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BUILDING DEVELOPMENT MANAGEMENT

What is building development management and why does Council get involved in the building construction process?
This booklet provides an explanation.



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INTRODUCTION

What is Building Development Management and why is it necessary?

Building development management is a statutory function assigned to local authorities in terms of the Constitution. The National Building Regulations and Building Standards Act (Act 103 of 1977) also assigns duties to local authorities, the most important of which are the approval of building plan applications, enforcement of the Regulations and the issuing of certificates of occupancy.

The following sections of this booklet describe how the above function of the local authority is performed in practice.

Although many other laws and legislation may also be applicable, the primary legislative tool the **National Building Regulations and Building Standards Act (Act 103 of 1977)** and the various regulations promulgated in terms of it. For more information regarding the requirements of the **National Building Regulations**, also see booklets 10 (A guide to the National Building Regulations) or consult the regulations directly.

What building activities are controlled or regulated by Council?

Building activities controlled and regulated by Council's Building Development Management branch include:

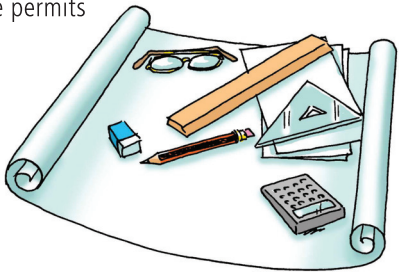
- erection of new buildings
- alteration/extension/conversion of existing buildings

- change of use of existing buildings
- demolition of existing buildings/structures

What services does the Building Development Management branch provide?

Services provided by Council's Building Development Management branch include the following:

- building plan approval
- minor works permit approval (for work such as swimming pools, small 'wendy' houses etc)
- extension of the validity of an approved building plan
- temporary structure permits
- hoarding permits
- demolition permits
- copies of approved building plans



In addition, they are also responsible for:

- building inspections during the construction period
- issuing of occupancy certificates
- general enforcement of building regulations
- investigation and resolving building complaints, contraventions and illegal building work
- maintaining statistics on building construction activity

When is building plan submission and approval required?

Generally, any building activity requires building plan approval. This includes the construction of all new buildings, alteration or extension thereof or changing the use of existing buildings

(even though there might be no physical alterations involved).

The following table provides an indication whether building plan approval is required in some typical cases.

In addition, the following table also gives an indication whether the author (i.e. the architect or draughts person) of a building plan requires SACAP (SA Council for the Architectural Profession) registration in terms of the **Architectural Profession Act (Act 44 of 2000)** to be able to make a submission to Council.

Should you still be uncertain as to when building plan approval is required or not, kindly contact your local district Building development management office on the contact numbers provided at the end of this booklet for more information.

Type/description of work	Approval required?	Comments	SACAP registration required?
Swimming pool	Yes		No
Wendy house	Yes		No
Garden/tool shed	Yes	If larger than 3m ²	No
Boundary/garden walls (or alterations thereof)	Yes		No
Braai	No		No
Braai room	Yes		Yes
Change of use of an existing building	Yes	Even where no physical work/construction is undertaken	Yes
Enclosing porches/balconies/stoeps or conservatories	Yes		Yes
Extensions to my house	Yes		Yes
Garage/servants quarters	Yes		Yes
Loft conversion	Yes		Yes
Internal alterations to my house or shop/office	Yes		Yes

Type/description of work	Approval required?	Comments	SACAP registration required?
Installation/automation of vehicular gate	No	Unless located partly on pavement/Council land	No
Installation of replacement windows to my house or shop /office	No	Provided <ul style="list-style-type: none"> existing frames aren't load-bearing openings aren't enlarged openings required for fire escape aren't removed 	No
New shop front	Yes		No
Minor repairs to my house/shop	No	e.g replacing roofing sheets/tiles (if of a similar type), repointing brickwork or replacing floorboards	No
Major repairs to my house/shop	Yes	e.g removing or rebuilding a substantial part of a wall, underpinning a building or reroofing (with a different type, i.e. thatching, heavier tiles etc)	Yes
Conversion of my house into flats	Yes	Even where no construction work is intended	Yes
Conversion of part of my shop/office to a flat/residential accommodation	Yes		Yes

Type/description of work	Approval required?	Comments	SACAP registration required?
Installation of fittings/appliances in my house or shop/office	No	Installation/alteration of position of a bath/toilet, unless work involves new or extended drainage or plumbing	No
	Yes	Installation/alteration of position of a gas, solid fuel or oil heating appliance	
Carport	Yes	If less than 40m ²	No
Entire (or partial) demolition of a building	Yes		No
Erection of any temporary structure	Yes		No
Erection of hoardings at large construction sites	Yes		No
Erection of advertisement sign structures (i.e. bill boards)	Yes		No

THE BUILDING PLAN APPLICATION PROCESS

How does the building plan application and inspection process work?

Typically, as a quick reference guide, the building plan application and inspection process involves the following general steps or phases:

- **Step 1**
Ensure subject property is registered and all prerequisite approvals (e.g. Zoning scheme departure, EIA approval etc) are obtained
- **Step 2**
Prepare building plan application submission
- **Step 3**
Submit application to local Building Development Management office and arrange payment of application scrutiny fees
- **Step 4**
Internal circulation (and tracking) of application to plans examiner and relevant line departments for comments
- **Step 5**
Corrections and amendments (if any) referred back to applicant
- **Step 6**
Corrected/amended plan resubmitted to Building Development Management office for final scrutiny
- **Step 7**
Plan approval issued, applicant notified by SMS
- **Step 8**
Notify building inspection of intention to commence work

- **Step 9**

Occupancy certificate issued upon written request when building completed.

Throughout the above process, you may contact your local district building development management office (see contact details in pocket at back of this booklet) to enquire regarding progress made or any other aspect of the application process. Please supply the application reference number when making such enquiries.

Where to get the necessary background information to assist with preparation

Before you start preparing a building plan submission, you should obtain copies of the following information for the relevant subject property:

- registered survey diagram from the Surveyor General's office (see contact details at end of this booklet)
- correct zoning and development parameter/restrictions information from your nearest local district planning office (see contact list at end)
- copy of any previous approved building plans held by Council from your nearest local district planning office (see contact list at end)

With respect to existing building plan copies, the following should be noted:

- For copyright reasons, no copies are provided without written authorisation from the owner of the document (usually the registered owner of the property or relevant architect/draughts person).
- Copies of building plans should be requested on the prescribed application form (obtainable from your local

district office) with the required authorisation and application fee attached.

- Although Council endeavour to keep copies of approved building plans, its records database isn't necessarily complete (especially in the case of older buildings). Where a building plan is not available (and a copy can't be sourced elsewhere), the onus is on the registered property owner to have the 'as-built' situation measured and drawn-up if required.

Departures and other prerequisite approvals

It is important that all other prerequisite approvals be obtained prior to submission of a building plan application, as the Building Development Management department wouldn't be able to process it without this.

As such, a building plan application will not be accepted prematurely before these approvals have been obtained. Such prerequisite approvals may include (but isn't necessarily limited to) the following:

- Zoning scheme regulation departure
- Environmental impact assessment (EIA) authorisation
- Heritage impact assessment (HIA) approval
- Removal/amendment/suspension of title deed restrictions
- Provincial Roads Engineer consent

As the most common of these, Zoning scheme regulation departures are often required to enable the proposed development to be accommodated on the subject premises and may involve aspects such as relaxation of building lines, increased coverage or bulk and exceeding the maximum height allowed etc.

For more information in this regard and a more detailed

explanation of Zoning scheme departures, please consult booklet 7 (Zoning scheme departures) or contact your local Building Development Management district office.

In addition to the above, should your building plan relate to an erf forming part of a recent larger subdivision, it is essential to ensure that the relevant portion is already separately registered in the Deed's office (and so reflected on Council's property database) before you make the application. Failing this, the application will not be accepted at the submissions counter.

How long does it take for a building plan application to be approved?

In terms of the **National Building Regulations**, local authorities are allowed the following time periods to consider building plan applications:

Building size (floor area)	Time to assess application
> 500m ²	30 days
≤ 500m ²	60 days

However, if your building plan application is properly prepared (as explained in booklet 10), comply with all National Building Regulations requirements and are accompanied by the correct supporting documentation, together with all the prerequisite approvals in hand, it is likely that approval will be obtained sooner than the above periods.



When can building work commence and do I need to inform or consult my neighbours?

Construction work may lawfully only commence once building plans are passed by the local Building Development Management branch. Should construction start prior to this, developers run the risk of having a stop order (with or without a fine) served on the unlawful building activities, having to possibly undertake expensive corrective work (or even demolition if ordered by a Court) and possibly being prosecuted/fined by the Council's Building Inspectorate. Where applicable, it is also necessary to ensure that the necessary Environmental impact authorisation have been obtained (and that all relevant preconditions in this regard have been complied with) before work is started on site.

Although it is considered good practice and courteous neighbourly conduct, there is generally no legal obligation to inform/consult your neighbour on any proposed building work or an application in this regard. However, should it also include any departure from the Zoning scheme regulations (such as building line relaxations, increased bulk/coverage/height etc) or similar/related proposals, then formal consultation would be required.





THE DECISION AND THEREAFTER

What are the criteria for deciding a building plan application?

Building plan applications are considered (and approved) on the basis of its compliance with the requirements and standards laid down in the National Building Regulations and other applicable laws.

Circumstances warranting refusal of a building plan application may include the following:

- non-compliance with NBR/other statutory standards and requirements
- where proposed building's nature or appearance would disfigure the area or be unsightly or objectionable
- where proposed building would detract from neighbouring or adjoining property values
- where proposed building would result in circumstances dangerous to life or property
- where proposed building would not promote good health and hygiene or result in a nuisance to neighbours
- where proposed building would be prone to flooding

Role of the Building control officer: Who makes the decision?

Appointed in terms of the National Building Regulations, the Building Control Officer (or BCO in short) is responsible to recommend to the delegated official (usually the district Section Head: Building Development Management) approval or refusal of a building plan application, once he/she is

satisfied that it complies in all respects with the National Building Regulations and other applicable laws.

In addition, he/she is further responsible to oversee inspection of the construction process, ensure full compliance by applicants with the regulations and over-see prosecution of contraventions thereof.

Depending on delegated powers of decision-making, the final decision on a building plan application is usually made by another senior official in the department, usually the district Section Head: Building Development Management.

What if my building plan application is refused?



Should your building plan application be refused by the local authority (and you don't agree with the interpretation of the regulations as applied in your case), you may in terms of Section 9(1) of the Act appeal in writing against such decision to the National Building Regulations Review Board. Alternatively, you may arrange for the plans to be amended or corrected (addressing the reason for the original refusal) and resubmit it to Council as a fresh application for reconsideration. If this is done within 1 year of the original decision, there will be no additional application costs involved.

In addition to the above, you are also entitled in terms of Section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to appeal to the City Manager in writing

against any decision you feel aggrieved by within 21 days of receiving notification of the original decision, in which case the decision will be reviewed by the Council's internal Appeals Committee/Authority within a reasonable period of time. The MSA appeal must precede the appeal to the Review Board.

How long is an approved building plan valid for?



An approved building plan remains valid for a period of 1 year from the date it was granted, after which it expires unless construction work on the relevant building in question was started within this period or unless such validity period was timeously extended by the local authority upon prior written request by the applicant.

Once construction in terms of an approved plan has commenced, it may not be suspended for a period longer than 3 consecutive months. Should this be the case, the owner may be ordered by written notice from the Council to resume and complete such building work within a specified time period. Failure to comply may result in the local authority (if of the opinion that the unfinished structures are unsightly, dangerous or detracting from adjoining property value) ordering demolition of the unfinished structures and removal of all remaining building material and rubble from the site within a specified period.

Alternatively, the local authority may undertake such actions on the owner's behalf and at their expense).

What about amendments/deviations from the approved plan?

Should you at any stage wish to deviate from an approved building plan, you may apply for an amendment to the approved plan.

For smaller amendments, this is usually quite a quick process. It is however important that you obtain official approval for any such deviations. Should you fail to, you might otherwise run into problems years later when you try to sell your house, when upon asking for a copy of the approved building plan, a prospective buyer discovers any discrepancies.

Can I object to my neighbour's building plan approval?

Should you disagree with Council's approval of your neighbour's building plan application (and you've been unable to resolve your concerns in any other way), you can lodge an application with the High Court to have the approval reversed.

THE CONSTRUCTION PHASE



Why is building inspection necessary and when does this happen?

Generally, the Building inspector carries out three inspections, at the following milestones during the construction process:

- Completion of foundations trenches (to amongst others verify that the building would be correctly positioned in accordance with the approved plan)
- Completion of drainage installation (during which inspection a drainage test is performed)
- Building (including finishes) completion



During such an inspection, the Building inspector would make sure that the actual work carried out is in accordance with the approved plan.

Site safety and security: What is the role of the Building inspector?

In addition to carrying out the building inspections listed above, the Building inspector is also responsible to investigate and respond to complaints of illegal/unauthorised building work, report on building contraventions and serve rectification

notices/stop orders on owners/contractors/builders responsible for such unauthorised or illegal work.

Contrary to popular belief, the Building inspector is not responsible for site safety or quality control. In terms of the relevant laws (e.g. the Occupational Health and Safety Act, No 85 of 1993, etc), these remain the responsibility of the owner/contractor/builder. In terms of relevant legislation, the Building inspector's area of jurisdiction and authority is further confined to the limits of the construction site itself and not beyond.

Site hoarding, building materials and building rubble



Should your building project (including demolition and excavation) be of such a scale and nature that it might affect or pose a threat to pedestrian movement on adjacent public footways/pavements, you may have to apply to the local district Building Development Management office for a hoarding permit to hoard off the construction activities from adjacent public areas to ensure general public safety.

This would require a basic layout plan illustrating the position, type and nature of the proposed hoarding structures and is a fairly simple and quick procedure.

Although generally illegal, the use of public footways and pavements for the storage of building materials (and often also building rubble) used on an adjacent construction site is a widespread practice throughout the city. This causes inconvenience and danger to pedestrians and the general public while sand and debris gets washed into stormwater drains (causing blockages and eventually even flooding) or

blown onto neighbouring properties and stockpiled bricks may become unstable. In addition, often damage is also caused to the public footways themselves and associated Council infrastructure.

Generally enforced by the Metropolitan Police/Law Enforcement department, dumping and littering on public footways and pavements (and by implication the use thereof for the storage of building materials) is controlled in terms of the City of Cape Town by-law relating to streets, public places and the prevention of nuisances. This by-law makes it an offence to store or dump building materials and building rubble on public footways and pavements. Failure to comply with a Council instruction or notice to rectify an offence in this regard may attract a hefty fine. Building rubble generated on construction sites should thus be disposed of in a legal and environmentally sound way.

While builders/contractors are in terms of building plan approval permitted to erect a temporary site office/builder's shed on site for the purposes of storing building materials and equipment, owners/contractors/builders may also apply to the Roads and Stormwater department's local district offices for a permit to use the public footways for the storage of building materials associated with an adjacent construction site. Such permits are usually issued subject to strict conditions (which may also be imposed as standard conditions at building plan approval stage), only remain valid for a specific period of time (after which it may be renewed if still required) and are revoked if any of the conditions are not met.

Should you wish to report a complaint in this regard, you can contact the Metropolitan Police department directly 24 hours a day on telephone 086 076 5423 or your nearest

Building Development Management district office/Building inspector during office hours (see list of contact numbers at the end of this booklet).

Control of dust, noise and working hours

To protect local amenity in the interest of surrounding residents, a land owner undertaking any excavation, demolition or building work is responsible to take precautions to prevent any unreasonable level of dust arising from the work on such site or the surrounding roads and footways.

In addition (except in emergency circumstances, for instance where life or property may be threatened), no excavation, demolition or building work causing any unreasonable disturbance (including by way of noise nuisance/pollution) or interfering with local amenity in any other way, may be undertaken during the following times:

- Weekdays between 18:00 and 06:00 the following morning
- Saturdays after 17:00
- Sundays and public holidays

Should you have any complaints in this regard, kindly contact the responsible Building inspector at your local district Building Development Management office, Council's Air Pollution Section (in the case of dust pollution) on Air.Quality@capetown.gov.za or the Metropolitan Police department on phone 086 076 5423.

What are the rules regarding demolition?

In the interest of public health, safety and convenience, and the safety of any surrounding buildings that might be affected, a permit is required from your local district Building Development Management office to carry out any demolition work. The only exception to this is where the work only involves partial demolition, which will be replaced with new building work and which demolition already appears on the relevant building plans.

Land owners/contractors/builders are further responsible to ensure sites are made safe during and after such demolition work.



Should the relevant building or structure to be partially or wholly demolished, be located in a Conservation/heritage area, be older than 60 years or listed/regarded as a heritage resource, special rules may apply and a Heritage impact assessment/permit may even be required. This will be taken into account by Council's Heritage Resource Management Section in the assessment of such a demolition permit application. For more information or advice in this regard, contact Council's Heritage Resource Management Section.

Should the Council of its own initiative consider a building or structure unsafe, it may instruct a land owner to secure or demolish such a building, structure, excavation or earthwork within a specified timeframe or undertake such work itself in emergency/dangerous circumstances at the owner's cost if need be.



Occupancy certificates

Once all building work is properly completed and on written request from an owner, the Council's Building Development Management section may (within 14 days from receiving such a request) issue a Occupancy certificate in respect of a new building, on condition that all the work was completed in accordance with the approved plans and any related conditions of approval have been complied with. Should such a request be refused, the Council must give reasons for its decision. Only after the above is issued may the new building be put in use and be formally occupied, prior to which any occupation thereof would be illegal.

In circumstances where it is deemed necessary for reasons of safety (i.e. where buildings fall into disrepair), the local authority may also revoke such Occupancy certificate, at which point the building would need to be vacated, until such time as any problems have been rectified to the local authority's satisfaction.





COMPLAINTS, CONTRAVENTIONS AND ENFORCEMENT

Where can I complain regarding illegal building work?

Complaints regarding illegal building work or other building contraventions should be lodged in writing with your nearest district Building Development Management office (see contact list at the end), where it will be assigned to a Building inspector to investigate and take any necessary action in this regard. Should you not receive written acknowledgement of receipt of your complaint or any other feedback or response within a reasonable period of time, please contact the department again and pursue the matter further until it is resolved.

What if the Building inspector didn't notice my illegal alterations/work on my premises?

It remains an owner's responsibility to obtain approval for all building work and ensure it complies with an approved building plan. Should you carry out any illegal work without an approved plan or deviate from the approved plan and this is not noticed by the Building inspector during an inspection, this could cause you many problems years later when you try to sell your house and a prospective buyer asks for a copy of the approved building plan. You could also run into all sorts of other legal troubles.

What happens if I failed to submit a building plan (and start construction in the mean time)?

If you have started building without first having your building plans approved by Council, a Building inspector is entitled by law to enter your property and order construction work to stop immediately. Following this, you could be fined and the inspector could even obtain a Court order for the existing structures to be demolished at your expense, for which legal costs you would also be liable.

For more detail information on general enforcement matters, also consult booklet 11 (Land use and building contraventions, complaints and enforcement) in this series.

For complaints regarding:

- illegal building work/alterations/demolition
Please contact Building inspector at local district office on telephone 021 400 7573.
- any unsafe building structures/building site
Please contact Building inspector/Building Control Officer at local district office on telephone 021 400 7573.
- unreasonable construction hours/noise pollution
Please contact Metropolitan Police Department on telephone 086 076 5423 or local Building inspector.
- air pollution (i.e. dust from a construction site)
Please contact Air Pollution Section at Air.Quality@capetown.gov.za.
- building rubble or materials on/obstruction of a public footway
Please contact Metropolitan Police Department on telephone 021 596 1400.

CONCLUSION

Where can I get more information?

Should you have any further enquiries regarding the above or want to find out more, kindly contact the nearest district office of the Planning and Building Development Management department on the contact numbers provided in the back pocket of this booklet.

