



BERMUDA

DEVELOPMENT AND PLANNING (GENERAL DEVELOPMENT) ORDER 1999

BR 83 / 1999

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SCHEDULE

FIRST SCHEDULE

SECOND SCHEDULE

The Minister in exercise of the power conferred upon him by section 15 of the Development and Planning Act 1974 makes the following Order:—

Citation

- 1 This Order may be cited as the Development and Planning (General Development) Order 1999.

Interpretation

- 2 In this Order, unless the context otherwise requires—

“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;

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- “the Act” means the Development And Planning Act 1974;
- “building” means any structure or erection of a permanent or semi-permanent nature and any part of a building as so defined, but does not include plant or machinery comprised in a building;
- “building line” means a line parallel to the facade of an existing structure drawn from the outermost wall or surface of that structure;
- “building official” has the meaning assigned to that expression by section 2(1) of the Building Act 1988;
- “certificate of completion and occupancy” means the certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit;
- “Director” means Director of Planning;
- “detached residential building” means a free-standing residential building on its own lot and containing not more than two dwelling units;
- “estate road” means a private road which serves four or more building lots;
- “existing” in relation to any building or any plant or machinery or any use, means existing immediately before the carrying out, in relation to that building, plant, machinery or use, of any development described in this Order;
- “existing lot” means a lot existing prior to 26 June 1974 which can lawfully be alienated separately from any abutting lot in the absence of authority to subdivide under the Act;
- “grade level” means, with reference to a structure, the average elevation of the ground adjoining the structure on all sides; and, with reference to an excavation, the elevation of the ground at any point along the sides of the excavation;
- “gross floor area” means the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features;
- “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;
- “height” means the vertical distance as measured from the grade to the highest point of a coping on a flat roof or wall or to the eaves of any other type of roof;
- “historic area” has the meaning assigned to that expression in section 1 of the Act;
- “listed building” has the meaning assigned to that expression by section 1 of the Act;

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“noxious” means detrimental to the amenity of the area by reason of smell, fumes, smoke, ash, dust, noise or other nuisance;

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

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

“ruinous structure” has the meaning assigned to that expression by section 1(1) of the Amenities (Control of Ruinous Structures) Act 1950;

“site coverage” means the area of a lot covered by all buildings and other roofed structures including appurtenances at grade level which have solid and permanent roofs notwithstanding that one or more sides of the appurtenance is not enclosed;

“storey” means the portion of a building between two floors or between a floor and a roof with one or more windows which provide a sufficient amount of natural light to a space to render it capable of being a habitable room, notwithstanding that the room may not be used for habitable purposes;

“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.

[Paragraph 2 “accessory building”, “estate road”, “hard surfacing”, “historic area”, “private road”, “public road” and “swimming pool” inserted and “Certificate of use and occupancy” deleted and substituted by “certificate of completion and occupancy” by BR 80 / 2015 para. 2 effective 25 August 2015]

Restrictions on application of order

3 This Order does not apply—

- (a) to listed buildings, except to the extent expressly set out in the Schedule;
- (b) to historic areas, except to the extent expressly set out in the Schedule;
- (c) to a development in respect of which—
 - (i) planning permission has been granted;
 - (ii) building permit approval has been granted; and
 - (iii) development has commenced, but is not yet completed;
- (d) if, in connection with—
 - (i) an existing building, the building operations involved in the construction of that building are unlawful; or
 - (ii) an existing use, that use is unlawful;
- (e) to any land which is the subject of an agreement under section 34 of the Act;

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- (f) to areas of Bermuda which are designated areas for the purposes of section 28 of the Act; and
- (g) to ruinous structures.

[Paragraph 3 subparagraphs (a) and (b) amended by BR 80 / 2015 para. 3 effective 25 August 2015]

Permitted development

4 (1) Subject to subparagraphs (2) to (3) and to the subsequent provisions of this Order, development of any class specified in the Schedule to this Order is permitted by this Order and may be undertaken upon land to which this Order applies, without the grant of planning permission by the Development Applications Board.

(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.

(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;
- (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.

(4) *[deleted]*

[Paragraph 4 subparagraph (1) amended, subparagraphs (2) and (3) revoked and replaced and subparagraph (4) deleted by BR 80 / 2015 para. 4 effective 25 August 2015]

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Directions restricting development

5 (1) If the Minister is satisfied that it is expedient that any particular development of any of the classes specified in the Schedule should not be carried out unless planning permission is granted on an application in that behalf to the Development Applications Board, he may direct that permission granted by paragraph 4 shall not apply to that development.

(2) Notice of any direction made under subparagraph (1) shall, as soon as may be after it has been made, be served by the Minister on the owner and occupier of every part of the land affected, and such direction shall come into force in respect of any part of the land on notice thereof being served on the occupier of that part, or if there is no occupier, on the owner thereof.

[Paragraph 5 subparagraph (1) amended by BR 80 / 2015 para. 5 effective 25 August 2015]

Development to comply with other statutory provisions

6 Nothing in this Order shall derogate from the Building Act 1988 or any regulations made thereunder, or any regulation under Part VIII of the Development and Planning Act 1974 or any zoning order.

Revokes SR&O No 41 of 1975

7 The Development and Planning (General Development) Order 1975 is revoked.

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;
- (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;

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- (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.

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;

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- (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.

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

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- (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.
- (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.

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(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
- (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.

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(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
- (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;
 - (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;
 - (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.

[Schedule inserted by BR 80 / 2015 para. 6 effective 25 August 2015. This Schedule replaces the First and Second Schedules.]

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FIRST SCHEDULE

[First Schedule revoked and replaced by BR 80 / 2015 para 6. effective 25 August 2015]

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SECOND SCHEDULE

[Second Schedule revoked and replaced by BR 80 / 2015 para. 6 effective 25 August 2015]

Dated this 31st day of December 1999

Minister of the Environment

[Amended by:

BR 14 / 2012

BR 80 / 2015]