CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing list.
Words underlined with a solid line indicate insertions in existing list.

CATEGORIES OF CONTRAVENTIONS TO WHICH SECTIONS 130(2) AND (3) OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) DO NOT APPLY

(Note: In this prescription, the same definitions apply as contained in the MPBL. If no definition is provided for in the MPBL or if it is not specifically defined in this prescription, the ordinary meaning as confirmed by an authorized official will apply)

A: 1 to 7 **[4]** below are prescribed as categories of contraventions to which sections 130(2) and (3) of the City of Cape Town Municipal Planning By-law, 2015 do not apply, subject to B and C.

A: Subsections 130(2) and (3) of the MPBL as far as it is required to make an application for an administrative penalty will not apply to the following categories of structures or land uses, which contravene the Development Management Scheme (DMS):

1. The erection of a structure that contravenes the development rules of the DMS (excluding a land use contravention) where the current owner was not responsible for the contravention, subject to:

   a. the owner submitting an affidavit or proof to the satisfaction of the City, that he/she did not own the property at the time the contravention commenced;
   b. the case officer verifying this information on City Maps where possible; and
   c. the owner was not informed by the City, prior to taking transfer, that such contravention existed.

2. A structure or part/s thereof that contravenes a common boundary building line on land zoned Single Residential Zoning 1: Conventional Housing (SR1) or Single Residential Zoning 2: Incremental Housing (SR2), subject thereto that:

   a. the total contravention/s does not exceed 25**[18]**m² in extent;
   b. the contravention/s is on the ground floor; and
   c. the structure is a single storey and does not exceed 4m in height measured from existing ground level to top of roof.

3. Any contravention of the following items of the DMS:

   a. Item 132 Satellite dish antenna systems;
   b. Item 133 Geysers and solar panels or similar infrastructure affixed to the roof of a building;
   c. Item 136B Boundary walls; and
   d. Item 140 Site access and exits.

4. An unauthorised land use that has ceased **[and was not in operation for a period longer than 3 months]** prior to the date of acceptance of the application **[for an administrative penalty]**, subject to:

   a. the owner submitting an affidavit or proof to the satisfaction of the City indicating when the unauthorised use has commenced and was ceased; and
   b. the case officer verifying the application submission timelines on the Development Application Management System (DAMS).

5. The erection of a structure used as an affordable rental flat[1], subject thereto that:

[1] Until defined in the Municipal Planning By-law, '**affordable rental flats**' means a building containing two or more affordable rental units, that may not be sectionalised, with such outbuildings as are ordinarily associated therewith but excludes a dwelling house, second dwelling, third dwelling or flats; and '**affordable rental units**' means a self-contained inter-leading group of rooms or a single room, including sanitary and cooking facilities, that is for rental only and used for living accommodation;

a. the property has originally been developed with government subsidised housing funds by government or a development agency that acted on behalf of government, or within the area of a map approved by Council; and
b. the number of affordable rental units on the property does not exceed 12 units or a floor area of 240m² , whichever is the most restrictive.

6. The land use activities of home child care, informal trading, place of worship, place of instruction and the sale of alcoholic beverages (liquor outlets), subject thereto that:

    a. the property is located or the land use contravention is within a government subsidised housing development or informal township or within the area of a map approved by Council.

7. The erection of structures that contravenes development rules of the SR2 zoning, subject thereto that:

    a. the property is located within a government subsidised housing development or informal township or within the area of a map approved by Council.

B: Subsections 130(2) and (3) of the MPBL will apply to the above where:

1. The contravention is in a Heritage Protection Overlay Zoning, excluding the contraventions as contemplated in A:2 and A:3 a. and b. above;

2. The current owner has committed a previous contravention on the same land unit; and

3. A telecommunication mast is in contravention of the DMS.

C: Further provisions:

Notwithstanding the above, the City may still apply any other enforcement measure or make application to the High Court for relief or orders to compel an owner to take certain actions, as contemplated in sections 124 and 131 of the MPBL.