

S.I. 91 of 2023

PHYSICAL PLANNING ACT, 2021

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*(Act 55 of 2021)***Physical Planning (Development and Subdivision of Parcels)
Regulations, 2023**

In exercise of the powers conferred by section 82(2)(o) of the Physical Planning Act, 2021, the Minister of Land Use and Housing makes the following Regulations —

PART I - PRELIMINARY**Citation**

1. These Regulations may be cited as the Physical Planning (Development and Subdivision of Parcels) Regulations, 2023.

Interpretation

2. In these Regulations —

“boundary lines” in relation to a parcel, means the line determining the outer limits of the parcel, and where the parcel is surveyed under the Land Survey Act as a diagram, the outer lines joining the beacons;

“cadastral plan” refers to a diagram as defined in the Land Survey Act Cap 109;

“estate road” means a road indicated as such in a development plan;

“high density area” means the area density designation of which is indicated as such in a land use plan;

“institutional building” means a building intended for public use to provide health, educational, recreational or government

services, and includes schools, hospitals, rest rooms, places of worship, and government offices;

“land use plan” means a land use plan prepared pursuant to section 22 of the Act;

“low density area” means the area density designation of which is indicated as such in a land use plan;

“medium density area” means the area density designation of which is indicated as such in a land use plan;

“parcel” means any piece or unit of land, enclosed within determinable boundaries;

“primary road” means a road indicated as such in a development plan;

“secondary road” means a road indicated as such in a development plan;

“tertiary road” means a road indicated as such in a development plan and includes an estate road;

“urban area” means an area designated as such in a land use plan.

Prohibition on developments not in accordance with regulations

3.(1) The Authority shall not approve an application for permission to carry out any development which is not in accordance with these regulations.

(2) A person shall not carry out any development except in accordance with these regulations.

(3) A person who carries out any development in contravention of any provision of these regulations commits an offence and is liable on conviction to a fine pursuant to section 72 of the Act.

PART II - PARCELS

Distances of Developments from boundaries, accesses, utilities etc.

Matters to be considered in determining distances in relation to developments

4.(1) The distances from boundary lines to be maintained in relation to a development shall be determined taking into account —

- (a) fire safety considerations;
- (b) requirements for accesses and reserves for services; and
- (c) topography and site conditions; and
- (d) any other relevant considerations,

in accordance with these regulations and any other written law.

Distance of building from boundary

5.(1) The minimum distance of a side of a building or part of a side of a building from the boundary of the parcel on which the building is erected shall be determined in accordance with the provisions of any Building Regulations based on —

- (a) the classification of the building based on its use;
- (b) height of the building based on the number of floors;
- (c) the existence and size of openings in external walls;
- (d) the existence and size of roof lights; and
- (e) the material of roof coverings.

(2) Notwithstanding subregulation (1), a building may, with the written consent of the owner of the parcel abutting the parcel on which the

building is located as well as the roofline, be situated on the common boundary line of the two parcels.

(3) Notwithstanding subregulations (1) and (2), and provided that the building complies with the Seychelles Fire and Rescue Services Agency Building Fire Safety Regulations or requirements with respect to permitted openings in external walls —

- (a) a building may be erected so that a side or part of a side of the building including the roof line is contiguous with the boundary —
 - (i) in an area designated in a land use plan as an urban area;
 - (ii) with the consent of the owner of the adjoining parcel;
- (b) the common boundary wall of a semi-detached housing unit located on two adjacent parcels, may be situated on the common boundary line of the two parcels.

(4) For the purpose of this regulation building does not include boundary walls and fences.

Distance of boundary walls and fences from boundary

6.(1) Subject to subregulations (2), (3) and (4), the distance of a boundary wall or fence from the boundary line of the parcel on which the wall or fence is erected, shall not be less than 300 millimeters.

(2) A boundary wall or fence may be erected on the common boundary line between two parcels where the owners of the parcels agree thereto in writing.

(3) Boundary walls and fences in areas designated in a land use plan as medium and high density residential areas, shall be erected on the common boundary lines of adjacent parcels, except where the owners of such parcels do not agree thereto in writing.

(4) Where the common wall of a semi detached housing unit located on two adjacent parcels, is situated on the common boundary line of the two parcels —

- (a) that wall shall be the boundary wall; and
- (b) that wall may be extended beyond the limits of the housing unit but along and to the extent of the common boundary line so as to separate the two parcels.

Distance of buildings from right of way

7.(1) Subject to the provisions of any other written law, a building, erected on a parcel which is burdened by a right of way for the benefit of another parcel, shall not obstruct such right of way.

(2) The distance of a building other than a boundary wall or fence from a right of way, shall not be less than —

- (a) where the right of way is in the form of a footpath, 0.6 meter from the edge of the footpath;
- (b) where the right of way is in the form of a motorable right of way, 1.0 meter from the edge of the right of way.

Distance of buildings from roads

8.(1) Where a building other than a boundary wall or fence is situated on a parcel adjacent to a road, the building including the roofline, shall not be less than —

- (a) in the case of a primary road, 6 meters from the edge of the road;
- (b) in the case of a secondary road, 3.5 meters from the edge of the road;
- (c) in the case of a tertiary road, 2 meters from the edge of the road,

out of which 1.5 meter shall be reserved for construction of pavements.

(2) Notwithstanding regulation 6, a boundary wall or fence situated on a parcel which is contiguous to a road shall not be less than 1.0 meters from the boundary line of that parcel; Provided that where a road encroaches upon the parcel, the wall or fence may be erected at a distance of not less than 1.0 meters from the edge of the road reserve.

(3) For the purposes of this section, the edge of the road reserve shall be as shown in the cadastral plan for that area.

Distance of retaining wall from boundary and roads

9.(1) Where a retaining wall is erected uphill of an adjacent parcel, the distance of the foundation of the retaining wall from the common boundary of the two parcels shall not be less than 1metre so as to allow for excavation works and to accommodate weep holes.

(2) A retaining wall may, with the consent in writing of the owner of the parcel adjacent to the parcel on which the wall is located, be situated so that the external face of the top of the retaining wall is contiguous with the common boundary line between the two parcels.

(3) Where a retaining wall is erected uphill of a road, the distance of the frontal edge of the foundation of the wall from the road shall not be less than the distances specified in regulation 8(2) (distance of boundary wall and fences from roads) unless otherwise authorised by the Ministry responsible for Transport.

Utilities reserve

10. Where a parcel provides easement for storm water drain reserves or public utilities routes, adequate setbacks and where provided by any other written law, in accordance with such law, shall be provided for to provide for such reserves or routes.

Distance of building from power lines

11.(1) A person shall not erect a building under a power line.

- (2) A building shall be erected so that no part of the building is less than —
- (a) 3 meters from any power line other than a high voltage power line;
 - (b) 10 meters from a high voltage power line.

Development uphill or downhill of embankments

12.(1) Where a development to be situated downhill of an embankment requires cutting of the embankment on the parcel being developed, the distance of the cutting from the boundary of the parcel shall not be less than the height of the cutting plus 1 metre, so as to ensure that the earthworks do not affect any neighboring property or undermine existing structures uphill of the cutting.

(2) An embankment may be cut at less than the distance specified in subsection (1) if the person carrying out the development provides appropriate earth retaining structures for the embankment.

(3) Where a development is to be situated uphill of an embankment, the development must be situated at such a distance from the embankment that it does not exert any loads which may cause destabilisation of the embankment or any existing earth retaining structures if these structures have not been designed to sustain the loads imposed by such development.

Distance of buildings from coastline

13.(1) Subject to subsection (2), no building shall be erected at a distance of less than 25 meters from the landward side of the high water mark.

(2) A building may, with the permission of the Authority, be erected at a distance of not less than 10 meters from the landward side of the high water mark where the Authority considers that by reason of the topography of the area, the erection of the building should be allowed.

(3) A building may, with the permission of the Authority, be erected at a distance less than that specified in subregulations (1) and (2), where the

building is for a purpose other than a residential, commercial or industrial purpose.

(4) For the purposes of this regulation, building does not include fence.

Type and height of fences and their distance from coastline

14.(1) No wall or fence other than a picket type fence of a height not exceeding 1.5 meters shall be erected along a beach.

(2) Where the coast is not demarcated by a sea wall or natural rock cliff, a fence shall not be erected along a beach at a distance of less than 5 meters from the landward side of the high water mark.

(3) The distance of 5 metres referred to in subregulation (2) may be extended where the Authority considers that a wider coastal vegetation strip is required due to the sensitivity and types of vegetation present on that particular coast.

(4) Where the coast is demarcated by a sea wall or natural rock cliff, a fence shall not be erected at a distance of less than 3 meters from the landward side of the high water mark.

(5) Where a beach is enclaved by land which is privately owned, fencing shall be erected in such a manner as to allow convenient access from the nearest public road to the beach.

Types and height of fences and walls other than on coastline

15.(1) Subject to the other provisions of this regulation, fences and walls shall be erected in such a manner as to ensure a pleasant aesthetic appearance, adequate ventilation in the area where they are erected, and that traffic visibility is not adversely affected.

(2) In low to medium density residential areas, fences or walls shall be of the following description —

- (a) if facing a high speed dual carriageway, a block wall not exceeding 1.8 meters in height;
- (b) if facing a public road other than a high speed dual carriageway, a block wall not exceeding 1.5 meters in height but which may have a decorative feature of an additional 0.3 meters on top of such wall;
- (c) in any other case, a chain link or picket type fence, not exceeding 1.8 meters in height.

(3) In high density residential areas including estates with semi-detached housing units fences or walls shall be of the following description —

- (a) if not facing a public road —
 - (i) a block wall not exceeding 1.5 meters in height of which the top 0.3 meters may be a decorative feature; or
 - (ii) a chain link or picket type fence, not exceeding 1.8 meters in height;
- (b) if facing a public road other than a high speed dual carriageway, a decorative wall not exceeding 1.2 meters in height;
- (c) if facing a high speed dual carriageway, a wall not exceeding 1.8 meters.

(4) The type of walls or fences of institutional buildings shall be such as to ensure that the aesthetical appearance of such walls or fences fits into the surrounding environment and the height shall be determined according to the security needs and function of the institution.

(5) In town centers, all walls and fences facing main streets shall be of decorative types.

(6) The height of a wall erected on a parcel which is adjacent to another parcel which is higher in level than the parcel on which the wall stands, shall not exceed the height prescribed for a wall erected on the higher parcel.

Storm and surface water drainage

Storm and surface water drainage

16.(1) Any development that generates surface water runoff in excess of what would be generated if the development had not been undertaken shall have appropriate outlets directing the runoff to —

- (a) existing roadside or other drainage channels where available; or
- (b) natural water courses.

(2) Subject to subregulation (3), where an outlet to surface water runoff is directed to a neighboring parcel, the developer shall —

- (a) obtain prior written consent from the owner of that parcel, on the most appropriate location for the discharge; and
- (b) provide appropriate drainage so as not to increase runoff in addition to what would otherwise be naturally occurring.

(3) When constructing roads, surfaced parking spaces or walkways the developer responsible for such works shall ensure that —

- (a) provision is made for appropriate drainage networks discharging to an appropriate existing water course;
- (b) grills and other forms of cross-drains or water barriers are provided for the protection of neighboring properties.

(4) The Authority may request detailed storm water flow calculations in order to evaluate the impact of a development before determining an application for permission to develop land and it shall be the responsibility of the developer to conduct required studies.

Protection of natural water courses

- 17.(1) Natural water courses shall not be —
- (a) altered or diverted unless appropriate detailed studies are conducted and alternatives provided in a comprehensive manner;
 - (b) built over, constricted or obstructed:

Provided that natural water courses may be built over for the purpose of making provision for crossing over it.

- (2) For the purposes of this regulation, natural water course —
- (a) means a channel other than an artificial one through which water flows;
 - (b) includes rivers, streams, seasonal run-off and storm water lines.

Rules specific to residential developments

Planning of residential developments

18.(1) The planning of residential developments shall take into account the long term sustainable use of limited land resources available and site organizations that will permit future expansion of the use of the parcels on which the developments are made.

(2) For the purposes of orderly development, regulations 19, 20 and 21 shall be complied with in respect of construction of more than one house in designated residential parcels.

Number of housing units permitted on a parcel

19. The number of housing units which may be built on a parcel shall be determined by the plot coverage percentage for built area for the area density designation in which the parcel is classified.

Distance between houses on same parcel

20.(1) In order to ensure adequate privacy between individual housing units and to permit future subdivision in an orderly manner, the distance between —

- (a) non adjacent houses on the same parcel shall not be less than 3 meters;
- (b) corners of adjacent houses on the same parcel shall not be less than 3 meters.

(2) In order to meet fire safety requirements, subregulation (1) also applies where due to the topography of the land, two houses situated on the same parcel are at different elevations so that the parallel walls of the houses do not directly face each other.

Individual housing units to have separate waste water disposal systems

21.(1) Where no public sewage system exists or is available, each individual housing unit on a parcel shall have its own separate waste water disposal systems comprising of a septic tank and soak away, with adequate spacing between those systems to allow for their proper functioning.

(2) Permission for any other waste water disposal systems to be issued by the Public Health Authority specification upon assessment.

Extensions to residential houses

22. An extension to a residential house may be —

- (a) an extension whereby the house and the extension becomes one residential unit or house and where the extension is not self contained but shares facilities with the house which it purports to extend and to which it is connected by internal walls; or
- (b) an extension that creates one or more additional self contained units which contain all the facilities necessary

for each unit to be classified as a house and which is connected to the house which it purports to extend by a common wall or floor and includes a semi-detached house, a block of flats, an apartment block or other similar structure.

Extension size

23. Subject to architectural restrictions for a particular area and other material considerations, the size of extensions permitted on a residential plot will be determined by the percentage of plot coverage area for the total resulting built or sealed area for the area density designation in which the plot is classified.

Extension design

24.(1) The design of an extension shall be consistent with the architecture of the resulting structure as a whole.

(2) An extension shall not adversely affect ventilation of any existing facilities including the building it purports to extend and for that purpose.

(3) The internal layout of an extension shall be organized to ensure functionality and convenience.

(4) The layout and organization of extensions shall be such that the individual housing units including the original housing unit and the newly created units can be separated as condominiums and satisfy requirements for the registration of a condominium plan under the Condominium Property Act, 1992 (*Cap 255*) and for that purpose, an application to the Authority for permission to construct such an extension shall be accompanied by plans and drawings indicating —

- (a) the general common elements including waste water disposal systems if this is a shared system and access routes to each unit and common staircases;
- (b) the limited common elements which may include balconies, verandas and fenced areas; and

- (c) the front and back yards of each unit.

(5) Waste water disposal systems and other utilities services shall be designed or upgraded in order to serve the increased volume resulting from the extension.

(6) The construction of an extension shall comply with fire safety requirements under the Physical Planning (Building) Regulations.

Waste Water Disposal Systems

Waste water disposal systems

25.(1) In order to prevent pollution of or nuisance to the surrounding environment, waste water disposal systems shall comply with the following requirements —

- (a) drain fields shall be used in areas where there is a high water table;
- (b) subject to paragraph (a), soak away pits or drain fields may be used in areas where suitable soil conditions allow for adequate soakage, infiltration and filtering;
- (c) a soakaway pit or drain field shall not be —
 - (i) less than 6m from another soakaway pit or drain field;
 - (ii) less than 4.5m from a boundary or building including a retaining wall;
 - (iii) less than 15m from an unlined drain, water body, of high water mark.
- (d) where the waste disposal system is downhill of a boundary or building, the minimum distance permitted by paragraph (c)(ii) may be reduced provided that there is no risk of waste water flow causing undermining of strata supporting an existing structure.

- (e) approval for other types of waste water disposal systems are subject to assessments by the Public Health Authority and Ministry of Environment.

(2) The Ministry responsible for Public Health and for Environment may impose other additional requirements in relation to waste water disposal systems.

Connection of waste water systems to main sewage system

26. All waste water systems shall be connected to the main sewage system installed by the Authority responsible for public utilities where this is technically feasible at a reasonable cost.

PART III - SUBDIVISIONS

Applications to subdivide land

- 27.(1)** An application for permission to subdivide land shall —
- (a) be made by a qualified land surveyor licensed under the Land Survey Act, 1964 (*Cap 109*);
 - (b) where applicable, state the intended use of the parcels resulting from the subdivision;
 - (c) indicate the surface area of any parcels resulting from the subdivision;
 - (d) indicate any approved development which has a valid planning permission on the land which it is proposed to be subdivided.

Minimum size of parcels resulting from subdivisions

- 28.(1)** The sizes of newly created parcels arising from a subdivision of land shall —
- (a) for high density areas with a central sewerage network, be

determined by an assessment of that specific area based on the site conditions;

- (b) for high density areas without central sewerage network, be not less than 400 square meters;
- (c) for medium density areas, be not less than 600 square meters;
- (d) for low density areas, be not less than 1200 square meters;
- (e) for sensitive areas and protected areas be determined by an assessment of that specific area based on the site conditions.

(2) In determining whether to grant approval for an application to subdivide land in an area specified in paragraph (a) or (b) of subregulation (1), the Authority shall take into consideration the shape of the parcel and the terrain conditions and may, on that basis, refuse to grant the application notwithstanding that a newly created parcel arising from the subdivision meets the minimum parcel size requirements specified in those paragraphs.

(3) Where a proposed subdivision is for the purpose of excising existing buildings or roads, the Authority may, at its discretion, grant approval for an application for such subdivision notwithstanding that the size of a parcel resulting from such subdivision does not meet the minimum size requirements specified in subregulation (1), provided that all other material considerations under the Act or other regulations are met.

Access provisions and reserves

29.(1) Where a subdivision of land is proposed, provision shall be made for —

- (a) access for all newly created parcels arising out of the subdivision in accordance with the other provisions of this regulation;
- (b) the maintenance of existing accesses or provisions for

existing accesses to resulting, adjoining or indirectly linked plots; and

- (c) where the subdivision affects existing provisions of or existing accesses to resulting, adjoining or indirectly linked plots, the developer shall provide alternative and equivalent provisions.

(2) Access referred to in subregulation (1) —

- (a) where a parcel is divided into up to 3 parcels, each subdivided parcel shall be served by an access or right of way created, demarcated and shown on the diagram or plan of the parcel which shall constitute a right of way or an easement burdening the servient parcel for the benefit of the parcel for which the right of way or easement is created;
- (b) where a parcel is divided into more than 3 parcels, each subdivided parcel shall be served by an access reserve and the access reserve shall be in the form of a separate cadastral plan which shall constitute a right of way or an easement for the benefit of the parcels for which the right of way or easement is created.

(3) Section 30A of the Land Survey Act shall *mutatis mutandis* apply to subsection (2).

(4) An existing provision referred to in subregulation (1)(c) may be removed if it is proved that it is not in use and alternatives which are in accordance with the law already exist.

(5) The Authority may give a temporary permission, so that an alternative access can be legalised prior to final approval being granted by the Authority.

Reserve for land bordering public road

30. Where the land to be subdivided borders a public road or other public domain, the Authority may request for a reasonable reserve be

demarcated or impose a condition that a reasonable reserve be left undeveloped along that boundary for the purpose of road widening or services provision corridor.

Support infrastructure installation

31.(1) In the case of subdivisions resulting in more than 3 plots, the developer shall install all supporting physical infrastructure and facilities, to the satisfaction of the Authority before approval for the subdivision is given.

(2) Physical infrastructure and facilities referred to in subregulation (1) include motorable access roads, adequate drainage, electrical power and water distribution networks and associated infrastructure, sewerage collection networks and associated infrastructure, and communication networks and associated infrastructure.

Subdivision affecting public utilities

32. Where a subdivision is proposed and it is foreseen that the future development on the resultant plots will affect public utilities networks that cross such plots (and which previously had crossed such plots through agreement or other legal mechanism), the Authority may —

- (a) grant permission for the subdivision subject to the condition that the developer shall bear the cost of diversion of the network to the satisfaction of the utility provider or register rights for the network on the resulting plots; and
- (b) require the developer to provide a monetary deposit as a bond or guarantee in a form acceptable to the Authority for due performance of the condition referred to in paragraph (a) in accordance with section 38 (1)(g) of the Act.

Subdivision excising structure where supporting infrastructure on separate plot

33.(1) Where a proposed subdivision is for excising an existing structure which has supporting infrastructure or facilities located on another resultant plot, different from the plot accommodating the said structure, then

the developer shall have to re-locate that supporting infrastructure to the respective plot prior to the subdivision being undertaken.

(2) Should it not be possible to accomplish that for technical reasons, the Authority may at its discretion authorise the subdivision with condition that an appropriate encumbrance is registered on the plots accommodating the support infrastructure in favour of the plot accommodating the structure.

Substitute Plan

34. Where a subdivision scheme approved by the Director of Surveys is found to differ by more than 10% of what has been approved, the developer shall submit a substitute plan.

MADE this 23rd day of October, 2023.

BILLY RANGASAMY
MINISTER OF LANDS AND HOUSING
