L.N. of 2016

DEVELOPMENT PLANNING ACT (CAP. 552)

Development Planning (Health and Sanitary) Regulations, 2016

BY VIRTUE of the powers conferred by Article 93 of the Development Planning Act, the Minister has made the following regulations:-

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:

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

“Act” means the Development Planning Act;

“Alterations” means structural changes to buildings;

“Aperture” means an opening which allows natural light and 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 along its whole width, which shall be an integral part of the same site, and belongs to the same owner, to provide adequate light and cross-ventilation to structures with over twelve metres and fifty centimetres 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;

“Cesspit” or “cesspool” means a sealed tank for the reception and temporary storage of sewage;
“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;

“Commercial development” is any development which does not fall under Class 1 of Legal Notice 74 of 2014 and includes uses related to retail, offices, food and drink, tourism, recreational, entertainment, industrial and warehousing, or a mixture of these uses;

“Competent Person” means a person who has sufficient training or experience or knowledge, and other qualities to allow him to assist and identify potential hazards in the surroundings or working conditions which are unsanitary or hazardous;

“Corner site” means a site located at the intersection of two streets;

“Courtyard” means an unroofed area in existing vernacular buildings forming an integral part of the design and use of the building, and shall be an integral part of the same site and belongs to the same owner;

“Dwelling” means a structure used as a residence and it must consist at least of a kitchen, bedroom, and sanitary facilities;

“External aperture” means an aperture overlooking an unroofed area or a road which allows natural light and natural ventilation into a habitable space;

“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 and shall be an integral part of the same site and belong to the same owner. The minimum width of an internal yard shall be one metre and eighty centimetres;

“Non-habitable space” means any space which does not fall within the “habitable space” definition;

“Occupier” means any person who is in possession of the structure at that particular time;

“Owner” has the same meaning as assigned to it in the Act;

“Residential structure” means a building used as a dwelling;
“Restricted site” means a site or a structure with a depth of twelve metres and fifty centimetres or less;

“Road” means any road, whether public or private, and includes any street, square, court, alley, lane, bridge, footway, passage or quay, whether thoroughfare or not;

“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;

“Structure” means any building made in a material used in the construction of buildings;

“Wall” means a structure made from stone, concrete blocks or other material used in the construction of structures according to recognised building codes or standards;

**PART I**

**Preamble**

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.

4. (1) In particular circumstances the Authority can 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 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 the regulations shall be decided by the Authority and shall be subject to an Appeal before the Environment and Planning Review Tribunal.

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

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

7. (1) 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 Force and obtain a warrant authorizing the use of force, for access.

(2) The Executive Council shall also have the power to apply any necessary tests to any existing drain, conduit or sanitary fitting, if there exists any reasonable doubt that the said drain, conduit or sanitary fitting is defective.

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 an engineer’s report or an updated one in relation to any approved development. Failure to submit such reports within the requested time will render the use of the building as illegal, and enforcement action may be carried out accordingly.

PART 2

Of Habitable and Non-Habitable Spaces

10. (1) In the construction of any structure, the owner, the perit and the mason employed shall ensure that:

a) the structure is constructed in accordance with recognised building codes and standards as established from time to time;

b) the structure is impervious to dampness and does not cause dampness to third party structures, directly or indirectly.

(2) The roof and, or yard/s of any structure shall be paved with such materials and drained in such a manner as to prevent the stagnation of water on such roof and, or yard/s or the percolation of water into any part of the structure.

(3) (a) Every residential and commercial structure shall be provided with sanitary facilities which shall be connected with the public sewer:

Provided that the Authority may exempt any owner from connecting the sanitary facilities with the public sewer under the condition that the owner provides, in respect of that structure:

(i) a cesspool, or
(ii) a septic tank, or

(iii) a sewage treatment and disposal plant,

at the option of, and under such conditions as may be imposed by, the said Authority.

(b) Where the sanitary facilities are at a lower level than the public sewer, the owner of the structure shall provide means of pumping or lifting the sewage material towards the public sewer;

(c) The cesspool, septic tank or sewage treatment and disposal plant shall also meet the following criteria:

(i) must be placed and ventilated in accordance with the directions which shall, in each case, be given by the Authority;

(ii) shall be constructed in such manner and with such materials, in such parts of the structure or so distant from the structure as the Authority may direct. Traps or other means to prevent any exhalations or infiltrations are to be constructed as the Authority may, in any case, direct;

(iii) must be leak-proof and built in such a way as not to contaminate the surrounding area;

(iv) shall be maintained and regularly emptied, and shall be of adequate size, easily accessible to a bowser all the year round for the purpose of emptying. There shall also be no direct or indirect discharges or effluents into the surrounding area or groundwater in particular. These effluents include all substances which have a deleterious effect on the physical and chemical composition of groundwater, and include also compounds liable to cause the formation of such substances in groundwater such as to render it unfit for human consumption;

(v) shall be adequately ventilated so as to avoid the accumulation of explosive, toxic or corrosive gases;

(vi) storm water connections and, or street run-off must not lead to the cesspool, septic tank or sewage treatment and disposal plant or to any pipes or drains, where such pipes or drains form part of such systems or are connected to the public sewer;

(vii)a certification from a warranted perit shall confirm that once constructed they have been tested and confirmed leak-proof. All ancillary sewers, linings and pipe-work joints shall be leak-proof and are to be designed in such a manner as to safely contain the type of waste that they are designated to store.
(4) (a) A cesspool, septic tank or sewage treatment and disposal plant shall be emptied by a registered waste carrier for the transport of waste from the site in accordance with Legal Notice 106 of 2007 or any other laws and regulations applicable from time to time. They must be emptied at such frequency to ensure that the volume of foul water produced shall not exceed the internal volume of the cesspool, septic tank or sewage treatment and disposal plant under any circumstance. Such emptying shall be at the responsibility of the owner and, or occupier;

(b) The material emptied from a cesspool, septic tank or sewage treatment and disposal plant should be discharged in the main public sewer at authorised points only as directed by the Water Services Corporation or other competent authority from time to time.

(c) No waste is to escape in any way into public areas from the time the waste is being generated to the time the waste is being disposed of in an appropriate manner;

(5) The Authority shall have the right to order the proper removal of the said cesspool, septic tank or sewage treatment and disposal plant when it is deemed to be necessary, and to order the connection of the drains to the public sewer or to adopt any other sewage drainage system as may be ordered.

(6) Every sink, wash-basin, bath or other similar appliance shall be of proper standard and shall not communicate directly with the drains but shall be provided with a waste pipe made to discharge on a gully-trap situated in the open air and connected with regular drains;

Provided that it shall be lawful for the Authority to allow the waste pipe of any sink, washbasin, bath or other similar appliance to discharge in any other manner which the Authority may consider suitable in any particular case.

(7)(a) The pipes or conduits for communication with the public sewer, with a cesspool, with a septic tank or with a sewage treatment and disposal plant shall be formed of impervious material of an established recognized standard. Such pipes or conduits shall be at such a distance from the relative applicable water reservoir as the Authority may deem necessary for the prevention of exhalations or infiltrations, and they shall, as far as practicable, be laid in such a manner as to allow their opening, without much difficulty by a competent person.

(b) All drains constructed or adapted for conveying sewage or other foul water, shall have an internal diameter of not less than ten centimetres, and shall be laid with a proper fall and with water-tight socketed joints. Horizontal drains shall be laid on a solid bed of good quality concrete.
(c) All underground drains shall be laid in straight lines, at an even gradient from point to point of not less than one in forty for ten centimetres drains, and one in sixty for fifteen centimetres drains. A layer of concrete fifteen centimeters thick all round shall cover the drains. Adequate means of access shall be provided in connection with such drains at suitable points in the open air;

(d) The soil pipe shall be of the same diameter as the horizontal drain. It shall be continued vertically upwards without bends or angles, except where unavoidable, in the same diameter, to such a height and in such a manner as directed by the Authority;

(e) All drains communicating with any sewer or cesspit shall be provided with a suitable disconnection trap at a point as distant as may be practicable from the structure and as near as may be practicable to the point at which such drains join the sewer or cesspit. Proper means of access for the purpose of cleansing shall be provided in connection with such trap;

(f) Changes of direction in drains shall not be at an angle but at a curve, and junctions shall be made obliquely in the direction of the flow;

(g) All drains shall be provided with two un-trapped openings. One opening shall communicate with the drain by means of a suitable pipe through an inspection chamber and shall be situated as near as may be practicable to the trap fixed between the drain and the sewer or cesspit, but always on the side of the trap which is nearer to the structure. The second opening shall be obtained by carrying up a pipe from the other end of the drain vertically to such a height and in such a manner as may be ordered by the Authority;

(h) The opening, which is situated near the intercepting trap, shall have a grating or other suitable cover so constructed and fitted as to secure the free passage of air through such grating or cover by means of a sufficient number of apertures of which the extent shall not be less than the sectional area of the pipe or drain to which such grating or cover may be fitted;

(i) Every pipe which is used for the ventilation of drains shall be of a sectional area not less than that of the drain with which such pipe communicates. No bend or angle shall, except where unavoidable, be formed in any pipe used for the ventilation of drains;

(j) In the case of an open system, when the distance between the toilet and the intercepting drains is not sufficiently long to allow the provision of the two ventilators mentioned in (g), (h) above, a ventilating pipe shall be raised from a point between the toilet and the intercepting trap, to such a height as ordered by the Authority;

(k) In the case of an open system, the waste pipe from every bath, sink or toilet and every pipe for carrying off waste water shall discharge on a
gully trap in the open air. When in the opinion of the Authority the length of the pipe renders it necessary, a siphon trap shall be provided at the internal end of the pipe and such pipe shall be ventilated;

(8)(a) Every toilet, sink, wash-basin, bath or other similar appliance shall have ventilators made in such a manner that, in the opinion of the Authority, will prevent exhalations;

(b) In a commercial development, no toilet shall be in direct communication with any room, but shall always be separated therefrom by an ante-room or circulation space;

(9) A closed gravity soil stack system shall be considered acceptable provided that a warranted engineer’s report is submitted showing that all communications are located at a level which is accessible from each floor level for maintenance purposes. The works, on completion, shall be considered acceptable as certified by a warranted engineer according to approved standards and in accordance to the relevant building legislation.

(10) (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);

(b) The water reservoir shall be made to communicate with the roof of the building, by means of pipes sufficient for the passage of rainwater falling on the said roof. None of such pipes shall be used to act as a ventilator of any toilet, sewer, cesspool, septic tank or sewage treatment and disposal plant. No overflow pipe or conduit, for the carrying off of the water exceeding the capacity of the water reservoir, shall be connected with any sewer or cesspool, septic tank or sewage treatment and disposal plant, nor shall any other pipe or conduit for the carrying off of rain water be communicated with any part of the building, so as such rain water may find its way from such part of the building into a sewer. The overflow pipe shall direct the storm water which exceeds the capacity of the water reservoir to the street.

(c) Every water reservoir shall be connected to a pump to allow water extraction.

11. The owner of any structure from which the matter going into the toilet, sink, or other drains for foul water, is carried into the public sewer or a cesspool through conduits formed or laid under another structure, is bound, where practicable, to free such other structure from such easement by making other conduits for the carrying of the said matter directly into such sewer or cesspool, and where the structures belong to different owners the total expense shall be apportioned between the owners.
12. Basements are to be properly constructed to allow the collection of any water from around the perimeter of the structure, to ensure proper ventilation and to ensure no dampness in accordance with recognised building codes and standards.

13. All basements should have an adequate pump and pumping facilities to allow for water extraction.

14. (1) It shall be the joint responsibility of both the occupier and the owner to maintain the structure in a good structural and hygienic condition. This also applies to all water reservoirs, sanitary facilities, storm and foul water drainage pipes, drain for foul water, cesspool, if any, as well as the respective pipes or other means of communication and the ventilators.

(2) The occupier and owner shall also take all necessary steps to prevent any flow or infiltration from any sanitary facilities, or drain for foul water or cesspool, or from the respective pipes or conduits, and to prevent any nuisance in any property whatsoever.

Provided that in the case of occupied property it shall be the responsibility of the occupier to inform the owner of the need to comply with the provisions of this article. This applies also to the prevention of damage to third parties.

(3) Nevertheless, the expense of removing any stoppage or blockage in the disconnecting syphon trap or in the pipes connecting the sanitary facilities with the main sewer, and of the cleansing of any pipe or drain consequent to such stoppage, shall be incumbent on the occupier of the structure.

15. The occupier of any structure shall at all times keep in good condition, a well-designed parapet wall on any open water reservoir, well or pit.

16. (1) Each dwelling unit must have an outlook on a road, valley or coast.

(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 include either of the following:

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) the basement is certified by an engineer that it is adequately ventilated for its intended use;

(3) Preference should always be given to natural light and ventilation for 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.

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

(2) When a habitable space has a cumulative external aperture area of less than four metres squared, any overlying projection above such aperture/s shall not exceed one metre.

18. (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 with a depth of more than twelve metres and fifty centimetres 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 21.

(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 1m.

19. (1) In streets or open spaces which are three metres wide or less, or in streets and open spaces in Urban Conservation Areas, the overall height of the façade should not exceed twice the width of the street or open space.

(2) In streets or open spaces which are wider than three metres and are not in the Urban Conservation Area, the overall height of the façade should not exceed three times the width of the street or open space.

In both instances, there may be exceptions depending on the site context, in which case any facades which are higher than as provided in this regulation are to respect the surrounding context.

20. (1) The clear height of:

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

(ii) a non-habitable space shall not be less than two metres and forty centimetres, excluding engine rooms, lift shafts, garages, 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 centimeters and seventy percent of the space shall remain as double volume.

21. (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.

<table>
<thead>
<tr>
<th>Height of façade overlooking the backyard and measured from the internal floor level</th>
<th>Depth of Backyard</th>
<th>Depth of Internal yard</th>
<th>Depth of projection allowed in backyard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 10.1m</td>
<td>3.0m</td>
<td>3.0m</td>
<td>1.0m</td>
</tr>
<tr>
<td>&gt; 10.1m to 14.1m</td>
<td>3.9m</td>
<td>3.5m</td>
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<td>&gt; 14.1m to 18.6m</td>
<td>4.8m</td>
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<td>&gt; 18.6m to 21.6m</td>
<td>5.7m</td>
<td>4.5m</td>
<td>1.3m</td>
</tr>
<tr>
<td>&gt; 21.6m to 25.6m</td>
<td>6.6m</td>
<td>5.0m</td>
<td>1.6m</td>
</tr>
<tr>
<td>&gt; 25.6m to 28.6m</td>
<td>7.5m</td>
<td>5.5m</td>
<td>1.6m</td>
</tr>
</tbody>
</table>
(2) A minimum backyard and internal yard dimension of three metres depth must be retained for a building height up to two floors. For each overlying additional floor, a setback of one metre and fifty centimetres from the underlying floor shall apply. In instances where there is already an existing minimum back and, or an internal yard:

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

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

(3) For structures which are not used as dwellings with a height up to six metres and forty centimetres above the highest street level, the backyard shall have a minimum depth of one metre and fifty centimetres. The provisions of sub-regulation (1) of regulation 21 and sub-regulation (2) of regulation 21 shall apply for overlying floors.

22. In the case of structures having a frontage on two streets:

(1) no backyard is required if there is only one unit at the same level and each unit has a frontage on the two streets;

(2) a backyard for every unit with a depth as set out in regulation 21 is required if there are more than one unit at the same level between two streets.

23. 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.

24. 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 21.
25. (1) A structure in the backyard up to three metres external height may be permitted provided that the requirements mentioned in sub regulation (2) of regulation 18 and regulation 21 are respected.

(2) In all cases, no access to the roof of the structure is permitted.

26. Where a pre 1967 building includes a courtyard which courtyard does not serve as a backyard, any proposed additional floors can be constructed without necessarily having the additional floors recessed back from the courtyard alignment as required by sub-regulation (2) of regulation 21.

27. (1) The owner of the upper part of a structure is bound to permit the formation, from the lower part of the structure up to the roof of such structure, of such sewage ventilators as may be necessary, and the owner of the lower part is bound to permit the formation, in such part of the structure, of communication pipes or conduits from the upper part of the structure to the public sewer.

(2) The owner of a structure is also bound to permit the sewage ventilators of a neighbouring structure to be fixed to the walls of the former structure, in order that such sewage ventilators may be of such height as the Authority may deem necessary.

(3) In all cases the sewage conduits, pipes or ventilators shall be formed or fixed in such a manner as to cause the least possible inconvenience and the least possible prejudice to such structure or part thereof.

(4) Where the said sewage conduits, pipes, or ventilators do not diminish the value of the structure in or to which they are formed or fixed, no indemnity shall be payable except such as may be due in respect of any repairs which may be necessary in consequence of the formation or fixing of such conduits, pipes or ventilators.

Provided that the mere creation of any easement under this regulation shall not give rise to any claim for indemnity.

(5) The owner or occupier may in no case demand the suspension of works above mentioned on the ground of any indemnity to which he may be entitled.

28. The owner of any structure is bound to permit the relevant authority to fix to any external wall of such structure, any such ventilator to the public sewer as the relevant authority may deem necessary, or where, in view of the narrowness of the street or for any other reason, the said authority deems it so expedient, to form such ventilator, wholly or in part, within that wall; in any such case, the provisions of the last preceding article relating to indemnity shall apply.