

INFORMATION AND GUIDELINES ON THE PROCESS RELATING TO PROVIDING COMMENTS AND SUGGESTIONS ON THE FORTHCOMING REVIEW OF THE CITY OF CAPE TOWN DEVELOPMENT MANAGEMENT SCHEME

1. REQUIREMENT FOR THE REVIEW PROCESS

1.1. A new suite of planning legislation has been adopted and implemented in the City of Cape Town since 1 July 2015, namely:

- the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) (SPLUMA);
- the Western Cape Land Use Planning Act, 2014 (Act no. 3 of 2014) (LUPA); and
- the City of Cape Town Municipal Planning By-law, 2015 (MPBL) (the MPBL was approved by Council on 25 March 2015 and ad-hoc amendments were approved by Council on 26 May 2016, 26 October 2016 and 29 March 2017) (the MPBL includes the City of Cape Town Development Management Scheme (DMS) as Schedule 3).

1.2. Section 27 of the MPBL states that at least every five years after the commencement of the City of Cape Town Municipal Planning By-law, 2015 (MPBL), the City of Cape Town Development Management Scheme (DMS) must be reviewed:

“27 Review of development management scheme

(1) The City Manager must, at least every five years after the commencement of this By-Law, review the development management scheme.

(2) The City Manager must give notice in the media in accordance with section 21 of the Municipal Systems Act of the City's intention to review the development management scheme and give details of the person to whom and the date by which any comments or suggestions to be taken into account in the review process, must be submitted.

(3) The City Manager must submit a review report to the Municipal Council setting out for the period under review at least –

(a) the proposed amendments to the development management scheme, including proposed overlay zones, aimed at aligning the development management scheme with the municipal spatial development framework;

(b) the number of deviations from the municipal spatial development framework and the nature and reasons for each deviation;

(c) the response to comments received as a result of the notice published in the media in accordance with subsection (2).

(4) If the Municipal Council approves the recommendations in the review report, the City must commence a process to amend the development management scheme accordingly.

(5) The City must comply with the provisions of section 27 of the Land Use Planning Act prior to adopting any amendment of the development management scheme.

(6) A review contemplated in terms of this section is not required for ad hoc amendments to the development management scheme.”

2. PURPOSE AND CONTENT OF THE DEVELOPMENT MANAGEMENT SCHEME

2.1. The DMS, which is a schedule to the MPBL, applies to all land within the geographical area of the City, including land owned by the state.

2.2. Each land unit in the City has a zoning and the DMS states, amongst other things, the land uses and development rules for all zonings, meaning the purpose for which land is or may be used lawfully and the provisions, restrictions and/or conditions that sets out the permissible extent of the land use in terms of a zoning.

2.3. It furthermore provides the applicable definitions, interpretations, general provisions and overlay zonings that may be applicable to land units.

2.4. The DMS is divided as follows:

2.4.1. Chapter 1 deals with all definitions and interpretations applicable to the DMS, e.g. it defines what constitutes a clinic, which is a use permitted in certain zonings:

'clinic' means a place for the diagnosis and treatment of human illness or the improvement of human health, which has limited facilities and an emphasis on outpatients, provided that a clinic may contain live-in facilities for no more than twenty persons, including patients and staff; and a clinic may include medical consulting rooms, operating theatre, an outpatients centre and a wellness centre with ancillary uses;

Definitions and interpretations are very important as to ensure that there are no ambiguities as to the intention of law.

2.4.2. Chapter 2 states the application and approval procedures, which relates to development rules applicable to an approved consent use.

2.4.3. Chapter 3 elaborates on zonings, sub zonings and the uses for which property may be used. It expands on primary uses, additional use rights and ancillary uses, all uses which are permitted as of right in zonings. It also expands on uses which is permitted only with the City's approval, i.e. consent uses, occasional uses and special uses. Finally, it deals with deemed zonings or determined zonings.

2.4.4. Chapters 4-13 sets the detail for all zonings available. In each zoning it lists the uses available in that zoning, either as a primary use, additional use right or consent use. It furthermore elaborates on the development rules applicable to those uses, which e.g. may include rules relating to coverage requirements, maximum heights applicable and building lines applicable, amongst others rules. In total there are 23 base zonings. Some of which have further sub zonings whereby the permitted land uses in the base zoning remain the same but the development rules, such as permitted floor area or height, are different.

2.4.5. Chapter 14 consist of general provisions, meaning provisions which may be applicable to all uses and zonings, e.g. street centreline setback requirements, screening requirements and outbuilding and boundary wall provisions, amongst other things.

2.4.6. Chapter 15 provides parking, loading and infrastructure requirements, relating to all zonings and uses.

2.4.7. Chapter 16 deals with certain subdivision of land provisions.

2.4.8. Chapter 17-20 lists and describes all uses, rules and provisions relating to overlay zonings which may be applicable to certain areas and land units. An overlay zoning means a zoning, in addition to the base zoning of a land unit, stipulating the purposes for which that land may be used and the development rules which may be more or less restrictive than the base zoning's development rules.

3. GUIDELINES FOR COMMENTS AND SUGGESTIONS ON THE DMS REVIEW

- 3.1. Comments and suggestions on improvements and enhancements to the content of the DMS described in 2.4.1 – 2.4.8 are encouraged. E.g. ideas to improve definitions, to increase or decrease the basket of rights in specific zonings, to adjust development rules to align better to the reality, required new uses, urban design, optimal use of land, improved parking requirements etc.
- 3.2. Logics to keep in mind to support suggestions or comments may include, but is not limited to: reducing the cost (time and monetary) of compliance; enhancing the development of an efficient, climate resilient and sustainable built environment, creating more inclusive planning regulations and practices and to streamline and simplify the DMS.
- 3.3. Comments or suggestions should not contradict approved Council policies, plans, strategies and the Integrated Development Plan.
- 3.4. Comments or suggestions should provide sufficient detail to demonstrate the need for a change, and proposals where applicable should preferably have a suggested amendment to the definition or development rule.

For example, to change the maximum permitted height in the SR1 zoning from Xm to Ym for the following reasons: Reason(s)

- 3.5. The forthcoming review process cannot change the zoning of any land unit in the City.
- 3.6. Although the legislation calls for comments and suggestions relating to the review of the DMS, comments and suggestions to review the MPBL may also be considered, if relevant.
- 3.7. The above does not limit in any way any comment or suggestion that may be submitted.

4. PROCESS AFTER THE CALL FOR COMMENTS AND SUGGESTIONS PROCESS HAS BEEN CONCLUDED

- 4.1. After all comments and suggestions have been reviewed and evaluated by the City, a review report will be submitted to Council setting out, amongst other things, the responses to comments and suggestions received. Council will then make a recommendation on which of those comments and suggestions will be formally taken forward and a further public participation process will be conducted once a draft amendment by-law has been prepared.

5. FURTHER INFORMATION AND ENQUIRIES

- 5.1. More details on the review process are available on the following link: www.capetown.gov.za/haveyoursay.
- 5.2. Comments and suggestions on the forthcoming review can be submitted by e-mail to S De Jager: lums@capetown.gov.za or on www.capetown.gov.za/haveyoursay.
- 5.3. Further enquiries may be directed to Schalk de Jager on schalk.dejager@capetown.gov.za.