

Legal opinion

Changes in building-permit application and documentation requirements: the amendment to Construction Law of 10 December 2020

A number of changes to the Act of 7 July 1994 – Construction Law (consolidated text: Journal of Laws 2020, item 1333 as amended) (henceforth “Construction Law”) are coming into effect from 1 July 2021 that will make the process of applying for a building permit easier and quicker. Several onerous requirements will be eliminated, and it will become possible to submit the application and key supporting documents online.

At the moment, Article 33 paragraph 2, item 1 of the Construction Law stipulates that enclosed with the building-permit application must be three copies of the site/plot development plan and of the construction-architectural design, along with any expert opinions, written arrangements, permits, and other documents that may be required under separate laws (or reproductions of such expert opinions, written arrangements, permits and other documents). They have to be submitted in paper form. Since site/plot development plans and construction-architectural designs are often voluminous documents (where the project is a large and complex one), this can be a logistical challenge. But the amended text gives applicants the option to submit them in electronic form.

Also, under newly-inserted paragraph 2b of Article 33, applicants are permitted to enclose reproductions, instead of originals, of the supporting documents referred to in paragraph 2, items 3, 4 and 7-10. These documents are:

- an outline planning permission, if required under the applicable spatial planning and development regulations;
- in the case of mining constructions, or structures located within restricted areas, or within areas referred to in Article 82, paragraph 3, item 1: a decision regarding the design solutions agreed with the competent architecture and construction administration authority referred to in Article 82 paragraph 2, regarding:
 - the building line and façades of the planned works facing public roads, streets, squares and other public spaces;
 - the paths and technical characteristics of roads, communication lines, and utility systems extending beyond the boundaries of the restricted area, sea ports and harbours, as well as these structures’ connections to public utility networks;
- in the case of roads that are part of the trans-European road network:
 - results of the road traffic safety audit referred to in Article 24l, paragraph 1 of the Act of 21 March 1985 on public roads (consolidated text: Journal of Laws 2020, item 470 as amended),
 - explanation from the road’s manager referred to in Article 24l, paragraph 4 of the abovementioned act;
- urban development agreement, if required under the local urban renewal plan;

- in the case of radiocommunications installations: statement from a building designer with qualifications referred to in Article 14, paragraph 1, item 2 or 4 (a) of the Construction Law testifying that the installation does not satisfy the required conditions;
- statement from the designer testifying that it is possible to connect the proposed structure to an existing heating network, in line with the conditions set forth in Article 7b of the Energy Law of 10 April 1997 (consolidated text: Journal of Laws 2020, item 833 as amended).

Furthermore, newly-inserted paragraphs 2c, 2d, and 2e of Article 33 introduce the option to submit the building-permit application itself electronically. An electronic application form is to be developed by the competent ministry and made available to the public by the office of the General Inspector of Construction Supervision (GUNB). The online address via which the electronic form can be accessed and submitted will be published in the Public Information Bulletin (BIP) on GUNB's website.

At the same time, the amended text deletes from Article 34, paragraph 3, item 1 of the Construction Law the provision stipulating that where the site development plan is drawn up on a reproduction of the map, the reproduction has to be certified for authenticity by the designer. It will be acceptable to submit only a reproduction of the plan. The designer will no longer have to certify a significant number of documents, which will make it much easier to prepare the building design itself. It also deletes from Article 34, paragraph 3d, item 3 the provision requiring a separate statement from the checking designer that the building design complies with applicable regulations and standards of technical knowledge. The statement from the chief designer will suffice; it will include information about the persons involved in preparing the design, and about the checking designers.

And newly inserted paragraph 3f of Article 34 provides that the building design, including the site/plot development plan, the construction-architectural design, and the technical design, is drawn up in a paper format or in an electronic format.

In summary, the new amendments to the Construction Law that come into force on 1 July 2021 introduce many improvements in the process of obtaining a building permit. The legislator allows for the use of documents in electronic form and eliminates some onerous formal requirements. All the above changes should save investors considerable time and effort in preparing applications for building permits.

Michał Matak, Lawyer

Miller, Canfield, W. Babicki, A. Chelchowski i Wspólnicy Sp.k.