



CITY OF CAPE TOWN
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Municipal Planning Amendment By-Law, 2025 - Frequently Asked Questions

**Development Management Department
FAQV1
October 2025**

Frequently Asked Questions		Answers
City of Cape Town Municipal Planning Amendment By-law, 2025		
Please note that the below are generalised answers to some frequently asked questions regarding implementation of the City of Cape Town Municipal Planning Amendment By-law. This document will be consistently updated. Please make sure to always reference the latest version		
Building plans		
1.	What happens if an applicant or property owner requests an extension for building plans approved before October 1st, but the extension request is submitted after that date?	The same principles apply here as with planning applications that involve extensions. If there have been changes in circumstances or applicable laws since the original approval, the extension application will be assessed considering those changes.
2.	What happens to building plans already cleared?	The clearance remains valid. The building plan must be assessed in accordance with the regulations in effect at the time of its submission. Therefore, if the clearance was issued under the previous or current by-law applicable at that time, it is entirely valid.
Definition: Relaxation		
3.	Does the relaxation of a restrictive condition only apply if the wording in the title deed explicitly allows for such a relaxation?	Yes, many title deeds include provisions stating that certain restrictive conditions may be relaxed. Until now, the advice was that if such a condition was relaxed to such a point that the condition no longer existed, we would not process it as a relaxation. However, the revised definition now allows for relaxation in cases where the title deed expressly provides for it. A relaxation may only relate to where the restriction relates to use, subdivision, development rules or design criteria.
4.	Can a title deed condition allowing relaxation to be used to permit a second dwelling?	Yes, if the title deed preamble explicitly allows relaxation, it can be used instead of a removal application.
Section 47: Lapsing of rezoning, consent use or departure		
5.	Section 47(4)(a): Who does that? Is it automated?	Yes, this is automated. The system sends reminders yearly.
Section 48: Removal, suspension or amendment of restrictive conditions		
6.	Will RORs only be assessed in terms of section 99 given that consideration of section 39(5) of LUPA has been deleted from the by-law.	Section 39(5) is currently being proposed to be deleted from LUPA. This has not been approved yet. Therefore, until LUPA is formally amended in this regard, section 39(5) of LUPA needs to be a consideration in an amendment, suspension or

		removal of a restrictive condition application (see section 99(2)(g) of the 2025 amended MPBL). Confirmation will be provided once any amendment to LUPA has been approved.
69A Powers and functions of the Department to promote lawful development		
7.	What was the reason for adding MPBL Section 69A?	This statement ensures it is clear in law what is some of the main functions of the department. It does not limit in anyway any further duties.
Section 82: Notice to person		
8.	Is there going to be clarity on what "their rights and legitimate expectations" means / refers to?	Not a new concept. It is a determination that must be made on a case-to-case basis by an authorised official.
Section 107: Extension on validity of an approval		
9.	Is it now required to advertise extensions of validity? And if so, would it be to the original extent of advertising or just to objectors and new owners?	Yes, if it is determined rights or legitimate expectations will be materially and adversely affected by the extension. Advertising an application extension is generally recommended, but it should be determined on a case-by-case basis whether any new or existing rights might be affected. If the extension only prolongs the validity period without changes to law or policy, and no one is materially affected, a fresh round of advertising may not be necessary.
Section 109A: Duty to exhaust an internal remedy		
10.	Does this mean that if someone does not appeal, that they cannot approach court?	Correct, all by-law options must be exhausted prior to approaching the court.
Section 122A Definitions in this Chapter		
11.	Please explain the intent of this section and its implications for LUM applications	Advisory to follow.
Section 122D: Amendment of an approval		
12.	What is the process for section an amendment? Application / report?	Advisory to follow.
Section 142: Savings and transitional provisions		
13.	Does a land use application need to be approved before 1 October 2025 to retain the current height restriction of 11m in R1?	No, it only needs to be formally accepted in terms of Section 74(a) before 1 October.

		If a land use approval is tied to a plan, the pre-amendment rules will still apply, even if the building plan is submitted on or after 1 October.
14.	What defines "accepted" in terms of transitional arrangements?	"Accepted" means that the case officer has formally acknowledged receipt of the application in accordance with section 74(a). Once accepted, the application will be processed under the legislation in effect at the time of acceptance.
15.	Section 142(10): Explain these various aspects and their permutations.	Section 142(9) of the By-law serves as the default rule, stating that amendments are generally prospective and do not apply to pending applications. This means that any application already accepted or in process continues to be processed under the rules that were in place when it was submitted. However, section 142(10), read together with its subparagraphs (a) and (b), provides exceptions where retrospective application is required. This ensures that certain new provisions, such as those in the appeals process, must be applied to ongoing applications, even if they were originally submitted under previous rules. The purpose of these provisions is to clarify potential ambiguities in the by-law and to ensure consistent interpretation and application across the City. Most amendments are clarifications rather than substantive changes, confirming how existing rules should be applied. For example, minor adjustments like boundary measurements are often formalizations of practices that were already consistently applied.
Development Management Scheme		
Definition: Commune		
16.	In terms of the definition of a commune, what is the intended purpose of this use in relation to other non-residential uses, such as a boarding house or dwelling house, which allow for up to five occupants?	Since it is now specifically defined, any use that qualifies as a commune must comply with the associated requirements. While a commune differs somewhat from a general boarding house in that respect, its formal definition helps to address the unique impacts associated with such uses. This may not be particularly prevalent in areas like Table Bay, but in districts such as Tygerberg and others, these cases are more common. The definition has therefore been introduced to specifically address those localised impacts.

Definition: Kitchenette

17.	Are we suggesting that a kitchenette does not include a sink or similar facilities? If a kitchenette does contain a sink, how do we distinguish it from a full kitchen? This raises a concern, particularly in cases where individuals install kitchenettes on multiple floors and claim it does not constitute a second dwelling. However, during inspections, these setups are often found to function as separate dwellings. Where exactly is the line drawn between a kitchenette and a kitchen in practical terms?	The definition of a kitchenette specifies that it is not the primary kitchen. Therefore, it is the responsibility of the owner or applicant to clearly indicate which kitchen is the primary one on the plans. Once that has been established, the inclusion of a kitchenette, or more than one within a dwelling unit, if necessary, may be considered. While a kitchenette may share certain features with a kitchen, it is distinguished by the fact that it is not the main kitchen. This is another instance where a brief interpretive circular may be issued to provide consistent guidance on how the distinction should be applied. This marks a change from previous practice, where the inclusion of a kitchenette was not permitted.
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Definition: Roof

18.	Considering the new definition of "roof" and the implications of the Epstein decision, does this now permit the use of rooftops for entertainment purposes, such as the construction of a deck, which is a common occurrence in the Gordon's Bay area?	The definition of "roof" does not specify the permitted uses but indicates that it may include a trafficable area. Therefore, this new definition effectively supersedes the previous judgment, as the law now explicitly allows for such uses.
19.	What design elements qualify a part of the roof as un-trafficable?	The DMS does not provide a specific definition distinguishing a 'trafficable' roof from a 'non-trafficable' one. However, in line with standard planning practice, pedestrian trafficability is generally assessed based on the accessibility of the roof and its intended use. A roof would typically be regarded as non-trafficable if it is clearly not designed for regular human occupation or activity. This would mean the absence of features such as stair or ladder access, surfaces finished with materials suitable for pedestrian use (e.g. decking or tiling), or elements that encourage use, such as seating, lighting, pergolas, or other amenities typically associated with habitable outdoor spaces.

Definition: Small-scale animal care centre

20.	In terms of 'small-scale animal care centre' definition, only 6 animals may be catered for, how does for more than 6 animals?	There is a 'animal care centre' definition which caters for larger scale animal care centres.
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Definition: Supplementary dwelling unit

21.	Does this mean that you can have four dwelling units on a property, since it includes the text that allows for the family of the dwelling unit concerned? How does that then align with the 'Flats' definition, which is four or more 'dwelling units'?	A supplementary dwelling unit is a name change of 'domestic staff quarters'. It is not a fourth dwelling.
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Definition: Top of building

22.	Does this include parapets? Since definition of a “building” is not clear in this regard. The definition says any material, object or structure that is on top is top of building, so does an aircon unit become “top of building”?	The definition refers to the <u>“uppermost part or surface of a..... building”</u> . This would include a parapet wall as this would be the uppermost part of a building in the event of a flat roof.
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Residential Zoning 1

23.	Item 22(c)(ii): Would the eave need to comply with the 4m height within 3m of the common boundary although the face of the building is setback 3m?	Every part of the building to be within the max height.
24.	Item 22(c)(ii): Note amendment to the way 22(c) is now applied. Was the distance in 22(c)(ii) not meant to be 1.5m because it will still trigger departure for height if less than 3m?	The 3m specified in 22(c)(ii) applies to all properties in R1, and not only those between 350m ² and 650m ² as per the 60% linear distance of those properties. 22(c) Relates to height not a building line.
25.	Item 22(d): What is the reason for the reduction of heights?	The rationale behind the adjustment in height limits was to create a more balanced building form. Allowing either 9m or 11m previously permitted the construction of an additional full story, which was deemed excessive. The new height limits ensure that both pitched and flat roofs remain consistent within the overall built form—flat roofs will not exceed 10m, aligning better with pitched roof heights
26.	Item 22(dA): What does this mean?	Item 22(dA) effectively has no use in practice. It is merely just a reminder of the provision which was once there before the MPBL was amended.
27.	Item 22(eA): What is the point of the window setback? BDM / NBR accepts a 1m setback, why are we propagating a 1.5m setback?	The standard window and door setback above the ground floor is 1.5m from a common boundary to assess potential impacts. While departures to reduce this to 1 meter is possible and commonly done, particularly on the ground floor in line with the National Building Regulations (NBR), the 1.5m guideline is still used as a reference for impact assessment.
28.	Item 23 – 25A-F: Are the requirements in Item 23 - 25A - F development parameters?	These are development parameters. While departures may be considered, they would evade the intent of the scheme and the intent of the additional use right (no application) and should therefore, where applicable, not be supported.

Supplementary dwelling unit

29.	Does the ‘family’ referred to in the definition of ‘supplementary dwelling unit’ refer to the family of the staff member?	The ‘family’ referred to in the definition refers to the family of the of the main dwelling on the property to which the supplementary dwelling is subservient.
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30.	Does the supplementary dwelling unit trigger a Development Contribution?	No, as the DC calculator does not include this use type.
31.	Is a supplementary dwelling unit prohibited to be included in the use for short term rental (e.g. Airbnb)?	The use of a supplementary dwelling units is limited to be occupied staff or the family of the main dwelling.
32.	Is a supplementary dwelling unit an outbuilding?	No, an outbuilding is separately defined. See general provision 136A on outbuildings which clarifies that an outbuilding may not be used for human habitation
33.	Is there a limit in the size for supplementary units?	A supplementary dwelling unit is limited to 50m ² .
Affordable rental flats		
34.	Can a property have one affordable rental unit?	No, an affordable rental flat consists of affordable rental units and must be a building containing at least two or more units.
35.	Can an affordable rental flat depart from other development rules, such as window requirements, building lines, and similar regulations?	The other development rules, such as window requirements, building lines etc are still applicable. Therefore, an owner/applicant may apply for the relevant departure. However, the intention is to encourage owners/applicants to comply with all development rules to avoid the need for a land use application.
36.	If a title deed has a one dwelling restriction, is an affordable rental flat be allowed?	Title deed conditions will remain applicable and must be attended to should they be restrictive.
37.	Is an RDP housing considered an affordable rental flat?	No, an affordable rental flat is a specific new type of use.
38.	Does the parking provision for "flats" apply to affordable rental flats?	The R2 zoning has no minimum off street parking requirements for affordable rental flats. It may be determined to be required in the R1 zone as per item 137(a). Further clarity will be provided on this.
39.	Is item 25D applicable to a GR1 zoned property (for a property outside a group housing scheme)?	No, ARFs are not permitted within the zoning General Residential 1: Group Housing (for a property outside a group housing scheme) due to item 39(2)(b) speaking to a 'dwelling house' and not the zoning. The reference made to item 25D under item 39(2)(a) is a referencing error and should not be there.
40.	Is there the possibility of allowing ARFs as an additional use right to a GR1 zoned property (for a property outside a group housing scheme)?	This will be revisited in the next round of amendments.
41.	With reference to item 42, are ARFs allowed in GR2 – GR6 as an additional use right?	No, ARFs are not permitted within the GR2 – GR6 subzones due to item 42 speaking to a 'dwelling house' and not the zoning.
42.	Given the recent increase in affordable rental flat rezoning approvals—many of which were granted before provisions for	An owner/applicant is not obligated to exercise any approval previously granted. If an owner wishes to proceed with a rezoning approval, they

	ARFs were included in the bylaw, what are the implications for applicants submitting building plans under the new bylaw? Specifically, how will previously granted rezoning approvals affect the application of the updated provisions and approvals?	may do so. Alternatively, owners/applicants may choose not to exercise a prior approval and instead proceed under the provisions of the new law. There is no requirement to wait for any lapsing period; the owner need only notify the City of their decision not to proceed with the earlier approval.
43.	How will the NOT sectionalisation of the units be enforced, given that this process takes place at the deeds office where we have no control? Has the by-law been circulated, and is the deeds office aware of what is happening in terms of the by-law?	Any actions taken there must still comply with all applicable laws. Whoever is handling the matter, will review the Municipal Planning By-law. If the by-law prohibits it, then it cannot proceed.
44.	Can affordable rental flats be separate groups of buildings?	Yes, so long as the building contains two or more units.
45.	Where rezonings were approved for something that would now be an additional use right, how do we deal with those building plans – e.g. rezoning approved, Development Contributions not yet paid, now they submit a building plan for something which would now be an additional use right.	A development granted planning approval under the pre-amendment provisions of the By-law is subject to the provisions that were applicable at the time of its approval. However, it should be noted an owner/applicant is not obligated to act on the approval, and he/she may choose to exercise his/her additional use right subject to compliance with the relevant conditions. That decision should rest entirely on the owner/applicant.
46.	Can an ARF be accommodated on a property where a part of the property is in the area indicated in the relevant map or must the entire property be in that area?	A property that falls within the area of the approved map, even partially, should permit ARFs as an additional use right.
47.	If one property is in ARF and property next door is outside, can the property next door have ARF?	If a property does not fall within the area of the approved map, even if next door, ARFs should are not permitted on that property. Please capture instances where this is the case for any future amendments to clean up the map.
Place of instruction (i.e. ECD)		
48.	How do we keep record of notice of objection letters if there is no application required??	Notices of No Objection may be issued either during the BDM application stage, where the land use official provides comments on the plan, or at the public counter or via email. The applicant must submit the Notice of No Objection when submitting a change of use plan or addressing any required amendments during the resubmission of their building plan.

49.	How does the affected parties/neighbours get determined during the no objection process? And are ward councillors also expected to sign no objection letters?	Interested and affected parties will be identified by a land use case officer during the assessment of the building plan application. Alternatively, they may also be determined at the public counter.
50.	In the R2 zoning, given that a place of instruction has been removed as a consent use, how is it now accommodated for?	The additional use rights under the R2 zoning make provision for 'any educational use' which a place of instruction will be accommodated or under this use.
51.	Do we continue with legal compliance for those that was in contravention with the by-law prior to the new by-law. Mostly on the R1 place of instruction situation.	Yes, that will continue.
52.	What if there are objections to the place of instruction submitted via the BDM case?	A consent use application will be required.
53.	What happens with an application currently in the system for an ECD centre with 20 kids? Can the applicant withdraw and wait for 1 October 2025?	They may do so at their own discretion. However, it should be noted that there is a risk of not obtaining all necessary signatures from interested and affected parties for notices of no objection, which could result in the requirement to submit a land use application for consent use.
54.	If approvals were previously issued for a creche with say 16 children, how do these new provisions fit into that? Would an application for amendment of condition be required (as a previous consent approval was given, which is still valid), or can they submit a building plan only (of course with NONO letters etc.)? And if they DO need to apply for amendment of condition, how can we realistically refuse?	Any approvals and their associated conditions granted prior to the amendments will continue to apply. However, if an increase in the number of children is requested beyond the originally approved number (e.g. more than 16 children), a formal land use application must be submitted to amend the condition.
55.	Can one have a place of instruction and ARF in R1?	No, item 21(b)(i) states that except for a second dwelling, supplementary dwelling unit and home occupation, only one of the activities listed as additional use rights shall be conducted on any land unit as a primary use, but where more than one such activity is required, the City's approval shall be obtained.
56.	Will there be a limited timeframe to provide no objection letters so as not to compromise the BDM process?	All comments requiring 'amendments' provided by departments in the BDM application process need to be addressed within a year. Otherwise, the letters can be done outside the system.
57.	What happens if a neighbour not formally notified objection to an ECD?	It would not be an objection but a complaint as they were not notified and it is not an application. The enforcement process would need to start as well as consideration of call to cease the additional use right due to the complaint (25F(g))

Residential Zoning 2		
58.	Will the increase in bulk require a Development Contribution?	The increase in bulk now permitted under the zoning does not trigger a land use application and, as such, does not activate the Development Charges (DC) policy, which applies only where an application is made for increased development rights. Therefore, Urban Mobility cannot require the payment of development charges in this instance, as doing so would be inconsistent with their own policy and there is no land use application through which such charges could be imposed.
General Residential 1		
59.	Under GR1, group housing is permitted, which is defined as a group of dwelling units. The definition of 'dwelling unit' does not specifically exclude a 'supplementary unit'. Does this mean that each group house can each have a 50sqm supplementary unit, which may accommodate the family of those in the dwelling unit? Will this not lead to invasion of intent where such will be used as second dwellings, making it difficult to enforce?	A supplementary dwelling unit is defined to be for accommodation of staff or family so yes it could be seen as a second dwelling but is very restricted in terms of size and who can stay there. It is not an evasion of intent as it is permitted. It would only be an evasion if the conditions are departed from to create a bona fide second dwelling
General Residential 2 - 6		
60.	Item 41: Why does this header indications of these limited uses.	Not an amendment.
61.	Item 45A: Should header this not have said 'third dwelling and guest house' as well? This seems to imply that if you have a third dwelling / guest house then you need a 9m wide road.	The development rules for uses in GR2-6 zones (excluding a dwelling house and second dwelling) are designed to account for scale of use. Larger scale uses like a third dwelling, guest house, or boarding house may require wider road access (e.g., 9 m), while a dwelling house or second dwelling has a lower impact and does not trigger the wider road requirement.
62.	Item 51(cA): What does this mean?	Item 51(cA) effectively has no use in practice. It is merely just a reminder of the provision which was once there before the MPBL was amended.
63.	Item 60(e): Is the point of Table 8 additional "over 30m and up to 38m" meant to deal with setbacks in 10% departures	Yes.
General Business 1 - 7		
64.	Item 60(d): What is the urban design philosophy behind these increases and decrease?	Focused study provided the rationale
General provisions		
65.	Item 121(1)(a)(vi): This should include planter boxes of a particular size / volume not attached to a building. It will reduce unnecessary applications and discussions. Such structures are of	Noted for next round of amendments

	a similar scale and scope as these structures listed here. This should also include balustrades on balconies, since if the pergola above it is exempted, why shouldn't the balustrades, particularly since overlooking features have not been part of the scheme for over a decade.	
66.	Item 121(1)(a)(vii): What about screens walls on balconies and terraces for privacy? Which both neighbours would want but then requires a departure. Screen walls on the ground are boundary walls, so this is a nonsensical regulation in its current form. It is meant to be for above ground on buildings for privacy screening.	Advisory on screen for item 121A will address this issue.
67.	Item 121(1)(a)(xvi): Is this for covered or uncovered? And if they have a max. 40m2 pergola over it is that acceptable?	Ground-floor pergolas are exempt if they do not exceed 40m ² in total area and 4m in height. However, if a pergola is covered, it no longer qualifies as a pergola under the By-law, so the exemption applies only to uncovered structures that meet the pergola definition.
68.	121A: Can the setback be planter boxes or must the building be physically setback?	No, the building does not just the trafficable area, can be done anyway, just cannot have people closer than 2m to a common boundary on a raised area as stated.
69.	121A: If it is screened, can it be on the boundary? What is the minimum setback?	Yes, there is none when screened, if the base zoning allows it.
70.	Item 121A: What constitutes a "screen" in the context of a trafficable roof and its relation to common boundary building lines?	The intention for the insertion of the word "screen" is to protect neighbouring properties privacy. A 'screen' can therefore be any visual barrier (e.g. wall or landscaping) that physically attempts to restrict direct visual access toward a common boundary.
71.	Item 136B(eA): Does that mean that the total height of wall and barbed wire should be 1.8m?	No, means the barbed wire can only be on a wall 1.8m or higher.
Parking		
72.	Item 138 Table: Retail definition (retail use in warehouse)?	Yes, so factory shops etc which are within a warehouse where the products are made.
Heritage Protection Overlay Zone		
73.	Item 162(1)(b)(v): Whose delegation is it to be satisfied?	Delegations currently being amended.
74.	Do the HPOZ areas extent remain unchanged?	Yes, these remain unchanged for now.

Structure Plans		
75.	Have the outdated Schedule 2 structure plans / been removed in the amendments?	No, as there is no evidence that these have been repealed
Events		
76.	In cases where an event venue, such as the Ostrich Farm, has an existing approval and a Site Development Plan associated with it, are the original conditions of approval still enforceable, particularly if the conditions are not being fully complied with? Additionally, how are current applications in the system being handled under the new bylaw—are they being closed off, or will they continue to be processed, especially in cases where objections have been raised?	Any previous conditions of approval remain binding on owners who have exercised those rights, and they must continue to comply with them unless they choose to submit a new application in accordance with the newly approved by-law. Regarding applications currently in the system, if an owner/applicant no longer requires the application, they may withdraw it at their own discretion.