

CIRCULAR

GUIDING IN DETAIL SOME CONTENTS OF DECREE No. 64/2012/ND-CP dated SEPTEMBER 04, 2012 OF THE GOVERNMENT CONCERNING ISSUANCE OF BUILDING PERMIT

Pursuant to Decree No. 17/2008/ND-CP dated February 04, 2008 of the Government defining the functions, tasks, powers and organizational structure of the Ministry of Construction;

Pursuant to the Decree No. 64/2012/ND-CP dated September 04, 2012 of the Government on issuance of building Permit;

At the proposal of the Director of construction operation management Department;

Minister of Construction issues Circular detailing some contents of Decree No. 64/2012/ND-CP dated September 04, 2012 of the Government on the issuance of building permit (hereinafter referred to as Decree No. 64-CP) as follows:

Article 1. Content of building permit

The content of building permit provided for in Article 4 of Decree 64/CP for each type of works shall comply under the Forms of this Circular as follows:

1. Building permit issued to types of works under Form in Annex No. 1 including:
 - a) Works not in line under the form No. 1,
 - b) Works in line under the form No. 2,
 - c) Works by stage under Form No.3
 - d) Issuing to works of project under Form No.4
2. Building permit issued to individual houses under Form in Annex No. 2 including:
 - a) Houses in urban areas under Form No.1,
 - b) Houses in rural areas under Form No.2
3. Building permit for repair, renovation of works, individual houses under Form in Annex 3.
4. Permit issued to relocation of works under Form in Annex 4.
5. Building Permit temporarily issued to works and individual housing under Form in Annex 5.

Article 2. Conditions for being issued building Permit

1. Concerning the conditions specified in Clause 2, Article 5 are performed as follows:

Depending on the scale, nature and location of construction of works and individual house, the agencies issuing building Permit shall consider if the works are related to the conditions specified in Article 5, Article 6 of Decree No. 64/CP then send the dossiers to consult the state management agencies of the areas ; if works and individual houses not related to the conditions prescribed in this Article are not required to consult these agencies.

2. Concerning conditions specified at Point b, Clause 1, Article 6 shall comply as follows:

For the areas and streets in urban areas which has been basically stabilized function using the land lots shall not make urban planning, but the separate urban design planning submitted to the competent authorities for approval as a basis for the issuance construction permits.

Provincial-level People's Committee based on the nature, functions and requirements on management of architecture and urban landscape shall specify areas, urban streets must make the urban design planning, particularly for the streets with the building line of 12 m or more, and assign tasks to agencies and organizations to formulate, appraise and approve the urban design planning in accordance with current regulations.

Other areas and streets not in the required list shall make of urban design planning. The provincial-level People's Committee shall promulgate the Regulation on management of planning and architecture as a basis for the issuance of building Permit.

3. Concerning the conditions for individual houses in rural areas specified at Point b, Clause 3, Article 6 shall be as follows:

Where not yet planned construction area of rural residential (construction of new rural cooperative planning) approved the district-level People's Committees shall have specified areas when building permits construction development as a basis for issuance of building Permit.

Individual houses in rural areas outside the areas specified in this Clause shall not apply for a building Permit.

Article 3. Dossier to request issuance of building Permit for case of new construction

1. For works not in line:

a) Application for issuance of building Permit under Annex No.6 (Form 1) of this Circular.;

b) Notarized or certified copy of one of the papers on the land use right in accordance with the law of the land;

c) Two sets of design drawings, each of which includes:

- Drawing of the works position on the land lot with a scale of 1/100 - 1/500, together with the outline of works position;

- Drawing of surface, main elevation and section of the works with a scale of 1/50 - 1/200;

- Drawing of foundation with a scale of 1/100 - 1/200 and foundation section of 1/50, together with the connection diagram to the system of transportation infrastructure, water supply, wastewater and rainwater drainage, wastewater treatment, electricity supply, communications and other technical infrastructure related to the project with a scale of 1/50 - 1/200.

2. For works in line in urban area:

a) Application for issuance of building Permit under Form in Annex No.6 (Form 2) of this Circular;

b) Notarized or certified copy of one of the papers on the land use right in accordance with the law on land;

c) Two sets of architectural drawing, each set includes:

- Outline of location, direction and line of works;

- Drawing of general plan or plan of works with a scale of 1/500 - 1/5000;

- Drawing of main cross sections of works line with a scale of 1/50 - 1/200;

- For underground works, it is necessary to supplement:

+ Drawing of longitudinal section and cross section showing the depth of works with a scale of 1/50 - 1/200;

+ Connection diagram with technical infrastructure system outside the works..

3. For religious works:

Dossier to request the issuance of building Permit includes the documents as prescribed in Clause 1 of this Article and the written approvals for the need of construction and scale of works of the religious agency as decentralized.

4. For faith works:

Dossier to request building Permit as specified in Clause 1 of this Article.

5. Works of monument and mural

- a) Application for issuance of building Permit under Form in Annex 7 of this Circular;
- b) Notarized or certified copy of one of the papers on the land use right in accordance with the law on land;
- c) Certified copy of the Permit or written approval of the cultural and historical state management agencies as decentralized.
- d) Two sets of architectural drawing, each set includes:
 - Outline of work location with a scale of 1/100 - 1/500.
 - Drawing of works plan with a scale of 1/100 - 1/500 ;
 - Drawing of main elevation and section of works with a scale of 1/50 - 1/200;

6. For advertising works:

- a) Application for issuance of building Permit as specified in Annex 8;
 - b) Notarized or certified copy of one of the papers on the land use right in accordance with the law on land;
- In case of land or works lease to carry out advertising, there must be contract of land or works lease;
- c) Notarized or certified copy of the Permit or written approval of the state management agency on advertising;
 - d) Two sets of design drawing, each set includes:
 - For the case of new construction:
 - + Outline of works location with a scale of 1/50 - 1/500;
 - + Drawing of works plan with a scale of 1/100 - 1/500;
 - + Drawing of foundation section and works section with a scale of 1/50;
 - + Drawing of main elevation of works with a scale of 1/50 - 1/200;
 - For the case of advertising panel attached to the works legally built:
 - + Structural drawing of parts of the works at the position of advertising panel with a scale of 1/50;
 - + Drawing of section at the linking positions between advertising panel with the works, scale of 1/50
 - + Drawing of works elevation with advertising panel attachment, scale of 1/50 - 1/100.

7. For works of diplomatic missions and international organizations:

Dossier to request the issuance of building Permit for the work of the diplomatic missions, international organizations and other agencies investing in Vietnam shall comply with the provisions of Clause 1 of this Article and the provisions of the Treaty or Agreement that has been signed with the Government of Vietnam.

Article 4. Dossier to request the issuance of building Permit by stage

1. For works not in line:

- a) Application for issuance of building Permit under Form in Annex 10 (Form 1) of this Circular;
- b) Notarized or certified copy of one of the papers on the land use right in accordance with the law on land;
- c) Copy of business registration certificate or investment certificate;
- d) Two sets of design drawing, each set includes:
 - Stage 1:
 - + Drawing of works plan on the land lot with a scale of 1/100 - 1/500 together with the outline of works location.
 - + Drawing of foundation surface with a scale of 1/100 - 1/200 and the foundation section with a scale of 1/50 together with the connection diagram with the system of rainwater drainage, wastewater treatment, water and power supply and communication with a scale of 1/100 - 1/200.
 - Stage 2:

+ Drawing of surface, main elevation and section of the works with a scale of 1/50 - 1/200;

2. For works in line in urban areas:

a) Application for issuance of building Permit under Form in Annex 11 of this Circular.

b) Notarized or certified copy of one of the land use right papers prescribed by the law on land or written permission and agreement on the line of the competent authority;

c) A copy of business registration certificate or investment certificate;

d) Two sets of design drawing, each set includes:

- Outline of line location of works with a scale of 1/100 - 1/500.

- Drawings of the general plan with a scale of 1/100 - 1/1000;

- Drawings by each stage:

+ Drawing of main cross sections of works line with a scale of 1/50 - 1/200;

+ For underground works, there must be drawing of cross section and longitudinal section showing depth of the works by each stage with a scale of 1/50 - 1/200;

+ Connection diagram with technical infrastructure by each stage with a scale of 1/100- 1/500.

Article 5. Dossier to request the issuance of building permit of project

1. Application for issuance of building permit under Form in Annex 12 of this Circular;

2. Notarized or certified copy of one of the papers on the land use rights in accordance with the law on land;

3. A copy of business registration certificate or investment certificate;

4. Two sets of design drawing, each set includes:

a) Drawing of general plan of project or general plan of each stage of project with a scale of 1/100 - 1/500;

b) Drawing of surface of each works on a land lot with a scale of 1/100 - 1/500 together with the outline of works location;

c) Drawing of elevation and main section of each works with a scale of 1/50 - 1/200;

d) Drawing of foundation plan of each works with a scale of 1/100 - 1/200 and foundation section of each works with a scale of 1/50 together with the connection diagram with the system of rainwater drainage, wastewater, water and power supply and communication with a scale of 1/50 - 1/200/100 - 1/200.

Article 6. Dossier to request issuance of building Permit for individual house.

1. For individual house in urban area:

a) Application for issuance of building Permit under Form in Annex No.13 of this Circular

b) Notarized or certified copy of one of the papers on the land use rights in accordance with the law on land;

c) Two sets of design drawing, each set includes:

- Drawing of works plan on land lot with a scale of 1/50 - 1/500 together with the outline of works location;

- Plan drawing of storeys, elevation and main section of the works with a scale of 1/50 - 1/200.

- Drawing of foundation plan with a scale of 1/50 - 1/200 and foundation section with a scale of 1/50 together with the connection diagram with the system of rainwater drainage, wastewater, water and power supply and communication with a scale of 1/50 - 1/200.

2. For individual houses in rural areas:

a) Application for issuance of building Permit under Form in Annex 14 of this Circular;

b) Notarized or certified copy of one of the papers on the land use rights in accordance with the law on land;

c) Two sets of design drawing, each set includes:

- Outline of construction plan with a scale of 1/50 - 1/500 under the Form No.15 of this Circular;
- Drawing of main elevation of works with a scale of 1/50 - 1/200;
- Drawing of the connection diagram with the system of rainwater drainage.

3. For inbuilt works with basement, in addition to the documents specified in Clause 1, Clause 2 of this Article, the dossier shall also be supplemented with the written approval of foundation construction method of the investor to ensure safety for adjacent works.

Article 7. Dossier to request the issuance of building Permit for the case of repair and renovation

1. Application for issuance of Permit of repair and renovation of works and houses under Form in Annex 16 of this Circular.
2. Notarized or certified copy of one of the papers on the land use rights in accordance with the law on land;
3. Drawings of current state of the parts and items of works improved with the scale corresponding to the scale of drawings of dossier to request the issuance of Permit of repair and renovation and photo (10x15 cm) of the works present state or works and neighboring works before repair or renovation;
4. With regard to the historical and cultural works and famous landscapes which are ranked, there must be written approval of the competent state management agencies as decentralized.

Article 8. Dossier to request issuance of Permit of works relocation

1. Application for issuance of Permit of works relocation under Form in Annex No. 20 of this Circular;
2. As-built drawing of works (if any) or design drawing of actual state of relocated works;
3. Drawing of general plan to which the works shall be moved after the relocation with a scale of 1/50 - 1/500;
4. Drawing of foundation plan with a scale of 1/100 - 1/200 and foundation section with a scale of 1/50 at the location to which the works shall be moved.
5. Other documents specified in Clause 2, Clause 6, Clause 7, Article 13 of Decree 64-CP.

Article 9. Temporary building Permit

1. Pursuant to the provisions of Clause 2, Article 26 of Decree 64-CP and on the basis of the implementation of the plan, the construction location of works, the provincial-level People's Committee shall issue specific regulations on the scale of works, maximum height, the time allowed to exist of the works as a basis for issuance of temporary building Permit to ensure safety, environmental hygiene, fire protection, architecture and landscape to meet the conditions for technical infrastructure.
2. Dossiers to request the issuance of temporary building permit as prescribed for each type of works, individual house as specified in Clause 1, Article 3, Article 6, Article 7 of this Circular. For the title of the application shall be changed into "Application for issuance of temporary building permit."
3. In case the works under temporary building permit has the expiration for existence, but the State has not performed the planning. If the investor has a demand, he may propose to the licensing agencies in consideration of lasting the existence period.

Article 10. Other documents of dossier to request the issuance of building Permit

In addition to the documents required for each type of works, individual houses referred to in Articles 3, 4, 5, 6, 7, 8 and 9, depending on location for works construction, scale of construction, works nature, in comparison with provisions of the standards and construction regulations, standards and specialized regulations and relevant provisions of law, the dossier to request the issuance of building Permit must also supplement the following documents:

1. Drawing of fire prevention and fighting system with a scale of 1/50 - 1/200 with assessment seal for works in the list of works with required assessment of plan of fire prevention and fighting in accordance with provisions of the law on fire prevention and fighting;
2. Report on assessment results and the written approval of technical design or performance drawing design of investor as prescribed; Report on design verification done by the state management agency on construction or qualified consultation organization as prescribed, together with the main load-bearing structural drawings signed and sealed by design organizations or individuals. For individual houses, the report on assessment and approval of design shall not be required, but if the size of the house is of three storeys or more, or a total floor area of 250 m² or more, there must be a consulting organization or individual that is qualified in accordance with the design capacity and must take responsibility for the quality of design. The agency issuing building permit only checks the validity of the load-bearing structural drawings. Organization or individual designing and verifying design (if any) shall be responsible for the result of design implementation.

For individual houses less than three stories or with a total floor area less than 250 m², the households can design themselves and take responsibility for the design and safety of the works and the neighboring works.
3. Decision on approving the project together with the written approval of the investment of the competent State agencies, written comment on the basic design (if any) of the State management agency on specialized construction works as prescribed.
4. Written approval of construction methods of the investor to ensure the safety of works and surrounding works for inbuilt works with basement.
5. The declaration of capability and experience of design organization, individual as chairman or responsible person for the design in accordance with Annex 9 of this Circular together with certified copy of the certificate of practice of the Chairman or responsible person for the design.

Article 11. Process to consider for issuance of building Permit

1. Pursuant to the provisions of Decree 64/CP and the guidance of this Circular, the provincial-level People's Committee issues in detail the process of issuance of building Permit to suit the local characteristics and situation. The agency issuing building Permit shall publicly post the process of issuance of building Permit to the organizations and individuals at the place of dossier receiving.
2. When licensing the investors, the agency issuing building Permit shall seal on architectural design drawings, including: plan, elevation and main section of the works; plan, foundation section of works. The architectural design drawings sealed by agency issuing building permit is an integral part of building Permit issued.

Article 12. Modification of building Permit

The modification of a building Permit provided for in Article 10 of Decree 64/CP is as follows:

1. For works:
 - a) An application for modification of building Permit under the form in Annex 17 of this Circular;
 - b) An original of the building Permit issued;
 - c) Design drawings of plan, elevation and section of parts and works items to be modified with a scale of 1/50 - 1/200;
 - d) Report on assessment results and the written approval of the design modified of the investors, including contents to ensure the bearing safety; fire prevention and fighting safety and environmental assurance. Report on design verification result (if any) done by qualified consulting organization as prescribed.
 - e) For projects with construction having been performed shall be certified in writing by the competent authority of construction management the construction by the investor in accordance with the building Permit at the time of application for modification of building Permit .
2. For individual houses:
 - a) Individual houses in urban areas:
 - An application for modification of building Permit under the form in Annex 18 of this Circular;

- An original of building Permit issued;
 - Design drawings of plan, elevation and section of parts and works items to be modified;
- b) For individual houses in rural areas:
- An application for modification of building Permit under the form in Annex 19 of this Circular;
 - An original of building Permit issued;
 - Outline of construction plan modified under the form in Annex 15 of this Circular;
3. Content of building Permit modified is recorded directly into the building Permit issued or recorded in separate Annex and is an integral part of a building Permit which has been issued.
4. In case of wrong construction with building permit issued, it must be handled in accordance with current regulations, before requesting modification of building Permit.

Article 13. Authority to issue building Permit

Authority to issue, modify, extend, re-issue and revoke a building Permit provided for in Article 14 of Decree 64/CP as follows:

1. The provincial-level People's Committees shall authorize the Service of Construction to issue building Permit for the construction works of special grade I, grade II; religious works, historical – cultural works, monuments, murals that have been classified under their respective administrative boundaries; works on all main streets in the city under the provisions of the provincial People's Committee; works of projects with direct foreign capital investment; works of projects and other works authorized by the provincial-level people's Committees.
2. District-level People's Committees shall issue building Permit for the remaining works and individual houses in urban areas, including individual houses in the area having been recognized by the State of conservation under their respective administrative boundaries, except for subjects specified in Clause 1 of this Article.
3. Communal-level People's Committee shall issue building Permit to individual houses in the rural community with construction planning approved and in areas where there must be building Permit as prescribed by district-level People's Committee under their respective administrative boundaries.
4. Depending on the organizational structure, management capacity, the provincial People's Committees may authorize the Management Board of industrial parks and new urban areas to issue building Permit to the works of industrial parks and new urban areas, except for those referred to in Clause 1 of this Article.
5. Works whose Permit is issued by an agency that shall modify, extend, re-issue and revoke building Permit issued by itself.
6. Provincial-level People's Committee shall make a decision on revocation of building Permit issued by inferior level not in accordance with regulations.

Article 14. Transitional handling

1. The works as prescribed before Decree 64/CP comes into effect are not subject to building permit, but in accordance with the provisions of Decree 64/CP are subject to building Permit, if the construction has been started before effective date of Decree 64/CP shall not request building Permit; but if the construction has not been started, dossier to request issuance of building Permit must be submitted under the provisions of Decree No. 64/CP and the guidance in this Circular to be considered for the building permit before starting construction.
2. The modification of building Permit for the construction works having been built before the effective date of Decree 64/CP shall comply with the provisions of Decree 64/CP and the guidance in this Circular.
3. For the areas and streets in urban areas which has been basically stabilized function using the land lots, if there has not been detailed plans of the approved urban design can be based on the provisions before the effective date of Decree 64/CP for consideration of issuance of building Permit. As of July 01, 2013, the issuance of building permit must be based on the conditions stipulated in Decree 64/CP and the guidance of this Circular.

4. Works subject to the provisions of Article 121 of the Construction Law shall comply with Decision No. 39/2005/QĐ-TTg dated February 28, 2005 of the Prime Minister guiding the implementation of Article 121 of the Construction Law.

Article 15. Implementation provision

1. Effect: This Circular takes effect from February 06, 2013.
2. The ministries, ministerial-level agencies, People's Committees at all levels, organizations and individuals concerned shall implement this Circular. Any problem arising in the course of implementation should be reported to the Ministry of Construction for settlement and adjustment accordingly.

MINISTER

Trinh Dinh Dung

*This translation is made by **LawSoft**, for reference only. **LawSoft** is protected by copyright under clause 2, article 14 of the Law on Intellectual Property. **LawSoft** always welcome your comments*