

L.N. 285 of 2016

**DEVELOPMENT PLANNING ACT
(CAP. 552)**

Regularisation of Existing Development Regulations, 2016

IN EXERCISE of the powers conferred by articles 85 and 101 of the Development Planning Act, the Parliamentary Secretary for Planning and the Simplification of Administrative Processes, in consultation with the Planning Authority, has made the following regulations:-

1. The title of these regulations is the Regularisation of Existing Development Regulations, 2016. Citation.

2. (1) In these regulations, unless the context otherwise requires: Interpretation.

"the Act" means the Development Planning Act; Cap. 552.

"amenity" has the same meaning assigned to it by the Development Control Design Policy, Guidance and Standards 2015;

"the Authority" means the Planning Board as defined in the Act;

"Development Zone" means land within the boundary for development in a planning scheme or local plan;

"injury to amenity" means any development which causes harm to an amenity. For the purpose of these regulations, uses falling within any of the uses defined in classes 1, 4A or 4B of the Development Planning (Use Classes) Order are not deemed to constitute an injury to an amenity; S.L. 552.15

"the Tribunal" means the Environment and Planning Review Tribunal as defined in the Environment and Planning Review Tribunal Act; Cap. 551.

"Urban Conservation Area" means an area of land designated as such in a planning scheme or local plan or other currently approved planning policies.

(2) In these regulations, words and expressions defined in the Act shall have the same meaning as they have in the Act.

3. The scope of these regulations is to lay down procedures Scope.

by which any person may request the regularisation of an existing irregular development. These regulations shall apply only to:

(a) that irregular development located entirely in a Development Zone; or

Cap. 504.

(b) that irregular development already covered by a Category B concession issued in terms of the Environment and Development Planning Act prior to the coming into force of these regulations and located in a Development Zone.

Regularisation
of development.

4. (1) An existing development requiring regularisation which is located in a Development Zone and which was in existence prior to the coming into force of these regulations, may be regularised by means of the following procedure, unless a permit is otherwise lawfully obtained:

(a) an electronic application is to be submitted to the Authority requesting the regularisation of the relative development;

(b) the application shall be submitted by the applicant's *perit* and shall be accompanied by the applicant's declaration certifying the applicant's ownership of the existing development;

Provided that where the applicant is not the owner of the existing development, he has notified the owner of his intention to apply by registered letter of which a copy has been received by the Authority and that the owner has granted his consent to such a proposal;

(c) the applicant's *perit* shall also be required to submit the following:

(i) a site plan indicating the exact location of the existing development;

(ii) detailed plans of the existing development which must also indicate the type of use of the relative development;

(iii) external elevations of the existing development which must clearly indicate the type of materials used in the same development;

(iv) sections of the existing development;

(v) three photographs relative to each external elevation of the existing building taken from different angles.

Additionally, where the existing development is located in an Urban Conservation Area, an internal photographic survey of all the rooms and any other internal structure of the existing development cross referenced to an existing plan must be submitted;

(vi) documentary proof confirming that the specific use is in line with the provisions of sub-regulation (5)(c) and (d);

(vii) the payment of a minimum administrative fee of fifty euro (€50).

(2) Developments already covered by a Category B concession issued in terms of the Environment and Development Planning Act prior to the coming into force of these regulations and located in a Development Zone may be regularised by means of the following procedure: Cap. 504.

(a) an electronic application is to be submitted to the Authority requesting the regularisation of the Category B concession by a permission;

(b) the application shall be submitted by the applicant's *perit* and shall be accompanied by the applicant's declaration certifying the applicant's ownership of the existing development:

Provided that where the applicant is not the owner of the existing development, he has notified the owner of his intention to apply by registered letter of which a copy has been received by the Authority and that the owner has granted his consent to such a proposal;

(c) the applicant's *perit* shall also be required to submit:

(i) a clean copy of drawings showing the building as constructed;

(ii) the payment of a minimum administrative fee of fifty euro (€50).

(3) Any application shall be deemed to be *ab initio* invalid if

any one or more of the submission requirements specified in sub-regulations (1) or (2), as the case may be, have not been complied with. Applications which are *ab initio* invalid shall be automatically rejected by the Authority without any further consideration. Fees submitted with invalid applications shall be refundable, however the Authority shall retain the minimum administrative fee of fifty euro (€50).

(4) Any part of the existing development which is not shown on the relative drawings submitted together with the application shall not be considered as a regularised development, if the relative application is approved.

(5) The development specified in these regulations can be regularised if:

(a) in the opinion of the Authority, the development does not constitute an injury to amenity; and

(b) the use of the development is in conformity with current planning policies and regulations; or

(c) the relative use falls within any of the uses defined in classes 1, 4A or 4B of the Development Planning (Use Classes) Order provided that documentary proof is submitted showing that the uses defined in Classes 4A or 4B have subsisted continuously for three consecutive years immediately prior to the coming into force of these regulations; or

(d) the development involves the subdivision of dwellings provided that documentary proof in the form of a deed of transfer showing that the subdivision occurred prior to the entry into force of these regulations is submitted:

Provided that paragraphs (a), (b), (c) and (d) shall not apply to an application submitted in terms of sub-regulation (2) for the regularisation of a Category B concession by a permission:

Provided further that any irregular use, except for a use falling under Class 1 of the Development Planning (Use Classes) Order, cannot be regularised if an enforcement notice relative to such use has been issued by the Authority prior to the coming into force of these regulations and the same notice is still in force.

(6) The existing development which may be regularised in terms of sub-regulation (1) shall be the footprint which appears in the Authority's aerial photographs of the year 2016. Any extension or addition in the footprint of the relative development beyond that

which appears in the Authority's aerial photographs of the year 2016 cannot be regularised in terms of these regulations.

5. (1) When an application is submitted on a site affected by an enforcement notice which is still in force, and the notice was issued following the submission of a formal complaint by third parties, the Executive Chairperson shall inform the same third parties of the submission of the application and request them to indicate, within fifteen days from notification, whether they should be considered as registered interested parties in terms of article 71(6) of the Act. Upon confirmation from the third parties that they should be considered as registered interested parties, the provisions of the Act with regards to registered interested third parties shall apply *mutatis mutandis*. Determination of applications.

(2) The Authority shall, following the recommendation of the Executive Chairperson, decide upon any application which has been validly submitted in accordance to the provisions of regulation 4. In deciding upon any such application, the Authority shall apply the provisions of these regulations. Furthermore, when the Authority does not follow the recommendation of the Executive Chairperson, it shall provide the specific planning reasons adduced by it justifying the overturning of such recommendation.

(3) Where the Authority decides to approve an application submitted in terms of regulation 4, it shall have the power to impose any condition which it may deem necessary, including, but not limited to, the execution of specific works within a specified time-frame of two years failing which the application shall be dismissed.

(4) Any full development permission granted by the Authority in terms of these regulations shall be issued saving third party civil rights and shall not be deemed to confer any proprietary rights or any title whatsoever over the existing development to which the same permission relates. This permission does not exonerate the applicant from obtaining any other necessary permission, license, clearance or approval required from any Government department, local council, agency or authority as required by any law or regulation.

(5) The applicant shall have a right to appeal the Authority's decision before the Tribunal in terms of the Environment and Review Tribunal Act. Cap. 551.

(6) The Authority may, at any time, revoke or modify any permission issued in terms of these regulations in accordance with article 80 of the Act.

6. (1) The Executive Chairperson shall inform the Fees.

applicant and the *perit* of the fees to be charged by the Authority for applications submitted in terms of these regulations which fees shall be charged at the rates set out in the Schedule. The total aggregate roofed over area of each floor of the property being regularised under one application shall be taken into account when determining the fees to be charged.

(2) The fees shall be paid prior to the formulation of the recommendation by the Executive Chairperson.

Cap. 504.

(3) The fees paid to the Authority for a Category B concession issued in terms of the Environment and Development Planning Act shall be deducted from the fees to be charged for applications submitted on the same site of the concession in terms of these regulations.

(4) When an application has been refused by the Authority, 90% of the fees paid shall be refunded to the applicant.

Period for the submission of any application in terms of these regulations.

7. Any application in terms of these regulations must be submitted to the Authority within two years from the date of coming into force of these regulations. The Authority shall impose a surcharge of 25% on the fees set out in the Schedule for those applications submitted after two years but prior to three years from the coming into force of these regulations.

Schedule - Fees to be charged by the Authority (Regulation 6)

Type	Development	Total roofed area up to and including (m²)					
		25	50	75	100	125	150
Agricultural	Agriculture	€ 200	€ 350	€ 550	€ 700	€ 900	€ 1,100
	Boathouse For Registered Fisherman	€ 200	€ 350	€ 550	€ 700	€ 900	€ 1,100
	Greenhouse	€ 50	€ 100	€ 100	€ 150	€ 200	€ 200
	Livestock Farm Building		€ 200	€ 300	€ 350	€ 450	€ 550
	Commercial Development				€ 2,400	€ 3,000	€ 3,600
Commercial	Disposal of Construction & Demolition Waste	€ 100	€ 200	€ 300	€ 350	€ 450	€ 550
	Film Set	€ 150	€ 250	€ 350	€ 500	€ 600	€ 700
	Plant and Machinery	€ 50	€ 100	€ 150	€ 200	€ 250	€ 300
	Public Car Park			€ 1,600	€ 2,100	€ 2,700	€ 3,200
	Waste Disposal						
Residential	Bungalow						€ 5,300
	Flat / Terraced House / Maisonette				€ 1,000	€ 1,300	€ 1,500
	Receded Dwelling				€ 4,300	€ 5,400	€ 6,500
	Villa (Semi / Fully Detached -2 dwelling units) / Farmhouse						€ 3,300
	Social/Cultural/Sports/Educational				€ 1,500	€ 1,900	€ 2,300
Social	Special Buildings or Uses	€ 350	€ 650	€ 1,000	€ 1,300	€ 1,600	€ 1,900
	Engineering Operations	€ 50	€ 100	€ 100	€ 150	€ 150	€ 200
	Garages		€ 600	€ 850	€ 1,100	€ 1,400	€ 1,700
	Temporary Structure / Use Of Land	€ 150	€ 250	€ 350	€ 450	€ 550	€ 650

Type	Development	Total roofed area up to and including (m²)					
		175	200	225	250	275	300
Agricultural	Agriculture	€ 1,200	€ 1,400	€ 1,600	€ 1,800	€ 1,900	€ 2,100
	Boathouse For Registered Fisherman	€ 1,200	€ 1,400	€ 1,600	€ 1,800	€ 1,900	€ 2,100
	Greenhouse	€ 250	€ 300	€ 300	€ 350	€ 400	€ 400
	Livestock Farm Building	€ 600	€ 700	€ 800	€ 850	€ 950	€ 1,000
Commercial	Commercial Development	€ 4,200	€ 4,800	€ 5,400	€ 6,000	€ 6,600	€ 7,200
	Disposal of Construction & Demolition Waste	€ 650	€ 700	€ 800	€ 900	€ 950	€ 1,000
	Film Set	€ 800	€ 950	€ 1,000	€ 1,100	€ 1,300	€ 1,400
	Plant and Machinery	€ 350	€ 350	€ 400	€ 450	€ 500	€ 550
	Public Car Park	€ 3,800	€ 4,300	€ 4,800	€ 5,400	€ 5,900	€ 6,400
	Waste Disposal						
Residential	Bungalow	€ 6,100	€ 7,000	€ 7,900	€ 8,800	€ 9,700	€ 11,000
	Flat / Terraced House / Maisonette	€ 1,800	€ 2,000	€ 2,300	€ 2,500	€ 2,800	€ 3,000
	Receded Dwelling	€ 7,600	€ 8,600	€ 9,700	€ 11,000	€ 12,000	€ 13,000
	Villa (Semi / Fully Detached -2 dwelling units) / Farmhouse	€ 3,900	€ 4,400	€ 5,000	€ 5,600	€ 6,100	€ 6,700
Social	Social/Cultural/Sports/Educational	€ 2,600	€ 3,000	€ 3,400	€ 3,800	€ 4,100	€ 4,500
	Special Buildings or Uses	€ 2,200	€ 2,600	€ 2,900	€ 3,200	€ 3,500	€ 3,800
Other	Engineering Operations	€ 200	€ 250	€ 300	€ 300	€ 350	€ 350
	Garages	€ 2,000	€ 2,300	€ 2,600	€ 2,800	€ 3,100	€ 3,400
	Temporary Structure / Use Of Land	€ 800	€ 900	€ 1,000	€ 1,100	€ 1,200	€ 1,300

Type	Development	Total roofed area up to and including (m²)					
		350	400	500	750	1,000	2,000
Agricultural	Agriculture	€ 2,500	€ 2,800	€ 3,500	€ 5,300	€ 7,000	€ 14,000
	Boathouse For Registered Fisherman	€ 2,500	€ 2,800	€ 3,500	€ 5,300	€ 7,000	€ 14,000
	Greenhouse	€ 500	€ 550	€ 700	€ 1,000	€ 1,300	€ 2,600
	Livestock Farm Building	€ 1,200	€ 1,400	€ 1,700	€ 2,600	€ 3,400	€ 6,800
Commercial	Commercial Development	€ 8,400	€ 9,600	€ 12,000	€ 18,000	€ 24,000	€ 48,000
	Disposal of Construction & Demolition Waste	€ 1,200	€ 1,400	€ 1,700	€ 2,600	€ 3,400	€ 6,900
	Film Set	€ 1,600	€ 1,800	€ 2,300	€ 3,400	€ 4,500	€ 9,100
	Plant and Machinery	€ 650	€ 700	€ 900	€ 1,300	€ 1,700	€ 3,500
	Public Car Park	€ 7,500	€ 8,600	€ 11,000	€ 16,000	€ 21,000	€ 43,000
	Waste Disposal			€ 1,700	€ 2,600	€ 3,400	€ 6,900
Residential	Bungalow	€ 12,000	€ 14,000	€ 18,000	€ 26,000	€ 35,000	€ 70,000
	Flat / Terraced House / Maisonette	€ 3,500	€ 4,000	€ 5,000	€ 7,500	€ 10,000	€ 20,000
	Receded Dwelling	€ 15,000	€ 17,000	€ 22,000	€ 32,000	€ 43,000	€ 86,000
	Villa (Semi / Fully Detached -2 dwelling units) / Farmhouse	€ 7,800	€ 8,900	€ 11,000	€ 17,000	€ 22,000	€ 44,000
Social	Social/Cultural/Sports/Educational	€ 5,300	€ 6,000	€ 7,500	€ 11,000	€ 15,000	€ 30,000
	Special Buildings or Uses	€ 4,500	€ 5,100	€ 6,400	€ 9,500	€ 13,000	€ 25,000
Other	Engineering Operations	€ 400	€ 450	€ 600	€ 850	€ 1,100	€ 2,200
	Garages	€ 4,000	€ 4,500	€ 5,700	€ 8,500	€ 11,000	€ 23,000
	Temporary Structure / Use Of Land	€ 1,500	€ 1,700	€ 2,200	€ 3,200	€ 4,300	€ 8,600

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Type	Development	Total roofed area up to and including (m²)						
		2,500	3,000	4,000	5,000	7,500	10,000	>10,000
Agricultural	Agriculture	€ 18,000	€ 21,000	€ 28,000	€35,000	€53,000	€70,000	€140,000
	Boathouse For Registered Fisherman	€ 18,000	€ 21,000	€ 28,000	€35,000	€53,000	€70,000	€140,000
	Greenhouse	€ 3,300	€ 4,000	€ 5,300	€6,600	€9,900	€13,000	€26,000
	Livestock Farm Building	€ 8,500	€ 10,000	€ 14,000	€17,000	€26,000	€34,000	€68,000
Commercial	Commercial Development	€ 60,000	€ 72,000	€ 96,000	€120,000	€180,000	€240,000	€480,000
	Disposal of Construction & Demolition Waste	€ 8,600	€ 10,000	€ 14,000	€17,000	€26,000	€34,000	€69,000
	Film Set	€ 11,000	€ 14,000	€ 18,000	€23,000	€34,000	€45,000	€91,000
	Plant and Machinery	€ 4,400	€ 5,200	€ 7,000	€8,700	€13,000	€17,000	€35,000
	Public Car Park	€ 54,000	€ 64,000	€ 86,000	€110,000	€160,000	€210,000	€430,000
	Waste Disposal	€ 8,600	€ 10,000	€ 14,000	€17,000	€26,000	€34,000	€69,000
	Bungalow	€ 88,000	€ 110,000	€ 140,000	€180,000	€260,000	€350,000	€700,000
Residential	Flat / Terraced House / Maisonette	€ 25,000	€ 30,000	€ 40,000	€50,000	€75,000	€100,000	€200,000
	Receded Dwelling	€ 110,000	€ 130,000	€ 170,000	€220,000	€320,000	€430,000	€860,000
	Villa (Semi / Fully Detached -2 dwelling units) / Farmhouse	€ 55,000	€ 67,000	€ 89,000	€110,000	€170,000	€220,000	€440,000
	Social/Cultural/Sports/Educational	€ 38,000	€ 45,000	€ 60,000	€75,000	€110,000	€150,000	€300,000
Social	Special Buildings or Uses	€ 32,000	€ 38,000	€ 51,000	€64,000	€95,000	€130,000	€250,000
	Engineering Operations	€ 2,800	€ 3,400	€ 4,500	€5,600	€8,400	€11,000	€22,000
Other	Garages	€ 28,000	€ 34,000	€ 45,000	€57,000	€85,000	€110,000	€230,000
	Temporary Structure / Use Of Land	€ 11,000	€ 13,000	€ 17,000	€22,000	€32,000	€43,000	€86,000

