
LAND PLANNING AND DEVELOPMENT CONTROL ORDINANCE, 2013

**LAND PLANNING AND DEVELOPMENT CONTROL (GENERAL)
REGULATIONS, 2013**

(Section 70)

TABLE OF CONTENTS

**PART 1
PRELIMINARY**

1. Citation, commencement and interpretation

**PART 2
PROVISIONS RELATING TO DEVELOPMENT PERMISSION**

2. Applications for development permission
3. Public consultation on development applications
4. Conditions imposed on development permissions
5. Notice of decision on development applications

PART 3

MATERIAL CHANGE OF USE

6. Classes of use and material change of use requiring development permission

PART 4
ADVERTISEMENTS

7. Control of advertisements

PART 5
GENERAL

8. Meaning of “associated person”

Schedule 1: Use classes

Schedule 2: Conditions for advertisements

PART 1
PRELIMINARY

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Land Planning and Development Control General Regulations, 2013.

(2) These Regulations come into force on 1st February 2014 and apply in respect of any application for development permission submitted, change of use, or advertisement displayed on or after that date.

(3) In these Regulations, “**prescribed**” means prescribed under the Ordinance, 2013.

PART 2
PROVISIONS RELATING TO DEVELOPMENT PERMISSION

Applications for development permission

2. (1) An application for development permission under section 18 must be submitted to the Authority in the prescribed form.

(2) In addition to all documents required by the Ordinance to be submitted, all applications for development permission must be accompanied by -

- (a) all documents required by the application form to be submitted with the form;
- (b) building plans, in triplicate, showing the full extent of the development intended to be carried out; and
- (c) the prescribed fee.

(3) The application must be registered by the Planning Officer in accordance with section 62(1)(a) only when he or she is satisfied that all the documents and the fee required under sub-regulation (2) have been submitted.

Public consultation on development applications

3. For the purposes of section 22, the Planning Officer must publicise all development applications in one or more newspapers circulating on St Helena and by a notice on or near the site and within view of and legible to members of the public, allowing 14 days, or any longer period the Planning Officer allows, for public comment, or, in the case of an application for development permission contemplated by section 19, allowing 28 days or any longer period as the Planning Officer decides.

Conditions imposed on development permissions

4. For the purposes of section 26, the Authority or the Governor in Council, as the case may be, when granting development permission, may impose conditions relating to—

- (a) the timing and phasing of development, including to prohibit commencement or first use of all or part of the development unless other development, or provision of roads or services, has first been completed;
- (b) arrangements for the disposal of sewage, rainwater, surface water, effluent and solid waste from the development;
- (c) arrangements for the supply of water and catchment, storage and usage of rainwater;
- (d) landscaping including the preservation of trees and other natural features, both of the development site and of adjacent land under the control of the developer;
- (e) with respect to applications for development permission contemplated by section 19, provision to avoid, minimise and mitigate negative environmental impacts and maximise positive impacts as identified in the environmental impact assessment report including, as appropriate, preparing and implementing a plan for management of the environmental effects and monitoring the mitigations to ensure their effectiveness;
- (f) the materials to be used in the development including their colour;
- (g) measures to achieve saving of energy and water and for the recycling of materials from the development
- (h) reservation of any part of the development site for roads, open space or other communal purposes incidental to the development and including measures for its future maintenance;
- (i) controlling the processes, timing and duration of building or engineering operations, including the routing of vehicles or vessels to be used in connection with the development and including, as appropriate, preparing and implementing a plan for management of the construction work;
- (j) the discontinuance or modification of existing uses on the development site and on adjacent land under the control of the developer;
- (k) implementing or not implementing any prior grant of development permission on the development site and adjacent land under the control of the developer;
- (l) entering into a performance bond with the Crown to guarantee implementation of any of the conditions subject to which the grant of development permission is made.

Notice of decision on development applications

5. For the purposes of section 27, the Planning Officer must inform the applicant of the decision taken on the application within 60 days of registration of the application under Regulation 2(3) or any longer period agreed in writing by the applicant.

PART 3 MATERIAL CHANGE OF USE

Classes of use and material change of use requiring development permission

6. (1) Classes of use of land and buildings are set out in Schedule 1. Uses of land and buildings not stated in any class are deemed to be uses *sui generis*.

(2) Change of use of land or buildings to a use which falls within the same class as the existing use is deemed not to be a material change of use requiring development permission.

(3) Subject to sub-regulation (4), change of use of land or buildings from a use which falls in any class, or is a use *sui generis*, to any other use is deemed to be a material change in the use requiring development permission.

(4) Sub-regulation (3) does not apply—

(a) to any use which is included in and ordinarily incidental to any use in the class for which the land or building is primarily used merely because such incidental use lies in a separate use class, provided that the scale of that use is incidental to the primary use;

(b) to change of use—

- (i) from class A2 (Financial and professional services), where the premises have a display window to the ground floor, to class A1 (Shops);
- (ii) from class A3 (Restaurants and cafes) to class A1 (Shops) or A2 (Financial and professional services);
- (iii) from class A4 (Drinking establishments) to class A1 (Shops) or A2 (Financial and professional services) or A3 (Restaurants and cafes);
- (iv) from class A5 (Hot food takeaways) to class A1 (Shops) or A2 (Financial and professional services) or A3 (Restaurants and cafes);
- (v) from class B1 (Business, storage and distribution) to class B2 (general industrial);
- (vi) from class C2 (Residential institutions not including secure institutions) to class C1 (Hotels).

(5) The changes of use in sub-regulation (4)(b) do not apply in reverse and require development permission.

(6) The division of a single dwelling house or its curtilage to form 2 or more separate dwelling houses, constitutes a material change of use and requires development permission.

(7) The use of part of a dwelling house, or part of its curtilage, for an ancillary business activity is deemed not to be a material change of use requiring development permission, provided—

- (a) the activity falls only within use class A1 (Shops) or class B1 (Business, storage or distribution); and
- (b) the activity is carried on in such a manner as to be not detrimental to the amenity of the area.

PART 4 ADVERTISEMENTS

Control of advertisements

7. (1) Subject to sub-regulation (2), no advertisement may be displayed unless development permission for its display has been granted.

(2) No development permission is required in respect of the display of an advertisement of a description set out in Part B of Schedule 2 if the display complies with the conditions and limitations specified in that Part.

(3) The Authority or Governor in Council, as the case may be, must in considering an application for development permission to display an advertisement have regard to the interests of amenity and public safety, taking into account—

- (a) the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest;
- (b) the safety of persons using any surrounding area;
- (c) whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of, any traffic sign;
- (d) whether the display of the advertisement in question is likely to hinder the operation of any device used for measuring the speed of any vehicle.

(4) In determining an application for consent for the display of advertisements, the Authority or Governor in Council, as the case may be, may have regard to any material change in circumstances likely to occur within the period for which the consent is requested.

(5) All advertisements displayed by virtue of sub-regulation (2), (3) or (4) must comply with the standard conditions set out in Part A of Schedule 2.

PART 5 GENERAL

Meaning of “associated person”

8. For purposes of section 66, an “associated person” in relation to a public officer means—

- (a) his or her grandparents, parents, siblings, spouse or life partner, children, and grandchildren;
- (b) the spouses or life partners of his or her siblings, children and grandchildren;
- (c) any corporate body the activities of which he or she (either alone or in association or combination with any of the persons mentioned in paragraphs (a) and (b)) is able to direct; or
- (d) a person for whom the officer acts as a nominee, trustee or attorney.

SCHEDULE 1
(Regulation 6(1))

USE CLASSES

Class A1: Shops

Shops, hairdressers, travel and ticket agencies, post offices, pet shops, sandwich bars, internet cafes, showrooms, domestic hire shops, dry cleaners (but not launderettes), funeral directors and internet cafes.

Class A2: Financial and professional services

Banks, building societies, estate agents, insurance agents, employment agents and other professional services excluding health and medical services.

Class A3: Restaurants and cafes

Restaurants, cafes, and snack bars where the principal purpose is consumption of food and drink on the premises

Class A4: Drinking establishments

Public houses, taverns and wine bars (but not night clubs) where the principal purpose is the consumption on the premises of alcoholic drinks

Class A5: Hot food takeaways

Sale of hot food for consumption off the premises.

Class B1: Business, storage and distribution

Offices (other than those in Class A2), research and development of products and processes, light industry of a nature which can be carried on without detriment to the amenity of a residential area, and use for storage or as a distribution centre including open air storage.

Class B2: General industrial

Use for an industrial process (other than those in Class B1), not including incineration or chemical treatment or landfill or hazardous waste.

Class C1: Hotels

Hotels, boarding and guest houses where no significant element of medical care is provided.

Class C2: Residential institutions not including secure residential institutions

Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

Class C3: Dwelling houses

Use as a dwelling house by a single person or by people living together as a family and including domestic staff, or by not more than six residents living together as a single household (including residents receiving care).

Class D1: Non-residential institutions

Clinics, health centres, crèches, child nurseries, day centres, schools, art galleries, museums, libraries, public and church halls, places of worship, law courts, and non-residential education and training centres.

Class D2: Assembly and leisure

Cinemas, music and concert halls, bingo and dance halls (but not night clubs), gymnasiums and sports halls.

SCHEDULE 2
(Regulation 7)

CONDITIONS FOR ADVERTISEMENTS

PART A

Standard conditions for all advertisements

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

2. No advertisement, including any means of illumination, is to be sited or displayed so as to—

(a) endanger persons using any highway, harbour or aerodrome;

(b) obscure, or hinder the ready interpretation of, any traffic sign or aid to navigation by water or air; or

(c) hinder any operation of any kind.

3. Any advertisement displayed, and any site used for the display of advertisements, must be maintained in a condition that does not impair the visual amenity of the site.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements must be maintained in a condition that does not endanger any person, property, animal or thing.

5. If an advertisement is required under these Regulations to be removed, the site must be left in a condition that does not endanger the public or impair visual amenity.

6. Development permission for any advertisement lapses after a period of 3 years from the date on which permission has been granted and the advertisement must then be removed if so required by the Authority.

PART B

Development permission will not be required for the following types of non-illuminated advertisements and both illuminated and non-illuminated advertisements under subsection 11:

1. An advertisement displayed on enclosed land or inside a building and not readily visible from outside the enclosed land or building or from any place to which the public have a right of access.
2. An advertisement displayed on or in a vehicle normally used as a moving vehicle provided that the vehicle is not used principally for the display of advertisements.
3. An advertisement not larger than 1.5 sq metres in area displayed by a government department, or an agency on their behalf, for announcement or direction.
4. An advertisement required to be displayed by any law or any condition imposed by any law on the exercise of any function and removed as soon as the law permits.
5. A temporary advertisement relating specifically to an election and removed not later than 14 days after that election.

6. An advertisement not larger than 0.09 sq metre in area attached to the building to which it relates or displayed within its curtilage for the purpose of identification or direction.
 7. A single temporary advertisement not larger than 0.5 sq metre in area and displayed not more than 4.5 metres above ground level relating to the sale or letting of the land or premises on which it is displayed and removed within 14 days after the completion of the transaction to which it relates.
 8. A single temporary advertisement not larger than 1.5 sq metres in area and displayed not more than 4.5 metres above ground level relating to the carrying out of building or engineering works on the land on which it is displayed whilst those works are being carried out.
 9. A single temporary advertisement not larger than 0.6 sq metre in area and displayed not more than 4.5 metres above ground level relating to a non-commercial local event or activity, displayed not more than 14 days before nor more than 14 days after the event or activity to which it relates.
 10. *Omitted*
 11. The display of temporary advertisements relating to public festivities, for a period not more than 6 weeks before and 2 weeks after the event to which they relate.
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