

CAYMAN ISLANDS



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**THE DEVELOPMENT AND PLANNING LAW
(2008 REVISION)**

**THE DEVELOPMENT AND PLANNING (AMENDMENT) (NO. 2)
REGULATIONS, 2010**

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**THE DEVELOPMENT AND PLANNING (AMENDMENT) (NO. 2)
REGULATIONS, 2010**

The Governor in Cabinet, in exercise of the powers conferred by section 42 of the Development and Planning Law (2008 Revision), makes the following regulations -

1. These regulations may be cited as the Development and Planning (Amendment) (No. 2) Regulations, 2010. Citation

2. The Development and Planning Regulations (2006 Revision), in these regulations referred to as the “principal Regulations”, are amended in regulation 2 as follows - Amendment of regulation 2 of the Development and Planning Regulations (2006 Revision) - definitions

(a) by inserting, after the definition of the word “apartment”, the following definition -

“ “approved Agent” means an architect, engineer, surveyor, draughtsman or other person -

(a) who has professional qualifications, training, or experience in architecture, building, construction or civil engineering, and is licensed under the Trade and Business Licensing Law (2007 Revision) to practise as such in the Islands; and

(b) who is approved by the Authority for the purpose of submitting to the Authority plans and applications under these Regulations;”;

(b) by deleting the definition of the word “architect”; and

(c) by deleting the definition of the words “height of a building” and substituting the following definition -

“height of a building” means the vertical distance measured from the average finished height of the development site of the relevant application to -

- (a) in the case of a building with a gabled or a hip roof, the lowest point at which the underside of the sloping roof structure meets the exterior wall; or
- (b) in the case of a building with any other style of roof, the highest point at which the underside of the roof structure meets the exterior wall of the building, excluding cornices, parapet walls and railings;”.

Amendment of regulation 6 - applications for building

3. The principal Regulations are amended in regulation 6 as follows -

- (a) by repealing subregulation (3) and substituting the following subregulation -

“ (3) Applications for planning permission shall be made, by an approved Agent or by the owner of a duplex or single family home, to the Authority in the manner prescribed and, subject to regulation 5, such applications shall be examined and dealt with by the Authority having regard to the development plan and these Regulations.”; and

- (b) by inserting after subregulation (4)(e) the following sub-subregulation -

“(ea) the existing and proposed site levels;”.

Amendment of regulation 8 - general requirements re parking, height, setbacks, waterfront property, etc.

4. The principal Regulations are amended in regulation 8 as follows -

- (a) by repealing subregulation (1) and substituting the following subregulation -

“ (1) In respect of any application for planning permission for development of public, commercial, industrial or domestic buildings, parking shall be provided on the parcel to which the application relates except that -

- (a) in a General Commercial zone, fifty per cent of the parking space may be provided on land located not more than five hundred feet from the respective building; and
- (b) in General Commercial zone 1, up to one hundred per cent of the parking space may be located not more than seven hundred feet from the respective building.

The minimum parking space for a vehicle is 8 feet 6 inches wide by 16 feet long, exclusive of access thereto and spaces must be provided upon the following scale -

- (i) churches and other places of worship - one space per 8 seats;
- (ii) cinema, theatres and places of public assembly - one space per 4 seats;
- (iii) clubs, restaurants, recreation halls and bars - one space per 200 square feet;
- (iv) commercial development - one space per 300 square feet;
- (v) industrial development - one space per 1,000 square feet;
- (vi) hotels - one space per two guest rooms;
- (vii) apartments and cottage colonies - one and one half spaces per apartment; and
- (viii) dwelling units - one space per unit.

In no case may the building plus the car parking area exceed seventy-five per cent of the lot except in General Commercial zones where building plus parking area may occupy up to ninety per cent of the lot, the remainder being suitably landscaped.”;

- (b) by repealing subregulation (2)(a) and (b) and substituting the following sub-subregulations -
 - “(a) in General Commercial zone 1, shall not exceed ninety-one feet or seven storeys, whichever is the less, except that the maximum permitted height of any such building shall not exceed the height limitation prescribed by the Director of Civil Aviation with regard to the flight approach zone patterns of an airport;
 - (b) in General Commercial zone 2, shall not exceed sixty-five feet or five storeys, whichever is the less, except that the maximum permitted height of any such building shall not exceed the height limitation prescribed by the Director of Civil Aviation with regard to the flight approach zone patterns of an airport;”;
- (c) in subregulation (2)(c) by deleting the words “thirty-three feet” and substituting the words “forty feet”;
- (d) by repealing subregulation (2)(e) and substituting the following sub-subregulation -

“(e) in a Hotel/Tourism zone, shall not exceed sixty-five feet or five storeys, whichever is the less, except that when the building is a hotel or apartment in Hotel/Tourism zone 1, the maximum permitted height is one hundred and thirty feet or ten storeys, whichever is the less.”;

- (e) by repealing subregulation (12) and substituting the following subregulations -

“(12) Applications for the approval of places of public assembly, gas stations, garages, clubs, restaurants, bars, cinemas, excavations, bulk storage tanks, dive shops and relation structures, quarries, hotels, industrial plants including workshops, obnoxious and other similar establishments shall be advertised by the applicant in a manner approved by the Authority twice in a newspaper published and circulating in the Islands, with a period of at least seven days but not more than ten days between each successive publication of the advertisement; and within twenty-one days of the final advertisement, owners of full legal capacity who for the time being reside within a radius of one thousand feet of the boundaries of the land to which the application relates, or who own land within a radius of one thousand feet of the boundaries but reside elsewhere in the Islands, may lodge objections with the Authority, stating their grounds.

(12A) Notwithstanding subregulation (12), where the Law requires notification of adjacent owners prior to consideration of the application by the Authority, the following owners shall be notified -

- (a) in the case of an application relating to development in a Residential zone -
- (i) where the application relates to three to five apartments, owners at a minimum radius of one hundred and fifty feet from the perimeter of the land to which the application relates;
 - (ii) where the application relates to six to ten apartments, owners at a minimum radius of two hundred and fifty feet from the perimeter of the land to which the application relates;
 - (iii) where the application relates to eleven or more apartments, owners at a minimum radius of four hundred and

- fifty feet from the perimeter of the land to which the application relates;
and
- (iv) where the application relates to any other land uses, owners at a minimum radius of five hundred feet from the perimeter of the land to which the application relates;
- (b) in the case of an application relating to development in an Institutional zone, owners at a minimum radius of five hundred feet from the perimeter of the land to which the application relates
- (c) in the case of an application relating to development in any other zone, owners at a minimum radius of three hundred feet from the perimeter of the land to which the application relates; and
- (d) in the case of an application for the subdivision of land in any zone -
 - (i) where the application relates to not more than six lots, owners at a minimum radius of one hundred and fifty feet from the perimeter of the land to which the application relates;
 - (ii) where the application relates to seven to ten lots, owners at a minimum radius of two hundred and fifty feet from the perimeter of the land to which the application relates; and
 - (iii) where the application relates to eleven or more lots, owners at a minimum radius of four hundred and fifty feet from the perimeter of the land to which the applications relates.

(12B) In the case of an application relating to minor matters of development (including signs, fences, pools, cabanas, docks, seawalls, land clearing, television antennae, containers, and ancillary building for storage) in any zone, the notification requirements specified in subregulation (12A)(a) to (d) may be varied by the Authority such that only the owners of adjoining

parcels and, where applicable, owners of parcels across the abutting road, are required to be notified.

(12C) Where -

- (a) the radius measured from the perimeter of a proposed subdivision lot remains within the remnant of the subject parcel of land;
- (b) the radius measured from the perimeter of a proposed development area (including a parking or service area) remains within the subject parcel of land; or
- (c) good cause exists,

the notification requirements specified in subregulation (12A)(a) to (d) may be reduced by the Authority such that only the owners who are in reasonable proximity to the proposed subdivision lot or development are required to be notified.

(12D) Subregulation (12C) does not apply to quarries.”;
and

(f) by repealing subregulation (13) and substituting the following subregulation -

“ (13) Notwithstanding subregulations (1) to (10) and (13) and regulations 9(6), (7) and (8), 10, 12, 13, 14 and 15, the Authority may grant planning permission to carry out development that does not comply with all or any of those provisions if the Authority is satisfied that -

- (a) the development is a Government-approved low cost housing programme;
- (b) (i) an exceptional circumstance exists, that is to say, if -
 - (A) the proposed site coverage, building setback, lot size, lot shape, parking provision, density, building height, rear setback on a corner lot, is similar to what is common in the area; or
 - (B) there is an unusual terrain characteristic that limits the site’s development potential; and
- (ii) sufficient reason to grant a variance exists, that is to say, if -

- (A) any of the items mentioned in sub-subregulation (b)(i) are present;
 - (B) there is need to accommodate a physically challenged or indigent family member; and
 - (C) the adjoining property owner does not object to the variance request. (c) a planned area development pursuant to regulation 24 (1); or
- (c) the development is a planned area development pursuant to regulation 24 (1).”.

5. The principal Regulations are amended in regulation 9 as follows -

Amendment of regulation
9 - Residential zone

(a) by repealing subregulations (3) and (4) and substituting the following subregulations -

“ (3) Commercial, agricultural, religious, social and educational development (including recreational facilities and public and civic buildings), may be permitted if the applicant has advertised details of his application (other than an application having relation to any temporary development) twice in a newspaper published and circulating in the Islands, with a period of not less than seven days or more than ten days between each successive publication of the advertisement, and there are no objections, from an owner, which the Authority regards as raising grounds for refusing such permission.

(4) Any other variation from the primary use shall only be granted after the applicant has advertised details of his application two times in a newspaper published and circulating in the Islands, with a period of not less than seven days or more than ten days between each successive publication of the advertisement, and it is established to the satisfaction of the Authority that the majority of owners not under a legal disability who -

- (a) for the time being reside within a radius of one thousand feet of the boundaries of the land to which the application relates; or
- (b) reside elsewhere and own any building or land (including a strata lot) within a radius of one thousand feet of the boundaries of the land to which the application relates,

have given their written approval to the variation; except that where the variation concerned relates to an expansion of an existing development on the parcel of land on which it is situated or on an adjoining parcel of similar size, the radius applicable shall be reduced to seven hundred and fifty feet.”;

- (b) by repealing subregulation (6)(a), (d) and (e) and substituting the following sub-subregulations -

“(a) the maximum density is eight detached or semi-detached houses or four two-bedroom or six one-bedroom duplexes per acre;

(d) the minimum lot size for each detached and semi-detached house is 5,000 square feet;

(e) the minimum lot size for duplexes is 5,000 square feet;”;

- (c) by repealing subregulation (7)(a), (d) and (e) and substituting the following sub-subregulations -

“(a) the maximum density is five detached and semi-detached houses or three two bedroom duplexes per acre;

(d) the minimum lot size for each detached and semi-detached house is 7,500 square feet;

(e) the minimum lot size for duplexes is 7,500 square feet;”;

and

- (d) by repealing subregulation (8)(a), (d) and (e) and substituting the following sub-subregulations -

“(a) the maximum density is four detached or semi-detached houses or two three-bedroom duplexes per acre;

(d) the minimum lot size for each detached and semi-detached house is 10,000 square feet;

(e) the minimum lot size for duplexes is 12,500 square feet;”.

Amendment of regulation
13 - Commercial zones

6. The principal Regulations are amended in regulation 13 by repealing subregulations (8), (9) and (10) and substituting the following subregulations -

“(8) In a General Commercial zone, residential development is permissible if the development is not on the ground floor of the building, and does not occupy more than seventy per cent of the gross floor area of the building.

(9) In a Neighbourhood Commercial zone or a Marine Commercial zone, residential development is permissible if the development is not on the ground floor of the building.

(10) Notwithstanding subregulations (8) and (9), residential development may be permitted on any or all floors of a building in a General Commercial zone, a Neighbourhood Commercial zone or a Marine Commercial zone if -

- (a) the development is a replacement or redevelopment of an existing residential development; or
- (b) the development forms part of a mixed-use development situated on one parcel of land and the planned development includes a mixture of commercial and residential uses proposed for close interaction.”.

7. The principal Regulations are amended by repealing regulation 21 and substituting the following regulation -

Repeal and substitution of regulation 21 - agricultural/residential land

“Agricultural/residential land

21. Two houses per acre may be built on agricultural/residential land but if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture, it may permit any development which complies with the requirements for low density residential areas.”.

8. The principal Regulations are amended by repealing regulation 24 and substituting the following regulation -

Repeal and substitution of regulation 24 - certain applications to be advertised

“Planned area developments

24 (1) Planned area developments are master planned developments of large tracts of land that provide for a mix of land uses, densities and open space and a planned area development may be considered when a proposed master plan is submitted to the Authority for approval.

- (2) A plan submitted under subregulation (1) shall -
 - (a) involve a parcel of land or a group of contiguous parcels of land that equals or exceeds forty acres;
 - (b) propose a mixture of at least three different land uses for close interaction;
 - (c) provide up to 5% of gross land area as open space to serve the development;
 - (d) provide an internal circulation network that minimizes conflicts with existing public roads;
 - (e) provide for necessary infrastructure and

- services that will minimize the impact on the existing infrastructure of the Islands;
- (f) not be dangerous, obnoxious, toxic or cause offensive odours or conditions or otherwise create a nuisance or annoyance to adjacent properties; and
- (g) be in compliance with applicable regulations regarding fire, health and public safety.

(3) Subject to the Law and these Regulations, planned area developments are permissible in all areas of the Islands and in all zones, except Industrial, Public Open Space and Mangrove Buffer.

(4) The maximum permitted height for commercial, apartments and hotels shall be five storeys or sixty-five feet, whichever is less, but in Hotel/Tourism zone 1, the maximum permitted height shall be seven storeys or ninety-one feet, whichever is less, for apartments and hotels.

(5) The Authority shall require the submission of a Development Statement for a planned area development, the purpose of the statement being to set out the development parameters of the planned area development, including appropriate plans and data in sufficient detail to adequately explain the proposed development.

(6) A Development Statement shall provide standards for development including -

- (a) proposed land uses, including -
 - (i) mix of land use types;
 - (ii) proposed densities of development; and
 - (iii) a statement addressing compatibility and impact of proposed uses with surrounding properties;
- (b) site planning, including -
 - (i) setbacks and site coverage;
 - (ii) provision for parking and service areas;
 - (iii) provision for open spaces, both public and private; and
 - (iv) an internal zoning or land use map, which indicates proposed mix of land uses within the master planned area;

- (c) design, including -
 - (i) building design - scale, mass, height, form and proportion;
 - (ii) allowance for natural light and ventilation;
 - (iii) sign placement and design;
 - (iv) street furniture and lighting; and
 - (v) provision for extensive landscaping;
- (d) infrastructure, including -
 - (i) internal road network;
 - (ii) water supply, either public or private;
 - (iii) sewage disposal system;
 - (iv) a comprehensive storm-water management plan; and
 - (v) provision for electrical, liquefied petroleum gas and telecommunication facilities (to be placed underground where feasible);
- (e) phasing, including -
 - (i) timeframe for construction and installation of infrastructure works, as specified in sub-subregulation (d); and
 - (ii) timeframe for construction of buildings within the master planned area, which depicts each stage of development and applicable estimated timeframe for commencement and completion.

(7) Where an application is made to the Authority in accordance with subregulations (1), (2), (5) and (6) for approval of a planned area development, the Authority may approve such application, either unconditionally or subject to such conditions as it thinks fit, or may refuse such application.

(8) Upon approval of an application under this regulation, the Authority shall cause a copy of the approved Master Plan, together with the approved Planning Statement, to be lodged with the Director, who shall keep a Register (to be called the Planned Area Development Register) of all such approved planned area developments in the principal office of the Department of Planning; and thereafter the Master Plan and Planning Statement, shall, subject to any

amendment approved by the Authority, have effect as if the same were the development plan made pursuant to Part II of the Law.”.

Repeal of regulation 36 -
no expectation of
subsequent planning
permission

9. The principal Regulations are amended by repealing regulation 36.

Amendment of First
Schedule - application
fees for planning
permission

10. The principal Regulations are amended in Part I of the First Schedule by inserting after item 21, the following item and the particulars relating thereto -

“22. Permission for a planned area A fee calculated at the
development rate of \$500 per acre”.

Amendment of Second
Schedule - building
permit fees

11. The principal Regulations are amended in the Second Schedule by inserting after paragraph 3, the following paragraph -

“4. Building Permit fees are payable as follows -

- (a) fifty per cent on submission of a building permit application; and
- (b) fifty per cent on issuance of a Building Permit.”.

Transitional provisions

12. (1) Every matter commenced under the former Regulations and partly dealt with when the new Regulations come into force, is to be continued and dealt with in all respects as if the new Regulations had not come into force.

(2) Every matter commenced under the former Regulations and not wholly or partly dealt with when the new Regulations come into force, is to be taken to be a matter commenced under the new Regulations and the provisions of the new Regulations are to apply accordingly.

(3) In this regulation -

“former Regulations” means the principal Regulations in force immediately before the date of commencement of these Regulations; and

“new Regulations” means the principal Regulations as amended by these Regulations.

Made in Cabinet the 13th day of July, 2010.

Kim Bullings

Clerk of the Cabinet.

A draft of these Regulations was approved by the Legislative Assembly on the 12th day of July, 2010, by Government Motion No. 5\2010-11 in compliance with section 42(3) of the Development and Planning Law (2008 Revision).

Zena Merren-Chin

Clerk of the Legislative Assembly.