

The Land Planning and Development (Use Classes)

Ordinance, 2017

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SCHEDULE 1: Use Classes.

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The Land Planning and Development (Use Classes) Ordinance, 2017

THE STATES, in pursuance of their Resolution of the 26th January, 2016^a, and in exercise of the powers conferred on them by sections 13(4) and (6), 28 and 89 of the Land Planning and Development (Guernsey) Law, 2005^b, and of all other powers enabling them in that behalf, hereby order:-

Use Classes.

1. (1) Any numbered class of use identified in Schedule 1 is hereby prescribed as a use class for the purposes of the Law and for the purposes of any description used in the Strategic Land Use Plan and any Plan or Local Planning Brief.

(2) Subject to sections 2 to 4, where a building or other land is used for a purpose of any numbered class specified in Schedule 1, the use of that building or other land for any other purpose of the same numbered class shall not be taken to constitute development.

(3) References in subsection (2) to a building include references to land occupied with the building and used for the same purposes.

Ancillary and incidental uses.

2. Where the principal use of any premises falls within a use class, any

^a Article XII of Billet d'État No. I of 2016.

^b Order in Council No. XVI of 2005 to which there are amendments not relevant to this Ordinance.

other use of those premises (or of adjacent premises used as part of the same undertaking) for a purpose which is ancillary or ordinarily incidental to that principal use is to be regarded as also falling within that use class, notwithstanding that such other use might (if carried on independently of the principal use) have fallen within a different use class.

Minor uses.

3. Where the principal use of any premises falls within a use class, any other insignificant, temporary or occasional use of those premises is to be regarded as also falling within that use class –

- (a) unless that other use has material effects, having regard to the matters set out in section 13(1)(a), (d), (e) and (i) of the General Ordinance^c as though that section referred to the likely effect of that use, and
- (b) notwithstanding that it might (if carried on at a significant, permanent or frequent level) have fallen within a different use class.

Uses falling outside use classes.

4. (1) For the avoidance of doubt, if a change is made between two uses, and one or both of those uses does not fall within a use class, that change of use constitutes development within the meaning of the Law only if it is a material change.

(2) Where premises are used for a mixture of uses that do not fall

^c Ordinance No. XXI of 2007 as amended by Ordinance No. IX of 2016.

within one use class so that there is no principal use ("**mixed use**"), then any of the uses comprising that mixed use shall be regarded as not falling within any use class, notwithstanding that any such use might (if carried out independently of the other uses) have fallen within a specified use class.

(3) Subject to sections 2 and 3, no use class specified in Schedule 1 includes use –

- (a) for the sale of fuel for motor vehicles or boats,
- (b) as a taxi business,
- (c) as a betting office,
- (d) as a funeral parlour or for the business of a funeral director or undertaker,
- (e) as a veterinary clinic or for the boarding of animals,
- (f) for the sale, or display for sale or hire, of motor vehicles,
- (g) as a casino,
- (h) for composting carried out on a commercial basis or a large scale,
- (i) as a nightclub,

(j) as a camp site,

(k) as a tattoo parlour, or

(l) as a solar farm.

(4) For the avoidance of doubt, sections 2 and 3 apply only to a case where the principal use of any premises falls within a use class and are not to be construed as inferring that a mixed use or sui generis use could not have ancillary, incidental or minor uses as described in those sections.

Interpretation.

5. (1) In this Ordinance, unless the context requires otherwise -

"**agriculture**" includes dairy farming, livestock breeding and keeping, horticulture, fruit growing, seed growing, the use of land as an orchard or as grazing land, osier land, meadow land, market gardens and nursery grounds,

"**animals**" includes birds, fish, insects and reptiles,

"**art gallery**" means premises used for the public display of works of art for their appreciation and not for their sale,

"**boarding permit**" means a permit granted by the States Economic Development Committee under and for the purposes of the Tourist Law, 1948^d,

^d Ordres en Conseil Vol. XIII, p. 329 to which there are amendments not relevant to this Ordinance.

"**camp site**" means land in the open air used for the temporary accommodation of people in moveable structures including in moveable tents, yurts, tepees, tree-houses, caravans or motor homes,

"**care**" means personal care for people in need of such care by reason of age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder,

"**day centre**" means premises which are visited during the day for social or recreational purposes or for the purposes of rehabilitation or occupational training, at which care is also provided,

"**development**" is to be construed in accordance with section 13(1) of the Law and Part I of the General Ordinance,

"**dwelling**" means a building or part of a building designed for human habitation, and includes any land within the curtilage of that building,

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**essential items for daily or frequent use**" includes food, other fresh produce purchased for daily or frequent use, essential household toiletries, essential household cleaning products and newspapers and magazines,

"**flat**" means a self-contained dwelling comprising part of a building and lying wholly or partly above or below some other part of that building,

"**food**" includes alcoholic and non-alcoholic drinks,

"**garden centre**" means premises used as a plant centre and for all of the following uses -

- (a) the retail sale of any other goods associated with plants and gardening,
- (b) the offering of services related to gardening to the public,
- (c) the holding on an occasional basis of fairs and other events related to gardening,

"**general industrial purpose**" means an industrial purpose which is not a light industrial purpose or a special industrial purpose,

"**General Ordinance**" means the Land Planning and Development (General Provisions) Ordinance, 2007,

"**goods**" includes, for the avoidance of doubt, tickets and live animals,

"**household**" means -

- (a) a person living alone,
- (b) any number of people living together as a family, or

- (c) up to six people living together as a single household,

"industrial purpose" means the carrying on of any process, including data processing for, or incidental to, any of the following purposes, namely -

- (a) the making of any article or of part of any article (including a ship or vessel, or a film, video, Compact Disc, Digital Versatile Disc or sound recording),
- (b) the altering, repairing, maintaining, decorating, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or destruction of any article,
- (c) the dressing of stone, being a process carried on in the course of a trade or business other than agriculture, or
- (d) the cleaning, laundering or drying of clothes or fabrics, other than use as a launderette,

"the Law" means the Land Planning and Development (Guernsey) Law, 2005,

"light industrial purpose" means any industrial purpose, which is not a special industrial purpose, where the processes carried on and the machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area for any reason including by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, artificial lighting or discharge of solid or liquid substances,

"livestock" includes any animal kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land,

"non-serviced visitor accommodation" means premises providing temporary accommodation for visitors for reward, with no, or only a basic level, of guest services, and includes -

- (a) premises of such a description which would be categorised as a self-catering unit under the Tourist Law, 1948 were a permit to be granted in respect of those premises under that Law, and
- (b) premises of such a description which also provide sleeping accommodation or lodging but not board to persons other than visitors at any time between 1st November and 31st March inclusive (known as a winter let) in any 12 month period,

"nursing home" means premises used for the accommodation and nursing of people suffering from sickness, injury or infirmity,

"plant centre" means premises used for the retail sale of plants and goods used in relation to the growing and care of plants,

"premises" includes buildings and any other land,

"the public" includes any section of the public,

"retail trade or business" means the trade or business of -

- (a) selling goods other than hot food,
- (b) a post office,
- (c) a travel agency,
- (d) selling cold food for consumption off the premises,
- (e) hairdressing,
- (f) a nail bar or beauty parlour or salon,
- (g) displaying goods for sale,
- (h) hiring out domestic or personal goods , or
- (i) a launderette or receiving goods to be washed, cleaned or repaired, to, from, or for, visiting members of the public,

"serviced visitor accommodation" means premises providing temporary accommodation for visitors for reward, with a standard or high level of guest services, and includes for the avoidance of doubt, premises providing such accommodation and services which would be categorised as a hotel, guest house, bed and breakfast accommodation or a serviced apartment under the Tourist Law, 1948 were a permit to be granted in respect of those premises under that Law,

"solar farm" means –

- (a) an area of land in the open air, or
- (b) a structure situated on land in the open air,

on which solar panels, intended to be used for the generation of electricity or heat, are erected or installed but does not include such land comprising a building, or within the curtilage of a building, except where the building is a glasshouse or other temporary building,

"special industrial purpose" means an industrial purpose -

- (a) which falls within the following subparagraphs -
 - (i) extraction, grinding, crushing or screening of minerals in bulk,
 - (ii) breaking vehicles, crushing or baling scrap metal,
 - (iii) recovering metal from scrap,
 - (iv) power-hammering, power-forging, riveting, panel beating or similar metal working activities, or
- (b) where the processes carried on and the machinery

installed are such as could not be installed or carried on in any residential area without causing a serious detrimental effect to the amenity of that area for any reason including by reason of noise, vibration, smell, fumes, smoke, ash, dust or grit, artificial lighting or discharge of any solid or liquid substances,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

"sui generis use" means a use falling within section 4(3),

"use class" is to be construed in accordance with section 1(1),

"waste" includes -

- (a) scrap material, effluent or other unwanted surplus arising from any process, and
- (b) anything which requires to be disposed of as being broken, worn out, contaminated, spoiled or redundant,

and other terms used in this Ordinance which are not defined in it but are defined in the Law are to have the same meaning as in the Law.

- (2) For the avoidance of doubt, the following uses of land, except

for land used as a garden (other than a market garden), are treated as land used for agriculture falling within use class 28, in accordance with section 45A of the Law, whether or not they also fall within the definition of agriculture in subsection (1) –

- (a) land used or, with the application of good husbandry, capable of being used for –
 - (i) dairy farming,
 - (ii) production, rearing or maintenance of livestock, or
 - (iii) market gardening or the outdoor cultivation of flowers, bulbs or nursery stock,
- (b) land which is covered by a glasshouse, or
- (c) land which was covered by a glasshouse and falls within paragraph (a).

(3) The level of guest services provided, for the purposes of the definitions of "**non-serviced visitor accommodation**" and "**serviced visitor accommodation**", is to be determined having regard to the minimum level of guest facilities and services that would be required for the type of accommodation in question under the Tourist Law, 1948, were a boarding permit to be granted under that Law.

(4) A reference in this Ordinance to a use class followed by a number is a reference to the use class of that number identified in Schedule 1.

(5) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Consequential amendments.

6. The Land Planning and Development (Exemptions) Ordinance, 2007^e is amended as set out in Schedule 2.

Transitional provisions and savings.

7. (1) The lawfulness of any development carried out before the commencement of section 6 without the permission of the Authority but in accordance with the Land Planning and Development (Exemptions) Ordinance, 2007 as in force immediately before the commencement of section 6, is not affected by the amendments set out in Schedule 2, and any such development commenced but not completed as at the date of commencement of section 6 may be continued provided that it is completed within 12 months of the commencement of section 6.

(2) The lawfulness of any change of use carried out before the commencement of this Ordinance without the permission of the Authority by virtue of that change of use not constituting development in accordance with section 1(2) of the Land Planning and Development (Use Classes) Ordinance, 2007 as in force immediately before the commencement of this Ordinance, is not affected by the repeal of that Ordinance and any such change of use commenced but not completed as at the date of commencement of this Ordinance may be continued provided that it is completed within 6 months of that repeal.

^e Ordinance No. XXIII of 2007 as amended by Ordinance No. IX of 2016.

Repeal.

8. The Land Planning and Development (Use Classes) Ordinance, 2007^f is repealed.

Citation.

9. This Ordinance may be cited as the Land Planning and Development (Use Classes) Ordinance, 2017.

Commencement.

10. This Ordinance shall come into force on the 3rd April, 2017.

^f Ordinance No. XXVI of 2007 as amended by Ordinance No. IX of 2016.

SCHEDULE 1

Sections 1, 4 and 5(4)

USE CLASSES

Residential use classes

Residential use class 1: dwelling house	Use, other than a use falling within use classes 2 to 5, of - (a) a detached dwelling, or (b) one of a pair or one of a group of dwellings sharing common dividing walls or linked by garages, as a permanent residence for one household.
Residential use class 2: flat	Use, other than a use falling within use class 1, 3, 4 or 5 of a flat as a permanent residence for one household.
Residential use class 3: sheltered housing	Use of one of a group of dwellings affording facilities and support services especially suited to the needs of older, disabled or other persons with particular needs (including the on-call assistance of

	<p>a warden) as a permanent residence for -</p> <p>(a) a person living alone who, or</p> <p>(b) two persons living together of whom at least one,</p> <p>requires access to those facilities because of their disability or other particular needs.</p>
<p>Residential use class 4: specialised housing</p>	<p>Use of a dwelling for the provision of accommodation and care, including use as a nursing home or residential home where staff provide care on-site, other than –</p> <p>(a) a use falling within use class 3 or 5, or</p> <p>(b) use as a hospital.</p>
<p>Residential use class 5: use of part of dwelling for business purposes</p>	<p>Use of a dwelling principally as a permanent residence for one household but also, by a member of that household, for professional or business purposes or retail trade or business and carried on in not more than two rooms but which does</p>

	<p>not involve -</p> <ul style="list-style-type: none"> (a) storage of hazardous or odorous materials, (b) a use falling within use classes 23, 26 or 27 or for any general industrial purpose, or (c) any other use which could not be carried on without material detrimental effects on a neighbouring property.
Residential use class 6: premises in multiple occupation	Use of a dwelling, other than a use falling within use class 4, as a permanent residence for more than one household.

Visitor economy use classes

Visitor economy use class 7: serviced visitor accommodation	Use as serviced visitor accommodation.
Visitor economy use class 8: non-serviced visitor accommodation	Use as non-serviced visitor accommodation.

Retail use classes

Retail use class 9: convenience retail	Use, other than a use falling within use classes 11 or 12, for sale of items usually purchased as essential items for daily or frequent use.
Retail use class 10: general retail	Any retail trade or business use, not falling within use classes 9 or 11 to 14, the purpose of which is to - <p style="text-align: center;">(a) sell or display goods for retail sale or for hire, or</p> <p style="text-align: center;">(b) offer services,</p> to the public.
Retail use class 11: food	Use for sale of food for consumption on the premises.
Retail use class 12: hot food take-away	Use for sale of hot food for consumption off the premises.
Retail use class 13: plant centre	Use as a plant centre.
Retail use class 14: garden centre	Use as a garden centre.

Administrative, financial and professional services use classes

Administrative, financial and professional services use class 15: financial and professional services	Use for providing professional or financial services to visiting members of the public.
Administrative, financial and	Use as an administrative office for any

professional services use class 16: administrative office	purpose, other than a use falling within use class 15 or 17.
Administrative, financial and professional services use class 17: temporary office	Use for the temporary relocation of an administrative office in the event of an emergency.

Public amenity use classes

Public amenity use class 18: non-residential health/welfare services	<p>Use of any premises –</p> <ul style="list-style-type: none"> (a) for the provision of non-residential medical or health services, (b) as a crèche or children's day nursery, or (c) as a day centre.
Public amenity use class 19: non-residential establishments	<p>Use of any premises -</p> <ul style="list-style-type: none"> (a) as a non-residential educational establishment or training centre, other than a use falling within use class 18, (b) as a museum, public

	<p>archive, art gallery, library or reading room, or</p> <p>(c) as a place -</p> <p>(i) of public assembly, or</p> <p>(ii) of public worship or for the social and recreational activities of a religious body.</p>
<p>Public amenity use class 20: assembly or leisure</p>	<p>Use as -</p> <p>(a) an exhibition hall or conference centre, or</p> <p>(b) a theatre, cinema or concert hall.</p>
<p>Public amenity use class 21: sport or fitness</p>	<p>Use as a commercial -</p> <p>(a) gymnasium or sports hall, or</p> <p>(b) fitness centre or health suite.</p>

Storage/distribution use classes

Storage/Distribution use class 22: general storage or distribution	Use, not falling within use class 23 or 27– (a) for the storage or parking of motor vehicles, (b) for the storage of goods, (c) for data and archive storage in any form relating to a business carried out elsewhere, (d) for the transfer of goods, or (e) for the distribution of goods in connection with their commercial storage.
Storage/Distribution use class 23: special storage	Use, not falling within use class 27, for the storage of hazardous, odorous, putrescible or offensive material, of noxious organic material or of leather, hide or skin.

Industrial use classes

Industrial use class 24: light industry	Use for any light industrial purpose not falling within use class 27.
Industrial use class 25: general industry	Use for any general industrial purpose not falling within use class 27.
Industrial use class 26: special industry	Use, not falling within use class 27 – (a) for the production or processing of any article or substance which may in any reasonably foreseeable circumstances be hazardous, or present a risk to public health or safety, (b) for the processing of putrescible or offensive material or noxious organic material including- (i) tanning or dressing leather, hide or skin, or (ii) curing fish,

	<p>(c) as an abattoir or a knacker's yard, or</p> <p>(d) for any special industrial purpose not falling within items (a) to (c).</p>
Industrial use class 27: waste	Use for the storage, sorting, processing, treatment, baling, disposal, recovery or transfer of waste.

Agricultural use class

Agricultural use class 28:	Use of land for agriculture or forestry (including afforestation), including, for the avoidance of doubt, use for any of those purposes of any building occupied together with land so used.
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SCHEDULE 2

Sections 6 and 7(1)

CONSEQUENTIAL AMENDMENTS TO THE LAND PLANNING AND
DEVELOPMENT (EXEMPTIONS) ORDINANCE, 2007

1. After Class 1 to the Schedule (development within the curtilage of a dwelling-house), insert the following Class –

"CLASS 1A

RESIDENTIAL CHANGE OF USE

Change from use as part of dwelling for business purposes to other residential uses.

1. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use falling within use class 5 (use of part of dwelling for business purposes) to a use within use class 1 (dwelling house) or use class 2 (flat).".
2. In Class 6 to the Schedule (industrial change of use) –

- (a) for the heading substitute –

"STORAGE, DISTRIBUTION AND INDUSTRIAL
CHANGE OF USE",

- (b) for each reference to "use class 38" substitute "use

class 25" and for each reference to "use class 37"
substitute "use class 24",

- (c) in paragraph 2, for "within use classes 40 to 43 inclusive" substitute "within use class 26 or 27", and
- (d) after paragraph 2 insert the following paragraphs –

"Changes between light industrial use and general storage or distribution use.

3. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, to or from an existing use for any light industrial purpose within use class 24 to or from use for any general storage or distribution purpose within use class 22 provided that the land comprises premises the total area of which does not exceed 250 square metres.

Changes from general industrial use to general storage or distribution use.

4. Change in the use of any land, including of any land which is, or is within the curtilage of, a protected building or protected monument, from an existing use for any general industrial purpose within use class 25 to use for any general storage or distribution purpose within use class 22 provided that the land comprises premises the total area of which does not exceed 250 square metres."

3. In Class 9 to the Schedule (retail and administrative, financial and professional change of use) –

(a) paragraph 1 (changes from special to general retail use) is repealed, and

(b) in paragraph 2 (changes from use as an office to use for temporary re-location in emergency) for "use class 22 (use as an administrative office)" substitute "use class 16 (administrative office)" and for "use class 23 (temporary re-location of administrative office in emergency) substitute "use class 17 (temporary office)".