

# AS LAID IN THE HOUSE OF ASSEMBLY

## BERMUDA

### DEVELOPMENT AND PLANNING (GENERAL DEVELOPMENT) AMENDMENT ORDER 2015

BR / 2015

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The Minister responsible for planning, in exercise of the power conferred by section 15 of the Development and Planning Act 1974, makes the following Order:

#### Citation

1 This Order, which amends the Development and Planning (General Development) Order 1999 (“the principal Order”), may be cited as the Development and Planning (General Development) Amendment Order 2015.

#### Amends paragraph 2

2 Paragraph 2 of the principal Order is amended by—

(a) inserting in proper alphabetical order the following definitions—

“accessory building” means a building that is detached from another building (the principal building), the use of which is supplementary, subsidiary or incidental to the use of the principal building;

“estate road” means a private road which serves four or more building lots;

“hard surfacing” means the construction of any surface not naturally occurring and being any form of hard paving made of materials including, but not limited to, concrete, asphalt, stone or wood;

“historic area” has the meaning assigned to that expression in section 1 of the Act;

“private road” means a road that is not a public road;

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“public road” means a road over which the general public have a right of way and which is maintainable at the public expense; and

“swimming pool” means an in-ground or above-ground swimming pool, jacuzzi, spa pool, or hot tub, capable of containing water with a height of 24 inches or greater; and

- (b) deleting the words “Certificate of use and occupancy” and substituting the words “certificate of completion and occupancy”.

Amends paragraph 3

3 Paragraph 3 of the principal Order is amended—

- (a) in subparagraph (a), by inserting after “listed buildings” the words, “, except to the extent expressly set out in the Schedule”; and
- (b) in subparagraph (b), by deleting the words “referred to in section 31 of the Act” and substituting, “, except to the extent expressly set out in the Schedule”.

Amends paragraph 4

4 Paragraph 4 of the principal Order is amended—

- (a) in subparagraph (1), by deleting “(4)” and substituting “(3)” and by deleting the word “First”;
- (b) by revoking subparagraph (2) and replacing it with the following—

“(2) The development in respect of which permission is granted by this paragraph, shall (unless expressly exempted in the Schedule)—

- (a) be in conformity with a development plan in force in relation to the land on which the development takes place and shall conform to the provisions of such plan relating to setbacks, site coverage and the height of buildings or other structures;
  - (b) be similar to the principal building on the site in its architectural style and exterior building materials; and
  - (c) where no setback is specified in respect of a development in the development plan in force, not encroach beyond the existing building line at the front of the existing building.”;
- (c) by revoking subparagraph (3) and replacing it with the following—

“(3) Nothing in this paragraph or the Schedule shall operate so as to permit—

- (a) any development contrary to a condition imposed on the grant of any planning permission under the Act;

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- (b) any development which would lead to a permanent reduction in the space required by the development plan to be available for recreational or amenity purposes or use as a playing field, or for the parking, turning or circulation of vehicles;
- (c) any development which requires or involves the formation, laying out or material widening of a means of access to an existing public road;
- (d) any development which creates an obstruction to the view of persons using a road at or near any bend, corner, junction, or intersection so as to be likely to cause danger to such persons;
- (e) any wall, fence or gate to obstruct the minimum sightline visibility splay at the entrance of a road; or
- (f) any development for use as a stable or for the keeping of livestock.”; and

(d) by deleting subparagraph (4).

Amends paragraph 5

5 Paragraph 5(1) of the principal Order is amended by deleting the word “First”.

Revokes and replaces the schedules to the Order

6 The First and the Second Schedule to the principal Order are revoked and replaced with the following—

“SCHEDULE

(Paragraph 4)

Subject to the limitations and conditions set out in this Schedule, the following developments are permitted under paragraph 4

CLASS I

Development within the curtilage of a residential building

Enlargement or alteration of a residential building

1 The enlargement or alteration of a residential building is permitted if—

- (a) in the case of a detached residential building—
  - (i) the site coverage of the existing detached residential building (measured externally) is not exceeded by more than 500 square feet; and
  - (ii) the gross floor area of the existing detached residential building is not exceeded by more than 1,000 square feet;

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- (b) in the case of any other residential building—
  - (i) the site coverage of the existing residential building (measured externally) is not exceeded by more than 150 square feet; and
  - (ii) the gross floor area of the existing residential building is not exceeded by more than 250 square feet;
- (c) the height of the enlargement does not exceed the height of that part of the existing residential building to which it is attached, nor the height of a two-storey building; and
- (d) the enlargement is attached to the existing residential building.

Installation of a skylight

- 2 (1) The installation of a skylight in the roof of a residential building is permitted if the skylight does not exceed a width or depth of three feet.
- (2) Nothing in this paragraph authorises a residential building to have more than two skylights.

Erection, enlargement or alteration of an accessory building

- 3 (1) The erection, enlargement or alteration of an accessory building within the curtilage of a residential building is permitted if—
- (a) the maximum site coverage of the accessory building (measured externally) does not exceed 250 square feet;
  - (b) the height of the accessory building does not exceed twelve feet above grade level;
  - (c) the accessory building does not project outside of the curtilage of the principal residential building; and
  - (d) the accessory building will be used for non-habitable purposes only.
- (2) For the purposes of subparagraph (1), the erection of a garage, carport, garden shed or similar building shall be treated as an accessory building.

Erection of a swimming pool

- 4 The erection of a swimming pool within the curtilage of a residential building is permitted if—
- (a) the height of any retaining wall required to erect the swimming pool does not exceed four feet above grade level; and
  - (b) in relation to the principal residential building, the swimming pool is not located forward of the building line of the principal elevation and does not front onto a road.

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Construction of hard surfacing, pergolas and barbecues

5 The construction of hard surfacing for driveways, vehicle parking areas, walkways, patios, decks etc., and the erection or construction of pergolas and barbecues within the curtilage of a residential building is permitted if—

- (a) any excavation or fill required to carry out construction does not exceed four feet in depth;
- (b) porous materials are used to construct the hard surfacing or the hard surfacing enables direct run-off of water to a permeable or porous surface within the curtilage of the residential building; and
- (c) the height of the hard surfacing does not exceed 30 inches above grade level.

CLASS II

Development within the curtilage of a building other than a residential building

Enlargement or alteration of a building other than a residential building

6 The enlargement or alteration of a building other than a residential building is permitted if—

- (a) the site coverage of the existing building (measured externally) is not exceeded by more than 500 square feet;
- (b) the gross floor area of the existing building is not exceeded by more than 1,000 square feet;
- (c) the height of the enlargement does not exceed the height of that part of the existing building to which it is attached;
- (d) the building as enlarged or altered is used for the same purposes as those of the principal building; and
- (e) the enlargement is attached to the principal building.

Construction of hard surfacing

7 The construction of hard surfacing within the curtilage of a building other than a residential building is permitted if—

- (a) any excavation or fill required to carry out construction does not exceed four feet in depth;
- (b) porous materials are used to construct the hard surfacing or the hard surfacing enables direct run-off of water to a permeable or porous surface within the curtilage of the building; and
- (c) the height of the hard surfacing does not exceed 30 inches above grade level.

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Development on industrial land for industrial purposes

8 The installation, replacement or rearrangement of plant machinery, sewer main pipe, cable or other apparatus carried out within the curtilage of a building, other than a residential building, on industrial land for industrial purposes is permitted if—

- (a) the works do not materially affect the external appearance of the premises on which the development takes place when viewed from a public road;
- (b) once installed, replaced or rearranged, the plant machinery, sewer main pipe etc. does not generate air or noise pollution, odours, vibrations, or obstruct the flow of vehicular traffic; and
- (c) once installed, replaced or rearranged, the plant machinery, sewer main pipe etc. does not exceed the height of any existing plant machinery, sewer main pipe etc.

CLASS III

Repairs, maintenance, temporary, sundry or minor works

Repair of damaged buildings, works and plant

9 Subject to paragraph 12, the building, restoration or replacement of buildings, works or plant which have suffered damage from storm, fire or other cause is permitted if—

- (a) not more than 60% of the volume of the said building, works or plant has been destroyed by such damage; and
- (b) the height and bulk of the replacement building, works or plant do not exceed that of the building, works or plant existing immediately prior to the damage suffered.

Excavation works or deposit of fill

- 10 (1) The carrying out of excavation work or deposit of fill is permitted if—
- (a) in the carrying out of excavation work, the resulting rock cut is no deeper than its distance from the lot line or, in any event, does not exceed four feet in depth; and
  - (b) the height of the deposit of fill on any land is no higher than its distance from the lot line or, in any event, does not exceed four feet in height.
- (2) This paragraph is not subject to compliance with setback requirements as set out in the development plan in force.
- (3) All excavated materials shall be removed from the site upon completion.

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(4) Nothing in this paragraph authorises the use of land for storage or dumping purposes.

Maintenance and building repair

11 The maintenance and repair of a building, which includes but is not limited to the maintenance and repair of roofs, doors and windows of any building, is permitted if—

- (a) the works do not materially change the external appearance of the building; and
- (b) in the case of a listed building—
  - (i) any replacement door, door-frame, window-frame or shutter is made of wood and is of the same size and design as the original;
  - (ii) any replacement window or door uses the same opening as the original; and
  - (iii) any replacement roof is of the same material as the original.

Temporary buildings, works, plant, or machinery

12 (1) Subject to subparagraphs (2) and (3), the erection or construction on land—

- (a) in, on, over or under which operations for which planning permission has been granted under the Act are being carried on; or
- (b) in, on, over or under which operations for which planning permission is not required are being carried on,

of buildings, works, plant or machinery needed temporarily in connection with the said operations for the period of such operations is permitted.

(2) Any building, works, plant or machinery erected or constructed pursuant to subparagraph (1) shall be removed within 30 days of the issuance of a certificate of completion and occupancy in respect of the development.

(3) Nothing in this paragraph authorises—

- (a) the carrying out of excavation or regrading; or
- (b) the use of land for storage or dumping purposes.

Temporary use of land

13 (1) The use of land for any purposes for not more than 28 days in total in any twelve-month period, and the erection or placing of moveable structures on the land for the purposes of that use is permitted.

(2) Nothing in this paragraph authorises—

- (a) the carrying out of excavation or regrading; or

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- (b) the use of land for storage or dumping purposes.

Erection of gates, fences and walls

14 (1) The erection of gates, fences, walls or other means of enclosure, and signs is permitted if—

- (a) the height of the gate, fence, wall, etc. or sign does not exceed four feet from the lowest adjacent grade level;
- (b) the gate, fence, wall, etc. or sign is within, and not on, the lot line;
- (c) the wall is made of Bermuda stone or concrete block rendered, plastered and painted;
- (d) in the case of a retaining wall only—
  - (i) the height of the wall does not exceed four feet from the lowest adjacent grade level; and
  - (ii) the height of the guard rail mounted atop of the wall does not exceed three feet; and
- (e) for the avoidance of doubt, the gate, fence, wall, etc. or sign does not obstruct the minimum sightline visibility splay at the entrance of a road.

(2) This paragraph is not subject to compliance with setback requirements as set out in the development plan in force.

(3) In this paragraph “sign” means a sign not falling within the definition of advertisement under the Advertisements Regulation Act 1911.

Chimney, flue, soil or vent pipe

15 (1) The erection, installation, alteration, or replacement of a chimney, flue, soil or vent pipe within the curtilage of a building is permitted.

(2) In the case of a chimney, nothing in this paragraph permits a chimney to exceed the highest part of the roof of the principal building by more than three feet or the height of an existing chimney.

Satellite receiving dishes and antennae

16 (1) The installation, alteration, or replacement of a satellite receiving dish, or the alteration or replacement of an antenna, on a building or within the curtilage of a building is permitted if the satellite dish or antenna—

- (a) is replacing or altering an existing satellite receiving dish or antenna on a building or within the curtilage of a building;
- (b) does not exceed 48 inches in diameter;
- (c) is not above the eaves of the building; and



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(d) in the case of a replacement satellite receiving dish or antenna, is installed in the same location as the previous satellite dish or antenna.

(2) For the avoidance of doubt, nothing in this paragraph permits the first-time installation of an antenna on a building or within the curtilage of a building.

(3) Nothing in this paragraph authorises the installation of more than one antenna or satellite receiving dish on a building or within the curtilage of a building.

(4) Nothing in this paragraph prohibits the alteration or replacement of an existing antenna or satellite receiving dish on a listed building or a building located in a historic area.

Ramps to provide wheelchair access

17 The construction, installation, alteration and repair of ramps to provide wheelchair access is permitted.

Erection of a flagpole

18 (1) The erection of a flagpole on any building or within the curtilage of a building is permitted if the height of the flagpole does not exceed 30 feet above grade level.

(2) Nothing in this paragraph authorises the erection of a flagpole on a building or within the curtilage of a building—

(a) for advertising purposes; or

(b) where there is an existing flagpole on the building or within the curtilage of the building.

CLASS IV

Development by statutory undertakers

Development for the provision of public utility or service

19 (1) The erection, enlargement or alteration of a building or apparatus (including but not limited to closed circuit television cameras), or the construction of hard surfacing for the purposes of carrying out a statutory undertaking or providing a public utility or service, is permitted if—

(a) in the case of an erection, enlargement or alteration of a building or apparatus—

(i) the site coverage of the erected or existing building, or the erected or existing apparatus, does not exceed or is not exceeded by, as the case may be, more than 500 square feet;

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- (ii) the gross floor area of the erected or existing building, or the erected or existing apparatus, does not exceed or is not exceeded by, as the case may be, more than 1,000 square feet;
  - (iii) the height of the enlargement does not exceed the height of that part of the existing building to which it is attached, nor (whether or not attached) the height of a two-storey building;
  - (iv) the enlargement does not project forward of the existing building line at the front of the existing building;
- (b) in the case of closed circuit television cameras, the erected height does not exceed 30 feet above grade level;
- (c) in the case of hard surfacing—
- (i) any excavation or fill required to carry out construction does not exceed four feet in depth;
  - (ii) porous materials are used to construct the hard surfacing or the hard surfacing enables direct run-off of water to a permeable or porous surface within the curtilage of the residential building; and
  - (iii) the height of the hard surfacing does not exceed 30 inches above grade level.

(2) The sinking of exploratory boreholes for the purposes of ascertaining the nature of the subsoil and the installation of any plant or machinery reasonably necessary to carry out the sinking of such boreholes is permitted.

CLASS V

Solar energy collection systems

Installation of solar energy collection systems

20 (1) The installation of solar energy collection systems on any building or within the curtilage of any building is permitted if—

- (a) the solar energy collection system installed on a building or within the curtilage of a building does not exceed 1,000 square feet;
- (b) no part of the solar energy collection system—
  - (i) projects more than ten inches from the surface of the roof plane to which it is mounted, to the top surface of the solar panel;
  - (ii) is within four inches of the hip of the roof to which it is mounted;
  - (iii) is within six inches of a gable roof edge, or the edge of the roof plane of a commercial flat roof to which it is mounted;

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- (iv) projects higher than, or is within, four inches of the ridge of the roof to which it is mounted;
  - (v) projects higher than 48 inches above the surface of the flat roof to which it is mounted; or
  - (vi) impedes or prevents the harvesting of potable water from the roof surface to which it is mounted;
  - (c) the solar energy collection system installed on the ground does not exceed 48 inches in height and is not sited within any designated setback within a development plan.
- (2) Nothing in this paragraph authorises the erection of a roof mounted solar energy collection system on—
- (a) that part of a roof of an existing building which, pursuant to a development plan in force, is within a designated setback that is to an estate road or public road; or
  - (b) a pergola that is within a designated setback.”.

Transitional

7 Nothing in this Order affects the validity of any planning permission granted under paragraph 4 of the principal Order before the coming into operation of this Order.

Made this                      day of    2015

Minister of Home Affairs