

L.N. 227 of 2016**DEVELOPMENT PLANNING ACT
(CAP. 552)****Development Planning (Health and Sanitary) Regulations, 2016**

BY VIRTUE of the powers conferred by articles 84 and 93 of the Development Planning Act, the Parliamentary Secretary for Planning and the Simplification of Administrative Processes, after consultation with the Planning Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Development Planning (Health and Sanitary) Regulations, 2016.

(2) These regulations shall come into force on the 10th June, 2016:

Provided that

(a) for development applications submitted in terms of the Act, these regulations shall apply to development applications validated after the 10th June 2016; and

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(b) for development applications submitted in terms of the Act, and which were validated prior to the 10th June 2016, the applicant may, within two months from the 10th June 2016, request the Authority to determine his application under the provisions of Code of Police or under the provisions of these regulations. If no communication is forthcoming, the application shall be determined under the provisions of these regulations.

(3) In determining development applications submitted in terms of the Act, the Authority shall apply the provisions of these regulations without prejudice to the provisions of article 72 of the Act.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

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"the Act" means the Development Planning Act;

"alterations" means structural changes to buildings;

"aperture" means an opening which allows natural light and

ventilation into a habitable space;

"Authority" has the same meaning as is assigned to it in article 2 of the Act;

"back yard" means an unroofed area at the rear of the structure which shall be an integral part of the same site, to provide adequate light and cross-ventilation to structures with over fifteen metres depth;

"basement" has the same meaning assigned to it in the Development Control Policy, Design Guidance and Standards of 2015, as may be subsequently amended;

"clear height" means the distance measured from the finished floor level up to the underside of the ceiling level. This excludes any beams, arches and, or drop ceilings, provided that these do not take up more than 30% of the ceiling area of the room and the clear height of this 30% area is not less than 2.0 metres;

"commercial development" is any development related to retail, offices, food and drink, tourism, entertainment, industrial and warehousing, or a mixture of these uses;

"corner site" means a site located at the intersection of two streets;

"courtyard" means an unroofed area in existing buildings constructed up to 1967 and shall be an integral part of the same site;

"dwelling" means a structure used as a residence and it must consist, at least, of a kitchen, bedroom, and sanitary facilities;

"habitable space" means any space larger than six meters squared, excluding bathrooms, circulation space, walk-in wardrobes, domestic stores, engine rooms, lift shafts, garages, games rooms and commercial developments;

"internal yard" means an unroofed area, not located at the rear of the structure, intended to provide adequate light and cross-ventilation to habitable space over 15 metres depth and shall be an integral part of the same site. The minimum width of an internal yard shall be one metre and fifty centimetres;

"non-habitable space" means any space which does not fall within the definition "habitable space";

"residential structure" means a building used as a dwelling;

"restricted site" means a site or a structure with a depth of fifteen metres or less;

"shaft" means an unroofed area with sufficient area to provide cross-ventilation and, or space for the location of ducts and gulleys for storm and foul water.

PART I

Preamble

Scope. **3. (1)** These regulations are applicable to new structures and to alterations to all existing structures.

(2) These regulations are not applicable to structures constructed in, or prior to, 1967, save alterations to these structures done thereafter.

Deviation. **4. (1)** In particular circumstances the Authority may deviate from the exact definition of these regulations, if there are justified planning and sanitary reasons for this departure. Such an exemption may be granted without detriment to the structure in question and the neighbouring properties, and shall not affect or detract from the liability of the *perit* or of any other person in respect of the stability or safety of the structure. Any deviations are to be justified.

(2) Any departure from these regulations shall be decided by the Authority and shall be subject to an appeal before the Environment and Planning Review Tribunal.

Applicability. **5.** All these regulations refer to both habitable and non-habitable spaces, unless otherwise indicated.

Specific conditions. **6.** These regulations may be subject to other specific conditions contained in the relevant development permit.

Inspection. **7.** It shall be lawful for any official duly authorised by the Executive Council, in the course of or after the completion of the work, to inspect the structure in order to ascertain whether the work, both as regards the materials used and the mode of its execution, conforms to the provisions of these regulations. The Executive Council may, where necessary, request the assistance of the Police and obtain a warrant authorizing the use of force, for access.

Conformity with these regulations. **8.** Any infringements of these regulations shall be subject to enforcement action. All existing developments carried out post 1967 must conform to the conditions attached to the relative development permit or to these regulations.

9. The Authority may request a warranted engineer's report, or an updated one, in relation to any approved development in relation to light and ventilation matters. Failure to submit such reports within the requested time shall render the use of the building as illegal, and enforcement action may be carried out accordingly.

New or updated warranted engineer's report.

PART II

Of Habitable and Non-Habitable Spaces

10.(1) (a) All new development should be provided with a water reservoir to store and re-use rainwater run-off from the built up area and having a volume that is established in Technical Guidance Document F - Conservation of Fuel, Energy and Natural Resources (Minimum Requirements on the Energy Performance of Buildings Regulations, 2006) and any subsequent revisions.

Rules to be observed in the construction of reservoirs.

(b) Every water reservoir shall be connected to a pump where the extraction of water so requires.

11. (1) Each dwelling unit must have a frontage on a road, valley or coast.

Dwellings to have frontage on a street.

(2) Habitable and non-habitable spaces may be permitted at basement levels provided that they comply with these regulations. In the case of both habitable spaces and non-habitable spaces, these are to be adequately ventilated and illuminated and include either of the following:

Spaces at basement level.

(a) an external aperture above pavement level; or

(b) an external aperture overlooking:

(i) a three metre front unroofed area even if located below street level; or

(ii) at least a three metre deep unroofed area at the back of the structure; or

(c) for non-habitable spaces in basements only, a warranted engineer certifies that they are adequately ventilated and illuminated for their intended use. The Authority may consider ventilation grids under pavements as a source of adequate ventilation for such non-habitable spaces in basements.

(3) Preference should always be given to natural light and ventilation for non-habitable spaces above ground level:

Non-habitable spaces above ground level.

Provided that non-habitable spaces may be artificially illuminated and ventilated, subject that certification by a warranted engineer is submitted to the Authority stating that the design can achieve acceptable levels of light and ventilation in accordance with recognised building codes and standards.

Minimum size
of an aperture.

12. (1) Every habitable space shall be served with a minimum cumulative external aperture area of at least one metre squared.

(2) No overlying projections shall be allowed above apertures with a cumulative area of less than one metre squared.

Light and
ventilation.

13. (1) All habitable spaces are to be adequately ventilated and illuminated in accordance with the provisions of this regulation to ensure, in the opinion of the Authority, sufficient ingress of natural light and free circulation of air.

(2) Every dwelling, except corner dwellings, with a depth of more than fifteen metres, requires a back yard equivalent to at least six metres width or to the entire plot width if such plot width is less than six metres. The depth of the back yard shall be in accordance to regulation 16.

(3) Toilets may be mechanically ventilated.

(4) (a) Glazed automated retractable roofing over courtyards providing ventilation to habitable spaces may be considered provided that:

(i) natural or mechanically automated ventilation is provided;

(ii) the design shall be certified by a warranted engineer that it can achieve acceptable levels of ventilation in accordance with recognised building codes and standards.

(b) In the case of fixed glazed roofing, side ventilation may be considered provided that the design is certified by a warranted engineer that it can achieve acceptable levels of ventilation in accordance with recognised building codes and standards.

(5) When a habitable space has an irregular shape and the external apertures do not provide direct natural light and ventilation to all the habitable space, a projection above any such aperture shall not exceed one metre.

14. (1) In streets or open spaces which are three metres wide or less, the overall height of the façade should not exceed twice the width of the street or open space, which width shall be calculated as the clear horizontal distance between the building frontage of the façade and the building frontage of the nearest façade on the opposite side of the street or open space. Height to width ratio does not apply in the case of façades fronting the seafront or land outside the development zone.

Overall height
of the façade.

(2) In streets or open spaces which are wider than three meters but less than or equal to fifteen metres, the overall height of the façade should not exceed three times the width of the street or open space which width shall be calculated as specified in sub-regulation (1). Height to width ratio does not apply in the case of façades fronting the seafront or land outside the development zone:

Provided that additional floors above the overall height of the façade stipulated under sub-regulations (1) and (2) may be allowed provided adequate setbacks from the building alignment of the façade are introduced. The setback for the additional floors shall be of a dimension such that the ratio of the width of the street, as specified in sub-regulation (1), and the setback, to the overall height of the building, including the setback floors, shall never be less than 1:2 for street widths of three metres or less and never less than 1:3 for street widths of more than three metres. Street widths shall be measured as stipulated in sub-regulations (1) and (2):

Provide further that there may be exceptions depending on the site context, in which case any façades which are higher than as provided in this regulation are to respect the surrounding context.

(3) In streets or open spaces which are wider than fifteen meters, the overall height of the façade can exceed three times the width of the street, as specified in sub-regulation (1), without the need for setbacks from the building alignment of the façade.

15. (1) The clear height of:

Height.

(a) a habitable space shall not be less than two metres and sixty centimetres;

(b) a non-habitable space shall not be less than two metres and forty centimetres, excluding engine rooms, lift shafts, domestic stores, walk-in wardrobes and bathrooms, which may have a clear height of less than two metres and forty centimetres.

(2) Any intermediate floors within the height of any space can

be accommodated provided that the clear height of the intermediate floor shall not be less than two metres and ten centimetres and seventy percent of the space shall remain as double volume.

Depth of backyard, internal yard and projections.

16. (1) Every dwelling shall have a backyard with a depth in proportion to the height of the building. The minimum depth of these backyards, and internal yards and projections, where applicable, shall be as specified hereunder:

Height of façade overlooking the backyard and measured from the internal floor level of the dwelling	Depth of Backyard	Depth of Internal yard	Depth of projection allowed in backyard
Up to 10.1m	3.0m	3.0m	1.0m
> 10.1m to 14.1m	3.9m	3.5m	1.0m
> 14.1m to 18.6m	4.8m	4.0m	1.3m
> 18.6m to 21.6m	5.7m	4.5m	1.3m
> 21.6m to 25.6m	6.6m	5.0m	1.6m
> 25.6m to 28.6m	7.5m	5.5m	1.6m
> 28.6m to 32.1m	8.4m	6.0m	1.6m
> 32.1m	9.3m	6.5m	1.6m

(2) A minimum backyard and internal yard dimension of three metres depth must be retained for a building height up to 10.1 metres measured from the internal floor level of the dwelling. For each overlying additional floor, a setback of one metre and fifty centimetres for a backyard and of ninety centimetres for an internal yard from the underlying floor, shall apply. In instances where there is already an existing minimum back and, or an internal yard:

(a) for the backyard, a setback of two metres and thirty centimetres may apply for every additional two floors instead of having a one metre and fifty centimetre setback for each additional floor;

(b) for the internal yard, a setback of one metre and forty centimetres for every additional two floors may be made instead of ninety centimetres for every floor.

(3) For structures which are not used as dwellings with a height of the façade overlooking the backyard and measured from the internal floor level of up to six metres and forty centimetres, the backyard shall have a minimum depth of one metre and fifty centimetres. The provisions of sub-regulations (1) and (2) shall apply for overlying floors.

- 17.** In the case of structures having a frontage on two streets:
- (a) no backyard is required where each unit at the same level has a frontage on the two streets;
- (b) a backyard for every unit with a depth as set out in regulation 16 is required if each unit at the same level does not have a frontage on two streets provided that the depth of backyard may be reduced by one third of the dimensions set out in regulation 16 when each unit at the same level are permitted through one development permission, and provided further that when the reduced backyard is separated by a wall constructed in a material used in the construction of buildings, the height of this wall should not exceed 2.2m.
- 18.** If, owing to the configuration of the site on which the structure is to be constructed, the back yard cannot be of the prescribed length or width, the Authority may permit a smaller length or width, provided that, in the Authority's opinion, such smaller length or width, having regard to the particular circumstances of the site, is sufficient to secure such natural light and ventilation as are required for the wholesome condition of the structure.
- 19.** No projections are permissible within internal yards or shafts, unless the said internal yards or shafts are larger than the minimum required, and the maximum extent of the projection must not exceed the surplus to the minimum required as set out in regulation 16.
- 20.** (1) A structure in the backyard up to three metres external height may be permitted provided that the requirements mentioned in regulations 13(2) and 16 are respected.
- (2) In all cases, no access to the roof of the structure is permitted.
- 21.** Where a pre-1967 building includes a courtyard, which courtyard does not serve as a backyard, any proposed additional floors may be constructed without necessarily having the additional floors recessed back from the courtyard alignment as required by regulation 16(2), provided that a warranted engineer certifies that they are adequately ventilated and illuminated.

Backyards in relation to structures having a frontage on two streets.

Where back yard cannot be of the prescribed length or width.

Projections on yards.

Rooms within backyards.

Courtyards in pre-1967 buildings.

