

Government Policy Regarding Building Permits in Indonesia

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Abstract: Building Permit (IMB) is a permit granted by the government to the building owner including private and government property to build, change, expand, reduce, or maintain the building from the old form to the new form. This permit must be following administrative requirements and applicable technical requirements set by the Indonesian government. Building Permit is one of the legal provisions to realize the structure of order and space to create order, security, safety, comfort and legal in the eyes of the law. The obligation of every person or entity that will erect a building to have a Building Permit is stipulated in a particular article. With government policies, every building or landowner cannot carry out arbitrary development without permission from the government. It is related to the provisions on the procedure for building construction.

Key Words: building permit, law, government

1. INTRODUCTION:

Building Permit, in Indonesia is *Izin Mendirikan Bangunan (IMB)* is a legal product that contains an approval or permit issued by the Head of a Local Region (Regency / City Government) and must be owned by a building owner who wants to build, demolish, increase/reduce the area, or renovate a building. The presence of a building permit (IMB) on a building is significant because it aims to create a building layout that is safe and appropriate. Even the existence of this legality letter is also very much needed when a sale and purchase transaction takes place. Homeowners who do not have a permit will be subject to witnesses in the form of fines from the value of the building. As a result, the building can also be forcibly demolished [1].

There are many requirements in erecting a building. All rules and governance are regulated in the law. The government has a policy in giving permits to building owners. Not all building owners can build buildings according to their wishes. Many requirements must be met in the construction of the building. The government must study the state of the location to be built. Development must be safe and not disturb the environment. Sometimes, several landowners build buildings illegally.

2. THEORIES:

2.1 Building Permit

Building Permit in Indonesia is called "Izin Mendirikan Bangunan" or IMB. This permit is the right granted by the Regional Head to the landowner to build a new building. It must be in accordance with administrative and technical requirements issued by the Indonesian government. IMB is one of the legal products to realize a certain order to make order, security, safety, comfort, as well as legal certainty. The obligation of every person or entity that will build a building to have a Building Permit is regulated in Article 5 paragraph 1 of Regional Regulation 7 of 2009. The IMB will legalize a building that is planned in accordance with the specified Spatial Planning. Besides, the existence of the IMB shows that the construction plan of the building can also be accounted for with a view to the common good.

2.2 Legal basis for Building Permit

The rules and regulations containing the building permit are as follows [2]:

- Law no. 28 of 2002 concerning Buildings.
- Law no. 26 of 2007 concerning Spatial Planning.
- PP no. 36 of 2005 concerning Regulations for Implementing Law no. 28 of 2002 concerning Buildings.

Law no. 28 of 2002 concerning Buildings

BUILDING REQUIREMENTS OF BUILDINGS

First Part: General.

- Article 7, paragraph (1): "Every building must meet administrative and technical requirements in accordance with the function of the building."
- Article 7, paragraph (2): "Administrative requirements for building buildings as referred to in paragraph (1) include requirements for the status of land rights, ownership status of buildings, and building permits."

Second Part: Administrative Requirements of Buildings.

- Article 8, paragraph (1): "Every building must meet administrative requirements which include:
 - Status of land rights, and / or utilization permit from the holder of land rights
 - Building ownership status
 - Permit to build a building; in accordance with applicable laws and regulations
- Article 8, paragraph (4): "Provisions regarding building permits, ownership, and data collection on buildings as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be further regulated by Government Regulation."

Law no. 26 of 2007 concerning Spatial Planning

DUTIES AND AUTHORITIES

Part One: Tasks.

- Article 7, paragraph (1): "The state shall organize spatial planning for the greatest prosperity of the people."
- Article 7, paragraph (2): "In carrying out the tasks referred to in paragraph (1), the state grants the authority to administer spatial planning to the Government and regional governments."
- Article 7, paragraph (3): "The implementation of spatial planning as referred to in paragraph (2) is carried out while respecting the rights owned by people in accordance with the provisions of the legislation."

IMPLEMENTATION OF SPACE ARRANGEMENT

Part Three: Control of Spatial Use.

- Article 35: "Control of spatial use is carried out through the establishment of zoning regulations, permits, granting incentives and disincentives, and imposing sanctions."
- Article 37, paragraph (1): "Licensing provisions as referred to in Article 35 are regulated by the Government and regional governments according to their respective authorities in accordance with statutory provisions."
- Article 37, paragraph (2): "Spatial utilization permits that are not in accordance with the regional spatial plan are canceled by the Government and regional governments according to their respective authorities in accordance with the provisions of the legislation."
- Article 37, paragraph (3): "Permit for the use of space issued and / or obtained without going through the right procedures, null and void."
- Article 37, paragraph (4): "Spatial utilization permits obtained through correct procedures but later proven to be incompatible with the regional spatial plan, are canceled by the Government and regional governments in accordance with their authority."
- Article 37, paragraph (5): "For losses incurred due to the cancellation of the permit referred to in paragraph (4), appropriate compensation may be requested from the licensing agency."
- Article 37, paragraph (6): "Spatial use permits that are no longer appropriate due to changes in regional spatial plans can be canceled by the Government and regional governments by providing appropriate compensation."
- Article 37, paragraph (7): "Every government official authorized to issue a permit for the use of space is prohibited from issuing permits that are not in accordance with the spatial plan."
- Article 37, paragraph (8): "Further provisions regarding the procedure for obtaining permits and proper replacement procedures as referred to in paragraphs (4) and (5) are regulated by government regulations."

RIGHTS, OBLIGATIONS, AND COMMUNITY ROLE

Article 60: "In spatial planning, everyone has the right to:

- Submit demands for cancellation of permits and termination of development that are not in accordance with the spatial plan to the authorized officials.
- File a claim for compensation to the government and / or permit holder if development activities that are not in accordance with the spatial plan cause losses.

Article 61: "In the use of space, everyone must:

- Use the space in accordance with the space utilization permit from the authorized official.
- Comply with the conditions set out in the space utilization permit requirements.

Article 63: "Administrative sanctions referred to in Article 62 can be in the form of:

- License revocation
- Cancellation of permission
- Demolition of buildings

Indonesia Government Regulation no. 36 of 2005

GENERAL REQUIREMENTS

Article 1: "In this Government Regulation what is meant by:

- Permit to construct a building is a permit granted by the Regency / City Government to the owner of the building to build a new, change, expand, reduce, and / or maintain the building in accordance with administrative requirements and applicable technical requirements.
- Application for a permit to build a building is an application made by the building owner to the local government to obtain a permit to build a building.

BUILDING BUILDING FUNCTION

Second Part: Determination of Building Functions

- Article 6, paragraph (1): "The function and classification of buildings must be in accordance with the allotment of locations regulated in the regency / city RTRW, RDTRKP, and / or RTBL."
- Article 6, paragraph (2): "The function and classification of the building is proposed by the owner of the building in the application for a permit to construct a building."
- Article 6, paragraph (3): "The regional government determines the function and classification of buildings as referred to in paragraph (2), except special function buildings by the Government, in the permit to construct buildings based on district / city RTRW, RDTRKP, and / or RTBL . "

Part Three: Change in Building Functions.

- Article 7, paragraph (1): "The function and classification of buildings can be changed through the application for a new building permit."
- Article 7, paragraph (4): "Changes in the function and classification of buildings are stipulated by the regional government in the permit to construct buildings, except for special function buildings determined by the Government."

BUILDING REQUIREMENTS OF BUILDINGS

First Part: General

Article 8, paragraph (2): "Administrative requirements for building construction include:

- status of land rights, and / or utilization permit from the holder of land rights;
- building ownership status; and
- permit to build buildings. "

2.2 Violations

Violations come from criminal law, civil law and administrative law. In terms of criminal law, violations of criminal law norms are immediately taken by the court without any complaint from the injured party while violations in terms of civil law are violations of civil law norms only taken by the court after complaints from interested parties. Violations under administrative law are violations of statutory provisions governing the administration of the interests and general welfare of the State and the actions of officials or administrative bodies A state that is contrary to the general principles of good governance [3].

2.3 Public Policy

The policy is defined as a series of actions that have specific goals that are recognized and implemented by an actor or group of actors to solve a particular problem. Policy is a series of actions that lead to the goals proposed by a person, group or government in a particular environment by pointing out the obstacles and opportunities for the implementation of the proposed policy in order to achieve certain goals. From the definition or definition put forward by the two experts, it is clear that the policy is meant as a series of actions taken by a person or group of actors to solve a particular problem or to achieve a certain goal [4].

Public policy is the strategic use of available resources to solve public or government. Policy is the government's decision to do something or act to do something. Although there are various definitions of public policy, in general, however, public policy is a policy developed by a government agency or government official. There are several important stages of the public policy process [5]. The policy consists of a series of interdependent stages, such as: the preparation or agenda setting, policy formulation, policy adoption, and policy assessment. It is clear that implementation is one of the stages of the policy process. The policy implementation is an important stage and perhaps even more important than the policymaking stage. The policy will be just a dream or a good plan that is neatly stored in the archive if it is not implemented [6].

3. METHODOLOGY:

This type of research is a type of normative legal research. Normative legal research is also defined as research conducted based on policies issued by the Indonesian government. All regulations are based on rules that have been passed before the law. The policy is based on building and building laws. Several articles relating to building construction and issuance of building permits will be explained next.

4. RESULT AND DISCUSSION:

4.1 Government Policy

The building that is standing must have valid proof or permit in erecting the building. The government does not impose sanctions. Building permits are required for building owners in constructing or renovating buildings in large numbers, especially to change the shape or structure of the building. The purpose of the permit is to maintain order, harmony, comfort, and security of the building itself for its occupants and the surrounding environment. In obtaining a permit, knowledge of the regulations is needed so that in applying for a building permit, information on the regulation is obtained before making architectural work drawings. Building permits are issued by local government so that each region has a different policy in issuing building permits.

The rules for building construction are clearly stated in the law, including the costs incurred in obtaining the building permit. The costs that can be issued can be calculated from the following formula:

$$(Building\ area) \times (Construction\ Index) \times (Function\ Index) \times (Location\ Index) \times (Base\ rate)$$

Each region has a different rate. The amount of the base rate varies depending on the classification of the location determined. The basic tariff is the cost of the building permit. There are additional costs, namely the cost of making a situation scale picture of 1: 500; 1: 1000 in the amount of Rp.10,000 / IMB, the cost of breaking up the IMB in the amount of Rp.15,000 / IMB, the cost of authorizing a copy / photocopy of the IMB of Rp.15,000 / IMB, the cost of making an IMB statement regarding a building of Rp.25,000 / IMB, behind the name of the IMB determined at 20% of the amount of the applicable IMB retribution. However, in practice, these costs are different from the calculations done. Regional officials will take the fee according to local area policy to the building owner. Each region has a different price. Nevertheless, basically, these costs are not much different from the provisions of the Indonesian government.

4.2 Stages for building permit

There are several steps involved in obtaining a building permit. All documents must be prepared. When the administrative requirements are complete, within a week, the government will issue a temporary permit. With this letter, the building owner can start building while waiting for the building permit to be issued a month later. During construction, regional officers will carry out periodic control and evaluation in the field. The IMB has a validity period of one year. If within one year the construction has not been completed, then an IMB extension application must be submitted. If the following year is still not finished, then the landowner must submit a request for making a new IMB. After the building is finished, there is still a letter that is needed, namely the building use permit (IPB). IPB has a validity period of 10 years for houses and five years for non-residential buildings. If the IPB period expires, the owner must submit a Request for Feasibility to Use the Building. The officer will check the feasibility of the building, especially in terms of its structure and construction.

4.3 Legal Sanctions

All building permits are regulated by law. Every building owner must have the permit. If the homeowner does not fulfil the obligations of housing construction requirements including building permit, the building owner may be subjected to administrative sanctions subject to temporary suspension until a building permit is obtained (Article 115 paragraph 1 of Government Regulation 36/2005). Building owners who do not have building permits are subject to demolition orders (Article 115, paragraph 2 of Government Regulation 36/2005). In addition to administrative sanctions, the building owner may also be subject to sanctions in the form of a fine of no more than 10% of the value of the building that is being built or has been built (Article 45 paragraph 2 of the Building Law).

Based on Article 48 paragraph (3) the building law states that "Buildings that have been built, but did not have a building permit at the time this law was enacted, to obtain a building permit must obtain a certificate of eligibility based on the provisions of this law."

The obligation to complete every house construction with a building permit applies to every building owner, and there are no exceptions to the indigenous population, however. Indeed in practice, the implementation of the obligation to complete housing construction with IMB is related to community legal awareness and also law enforcement from the regional government.

5. CONCLUSION:

Government policies in granting building permits have been very well regulated in building laws. Each building owner has the right to get the permit and must pay a fine if it is proven to violate applicable regulations. With government policy, all matters related to the construction of buildings will be good and structured. Land and building governance are neat and organized. It can be seen from the clustering of buildings within the city.

REFERENCES:

1. Lamudi, "Syarat IMB - Persyaratan Izin Mendirikan Bangunan | Lamudi," 2016. [Online]. Available: <https://www.lamudi.co.id/journal/syarat-imb-biaya-izin-mendirikan-bangunan/>. [Accessed: 21-Nov-2019].
2. Wikipedia, "Izin Mendirikan Bangunan," 2019. [Online]. Available: https://id.wikipedia.org/wiki/Izin_Mendirikan_Bangunan. [Accessed: 21-Nov-2019].
3. P. S. Anggraeni, "Penegakan Hukum Administrasi Terhadap Pelanggaran Ketentuan Izin Mendirikan Bangunan Untuk Kegiatan Usaha di Kabupaten Klaten," *J. Huk. Pertanah. dan Lingkung. Hidup*, vol. 1, no. 1, pp. 1–11, 2017.
4. T. L. Cooper, T. A. Bryer, and J. W. Meek, "Citizen-Centered Collaborative Public Management," *Public Adm. Rev.*, vol. 66, no. s1, pp. 76–88, Dec. 2006.
5. S. Y. Ibrahim, "Public Policy And Administration In Nigeria, Issues And Debate," *Soc. Sci. Learn. Educ. J.*, vol. 3, no. 3, pp. 8–10, 2018.
6. C. M. Takumansang, "Implementasi Kebijakan Pelayanan Izin Mendirikan Bangunan (IMB) di Badan Pelayanan Perizinan Terpadu Kota Manado," vol. 2, no. 4, 2013.