floors and coverage at each floor.

b) To remove mulba on a weekly basis.

c) To ensure proper screening of construction site.

d) To carry out construction in such a manner not to cause nuisance to the neighborhood.

e) To stack construction material within the plot having size more than 418 m².

Not only this, the applicant who has been granted the building permit has to inform the authorities regarding starting of construction i.e. intimation for taking up work at site in writing before 7 days of starting of construction work at site. He has to obtain an acknowledgement from the authority of this notice. After receiving such notice, authority has to depute an officer for inspection of the site. In case of failure to send this intimation, it is deemed as a violation of the condition of sanction and is
subject to prosecution under section 337 (4) of DMC Act, which may invite a fine up to Rs. 10,000 and daily fine up to Rs. 500/-.

Later intimation at the time of completion of work up to plinth level has to be made to the authority. At this stage, the owner through his licensed Architect/ Engineer/ Supervisor has to give notice to the MCD in the Specified Performa accompanied with a fee of Rs. 15/- on completion of work up to plinth level to enable the MCD to ensure that work conforms to the sanctioned plans and Building Bye-laws.

a) Copy of valid Certificate of Licensed Architect/Engineer/Supervisor.

b) Building plans, indicating the plinth constructed at site in relation to the plot dimensions, area and setbacks, duly signed by the Owner and licensed Architect/ Engineer/ Supervisor. It is obligatory on the part of MCD to inspect the work and submit the objection, if any, to the owner and architect/ engineer within 30 days from the receipt of such notice in specified format failing which work is deemed to be cleared for further construction of the building in accordance with the sanctioned building plan.

Stage III: According to the provision contained under section 346 of DMC Act, it is mandatory for every person not to occupy or permit to be used any building or part thereof affected by such work until permission has been granted by the Commissioner in accordance with bye-laws made under the Act. Therefore for obtaining Completion Certificate after completion of the building, the owner again has to go through a long drill for getting completion certificates. A notice regarding completion of building to the Authority as described in the Building Permit along with a fee of Re 1/sq. m of covered area has to be submitted along with the following documents.

a) Copy of Lease-deed / Sale-deed.

b) Three copies of completion plan.

c) Three photographs of the building taken from different angles so as to show the overall view of the building.

d) Copy of Sewer connection permission.
e) Structural stability Certificate & Structural Drawings with details, duly signed by the licensed Architect and Structural Engineer.

f) Form for certificate of Licensed Architect/Engineer/Supervisor/Group.

g) Extension of time from the lessor, if required.

h) Certificate from the lift manufacturers or competent authority of GNCTD as required.

i) Certificate from Air-conditioning Engineer, if required.

j) Latest House Tax receipt/No dues certificate.

k) Clearance from DUAC, if required.

l) Clearance from Chief Fire officer, Delhi, if required.

m) Clearance from DVB/Distribution companies regarding provision of transformer/sub-station/ancillary power supply system etc, if required.

n) A copy of valid registration certificate of the professional.

o) Irrevocable Bank Guarantee for provision of parking in basement, stilt and open space.

It is important to note that there is no provision for taking building permit or any kind of permission from MCD for carrying out repairs/alterations in the existing buildings. This absence of provision for seeking approval for repairs/alterations in existing buildings has been identified as one of the main reasons that encourage people to undertake unauthorized construction and violation of development controls. Following are the types of construction activity which has been exempted from taking any kind of approval and otherwise do not violate any provisions regarding general building requirements, structural stability and fire safety requirements of the prescribed byelaws.

a) Plastering and patch repairs;

b) Re-roofing or renewal of roof including roof of intermediate floor at the same height;
c) Flooring and re-flooring;

d) Opening and closing windows, ventilators and doors not opening towards other's property;

e) Replacing fallen bricks, stones, pillars, beams etc.

**TIME SCHEDULE FOR BUILDING SANCTION**

The Time schedule for approvals for the building plans of other than plotted residential and notified streets are normally sanctioned in about 7 to 15 days time after necessary corrections/compliances having been done. However, where some policy decision or interpretation of Building byelaws is needed, such cases are placed before Building Plan Committee, both at headquarter level and at the Zonal level for decision. On the day the application for grant of building permit is received, building section has to give a suitable date and time for the site inspection. In any case the date given has to be within 10 days from the receipt of application. After the site has been inspected, the case has to be scrutinized within 30 days from the date of inspection. In case there are no objections and corrections requiring compliances from the owner, the sanction has to be released within 60 days from the date of submission. For other cases where corrections or compliances of other objections are necessary, the same need to be intimated to the applicant within 45 days from the date of submission.

Such corrections/compliances have to be completed within 15 days. After submitting the compliance, the building permit shall be released within 15 days from the date of such compliance. In case of non-compliance by the applicant within stipulated period, the building permit shall be refused. In case of applications for building permit which are not in conformity with Master Plan/Zoning Regulations/Building Byelaws or deficient in papers/documents and required information, the application is liable get rejected.

Although MCD has started across the table as well as online approvals of the plans, but these are for very limited condition, which is as follows-
A) **Instant Sanction:** For residential plots up to 500 sq. m: This scheme is applicable for plots, which are lying vacant and forms a part of approved layout plan (LOP).

B) **Single Window Service:** The concept of single window clearance for sanction of building plan application was initially introduced at Head Office. But now this service was extended in all zones of the Corporation. Under this single window service, following facilities are made available and specific date and times are allocated for different zones. But the procedure of single window is also not simple as each and every document in attested form has to be submitted as mentioned earlier.

1) To accept application for building plan, completion certificate and certified copy of any of the documents related to building approval;

2) To deposit necessary building fees and taxes;

3) To provide any guidance relating to sanction of the building plans, completion certificate under the provisions of both building byelaws and master plan and any other information relating to building activity in the zones;

4) To provide counselling for submission of fresh building plan application;

5) To fix up time and date for inspection both for sanction of building plan as well as completion certificate, if the same has not been notified earlier;

6) To carryout corrections in the building plans or for making any compliance;

7) To deliver sanction of the building plans, completion certificate and certified copies.

8) To issue Completion Certificate at the spot under ‘Tatkal’ Scheme
9) To accord sanction to building plan application, which are complete in all respect and the proposal is as per byelaws, development controls as specified in the Master Plan is found in order.

Even after introducing such models, the certificates to be issued and permissions to be given at the time of construction and after construction still take a good amount of time. During the survey for this research, RWA’s and individuals claimed that the stipulated time taken by MCD is between 3-10 months. Therefore attempts have to be made to reduce the time taken in their issuance through some process innovations and reform options.

**Deviations from Sanctioned Plans**

There are various types of deviations from the sanctioned plan that have been listed under the compoundable items along with the degree up to which they can be compounded.

(A) **Non-Compoundable Items**

Any deviations from the maximum prescribed limits regarding coverage, FAR, set-backs, open spaces, total height of the building, number of floors, number of dwelling units and density, parking norms, light and ventilation provisions, building use along with all other provisions of bye-laws except items given under compoundable items shall not be compounded/ regularized and have to be rectified by altering/ demolition at the risk and cost of owner.

(B) **Compoundable Items**

If a building or part thereof has been constructed un-authorized i.e. without obtaining the requisite building permit from the authority, the same shall be compounded at prescribed rates, provided the building or part thereof so constructed otherwise confirms to the provisions contained in the building byelaws and master/ zonal plan regulations. For this, party shall have to submit the request for building permit in the prescribed procedure. The buildings not covered specifically under the specified use zone categories, shall be compounded as decided by the authority, considering the merit of each individual case. Building portions constructed within the
permissible limits which although are exempted from the calculations of the coverage and FAR but constructed unauthorized without obtaining prior permission from the authority shall also be compounded/ regularized at the rate given for different type of uses.

SECTION III

AGENCIES FOR DEVELOPMENT AND IMPLEMENTATION OF DEVELOPMENT CONTROLS

There are a number of institutions/ agencies involved for performing city level functions related to urban development and management in NCTD. These are generally categorized into

(A) Central Government Agencies

(B) State Government Agencies

Fig. 5.1: Categorization of Agencies working for Urban Development and Management of NCTD
For this research, only the agencies related to planning, development and implementation of Development Controls has been discussed.

**DELHI DEVELOPMENT AUTHORITY (DDA):**

Based on the recommendation of Birla Committee, DDA was set up under the Delhi Development Act, 1957 as a single planning and controlling authority for the development of whole of Delhi. Delhi Development Act 1957 as a policy document laid the foundation of Delhi Development Authority, a self financing body, under the control of Ministry of Urban Development (MoUD) and has been entrusted with the task of planned development for the ever growing population of Delhi. The Authority also has an advisory council for the purpose of advising the Authority on the preparation of the master plan and on matters relating to the planning of development, arising out of or in connection with the administration of the Act, as may be referred to it by the Authority.

As identified by Jain (2009), following are some of the salient Features of the Delhi Development Act that are related to Master Plan preparation and inbuilt development controls.

1) The Act has provision of creating a need based system, under which the complete development of Delhi has to be undertaken, where in the Section 7 (1) says,

   “The Authority shall, as soon as may be, carry out a civic survey of, and prepare a master plan for, Delhi.”

   The civic survey clearly refers to carrying out a survey to gauge the basic standard of living by defining the parameters for the services to be provided.

2) The Act shows a conscious effort at making the system transparent. While the Section 9(2) is about approval of the plan document by the Central Government, Section 10(1) mandates DDA, to publish the draft plan before finalizing and submitting it for approval.

   “Draft plan preparation to publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any
person with respect to the draft plan before such date as may be specified in the notice.”

Further in the act, Section 11 states that

“…naming a place where a copy of the plan may be inspected at all reasonable hours and upon the date of the first publication of the aforesaid notice the plan shall come into operation.”

The above cited statement adds weight to the argument of creating scope for transparency and participation in the system.

3) The Act provides ample scope for modifications to plan as suggested by the Central Government or the Authority itself.

4) The document clearly lays down the rules and regulations applicable to the planned development. Section 14 of Act prohibits use of land and building in contravention as under:

“After the coming into operation of any of the plans in a zone, no person shall use or permit to be used any land or building in that zone otherwise than in conformity with such plan: Provided that it shall be lawful to continue to use upon such terms and conditions as may be prescribed by regulations made in this behalf any land or building for the purpose and to the extent for and to which it is being used upon the date on which such plan comes into force”

Also Section 29 (2) of Act states that:

“Any person who uses any land or building in contravention of the provisions of Section 14 or in contravention of any terms and conditions prescribed by regulations under the provision to that section shall be punishable with fine which may extend to five thousand rupees and in case of continuing offence, with further fine which may extend to two hundred fifty rupees for everyday during which such offence continues after conviction for the first commission of the offence.”

These enabling provisions are provided in the Act to take actions and prosecution against the violation of use of land and buildings built in contravention to the prescribed land use as per master plan/ zonal plan provisions. These rules are
accompanied with the appropriate penalties (as mentioned in Section 29 - Penalties, 30 – Order of demolition of building, 31 – Power to stop development and 31A – Power to seal unauthorised development).

The section provision of 31 and 31A provides for strict actions like demolition or sealing “development being commenced or carried on or has been completed in contravention of the master plan or zonal development plan or without the permission, approval or sanction referred to in section 12...”

The functions and powers of the Delhi Development Authority as per Delhi Development Act, 1957 are listed below:

✓ **Pioneering Urban Development** through Formulation of Master Plan and subsequently zonal plans for covering the present and future growth of Delhi and to promote and secure the development of Delhi according to the plan covering all the possible activities.

✓ **Infrastructure Development** includes preparation of schemes and advising the concerned authorities departments and agencies for formulating and undertaking schemes for development of infrastructural facilities and utilities; to acquire, hold, manage and dispose of land and other property; to carry out building, engineering and other operations; formulation and sanction of the projects and schemes for the development of the Delhi; power to acquire land for public purpose under the provisions of Land Acquisition Act 1984.

✓ **Creating Metropolis** through preparation of schemes and advising the concerned authorities departments and agencies in formulating and undertaking schemes for development agriculture, horticulture, floriculture, forestry, transport, communication, schooling, cultural activities, sports, Medicare, tourism entertainment and similar other activities that are necessary for the overall development of Delhi.

**MUNICIPAL CORPORATION OF DELHI (MCD):**

The Municipal Corporation of Delhi has been set up under the Delhi Municipal Corporation (DMC) Act 1957, covering the entire area of NCTD (1397 sq. kms), except
the areas under the jurisdiction of NDMC and DCB. The Act was revised in 1993 to include provisions for conformity with the 74th Constitutional Amendment in terms of its composition, functions, governance and administration. For administration purposes, corporation area is divided into twelve zones comprising 134 wards. The Commissioner of Corporation heads the head office and subsequently after twelve zonal offices, there are ward offices at lower level.  

Following are the salient Features of the Act that need to be examined in the light of implementation of development controls in areas under its jurisdiction.

1) Chapter III of the DMC Act 1957 defines the obligatory and discretionary functions of the Corporation. There are number of provisions that has been spread out over three chapters that refer to planning, building byelaws and regulation of development i.e. Chapters XVI, XXI and XXIII (Building Regulations, Improvement and Rules, Regulations and Byelaws) but nowhere it clearly mandates or empowers MCD to undertake planning or regulation of development.

2) While Chapter XVI - Building Regulations has provision that establishes the right of the Central Government to superintend, direct and control the functions. It also has provisions that grant powers for preparing building byelaws to the Central Government. As per the provisions, it is the Central Government that has been given the responsibility of framing building byelaws and MCD has to solicit public opinion for consideration by the Central Government. But in the end MCD has no autonomous status in framing building byelaws or even in the planning for development of an area.

3) Chapter XVI also has provision that mandates MCD to regulate development and defines procedures for the same. Section 334 of the chapter defines that no person shall erect or re-erect or make alteration or cause the same to be done without obtaining a separate building permit for each such building from the MCD. It has been done in the interest of the public to get the building plans sanctioned to ensure that building constructed has adequate structural strength, provisions for light,

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1 In December 2011, Delhi Municipal corporation has been trifurcated into three smaller Municipal corporations - North Delhi Municipal Corporation, South Delhi Municipal Corporation, East Delhi Municipal Corporation.
ventilation and conform to the provisions of development controls. Constructions raised without sanction are liable for demolition under section 343 and 344 of DMC Act and owner/builder can also face regular prosecutions under section 345A of the Act. It is also mandatory under section 346 of the DMC Act to obtain a completion certificate without which no person is permitted to occupy or use any building or a part thereof effected by any such work until permission has been granted. However, no clear model for defining roles and responsibilities of owners, developers and professionals underlies these provisions.

4) Chapter XXI – Improvement has empowered MCD to plan for specific areas and undertake improvement schemes in already developed areas. It lists a variety of measures that can be taken to improve the area – from land reorganization to infrastructure development. But the provisions are limited and inadequate like the execution of the scheme relies primarily on the Land Acquisition Act, 1894 and there are no provisions for making the schemes self-financing. Similarly Chapter XXIII – Rules, Regulations and Byelaws, has empowered MCD to make byelaws pertaining to streets, improvement schemes and several other issues. However, it does not empower it to make area specific building byelaws. In a way, these provisions are disjointed, disorganized, outdated and ultimately ineffective for defining an integrated system for planning and regulating development in a rapidly growing city.

DELHI URBAN ART COMMISSION (DUAC)

Delhi Urban Arts Commission has been set up in 1974 under the DUAC Act 1973. As defined in the Act, the main function of the DUAC is essentially to advise Central Government in the matters of preserving, developing and maintaining the aesthetic quality of urban and environment design in Delhi and advice and guide the local bodies for the same. The Act requires the local bodies to refer all building and engineering operations and development proposals to the Commission, before according approval to them. In the context of this recommendation, it becomes essential that all the major projects which need an examination of the design, engineering operations and development proposals from the point of view urban design, especially in the context of
development in the vicinity of heritage and sensitive sites shall be referred to the Commission. According to the Act, DUAC shall examine the project on the basis of scale models and informally structured quasi judicial across the table discussions with the developers and architects. But the task of guiding and controlling the aesthetic quality of urban environment and design on individual plots is difficult. The commission is yet to develop viable urban form frameworks and urban design guidelines regarding the design and form of the city. Therefore, the method of judging and sanctioning the architectural or development projects placed before DUAC has been very subjective and arbitrary in nature (Fernandes, 2006).

Conclusion

With the evolving spatial character, form and structure of the city, a school of thought has emerged with the belief that changes in controls must be limited to simplification, procedural and implementation improvement. But it is important to note that a better understanding of the codes and ease in implementation will not necessarily help overcome insensitivities in development. The character dictated by context-blind regulatory tools coupled with unified byelaws has lead to greater insensitivities and magnification of problems. All these have initiated a debate that is it really required to have unified controls when the conditions that are to guide development are so different? It is important that these tools – that are at best designed to ensure that buildings and city form conform to a minimal performance standard actually help in the creation of a ‘good city form’.

The procedure for getting the building permit and completion certificate as claimed by MCD is simplified only in terms that they are now available in single booklet. The certificates and affidavits that are required for approval and other procedural activities by the MCD contain information that is already available with other departments of MCD. The only activity that is required to be done by MCD is to update its own database. Therefore, remedial measures should aim at streamlining procedures for obtaining time bound approvals, easy monitoring during construction and improving compliance of development controls.
References


