



URBAN PLANNING SIMPLEX

amending, and
simplifying licensing in
the context of urban and
land-use planning and
industry



DL n.º 10/2024, de 8 de janeiro

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10/2024 was published,
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INTRODUCTION

On 8 January 2024, Decree-Law No. 10/2024 was published, amending, and simplifying licensing in the context of urban and land-use planning and industry.

This legal statute also reflects the implementation of measures planned under the “Mais Habitação” programme, with a view to addressing the need for more land for affordable housing.

AMENDED LEGISLATION

Decree-Law No. 10/2024 provides:

- Amendments to the Legal Framework for Urbanisation and Construction (RJUE);
- Amendments to the General Regulation on Urban Buildings (RGEU) until 1 June 2026;
- The repeal of the RGEU from 1 June 2026;
- Amendments to the Portuguese Civil Code;
- Amendments to the Legal Framework for Urban Rehabilitation;
- Amendments to the rules applicable to the rehabilitation of buildings or building units;
- Amendments to the accessibility rules for buildings and establishments that receive the public, public roads and residential buildings;
- Amendments to the legal framework for local authorities;
- Amendments to the legal statute that establishes the procedure for classifying real estate of cultural interest, as well as the rules for protected areas and the urban safeguarding plan (*plano de pormenor de salvaguarda*);
- Amendments to the framework law for public land, land-use planning and urban planning policy;
- Addendum to the Legal Framework for Land Management Instruments.

ENTRY INTO FORCE

Most of the provisions and amendments made by this law come into force on **4 March 2024**, except for certain amendments that came into force on 1 January 2024, namely:

- Amendments to the RGEU;
- The amendment to the Civil Code that allows the change of use of building units to residential use, without the need for authorisation from the other tenants;
- The elimination of the obligation to submit the use permit and the housing technical file when transferring ownership of urban buildings;

In addition, certain provisions will only come into force in the next few years. This is the case, for example, of the regulation of the new Electronic Platform for Urban Planning Procedures, provided for in the list of amendments to the RJUE, whose legal framework will only come into force on 5 January 2026. Similarly, the obligation to present architectural designs in accordance with the Building Information Modelling (BIM) methodology, will come into force on 1 January 2030.

APPLICATION *RATIONE TEMPORIS*

The amendments made by the law apply to procedures initiated before its entry into force and which are still pending, except for tacit approval in urban planning procedures.

I. Simplified Measures in Urban Planning Matters (RJUE)

A. Reduction in cases subject to Licensing

- Prior Notice

New situations subject to prior notice:

a) **Subdivision operations** in an area covered by:

- i. Detailed plan published after 7 March 1993, which contains urban design and foresees the division into plots, maximum number of dwellings and the implementation and scheduling of urbanisation works and construction of buildings; or
- ii. Execution unit that foresees for the building footprint, the construction area, the division into plots, the maximum number of dwellings and the implementation and scheduling of urbanisation works and construction of buildings;

b) **Urbanisation and remodelling works** in an area covered by:

- i. Detailed plan published after 7 March 1993 which foresees the implementation and scheduling of urbanisation works and construction of buildings; or
- ii. Subdivision operation; or
- iii. Execution unit that foresees the implementation and scheduling of execution works and construction of buildings.

c) **Construction, alteration or expansion works** in an area covered by:

- i. Detailed plan; or
- ii. Subdivision operation; or
- iii. Execution unit that lays out the plots, the alignments, the building footprint, the total height of the buildings or the height of the façades, the maximum number of dwellings and the construction area and respective uses;

- d) **Construction, alteration to the exterior or expansion works in a consolidated urban area**, which complies with municipal and inter-municipal plans, and which does not result in a building with a height greater than the most common height of the built-up façade on the side of the street where the new building is located;
- e) The **use** of buildings or building units following construction works exempt from prior control.
- f) **Changes to the use** of buildings or building units, or to information contained in a use permit already issued, when they are not preceded by urban planning operations subject to prior control.

Notes:

- *Whenever prior notice is possible, it is no longer possible to follow the licensing rules.*
- *The situations mentioned above in subparagraphs e) and f) are subject to prior notice with a deadline, i.e. the buildings or building units can be used 20 days after submission of the prior notice with a deadline, unless the mayor, within that period, orders an inspection to be carried out.*

- **Public Road Occupation License**

In urban development operations subject to prior control that require a public road occupation license, the request to occupy the public road can be included in the application for a license or prior notice, without the need for further formalities.

- **Works Exempt from Prior Control**

New situations of exemption from prior control are created.

Estas novas situações englobam, nomeadamente:

- a) **Alteration works to the interior** of buildings or their units that do not affect or harm the stability structure, do not involve changes to the height, shape of the façades, shape of the roofs and do not involve the removal of façade tiles;

Note: in the case of works affecting the stability structure, a disclaimer must be issued by a qualified technician stating that the works improve or do not damage the stability structure compared to the situation in which the property was before the works.

- b) Reconstruction and expansion works that do not result in an increase in the height of the façade;
- c) Reconstruction works in areas subject to easements or public utility restrictions which does not result in an increase in the height of the façade;
- d) Urban development operations preceded by sufficiently precise favourable prior information;
- e) Demolition works on illegal buildings;
- f) Subdivision operations in an area covered by a detailed plan with registration effects.

B. Simplification of the Procedure

- **Conclusive Opening Ordinance and Preliminary Assessment**

- a) The Ordinance to perfect the application for lack of information or for lack of key elements can only be served on the applicant once.
- b) In cases where there is no rejection *in limine* of an application under the prior control procedure, or an invitation to correct or complete the application or notice, they are considered to be submitted correctly and the application cannot be rejected on the basis of incomplete information.

- Deadlines for issuing decisions

The deadlines for City Council decisions on license applications have been extended:

- a) **120 days**, in the case of construction, reconstruction, alteration or expansion, maintenance and demolition works carried out on a property with a gross construction area of 300 m² or less;
- b) **150 days** in the case of construction, reconstruction, alteration or expansion, maintenance and demolition works carried out on a property with a gross construction area of more than 300 m² and less than or equal to 2200 m², as well as in the case of classified properties or properties in the process of being classified;
- c) **200 days**, in the case of urbanisation works, subdivision operations and in the case of construction, reconstruction, alteration or expansion, maintenance and demolition works carried out on property with a gross construction area of more than 2200 m²;

The deadline for a decision begins when the individual submits the application.

- Tacit approval

The system of **tacit approval for building licenses** has been introduced, so that if decisions are not issued in due time, private individuals will be able to carry out their desired projects. The interested party may request certification of tacit approval through an electronic procedure, even if tacit approval does not depend on the issue of this certification.

- License Titles

- a) **The building permit will be eliminated**, and urban planning operations subject to licensing will be covered by a receipt for the payment of legally due fees, the issue of which will become a condition for the license to be effective.

In cases of tacit approval, the payment of fees is not a condition for the license to be effective.

- The **permit authorising the use of buildings or building units is also eliminated**.

The use of buildings or units preceded by an urban development operation subject to prior control does not imply any permissive act, but only depends on the delivery of the following documents to the City Council:

- i. Disclaimer signed by the construction manager or construction supervision manager, stating that the work has been completed in accordance with the project;
- ii. Final blueprints, if there have been any changes to the project, which must be specified.

The building or unit **can be used immediately** for the intended purpose after submitting the aforementioned documentation.

It is not permitted to reject the submission of this documentation.

- **Prior Information**

- a) When favourable prior information is issued that contains certain specifications, it will have the effect of **exempting the relevant operation from prior control**, instead of subjecting it to the prior notice rules previously established for these situations.
- b) The deadline for starting urban planning operations that have received favourable prior information has been extended from one to two years.

- **Urbanization Works**

Phased execution

In case of phased execution, the license or permit required from the construction company refers to each phase of the works and not to the project in its entirety.

- **Construction of Buildings**

Construction Deadline

When it is not possible to complete the works within the established deadline, it will now be permitted to request the extension of such deadline, at the request of the interested party, without any time limit, unlike today, where it is only possible to extend the deadline once and for no more than half of the initial deadline.

Phased Execution

In the case of works subject to prior notice, the interested party may submit the architectural design in a first notice and, in subsequent prior notices, the remaining works to be carried out.

- **Execution and Supervision**

The execution of works subject to a license can only start once such license has been issued (i.e., once the licensing request has been approved and the receipt for payment of the legally due fees has been issued).

Connections to public networks

- a) Once the fees have been paid, the receipt of which certifies the urban development operation, the applicant requests the management entities to connect the water, sanitation, gas, electricity, and telecommunications systems, and may choose, subject to authorisation from the management entities, to carry out the works that are necessary for its completion.

- b) Connections to these public networks can be made by companies certified by the entities responsible for these networks, and the interested party is exempt from any formalities.

- c) For the purposes of the preceding paragraph, management entities shall make available on their website a list of at least seven companies authorised to connect to the network.

Construction Works Book

The construction logbook is **not to be included in** the application or notice and should not be sent to the city council at the end of the works.

- Modular buildings

The RJUE applies to permanent modular construction, which is a type of construction that uses modular building elements or systems, structural or non-structural, partially, or totally produced in a factory, previously connected to each other or on site, regardless of their removable or transportable nature.

II. Measures to standardise urban planning procedures and avoid discrepancies between municipalities

A. Procedure: restrictions on powers

- Municipal regulations

Municipal regulations **may not** establish rules of a procedural nature, of an evidentiary nature, determine the delivery of documents not provided for in an Ordinance of the members of the Government, determine the delivery of information other than the one provided for by law, provide for powers of judgement on the part of the municipality other

than those provided for in the legal statute or establish the payment of fees by means other than the single collection document, electronically.

- **Supporting documents**

- a) The application or notice shall be accompanied by the information provided for in an Ordinance issued by the members of the Government responsible for the areas of administrative modernisation, construction, local authorities and land-use planning.
- b) **Municipalities are prevented from** requesting additional supporting documents to those provided for in the Ordinance issued by the members of the Government;
- c) It establishes a **list of supporting information that may not be** required by municipalities to initiate administrative procedures, including, without limitation:
 - i. Ways of authenticating, recognising or certifying signatures on any document;
 - ii. Copies of documents held by the city council, such as operation titles or registers;
 - iii. The property's legal description;
 - iv. Copies of permanent certificates, in which case it is sufficient to specify the number of the permanent certificate;
 - v. Resending or sending a permanent certificate or its code because it has expired, when it was valid at the time the application was submitted.

B. Procedure: Standardisation

- **Electronic Platform for Urban Planning Procedures**

- a) Creation of an Electronic Platform for Urban Planning Procedures that allows, inter alia, to:
 - i. Submit online applications;
 - ii. Check the status of cases and deadlines;
 - iii. Receive electronic notices;
 - iv. Obtain certificates of exemption from urban planning procedures;
 - v. Standardise procedures and documents required by municipalities;

- vi. Submit applications in a Building Information Modelling (BIM) template in the future, with automated verification of compliance with applicable plans.
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- b) This platform will be of **compulsory use for municipalities from 5 January 2026** and it will not be possible to implement procedures, acts or submit documents that are not provided for therein.
 - c) Municipalities may use their own IT systems and platforms, provided they ensure interoperability with the Electronic Platform for Urban Planning Procedures.

- **Assessment of projects – powers of judgement**

- a) An exhaustive list of aspects on which the **project's compliance assessment** can be carried out is drawn up.
 - i. Municipal or inter-municipal land-use plans;
 - ii. Preventive measures;
 - iii. Priority urban development area;
 - iv. Priority construction area;
 - v. Administrative easements;
 - vi. Public utility restrictions;
 - vii. The proposed use;
 - viii. The legal and regulatory standards relating to the external appearance and urban and landscape integration of buildings, provided that the municipal plans or regulations specify such aspects;
 - ix. The adequacy and capacity of the infrastructure.

- b) The aspects that municipalities will **not be able to analyse when assessing these projects** are clarified, and these are, in addition to those not included in the list above, issues relating to the **interior of buildings** or matters relating to **utilities** (water, electricity, gas, etc.).

- c) Powers of judgement other than those included in the list cannot be granted to municipalities.

III. Measures to implement the “Mais Habitação” programme in terms of affordable housing

- **Plotting Operations (*Operação de Loteamento*)**

Subdivision projects will now have to include areas for subsidised housing or affordable rent, as well as areas for green spaces and collective use, various infrastructures, and equipment, which were provided for in the previous version.

Assignments

It is established that the owner and other holders of rights in rem over the building to be subdivided **transfer**, free of charge, to **the municipality** the plots for **subsidised housing or affordable rent** that, in accordance with the law and the license or prior notice, must be part of the municipal domain.

IV. Amendments to the Civil Code

Change of use to residential: Exemption from the need for condominium authorisation

- a) Changing the purpose or use of building units **to residential use does not require the authorisation of the other co-owners.**
- b) Any amendments to the incorporation title of the condominium, after changing the use of the unit with the City Council, can be made by a unilateral act contained in a public deed or certified private document.

- c) - The deed or certified private document must be sent to the condominium administrator within 10 days.

V. Amendments to the General Regulation on Urban Buildings (RGEU)

- a) It is added to the **requirements in terms of construction and edification**, the guarantee of meeting essential requirements in **terms of accessibility and ventilation**, besides those previously provided for in terms of mechanical strength and stability, safety in use and in the event of fire, hygiene, health and environmental protection, noise protection, energy saving and thermal insulation.
- b) Certain requirements of the General Regulation on Urban Buildings (RGEU) are **eliminated or replaced**, such as:
- i. Kitchen solutions such as kitchenettes or walk-through kitchens are permitted, and the kitchen area can be merged with the area of other rooms, except for sanitary facilities.
 - ii. In compulsory sanitary facilities, a shower is allowed, as an alternative to the previous requirement of a bathtub, and the requirement for bidets is also eliminated.

- **Modular buildings**

The RGEU applies to permanent modular construction, which is a type of construction that uses modular building elements or systems, structural or non-structural, partially, or totally produced in a factory, previously connected to each other or on site, regardless of their removable or transportable nature.

VI. Simplification of the Purchase and Sale of Properties

The obligation to display or prove the existence of the technical housing file and the use permit in purchase and sale deeds is eliminated.

In any case, it is made clear that notaries, registrars, solicitors and lawyers must inform the interested party that the property may not have the necessary titles for its use or construction.

VII. Amendment to the Procedure for Classifying Real Estate of Cultural Interest, the Rules for Protected Areas, and the Detailed Safeguard Plan

- a) **The need for a binding prior opinion** from Património Cultural I.P. or the regional coordination and development committee with territorial jurisdiction is **eliminated** in some situations.

- b) Thus, in the case of works on buildings in protected areas pending classification or buildings classified as being of national interest or of public interest, there is no need for an opinion:
 - (i) in **the case of interior works**, provided there is no impact on the subsoil or alterations to tiles, stucco, stonework, carpentry, inlays or metalwork;

 - (ii) when it involves **exterior maintenance** works, without altering relevant architectural elements; and

 - (iii) regarding the **installation of outdoor advertising**, signs, awnings, terraces and street furniture.

VIII. Simplified Measures for Land-use Planning

A. **Amendment to the Framework Law for Public Land, Land-use Planning and Urban Planning Policy**

Land Classification and Qualification

The definition of "**Urban Land**" now includes not only land that is totally or partially urbanised or built upon, and therefore assigned to urbanisation and construction in a land-use plan, but also by decision of local authority bodies, through the conclusion of contracts to carry out the respective urbanisation and construction works.

Owners' Duties

Owners' obligations include the provision of legally required areas for **subsidised housing or affordable rent**.

Reservation of Land

The reasons for reserving land include **the creation of subsidised housing or affordable rent**, determining, as in the cases previously provided for¹, that when private property is involved, the respective acquisition by the Public Administration is mandatory within the time limit established in the land-use plan or programming instrument, after which the reservation lapses, provided that the delay is not attributable to the owner's lack of initiative or failure to comply with the respective urban planning burdens or duties.

Property structuring

Associations of municipalities and local authorities can also promote the restructuring of property with a view to adequately identifying the areas needed for **subsidised housing or for affordable rent**.

¹ Article 18.1, in its previous wording, provided for the reservation of land for urban infrastructure, equipment, green areas and other spaces for collective use.

Public Land Ownership

- a) In the event of **the expiry of the land-use framework**, due to the termination of public utility restrictions or administrative easements, with the removal of properties from the public domain or from the public utility purposes to which they were assigned, if this use is intended for housing and the ownership of the land is exclusively public, there is no redefinition of land use, pursuant to Article 22(5) Law No. 31/2014.
- b) In these cases, where the land is used for residential purposes, **residential use is presumed to be compatible**, and the rules of the plan relating to neighbouring plots with which the plot in question may form a “harmonious unit” apply, *mutatis mutandis*.
- c) The City Council may oppose to this presumption for duly substantiated reasons of public interest, namely noise, car parking, existing mobility systems, or green areas, public and leisure facilities.

Pre-emption right

The State, the autonomous regions and municipalities have the right to exercise **pre-emption rights** in the onerous transfer of buildings between individuals, with a view to pursuing public policy objectives, including the promotion of public or affordable housing.

Objectives of the Redistribution of Benefits and Charges

The redistribution of benefits and charges must also consider the provision of land and buildings to the municipality for **subsidised housing or for affordable rent**.

Types of Redistribution of Benefits and Charges

Types of **redistribution of benefits and charges** include contributing areas for subsidised housing or for affordable rent.

B. Addendum to the Legal Framework for Land Management Instruments

Simplified Land Reclassification Procedure

- a) Municipalities may reclassify rustic land as urban, with the category of economic activity space, through this **simplified procedure** when all of the following requirements are met: the land is intended for the installation of industrial, storage or logistics activities and support services or dry docks and the space is not located in sensitive areas, in the National Ecological Reserve or in the National Agricultural Reserve.

- b) This procedure applies, *mutatis mutandis*, to **the reclassification of rural land as urban land for subsidised housing or residential use**, when provided for in the Local Housing Strategy, Municipal Housing Charter or Housing Grants (*Bolsa de Habitação*).

Procedure

- a) The City Council draws up the reclassification proposal and simultaneously organises a public consultation lasting ten (10) days and a procedural conference in which all the bodies, services and public entities relevant to the matter in question express their position.

- b) Once the procedural conference has been held and the public consultation period has elapsed, the City Council will make the necessary changes and submit the proposal to the Municipal Assembly for approval.

- c) Failure to carry out the urban development operations provided for in the reclassification decision within five (5) years of its publication automatically causes **the classification of the land as urban to lapse**.

- d) The above period may be extended for an equal period of **five (5) years**, once only, by resolution of the Municipal Assembly.



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