



CITY OF CAPE TOWN
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Additional information on the City of Cape Town Municipal Planning Amendment By-law, 2025

CITY OF CAPE TOWN MUNICIPAL PLANNING AMENDMENT BY-LAW, 2025

OVERVIEW

1. The City of Cape Town's Municipal Planning By-Law, 2015 (**the By-Law**) is enacted in terms of section 156(1) and (2) of the Constitution. The City has the constitutional competence to make and administer by-laws for the effective administration of municipal planning and building regulations. The By-Law regulates both those functional areas.
2. The City of Cape Town Municipal Council approved the Municipal Planning Amendment By-Law, 2025 (**Amendment By-Law**) on 26 June 2025.
3. The Amendment By-law was gazetted in the Western Cape *Provincial Gazette* on 8 August 2025 and it was proclaimed to come into operation on 1 October 2025, except for:
 - 3.1. section 116 which came into operation on 8 August 2025; and
 - 3.2. the definition for affordable rental flat and affordable rental unit; affordable rental flat as an additional use right in items 21(b), 26(1)(b) and 50(b), subject to item 25D; additional use right conditions in item 25D and the map 'Areas where affordable rental flats are an additional use right (as per item 25D(b) of the Municipal Planning Amendment By-law, 2025); which came into operation on 1 September 2025.
4. **This document provides further information to assist in understanding the intention behind the main amendments and to explain the amendments in plain language.**

This must be read in addition to the individual responses to all comments received, which are available here (Annexure E; Item 03: SPC26/06/25):

cityapps06.capetown.gov.za/councilhub/committeemeetingdetail?ecsmeetingid=16582.

The further information below is shown following the current structure of the By-law.

5. This document does not refer to every substantive amendment and is not legal advice or part of the Amendment by-law.
6. The Amendment By-Law broadly seeks to do the following: to make textual changes to the By-Law to bring it in line with contemporary drafting conventions that enhance its clarity; to introduce new substantive provisions that confer additional powers and functions on the City and its officials; and to amend existing provisions that, among other things, set new conditions for land use and development.

NEW PROVISIONS IN THE BY-LAW

7. The following amendments introduce new substantive sections into the By-Law.
 - 7.1. Section 2A creates a rebuttable presumption: when the City decides a matter governed by the By-Law, it is presumed that the City took the decision in terms of the By-Law and not under another law that also happens to regulate the same subject matter.
 - 7.2. Section 2A governs how the By-Law must be interpreted and how apparent conflicts between the By-Law and another law must first be resolved by process of interpretation, as far as reasonably possible.
 - 7.3. Chapter 6A, containing section 69A, lists the powers and functions of the Department and its officials for promoting lawful development. It emphasises that the Department has a duty to assist applicants or prospective applicants for development on the correct processes laws and policies, of which a layperson may be ignorant. This furthers the City's constitutional object and developmental duty to promote social and economic development (sections 152(1)(c) and 153(a) of the Constitution).
 - 7.4. Chapter 8A, containing sections 122A to 122M, is a new chapter empowering the City to rectify an approval under the By-Law and building plan approval under the National Building Regulations and Building Standards Act, 1977 (**National Building Act**). An express power in the By-Law to revoke or amend an existing approval or building plan approval means that the City can take the decision again without costly and slow litigation, whether initiated by the City, the beneficiary or another interested person. Rectification is an internal remedy and must be procedurally fair and administratively just.
 - 7.5. Part 6 of Chapter 9, containing sections 135A to 135G, introduces the power and mechanism for the City to impound moveable property being used in contravention of the By-Law or the National Building Act. The City can exercise this power only if the owner of a place disobeys an order to stop the contravention. This amendment addresses the problem of owners continuing with a contravention without tangible consequences. The provisions also discourage third parties, such as contractors, from assisting such owners, as their movable property could also be impounded if they defy an order to comply with the law.

NEW ITEMS IN THE DEVELOPMENT MANAGEMENT SCHEME (THE DEVELOPMENT MANAGEMENT SCHEME IS A SCHEDULE TO THE BY-LAW)

8. The below are new provisions in the Development Management Scheme:

- 8.1. The following new terms are defined in item 1: 'affordable rental flat', 'affordable rental unit', 'auction house', 'chancery', 'commune', 'data centre', 'electric vehicle charging station', 'event', 'face of building', 'ground-mounted energy system', 'kitchenette', 'livestock auction house', 'micro wind turbine', 'outdoor restaurant dining area', 'roof', 'small-scale animal care centre', 'small-scale wind turbine', 'structure-mounted energy system', 'supplementary dwelling unit', 'top of building', 'utility-scale energy structure' and 'window'.
- 8.2. 'Top of building' is defined as the highest part or surface of a building, structure, object or material, used for height control purposes. This new definition simplifies height regulation by replacing limits for 'wall plate' and 'top of roof' in the base zonings and façade height (in Camps Bay and Bakoven local area under item 190(3)). The new top of building height limit is taken as the median of the current wall plate and top of roof limits. For example, a limit of 8m to wall plate and 10m to top of roof is replaced with a limit of 9m to top of building.
- 8.3. Items 25C to 25F of the Development Management Scheme introduce supplementary dwelling unit, affordable rental flat, small-scale wind turbine and place of instruction as additional use rights under Residential Zoning 1: Conventional Housing (R1).
- 8.4. Items 47A, 49A, 54A, 81A, 98A, 111B and 116A of the Development Management Scheme introduce informal trading under Community Zoning 1: Local (CO1); Community Zoning 2: Regional (CO2), Local Business Zoning 1: Intermediate Business (LB1); Utility Zoning (UT), Open Space Zoning 1: Environmental conservation (OS1), Agricultural Zoning (AG) and Rural Zoning (RU) as a consent use respectively. In some other zonings it is already listed as a consent use. Informal Trading in these zonings do not require an approval in terms of the Development Management Scheme if it is on site demarcated in terms of the City's by-law on Informal trading. The Informal Trading By-law is available here (to be read in conjunction with the amendments thereto): [Informal Trading By-law.pdf \(capetown.gov.za\)](https://www.capetown.gov.za/Information/By-Laws/Informal%20Trading%20By-law.pdf).
- 8.5. Under General Provisions in the Development Management Scheme there are two new items: item 121A, which deals with common boundary building line for unscreened trafficable roof, balcony or terrace; and item 133A, which deals with structure-mounted energy systems, ground-mounted energy systems and utility-scale energy structures.
- 8.6. There are three additions under the Incentive Overlay Zoning (**IOZ**): item 156A deals with designated land units in the IOZ; item 156B deals with the use of property in an IOZ; and item 156C deals with development rules in an IOZ. Detailed information on the new IOZ's are available here:

capetown.gov.za/work_and_business/planning-portal/mechanisms-and-incentives/incentive-overlay-zone.

SUBSTANTIVE CHANGES TO EXISTING SECTIONS IN THE BY-LAW

9. The following amendments make substantive changes to the preamble and existing sections in Chapters 1 to 12 of the By-Law.
 - 9.1. 'Building regulations' is added to the preamble to confirm that the By-Law also governs that functional area.
 - 9.2. Section 1 introduces a new definition for relaxation (of a development rule or restrictive condition). 'Contravention' is moved from section 123 to section 1.
 - 9.3. Section 1 also amends the definitions of these terms: approval (to include deemed approvals); land use (to accord with zoning or approval by the City); owner (to include persons who acquire ownership rights under law, but whose rights are unregistered); public street (by excluding a toll road); and restrictive condition (imposed during or after establishing a township or subdivision).
 - 9.4. The reason for the amendment of the definition of '*restrictive condition*' is the following.
 - 9.4.1. The 2019 amendment of the By-Law (which came into effect on 20 February 2020) made a significant change to the definition of '*restrictive condition*' by removing the exclusion of 'servitudes creating real or personal rights' from the definition of '*restrictive condition*'.
 - 9.4.2. That change broadened the scope of '*restrictive condition*' to encompass traditional servitudes, thereby granting the City the power, under the By-Law, to amend, suspend, and remove traditional servitudes. That authority supplemented the power already held by the Municipal Planning Tribunal under the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (**SPLUMA**).
 - 9.4.3. Since the proposed amendment is retroactive because it does not change the ambit of the term but rather clarifies and explains that after the 2019 amendment, '*restrictive condition*' includes traditional servitudes.
 - 9.4.4. The Amendment By-Law introduce amendments that are retrospective and retroactive. Section 142(10)(a) and (b) address each respectively. It is convenient to explain the difference now:

'A retrospective provision operates for the future only but imposes new results in respect of past events. A retroactive provision operates as of a time prior to the enactment of the provision itself and changes the law applicable with effect from a past date.'
Du Toit v Minister for Safety and Sec. and Another 2009 (6) SA 128 (CC) at paragraph 33.

- 9.5. Section 6 on the decision to adopt, refuse or amend a municipal spatial development framework, now permits the decision to be taken with or without conditions or for the matter to be remitted for further consultation.
- 9.6. Sections 6(2), 30(3) and (6) and 37(9) have been made consistent with the Promotion of Administrative Justice Act, 2000 (**PAJA**), by referring to '*materially and adversely*' affected or potentially affected rights or interests of a person.
- 9.7. Section 9, concerning the status of municipal spatial development framework, particularly in respect of an application for deviation, tracks the proposed amendment to SPLUMA.
- 9.8. Sections 31(4), 62(6), 137(5)(b) and 141 regarding the City's exemption for liability for damages are streamlined into one provision, section 141. The exemption does not exclude liability for fraud or corruption.
- 9.9. Section 35(2) no longer refers to approvals '*deemed to have been granted*' because the definition of approval has been amended accordingly. Similar deletions are in sections 38(1), 39(1) and 146.
- 9.10. Section 44 no longer refers to section 35(2) of the Land Use Planning Act, 2014 (**LUPA**), as the proposed amendment to LUPA omits reference to the public participation provisions in sections 43 and 44.
- 9.11. Section 47(1A) excludes rezoning to a subdivisional area from the general lapsing period of 5 years from the effective date of a decision.
- 9.12. Section 48(4) requires the City to consider certain factors in an application for removal, suspension or amendment of a restrictive condition, including whether the result would align better with the Development Management Scheme.
- 9.13. The amendment to section 49A removes reference to '*servitude*', but does not alter the meaning:
 - 9.13.1. As explained in paragraph 8.4 above, the 2019 amendment expanded the definition of '*restrictive condition*'. That change broadened the scope of '*restrictive condition*' to encompass traditional servitudes.
 - 9.13.2. The words '*or a servitude*' in section 49A (introduced with the 2019 amendment) therefore referred to a servitude other than a traditional

servitude. The previous “servitude” contemplated in section 49A would not be registered against the title deed of land, such as the right of an electronic communications network service licensee holder under 22(1) of the Electronic Communications Act 36 of 2005 to enter upon any land and construct and maintain an electronic communications network or electronic communications facilities.

- 9.13.3. However, the words ‘*or a servitude*’ in section 49A potentially caused confusion: it has been argued that ‘or a servitude’ suggests that despite the expanded definition, ‘*restrictive condition*’ excludes a traditional servitude. That argument is wrong. But to avoid confusion, the amendment deletes ‘*or a servitude*’ in section 49A to clarify that the definition of ‘*restrictive condition*’ as amended includes traditional servitudes. This dovetails with the amendment of the definition of ‘*restrictive condition*’ (see paragraph 8.4 above).
- 9.13.4. Section 49A(3) clarifies that the City has no obligation to refuse an application for land use or development (under the By-Law or under the National Building Act), if granting it would conflict with certain restrictive conditions, namely a restrictive condition which is not a condition of approval imposed in terms of the By-Law, the Ordinance or the Townships Ordinance 33 of 1934. That is because those restrictive conditions are not a law; they are a right conferred in terms of law (section 7(1)(a) of the National Building Act only precludes a building plan approval that conflicts with another law).
- 9.13.5. The amendment to section 49A(4) is to be retroactive to the date on which section 49A was inserted into the By-Law. But this merely clarifies the position in law expressly; it does not change the law. (See paragraph 8.4.4 above.)
- 9.14. Section 58(2) deals with land needed as a public place or for engineering services and community facilities, because of a subdivision. That land vests in the City, but the City need not compensate the applicant for subdivision, if the provision of the public place is a normal need arising from the subdivision or for internal engineering services.
- 9.15. Section 63(8) is new. The City can grant consent to transfer a land unit in place of an owners’ association in limited circumstances. These are that (a) the consent of an owners’ association is required by (i) a restrictive condition imposed by the City in favour of the owners’ association or (ii) a City-approved constitution of an owners’ association, which association is provided for in the conditions of subdivision; and (b) an owners’ association does not need to maintain any engineering services or private open spaces and (i) was never established or never functioned or (ii) has stopped functioning and cannot issue the necessary certificate.

- 9.16. Section 67(1)(x) exempts subdivisions and consolidations of land that arise from a private sewer, treatment works, storm water or water servitude from the need for approval under the By-Law.
- 9.17. Section 68 deals with Temporary disaster housing (previously 'emergency housing').
- 9.17.1. If the City identifies a need for temporary disaster housing on City-owned or private land, for which the owner has provided written consent, and the land is not zoned for the purpose, under section 68(2), the City may decide to deviate from the By-Law if the circumstances so warrant.
 - 9.17.2. The decision whether to deviate ordinarily requires public participation, but section 68(2) permits the City to depart from the public participation requirements. To do so, the City must meet the test in section 4(4)(b) of PAJA, which is replicated in section 68(3) of the By-Law.
 - 9.17.3. Section 68(4) places a 12-month limit on deviation. A decision to deviate is final and not appealable.
 - 9.17.4. Enabling temporary disaster housing might include rezoning or another land use permission. The lengthy participation requirements for such a decision might thwart the provision of temporary disaster housing. Thus, the deviation decision may include a deviation from a participation requirement, such as abridging a comment period on the rezoning decision. A deviation from a participation requirement must be reasonable and justifiable and meet the test in section 4(4)(b) of PAJA, which is replicated in section 68(3) of the By-Law.
 - 9.17.5. There is no appeal against a deviation decision, in terms of section 68. The City may extend the deviation, but for no longer than 6 months. A decision to extend a deviation must also be published in the *Provincial Gazette*.
- 9.18. Section 73(3) obliges the City to give reasons for not accepting an application. If an applicant does not respond to the City's reasons within 60 days, or within an extended period that the City Manager may agree to, the City will close the application. Closure of the application is a deemed refusal; after which, an applicant may apply again.
- 9.19. Section 78(1)(d) requires an applicant not to hide relevant information when making an application to the City, where the By-Law requires that information or the City calls for it (i.e., the application may not wilfully omit that information). Paragraph (e) obliges an applicant to ensure that the uses proposed in a submitted building plan are the ones that they intend to put the building to.

- 9.20. Section 78(1A) links to Chapter 8A on rectification of an approval or building plan approval. This provision obliges an applicant not to misrepresent current use or development.
- 9.21. Section 79 contains a change to the measurements of a site notice: it must be A3 in size and laminated.
- 9.22. Section 85(3) aims to fix the problem of being unable to locate all the members of a body corporate. A body corporate will have a representative, whose details will be registered in the City's database. Notice to that representative is deemed to be notice to the body corporate.
- 9.23. Section 86(1) addresses the circumstances under which the City must refer a complete application to the Provincial Government.
- 9.24. Section 87(3) aligns with the definition of organ of state in section 239 of the Constitution. An organ of state is not limited to a government department; it encompasses entities outside the public service that perform public functions in terms of an empowering law. These entities may have governance and management structures different from a government department, hence the need to address them separately.
- 9.25. Section 88(3) clarifies that '*circulation to departments*' means departments within the City.
- 9.26. Section 91(1A) empowers the City Manager to prescribe requirements for a petition, in addition to the minimum requirements listed in subsection (1).
- 9.27. Section 99(2)(b) expands the relevant criteria from those in the Development Management Scheme to those in the entire By-Law, for deciding whether to approve an application. This is because relevant criteria are not only in the Development Management Scheme.
- 9.28. Section 100(6) clarifies that an '*objective criterion*', for imposing a condition on an approval, must be ascertainable and measurable.
- 9.29. Section 100(10) provides that the lapsing provisions in the By-Law become conditions of approval, unless the City imposes different lapsing conditions for that approval. This is consistent with the proposed amendment to LUPA, which would require a municipality to consider imposing a validity period as a condition of approval under sections 35(3) (rezoning, departure or consent use), section 36(9) (subdivision) and section 38(3) (consolidation).
- 9.30. Section 105(2A) contemplates a situation where a land use application and an application for an administrative penalty are decided simultaneously. The effective date of the land use decision is suspended until the person pays the administrative penalty, if imposed.

9.31. Section 107 has a few noteworthy features:

- 9.31.1. Section 107(1A) requires the City to advertise an application for an extension of the validity period of an approval to anyone whose rights or legitimate expectations are materially and adversely affected by the application or to the public, if the public's rights are materially and adversely affected.
 - 9.31.2. Previously, there were five grounds that preclude an extension under subsection (2). Two of those are retained as grounds of disqualification: (a) if an application for extension is submitted after an approval has expired; and (b) if an application for extension is for the extension of a temporary departure.
 - 9.31.3. The other three grounds are made discretionary considerations under subsection (2A) and are reformulated into two paragraphs. Paragraph (a) combines two grounds: if relevant circumstances or legislative and policy requirements have materially changed since the approval was granted, such that the City would not grant the same approval now, then the City may refuse the extension. Paragraph (b) provides that if additional conditions of approval are needed, the City may refuse the extension.
 - 9.31.4. Section 107(7) provides that if a court order, which prohibits the implementation of an approval, stops operating, the duration of prohibition is added to the validity period of the approval. This leaves the owner no worse off. This is deemed to be the law from the date on which the By-Law became operational.
 - 9.31.5. Apart from the amendment introducing subsection (7), the amendments to section 107 are retrospective. They apply to a future decision on an application for extension of the validity of an approval, even if the application was lodged before the amendment became operative.
- 9.32. Section 108(5) merely confirms the current position: an appeal is a rehearing of the application; it is an appeal in the 'wide' sense. The appeal authority may thus receive new information on appeal. The appeal authority also has the power to raise issues that none of the parties to the appeal has addressed and, where appropriate, to invite comments on those issues.
- 9.33. Section 108(7)(c) enables the appeal authority to decide an appeal against a deemed refusal of an application.
- 9.34. Section 108(8) clarifies that the appeal authority takes a separate administrative decision from the City's earlier decision, against which the appeal lies. The appeal authority's decision replaces the earlier decision and becomes the only decision with a direct, external legal effect. Should a

materially and adversely affected person want to challenge the City's decision in court, they must challenge the appeal decision. This provision is retroactive.

- 9.35. All the amendments to section 108, except the amendment introducing subsection (8), are made with retrospective effect.
- 9.36. Section 109(4A) generally excludes a right of reply for an appellant. But an appellant may persuade the appeal authority that they should receive a right of reply if (i) new information is raised in response to an appeal and (ii) fairness requires the appellant to be heard.
- 9.37. Section 109A confirms that the duty to exhaust an internal remedy under PAJA requires an affected person to appeal before approaching a court for judicial review. In fact, an appeal may make judicial review unnecessary.
- 9.38. Section 111(1)(b)(iiA) lets the City notify a person by, among other things, affixing a notice to the boundary of the land unit that abuts a street or any other conspicuous place on the land unit.
- 9.39. Section 111(4) means that if an owner is represented by a lawyer, the City may give notice to the lawyer instead of to the owner.
- 9.40. Section 111(7) makes email the compulsory form of notice under the By-Law. A person to whom notice may or must be given must provide the City with an available email address and update it, otherwise they are deemed to have consented not to receive a notice. Subsection (7) applies retrospectively.
- 9.41. Under section 111(8), a person who lacks access to email may apply to the City for notification by another means.
- 9.42. Section 117 deals with conditions of service and the Code of Good Conduct of the Municipal Planning Tribunal (MPT). Subsection (2)(m) requires members of the MPT to conduct themselves consistently with the objects of SPLUMA in respect of matters not listed in subsection (2)(a) to (l).
- 9.43. Section 120(11) makes it mandatory for anyone wanting an audience before the MPT to do so in writing in the prescribed manner. The City will prescribe the manner.
- 9.44. There are a few changes to the chapter on enforcement: the definition of 'owner'; choice of enforcement measures; services of notices and documentation; representations to the City for issuing a directive; administrative penalty; enforcement litigation; powers and functions of an investigator. Part 6 on impoundment is discussed above.

- 9.45. The definition of 'owner' in section 123 is expanded to include, in the case of a body corporate under the Sectional Titles Act, any trustee or the managing agent of the body corporate.
- 9.46. Section 124 empowers the City to utilise any of the enforcement measures at its disposal. What the City can do, as a matter of practicality, depends on its available resources. Subsection (2), therefore, recognises that reality and expressly confirms that the City has a discretion in that regard, which it must exercise in the public interest, subject to available resources.
- 9.47. Section 124A requires service of process for enforcement to comply with section 111, which regulates notification to a person.
- 9.48. Section 128(1)(b)(i) clarifies that the purpose of submitting documentation to the City, where the City suspects that someone is contravening the By-Law, is to help the City establish the nature and extent of the suspected contravention.
- 9.49. Section 129(1B) empowers the Municipal Council to prescribe standard administrative penalties. The rationale is to provide a simpler way of determining and paying a penalty, rather than having to apply to the MPT. A standardised administrative penalty guides the City Manager's discretion and can dispose of applications for administrative penalties quickly. The process is elaborated on in subsections (1C) to (1E).
- 9.50. Section 129(1C) empowers the City Manager to apply standardised administrative penalties on which the Municipal Council has decided. If the City Manager considers it appropriate, they may propose to an applicant for an administrative penalty a standardised administrative penalty. Subsection (1D) lets the applicant agree to pay the proposed standard administrative penalty and pay it within 30 days.
- 9.51. Under section 129(1E), a person in contravention refuses the City Manager's proposal, or if the City Manager does not regard a standardised administrative penalty as appropriate, then the application proceeds to the MPT to decide whether to impose an administrative penalty and the amount.
- 9.52. Section 129(3) lets the City Manager of their own accord (even if there is no application to the City for an administrative penalty) propose to a person in contravention of the By-Law the payment of a standard administrative penalty. Or the City Manager may apply to the MPT to impose an administrative penalty. The City Manager must give the MPT the necessary information and invite the affected person to make written representations.
- 9.53. Section 129(9A) clarifies a situation where a person pays an administrative penalty, while an application to rectify their contravention of the By-Law is pending. That person will not need to reapply for and pay another administrative penalty for the same conduct over the intervening period, until the City decides the rectification application.

- 9.54. Section 129(10) gives the City the power to apply to the High Court to have the administrative penalty made an order of court. If so ordered, the penalty will have the effect of a civil judgment debt. Subsection (11) allows the City to enforce that judgment debt in the usual manner.
- 9.55. Section 131 confirms that the City has the power to approach a court, despite having other enforcement measures at its disposal. It also confirms that the City is not under a duty to litigate—this is discretionary.
- 9.56. Section 135(3)(aA) requires an investigator to give a copy of a warrant, where applicable, to person under investigation or to place that copy in a prominent place.
- 9.57. Section 135(7) includes magistrates as a type of judicial officer to whom the City may apply for a warrant, so long as national legislation empowers magistrates to grant it. The application may be made *ex parte* (without notice to the other side). This aligns with the proposed new section 32(5C) of SPLUMA, which empowers a magistrate to issue an inspector a warrant.
- 9.58. Section 137(3) empowers the City manager to issue a certificate authorising the transfer of a land unit by, among other things, waiving the applicant's duty to satisfy the City that a contravention levy was paid or that a directive was complied with.
- 9.59. Section 140(1) empowers the City to exempt an application from compliance with the By-Law under certain conditions. The amendment lets the City decide on an exemption on its own initiative or on application, if there is good cause. Subsection (2) lets the City exempt a person, group or area from the application of the By-Law on certain conditions. That power may also be exercised on the City's own initiative or on application, if there is good cause.
- 9.60. Section 141 regulates the City's liability. This amendment was addressed above.
- 9.61. Section 142(10)(a) and (b) address retrospective and retroactive amendments to the By-Law, discussed above. And paragraph (c) confirms that amendments do not create offences for conduct that occurred before the amendment became operative.

SUBSTANTIVE CHANGES TO EXISTING ITEMS IN THE DEVELOPMENT MANAGEMENT SCHEME

10. These are the main amendments to existing provisions in the Development Management Scheme.

10.1. In item 1, the following definitions are amended:

- 10.1.1. 'boarding house' now includes a commune.
- 10.1.2. 'business premises' now includes a bakery, auction house, data centre and the sale of LPG gas or similar fuel but excludes, among other things, a warehouse and risk activity.
- 10.1.3. 'coverage' does not include, among other things, a portion of a basement that does not protrude above existing ground level.
- 10.1.4. 'existing ground level' is the land surface level on a land unit, depicted on the City's ground level map, unless the Development Management Scheme gives a different level. There are provisions for a land surveyor to measure the existing ground level.
- 10.1.5. 'family' means, among other things, one or more parents and their dependents living together and maintaining a common household.
- 10.1.6. 'filming' is as defined in the Filming By-Law.
- 10.1.7. 'flat' means a building with four or more dwelling units; an apartment is a flat; and affordable rental flats are included under this definition.
- 10.1.8. 'floor space' is the area of a floor, covered by a slab, roof of projection. There are several exclusions, like basement, parking area, external entrance steps, canopy, landing, some passages, access ways, fire escapes, projections, internal courtyards, covered balconies. There are also inclusions, like stairs and atriums covered by a roof.
- 10.1.9. 'gross leasable area of GLA' excludes, among other things, all definitions from the definition of floor space, but not paragraph (a)(vii).
- 10.1.10. 'guest house' now excludes boarding house.
- 10.1.11. 'height' of a building or boundary wall does not include, among other things, screening (maximum vertical dimension of 2 metres), as contemplated in item 125.
- 10.1.12. 'hotel' no longer requires lodging and meals are provided.

- 10.1.13. 'industry' is a property used as a factory or place where, among other things, baked or cooked foods are prepared and the sale of LP gas and similar fuel.
- 10.1.14. 'intensive animal farming' qualifies that the animal is kept in a confined space for intensive feeding or maximum food conversion in the animal.
- 10.1.15. 'motor repair garage' includes a mechanical workshop.
- 10.1.16. 'parking pay' may now include an electrical vehicle charging station.
- 10.1.17. 'place of assembly' is no longer limited by the condition that it not be used predominantly as a commercial enterprise.
- 10.1.18. 'recycling centre' includes a composting facility.
- 10.1.19. 'service station' refers to a place for serving motor vehicles and the sale of LPG or similar fuel.
- 10.1.20. 'shop' no longer excludes a service station, to the extent that it sells LPG gas or similar fuel.
- 10.1.21. 'stoep' includes a wooden or other deck.
- 10.1.22. 'street boundary' includes the boundary with a public road.
- 10.1.23. 'terrace' is an area where occupants or users of a building can access; it is on a roof and results from setting back part of the building used for habitation; it may contain further structures.
- 10.1.24. 'utility service' does not include use or infrastructure for private use on a property; consequential adjustments are made given the definitions of 'recycling centre', 'micro wind turbine' and 'small-scale wind turbine'.
- 10.1.25. 'warehouse' includes a data centre or a business of a wholesale or retail nature.
- 10.2. Item 3(d) provides that a deviation from a building line restriction less than or equal to 100 mm is not considered a contravention of the Development Management Scheme.
- 10.3. Item 14(aA) provides that an occasional use may be granted for any period specified.
- 10.4. Item 14(4) means that if someone has a permit for an event in terms of the City's Events By-Law, they do not also need approval under item 14. A link to

the City's Events By-law is provided here: [Microsoft Word - City of Cape Town - Events By-Law - Consolidated - 2016](#).

- 10.5. Item 20 is the zoning summary tables. For each zoning there are new measurements for development rules and the primary, additional and consent uses have for each zoning are updated to reflect the amendments discussed above. As the changes are self-evident, they are not repeated here.
- 10.6. In all zonings, filming is now permitted. However, permission needs to be obtained in terms of the City's Filming By-law, of which a link is provided here: <https://staprodmtpdxpzan.blob.core.windows.net/dxp/2025-08/9128-extra-city-filiming-by-law-2025.pdf>.
- 10.7. Chapter 5 concerns residential zonings. In Part 1, the old Single Residential Zoning has been renamed Residential Zoning (R1). Further dwellings and low-density and low-intensity mixed-use development is possible under R1. The new items in this chapter, items 25C to 25F, are discussed above.
- 10.8. Item 21 contains additional primary uses, additional uses and consent uses for R1.
- 10.9. Item 22 changes the development rules for R1 in respect of height, building lines, common boundary building line development rules, window and door placement on ground floor and garages, carports and outbuildings.
- 10.10. Item 23 has different conditions for home occupation.
- 10.11. In Part 2, Single Residential Zoning 2: Incremental Housing (R2) becomes Residential Zoning 2: Incremental Housing (R2). There are new primary, additional and consent uses under R2.
- 10.12. Item 27 has changed development rules for R2 in respect of floor factor, height, building lines where formal townships exist and building lines where no formal township exists.
- 10.13. Item 31 excludes an informal trader from land constructed as or identified for roads.
- 10.14. Chapter 6 governs General Residential Zoning. In Part 1, there are new primary, additional and consent uses for General Residential Subzoning 1: Group Housing (GR1).
- 10.15. In Part 2, General Residential Subzonings (GR2, GR3, GR4, GR5 & GR6), there are new primary and consent uses. Additional uses have been added as a new use restriction. Notable changes to the development rules are to height, street boundary lines, and third dwelling and guest house.

- 10.16. Chapter 7 concerns Community Zonings. In Part 1, Community Zoning 1: Local (CO1) has new primary uses and consent uses. Additional uses have been added as a new use restriction.
- 10.17. In Part 2, Community Zoning 2: Regional (CO2) has new primary uses and consent uses. Additional uses have been added as a new use restriction. Notable changes to the development rules are to coverage and the street boundary building line.
- 10.18. Chapter 8 concerns Local Business Zonings. In Part 1, Local Business Zoning 1: Intermediate Business (LB1) has new primary, additional and consent uses. Notable changes to the development rules are to height, the common boundary building line, and garage and carport.
- 10.19. In Part 2, Local Business Zoning 2: Local Business (LB2) has new primary uses and consent uses. Additional uses have been added as a new use restriction.
- 10.20. Chapter 9 concerns General Business and Mixed-Use Zonings. In Part 1, General Business Subzonings (GB1, GB2, GB3, GB4, GB5, GB6 & GB7) have new primary uses and consent uses. Additional uses have been added as a new use restriction.
- 10.21. In Part 2, Mixed-Use Subzonings (MU1, MU2 & MU3) have new primary uses and consent uses. Additional uses have been added as a new use restriction. Notable changes to the development rules are to height.
- 10.22. Chapter 10 concerns Industrial Zonings. In Part 1, General Industry Subzonings (GI1 & GI2) have new primary, additional and consent uses. Notable changes to the development rules are to height and common boundary building line. Hazardous substances are no longer prohibited under these subzonings. See item 124.
- 10.23. In Part 2, Risk Industry Zoning (RI) has new primary, additional and consent uses. Hazardous substances are no longer prohibited under these subzonings. See item 124.
- 10.24. Chapter 11 concerns Utility, Transport and National Port Zonings. In Part 1, Utility Zoning (UT) has new primary and consent uses. Additional uses have been added as a new type.
- 10.25. In Part 2, Transport Zoning 1: Transport Use (TR1) has new primary and consent uses. Additional uses have been added as a new type.
- 10.26. In Part 3, Transport Zoning 2: Public road and public parking (TR2) has new primary and consent uses. Additional uses have been added as a new type.
- 10.27. Chapter 12 concerns Open Space Zonings. In Part 4, Open Space Zoning 1: Environmental conservation (OS1), there are new primary and consent uses.

- 10.28. In Part 2, Open Space Zoning 2: Public open space (OS2) has new primary and consent uses.
- 10.29. In Part 3, Open Space Zoning 3: Special open space (OS3) has new primary and consent uses.
- 10.30. Chapter 13 concerns Agricultural, Rural and Limited Use Zonings. In Part 1: Agricultural Zoning (AG) has new primary, additional and consent uses. Notable changes to the development rules are to the street boundary building line and common boundary building line.
- 10.31. In Part 2: Rural Zoning, there are new primary, additional and consent uses.
- 10.32. Chapter 14 concerns General Provisions. There are additional development rules (item 121), regulation of other land for road-widening (item 122) additional content for site development plans (item 123) and a change to the regulation of hazardous substance (item 124).
- 10.33. Base telecommunication station as a primary or consent use has new conditions (item 130).
- 10.34. Boundary walls have amended conditions (item 136B).
- 10.35. Chapter 15 concerns Parking, Loading and Infrastructure. In Part 1, Conventional Parking requirements have been changed in relation to approval or amendment of a plan (item 137). There are also changes to the minimum off-street parking requirements (item 138).
- 10.36. In Part 2, Parking layout requirements has an amendment in relation to tandem parking bays.
- 10.37. Chapter 19 concerns Overlay Zonings Providing Strategic Development Directives. In Part 1, there is a change to the General provisions: Incentive Overlay Zoning (item 155).
- 10.38. In Part 2, there is an extensive revision of Specific Provisions: Koeberg Restriction Area Overlay Zoning (item 158).
- 10.39. Chapter 20 concerns Overlay Zonings for Specific Management Mechanism. In Part 1, there are changes to the use of property in a Heritage Protection Overlay Zoning (items 160 to 164). In Part 5, there is a change to Local Overlay Zoning for Constantia - Tokai Local Area (LAO/3) (item 177) and a new defined term added under the Specific provisions: Roggebaai subarea (item 187).
- 10.40. Item 190(3) and (4), which impose a façade height limit for Camps Bay and Bakoven, are confusing and often misinterpreted and misapplied. As explained above, they are deleted and replaced by the new top of building height limit.

The City also from time to time provide technical advisories to individual aspects of the By-law. Please see the following link:

[capetown.gov.za/Work_and_business/Planning-portal/Online-planning-and-building-resources/technical-advisories](https://www.capetown.gov.za/Work_and_business/Planning-portal/Online-planning-and-building-resources/technical-advisories)

Further relevant documents and information are also provided on following link:

<https://www.capetown.gov.za/Work%20and%20business/Planning-portal/Regulations-and-legislations/Planning-by-law>