

Subsidiary Legislation made under ss.33 & 68.

Town Planning (Development Control) Regulations 2019

LN.2019/193

Commencement

26.9.2019

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SCHEDULE

In exercise of the powers conferred on him by sections 33 and 68 of the Town Planning Act 2018 the Minister with responsibility for Town Planning has made the following Regulations-

Title and commencement.

1. These regulations may be cited as the Town Planning (Development Control) Regulations 2019 and come into operation of the day of publication.

Interpretation.

2. In these regulations, unless the context otherwise requires—

“active electric vehicle charging points” means fully wired and connected ready to use charging points within parking spaces;

“floor space index” means, subject to the provisions of regulation 7(4), the proportion which the aggregate area of the floor space within a building bears to the area of the plot;

“motor vehicle” means any vehicle propelled by mechanical power and constructed for use on roads;

“passive electric vehicle charging points” means the provision of necessary underlying infrastructure to enable simple installation and activation of charging points within parking spaces for future use;

“plot” means the parcel of land to which planning permission relates.

Application.

3.(1) These Regulations shall apply, except so far as the context otherwise requires, in relation to every application for planning permission and the grant thereof.

(2) In relation to planning permission to alter a building, these Regulations shall not apply if the Commission is satisfied that their application is impracticable having regard to the limits of the alteration.

(3) The Commission may, in its discretion and so far as it is satisfied that it is necessary or expedient to do so, relax or dispense with any requirement of these Regulations.

(4) In exercising its discretion under subregulation (3), the Commission shall take into account-

- (a) any relevant Government policy; and
- (b) social and economic benefits to Gibraltar when dispensing or relaxing any such requirements.

(5) The Commission may in its discretion, in any particular case if it is satisfied that it is necessary or expedient so to do, impose more stringent requirements than those provided for in these Regulations.

(6) If there shall be a conflict between these regulations and any other subsidiary legislation relating to the works, these regulations shall prevail; but save as aforesaid, nothing in these regulations shall exempt any person from compliance with such other subsidiary legislation.

Ground floor area.

4.(1) Subject to subregulation (2), no building shall cover more than 80% of the area of the plot at ground level.

(2) Subregulation (1) shall not apply to a building in Main Street for which the Commission shall specify the area of the plot which may be covered in order to secure adequate ventilation of the building.

Setting back of buildings.

5. Any new building fronting a road shall, if the Commission so requires, be set back so far as the Commission considers necessary to provide adequate space for pedestrians or for widening the roadway, or both those purposes.

Floor space index.

6.(1) The floor space index within the City walls shall not exceed—

- (a) in Main Street, five to one;
- (b) elsewhere, four to one.

(2) Outside the City walls, the maximum floor space index shall be determined by the Commission, either for areas or for individual plots, having regard to the location thereof, the use to which they are to be put, the character of the area concerned, architectural design, development plan policy, and such other circumstances as appear to the Commission to be relevant.

Parking space.

7.(1) Subject to the provisions of regulation 3(1), in the siting, arrangement and construction of any building mentioned in the Schedule, such provision shall be made for the accommodation of motor vehicles, active electric vehicle charging points, passive electric vehicle charging points and bicycles, as specified in the Schedule.

(2) For the purposes of the Schedule—

- (a) one standard car space shall be not less than 4.9m long by 2.4m wide;
- (b) one accessible parking space shall be not less than 4.8m long by 2.4m wide and with a safety zone of 1.2m between and at the end of the parking space.
- (c) if the figure resulting from the application of the Schedule is a fraction of a unit, it shall be rounded up to the nearest unit.

(3) For the purposes of paragraphs 1(a) and (b) of the Schedule, a motor cycle space and/or a bicycle space may be incorporated within a car parking space provided the applicant demonstrates that there is sufficient space for the parking of a car and a motorcycle and/ or a bicycle.

(4) The accommodation of motor vehicles below ground level shall not be taken into consideration in calculating floor space index.

(5) The car parking requirement within the City walls shall be determined by the Commission on the basis of-

- (a) pedestrianisation;
- (b) other traffic restrictive policy.

(6) Accessible parking spaces shall be located as close as reasonably practical to the principal entrance of a building.

Painting of buildings.

8.(1) No person shall paint the exterior of a building without the consent of the Commission.

(2) An application for consent shall be made in writing to the Commission who may grant consent subject to such conditions as it thinks fit.

(3) On receiving an application for consent, the Commission may call for such further information as it may deem necessary.

(4) The Commission shall, in determining an application for consent, be guided by any colour schemes approved by the Minister for the purpose of this regulation.

(5) Any person who contravenes subregulation (1), or fails to comply with a condition imposed by the Commission granting consent, shall be guilty of an offence and shall be liable on summary conviction to a fine at level 2 on the standard scale.

Airfield Safeguarding and building height restrictions.

9.(1) Subject to subregulation (2) no building shall be permitted to exceed the relevant height limitations as shown on the Gibraltar Airport Safeguarding Map.

(2) In exceptional circumstances, a breach of height limitation referred to in subregulation (1) may be permitted provided an aeronautical study has been submitted to, and accepted by, that Director of Civil Aviation and the Airfield Operator.

(3) A copy of the Gibraltar Airport Safeguarding Map shall be available in electronic format for public inspection on the Government of Gibraltar website.

Windows on property boundaries.

10.(1) Subject to sub regulation (3), the creation of a window in a new or existing building, is not permitted where the proposed window would lie on the vertical plane of a boundary of the application site where that boundary abuts an adjoining property boundary;

(2) Where a window is proposed, in a new or existing building, and any part of the proposed window-

- (a) faces a boundary of the application site; and
- (b) that boundary abuts an adjoining property boundary,

the window must be set back by a minimum of 2m, measured horizontally, from the vertical plane of the boundary line.

(3) Sub regulations (1) and (2) will not apply where documentary evidence is submitted to the Commission to demonstrate that all affected property owners have agreed to the proposal.

(4) For the purposes of this regulation-

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“window” includes any other building element of a similar nature or purpose and it may be either openable or fixed;

“boundary” means the line between land belonging to two (or more) different owners, whether it is physically demarcated or not, and it includes its vertical plane.

SCHEDULE

Regulation 7

ACCOMMODATION OF MOTOR VEHICLES AND BICYCLES

Type of Building	Standard Car Space	Accessible parking space	Motorcycle Space	Bicycle Space	Active Electric Vehicle Charging Points ("Active EVCP") and Passive Electric Vehicle Charging Points ("Passive EVCP")
1. Private residence-					
(a) House	2 spaces for each house.	-	1 space per house.	1 space per house.	-1 Active EVCP per house. -1 Passive EVCP per house.
(b) Flats or apartments-	1 space per flat or apartment.	-	1 space per 2 flats or apartments.	1 space per flat or apartment.	-20% of the total required standard car spaces to be provided with Active EVCP. -all remaining standard car spaces to be provided with Passive EVCP.
2. Offices for any purposes	1 space for each unit of 180m ² of floor area.	1% of total required standard car spaces.	1 space for each unit of 180m ² of floor area subject to a minimum of 2 spaces.	Number of spaces to be equivalent to 10% of estimated number of employees subject to a minimum of 2 spaces.	-20% of the total required standard car spaces to be provided with Active EVCP. -all remaining standard car spaces to be provided with Passive EVCP.
3. Hotels	1 space for each unit of 5 bedrooms or each unit of 10 beds whichever is the less, excluding beds provided for hotel staff.	2% of total required standard car spaces.	1 space for each unit of 5 bedrooms or each unit of 10 beds whichever is the less, excluding beds provided for hotel staff.	Number of spaces to be equivalent to 10% of estimated number of employees with a minimum provision of 2 spaces.	-20% of the total required standard car spaces to be provided with Active EVCP. -all remaining standard car spaces to be provided with Passive EVCP.
4. Industrial buildings, consisting of factories, stores, warehouses with or without office accommodation	2 spaces and, if the floor area exceeds 180m ² , 1 additional space for each unit of 180m ² of such excess.	2% of total required standard car spaces.	2 spaces and, if the floor area exceeds 180m ² , 1 additional space for each unit of 180m ² of such excess.	Number of spaces to be equivalent to 10% of estimated number of employees with a minimum provision of 2 spaces.	-20% of the total required standard car spaces to be provided with Active EVCP. -all remaining standard car spaces to be provided with Passive EVCP.
5. Cinemas, theatres and concert halls	1 space for each unit of 25 seats.	2% of total required standard car spaces.	1 space for each unit of 25 seats.	Number of spaces to be equivalent to 10% of estimated	-20% of the total required standard car spaces to be provided with Active EVCP. -all remaining standard car spaces to be provided with Passive EVCP.

				number of employees plus 1 additional space for each unit of 10 seats.	
6.	Department stores, shops and showrooms. For stores (over 2,500m ²) the number of spaces will be judged on merit having regard to the nature and location of the development, accessibility by public transport and its likely traffic generation.	1 space for each unit of 180m ² of floor area.	2% of total required standard car spaces.	1 space for each unit of 180m ² of floor area subject to a minimum of 2 spaces.	Number of spaces to be equivalent to 10% of estimated number of employees plus 1 additional space for each unit of 180m ² of floor area.
7.	Places of religious worship, art galleries, libraries, museums, exhibition or meeting halls, clubs, educational establishments, nursing homes, sports stadium, swimming pools and other like building	(a) 1 space for each unit of 180m ² of floor area;	2% of total required standard car spaces.	(a) 1 space for each unit of 180m ² of floor area subject to a minimum of 2 spaces.	(a) Number of spaces to be equivalent to 10% of estimated number of employees plus 1 additional space for each unit of 180m ² of floor area.
		(b) Such number of additional spaces as appear to the Commission reasonably sufficient for the use of persons resorting to the building otherwise than for such purposes.		(b) Such number of additional spaces as appear to the Commission reasonably sufficient for the use of persons resorting to the building otherwise than for such purposes.	(b) Such number of additional spaces as appear to the Commission reasonably sufficient for the use of persons resorting to the building otherwise than for such purposes.

In the case of a public car park, 2% of the total spaces to be provided shall be accessible parking spaces.

References to floor area in this Schedule refers to Gross Internal Floor Area.