

REGULATION OF THE MUNICIPALITY OF TANGERANG
NUMBER 4 OF 2023
ON
AMENDMENT TO REGIONAL REGULATION NUMBER 5 OF 2017 ON HANDOVER OF
HOUSING INFRASTRUCTURES, FACILITIES, AND UTILITIES

BY THE BLESSINGS OF ALMIGHTY GOD

THE MAYOR OF TANGERANG,

- Considering :
- a. that the community need of decent, healthy and comfortable housing is a right for everyone in an effort to realize adequate housing, then every housing development must provide public Infrastructures, Facilities, and Utilities;
 - b. that in order to provide providing sustainability assurance availability, management and maintenance as well as legal certainty for the Local Government, Developers and the community in Housing it is necessary to conduct handover of Public Infrastructures, Facilities and Utilities from the Developers to the Local Government;
 - c. that Regional Regulation Number 5 of 2017 on Handover of Housing Infrastructures, Facilities and Utilities needs to be adjusted to Law Number 11 of 2020 on Job Creation and implementing provisions of Government Regulation of the Republic of Indonesia Number 12 of 2021 on Amendment to Government Regulation Number 14 of 2016 on Implementation of Housing and Residential Area;
 - d. that based on the considerations as referred to in point a, point b, and point c, it is necessary to issue a Regional Regulation on Amendment to Regional Regulation Number 5 of 2017 on Handover of Housing Infrastructures, Facilities and Utilities;

- Observing :
- 1. Article 18 section (6) of the 1945 Constitution of the State Republic of Indonesia;

2. Law Number 2 of 1993 on Establishment of Level II Region Municipality of Tangerang (State Gazette of the Republic of Indonesia of 1993 Number 18, Supplement to the State Gazette of the Republic Indonesia Number 3518);
3. Law Number 28 of 2002 on Buildings (State Gazette of the Republic of Indonesia Number 134 of 2002, Supplement to the State Gazette of the Republic of Indonesia Number 4247) as amended by Law Number 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia Number 245 of 2020, Supplement to State Gazette of the Republic of Indonesia Number 6573);
4. Law Number 1 of 2011 on Housing and Residential Areas (State Gazette of the Republic of Indonesia Number 7 of 2011, Supplement to the State Gazette of the Republic of Indonesia Number 5188), as amended by Law Number 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic Indonesia Number 6573);
5. Law Number 20 of 2011 on Flats (State Gazette of the Republic of Indonesia Number 108 of 2011, Supplement to State Gazette of the Republic of Indonesia Number 5252) as amended by Law Number 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia Number 245 of 2020, Supplement to State Gazette of the Republic of Indonesia Number 6573);
6. Law Number 23 of 2014 on Local Governments (State Gazette of the Republic of Indonesia Number 244 of 2014, Supplement to State Gazette of the Republic of Indonesia Number 5587), as amended several times last by Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation (State Gazette of the Republic of Indonesia Of 2022 Number 238, Supplement to the State Gazette of the Republic Indonesia Number 6841);
7. Government Regulation Number 14 of 2016 on Implementation of Housing and Settlement Areas (State Gazette of the Republic of Indonesia Number 101 of 2016, Supplement to the State Gazette of the Republic of Indonesia Number 5883) as amended by Government Regulation Number 12 of 2021 on Amendments to Government Regulation Number 14 of 2016 on Implementation of Housing and Residential Areas, (State Gazette of the Republic of Indonesia Number 22 of 2021, Supplement to the State Gazette of the Republic of Indonesia Number 6624);
8. Government Regulation Number 13 of 2021 on Implementation of Flats (State Gazette of the Republic of Indonesia Number 23 of 2021, Supplement to State Gazette of the Republic of Indonesia Number 6625);
9. Government Regulation Number 16 of 2021 on Implementing Regulation of Law Number 28 of 2002 on Buildings (State Gazette of the Republic of Indonesia Number 26 of 2021, Supplement to the State Gazette of the Republic of Indonesia Number 6628);
10. Regulation of the Minister of Home Affairs Number 9 of 2009 on Guidelines for Handover of Infrastructures, Facilities and Utilities of Housing and Settlements in the Regions;
11. Regional Regulation Number 5 of 2017 on Handover of Housing Infrastructures, Facilities and Utilities (Regional Gazette of the Municipality of Tangerang of 2017 Number 5, Supplement to the Regional Gazette of Municipality of Tangerang Number 5);

With the Joint Approval of
THE REGIONAL HOUSE OF REPRESENTATIVES
OF THE MUNICIPALITY OF TANGERANG
and
THE MAYOR OF TANGERANG

To issue : REGIONAL REGULATION ON AMENDMENT TO REGIONAL
REGULATION NUMBER 5 OF 2017 ON HANDOVER OF HOUSING
INFRASTRUCTURES, FACILITIES AND UTILITIES.

Article I

Some provisions in Regional Regulation Number 5 of 2017 on Handover of Housing Infrastructures, Facilities and Utilities (Regional Gazette of the Municipality of Tangerang Number 5 of 2017, Supplement to the Regional Gazette of the Municipality of Tangerang Number 5) are amended as follows:

1. The provisions of Article 1 are amended, so that Article 1 reads as follows:

Article 1

In this Regional Regulation:

1. Region means the Municipality of Tangerang.
2. Mayor means the Mayor of Tangerang.
3. Local Government means the Regional Head as an element Local Government Organizers who lead the implementation of government affairs that are the authority of autonomous regions.
4. The Regional Apparatus means an assisting element of the Mayor and the Regional House of Representatives in the implementation of government affairs that are the authority of the region.
5. Housing means a group of houses that function as a residential environment or residential environment equipped with Infrastructures and utility facilities.
6. Community means an individual whose activities in the field of Housing and Settlement Areas, including customary law (*adat*) community and expert community, who are interested in the Implementation of Housing and Residential Areas.
7. Every person means an individual or a legal entity.
8. Legal entity means a legal entity established by Indonesian citizens whose activities are in the field of Organizing housing and residential areas.
9. Residential environment means part of a residential area consisting of more than one residential unit.
10. Infrastructures mean the basic physical completeness of the environment allowing residential environments and residential areas to function as they should.
11. Facilities mean supporting facilities that function for the implementation and development of economic, social and cultural life.
12. Utilities mean supporting facilities for environmental services.
13. Primary network of environmental Infrastructures means the main network that connects between residential areas or between residential areas and others used for the public interest
14. Secondary network of Infrastructures means a branch network of a primary network of environmental Infrastructures that serves the needs in one residential environmental unit.
15. Provision of infrastructures, facilities, and utilities means the provision of assets in the form of land with buildings or land without buildings contained in the site plan permit by the Organizer.
16. Common part means the part of the apartment that is owned by the separately for joint use in the unit of function with the unit of flats.
17. Public Cemetery (*Tempat Pemakaman Umum*), hereinafter abbreviated as TPU, means an area of land provided for the purpose of burying the dead,

- whose management is carried out by the Local Government and the location is determined based on the spatial plan of the Regional area.
18. Site Plan means a map of building laying plans or a plot with all its supporting elements in a certain scale and land area.
 19. Municipal Spatial Plan (*Rencana Tata Ruang Wilayah Kota*), hereinafter referred to as Regional RTRWy, means a general spatial plan of the municipality, which is an elaboration of the provincial area spatial plan, and which contains objectives, policies, strategies for urban spatial planning, urban district spatial structure plans, urban spatial pattern plans, determination of strategic area of the city, direction of utilization urban area space, and provisions for controlling the use of urban area space.
 20. Building Approval (*Persetujuan Bangunan Gedung*), hereinafter abbreviated as PBG, means a permit given to building owners to build new, change, expanding, reducing, and/or maintaining buildings in accordance with building technical standards.
 21. Organizer means an individual and/or legal entity that organizes the development of housing and residential areas.
 22. Implementation of Infrastructures, Facilities, Utilities means a planning, development, utilization, and control, including the implementation of institutions, funding and financing systems, as well as the role of a coordinated and integrated community.
 23. Provision of Infrastructures, Facilities, Utilities means development Infrastructures, Facilities, Utilities carried out, by the Organizer.
 24. Handover of Infrastructures, Facilities, and Utilities means the handover in the form of land with buildings and/or land without buildings in the form of assets and management responsibilities from the Organizer to the local government.
 25. Management of Infrastructures, Facilities, Utilities means a stage of work carried out to operate Infrastructures, Facilities, Utilities that have been functioning to be sustainable by paying attention to applicable provisions.
 26. Infrastructures, Facilities, Utilities Manager means a Local Government or Legal Entity/association determined by the Local Government to carry out the management of Infrastructures, Facilities, and Utilities.
 27. Supervision of Infrastructures, Facilities, Utilities means an effort to provide guarantees that the provision and management of Infrastructures, Facilities, and Utilities can take place in accordance with the plan, function, and/or provisions of legislation.
 28. Verification Team means a team formed by a Mayor Decision to process the Handover of Infrastructures, Facilities, and Housing Utilities.
2. The provisions of Article 5 section (2) are amended, so that Article 5 reads as follows:

Article 5

- (1) Each Organizer in carrying out housing development is obligated to provide Infrastructures, Facilities, and Utilities with a proportion of 40% (forty percent) of the land area developed in accordance with the site plan approved by the local government.
 - (2) The obligation to provide Infrastructures, facilities, and utilities in residential areas is applied to the construction of flats and non-detached housing.
 - (3) The joint share in the construction of flats is a part that is taken into account as a proportion of Infrastructures, Facilities, Utilities as referred to in section (1) provided by the Flats Operator.
 - (4) Further provisions regarding the provision of Infrastructures, Facilities, Utilities in housing and residential areas are regulated by a Mayor Regulation.
3. The provisions of Article 7 are deleted.
 4. The provisions of Article 8 are amended, so that Article 8 reads as follows:

Article 8

- (1) The construction of Infrastructures, Facilities, and Utilities derived from the obligations of the Organizer is required to be accompanied by a Site Plan.
 - (2) The site plan as referred to in section (1) is the basis for the development of Infrastructures, Facilities, Utilities.
 - (3) The Site Plan as referred to in section (1) is determined by the Mayor.
 - (4) The determination by the Mayor as referred to in section (3) may be delegated to the Head of the Regional Apparatus in charge of licensing affairs.
5. The provisions of Article 9 are amended, so that Article 9 reads as follows:

Article 9

- (1) In the event that the Organizer will process the Site Plan in the form of the construction of flats and non-detached housing, the Organizer is obligated to sign the statement of ability to fulfill Infrastructures, Facilities, Utilities obligations.
 - (2) The statement of ability to fulfill the obligations of Infrastructures, Facilities and Utilities in it as referred to in section (1) includes the following capabilities of:
 - a. breaking down certificates and/or maps of land plots derived from the Organizer's master certificate; and
 - b. discharging land rights to Local Government.
 - (3) The release of land rights as referred to in section (2) b is carried out in the presence of the Head of the Land Office, Notary, or Sub-district Head.
6. The provisions of Article 11 are amended, so that Article 11 reads as follows:

Article 11

- (1) The implementation of the construction of Infrastructures, Facilities, and Utilities as the obligation of the Organizer is carried out in the designated area in accordance with the site plan that has been determined.
 - (2) The primary and secondary network of environmental Infrastructures shall be built by the Organizer after the establishment of the Site Plan.
 - (3) The implementation of the development of Infrastructures, Facilities, and Utilities must be in accordance with the requirements that have been determined as referred to in Article 10.
7. The provisions of Article 12 are amended, so that Article 12 reads as follows:

Article 12

- (1) Housing Operators are obligated to provide land for TPU with the following conditions:
 - a. for the construction of non-detached housing areas, the Organizer is obligated to hand over TPU land in the amount of 2% (two percent) of the land area according to the non-detached housing plan in the approved Site Plan;
 - b. for the construction of flats, the Organizer's obligation to hand over TPU land is 2% (two percent) of the land area plus the overall floor area; and
 - c. for the construction of mixed housing, the Organizer is obligated to hand over TPU land in the amount of 2% (two percent) of the land area plus the overall floor area used for housing.
- (2) The provision of funeral facilities/burial places as referred to in section (1) of 2% (two percent) is not included in the proportion of 40% (forty percent) obligation.
- (3) The determination of the location of the TPU as referred to in section (1) is required to follow the provisions determined in the regional spatial plan

and be submitted in the form of a certificate on behalf of the Organizer along with a statement of release of land rights.

- (4) In the event that the Organizer does not provide funeral facilities/places funeral as referred to in section (1), then the Handover of PBG of the construction of flats and non-detached housing cannot be further processed.
8. The provisions of Article 13 are amended, so that Article 13 reads as follows:

Article 13

- (1) The provision and Handover of land for TPU purposes is required to take precedence over other means after its issuance Site Plan and before the issuance of PBG by submitting a land certificate and a statement of release of land rights from the Operator to the Local Government.
 - (2) Further provisions regarding the procedures for the provision and Handover of TPU are regulated in a Mayor Regulation.
9. The provisions of Article 14 are amended, so that Article 14 reads as follows:

Article 14

- (1) Infrastructures, Facilities, and Residential Utilities that have been completed by the Organizer are required to be submitted to the Local Government in accordance with the provisions of legislation.
 - (2) Handover of Infrastructures, Facilities and Utilities as referred to in section (1) is done:
 - a. gradually, if the development plan is carried out in stages; and/or
 - b. at the same time, if the development plan is carried out not in stages;
10. Between Article 14 and Article 15, 2 (two) Articles are inserted, namely Article 14A and Article 14B, which read as follows:

Article 14A

- (1) The Handover of Residential Infrastructures, Facilities and Utilities as referred to in Article 14 section (2) point a and point b must meet the following requirements:
 - a. it has been completed and maintained, handed over not later than 1 (one) of from the completion of the maintenance period;
 - b. it is in accordance with the site plan, which has been determined accompanied by technical and administrative documents; and
 - c. it is carried out in stages if the development plan is carried out in stages, or at the same time if the development plan is carried out in stages.
- (2) Further provisions regarding the procedures and requirements for the Handover of Infrastructures, Facilities, and Utilities as referred to in section (1) are regulated in a Mayor Regulation.

Article 14B

- (1) In the event that infrastructures, facilities, and utilities are abandoned and have not been submitted, the Local Government makes a report on the acquisition of Infrastructures, facilities, and utilities for housing and settlements.
 - (2) Further provisions regarding the procedure for making the minutes of acquisition as referred to in section (1) are regulated by a Mayor Regulation.
11. The provisions of Article 21 are amended, so that Article 21 reads as follows:

Article 21

In the event that the Organizer does not carry out the maintenance obligation and has not handed over the Infrastructures, Facilities, and Utilities to the Local Government, the Local Government submits a point to the Organizer to repair/maintain the Infrastructures, Facilities, and Utilities.

12. The provisions of Article 23 are deleted.

13. The provisions of Article 26 are amended, so that Article 26 reads as follows:

Article 26

- (1) Any individual or legal entity that carries out the construction of infrastructures, Facilities, and Utilities of the general housing is not in accordance with the site plan as referred to in Article 8 section (1) or fails to meet the requirements as referred to in Article 10 or fails to handover public infrastructures, Facilities, and Utilities that has been completed to the Local Government as referred to in Article 14, is subject to administrative sanctions in the form of:
 - a. written warnings;
 - b. temporary suspension of development implementation;
 - c. revocation of incentives; and
 - d. dismantling order
- (2) Procedures and mechanisms for imposing administrative sanctions imposed on natural persons as referred to in section (1) are carried out as follows:
 - a. written warnings as referred to in section (1) point a are given at most 2 (two) time with a period of each written warning of a maximum of 5 (five) workdays;
 - b. individuals who ignore written warnings as referred to in point a are subject to administrative sanctions in the form of temporary suspension of development implementation;
 - c. individuals who neglect a temporary termination of construction implementation as referred to in point b are subject to administrative sanctions in the form of revocation of incentives; and
 - d. individuals who ignore the termination while the implementation of development as referred to in the point b are subject to administrative sanctions in the form of revocation of incentives.
- (3) In the event that the construction of Public Infrastructures, Facilities, and Utilities of Housing is carried out by a Legal Entity, the procedures for imposing administrative sanctions are carried out as follows:
 - a. Legal Entities that ignore written warnings as referred to in section (1) point a for a maximum of 2 (two) times with a maximum period of 5 (five) workdays are subject to administrative sanctions in the form of temporary suspension the implementation of development is a maximum of 1 (one) year;
 - b. Legal Entities that ignore a temporary suspension of construction implementation as referred to in point a are subject to administrative sanctions in the form of revocation of incentives;
 - c. Legal entities that ignore the revocation of incentives as referred to in point b are subject to administrative sanctions in the form of administrative fines at least Rp100,000,000.00 (one hundred million rupiah) and a maximum of Rp500,000,000.00 (five hundred million rupiah); and
 - d. Legal Entities that ignore incentives revocation as referred to in point c are subject to administrative in the form of Building Demolition not later than 3 (three) months since the demolition order is given to the Legal Entity.

Article II

This Regional Regulation comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Regional Regulation by its placement in the Regional Gazette of the Municipality of Tangerang.

Issued in Tangerang
on 10 February 2023

MAYOR OF TANGERANG,

signed

ARIEF R.WISMANSYAH

Promulgated in Tangerang
on 10 February 2023

REGIONAL SECRETARY
OF THE MUNICIPALITY OF TANGERANG,

signed

HERMAN SUWARMAN

REGIONAL GAZETTE OF THE MUNICIPALITY OF TANGERANG OF 2023
NUMBER 4

Jakarta, 07 August 2024
Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia
DIRECTOR GENERAL OF LEGISLATION AD INTERIM,



ELUCIDATION
OF
REGULATION OF THE MUNICIPALITY OF TANGERANG
NUMBER 4 OF 2023
ON
AMENDMENT TO REGIONAL REGULATION NUMBER 5 OF 2017 ON
HANDOVER OF HOUSING INFRASTRUCTURES, FACILITIES, AND UTILITIES

I. GENERAL

In line with Law Number 1 of 2011 on Housing and Settlement Areas, what is meant by housing is a collection of houses as part of settlements, both urban and rural, which are equipped with Infrastructures, facilities, and public utilities as a result of efforts to fulfill livable houses. Meanwhile, what is meant by residential areas is part of the living environment outside protected areas, both in the form of urban and rural areas, which function as residential or residential environments and places of activity that support life and livelihoods. In addition, it is also understood that a settlement is part of a residential environment consisting of more than one housing unit that has Infrastructures, facilities, public utilities, and has other functional support activities in urban areas or rural areas. Meanwhile, what is meant by a residential environment is part of a residential area consisting of more than one residential unit.

As a regulator, the government issues various regulations related to the implementation of housing, which then issues implementing regulations ranging from Government Regulations to Regional Regulations, while as a facilitator, the Government provides housing and settlement facilities for the community and facilitates the implementation of policies and strategies at the national level. The community is given the widest opportunity to play a role as an organizer of housing and residential areas and prevent the actions of housing developers to only pursue physical development and ignore the obligation to provide Infrastructures Facilities and Public Utilities, the Government has laid the foundation in regulating the achievement of housing and settlements that are ensuring the fulfillment of aspects of spatial planning and the provision of adequate supporting Infrastructures, facilities and utilities, especially for housing and residential areas whose development is carried out by a legal entity or individual by issuing Law Number 1 of 2011, Law Number 26 of 2007 on Spatial Planning, Government Regulation Number 9 of 2009 and Government Regulation Number 14 of 2016 on Implementation of Housing and Areas Settlements, as amended by Government Regulation Number 12 of 2021.

To ensure the availability of Infrastructures and utilities in the Municipality of Tangerang, the Tangerang Municipal Government has issued Regional Regulation Number 5 of 2017 on the Handover of Residential Infrastructures, Facilities, and Utilities, which includes guarantees of availability, sustainability of maintenance and management as well as administrative order in the management and Handover of Infrastructures and Utilities in Housing in the Municipality of Tangerang.

II. ARTICLE BY ARTICLE

Article I

Point 1

Article 1

Sufficiently Clear

Point 2

Article 5

Sufficiently Clear

Point 3

Article 7

Sufficiently Clear

Point 4

Article 8

Sufficiently Clear

Point 5

Article 9

Sufficiently Clear

Point 6

Article 11

Sufficiently Clear

Point 7

Article 12

section (1)

point a

Sufficiently Clear

point b

Sufficiently Clear

point c

The term housing mixture means merger of multiple classes of Housing in a housing group.

section (2)

Sufficiently Clear

section (3)

Sufficiently Clear

section (4)

Sufficiently Clear

Point 8

Article 13

Sufficiently Clear

Point 9

Article 14

Sufficiently Clear

Point 10

Article 14A

Sufficiently Clear

Article 14B

Sufficiently Clear

Point 11

Article 21

Sufficiently Clear

Point 12

Article 23

Sufficiently Clear

Point 13
Article 26
Sufficiently Clear

Article II
Sufficiently Clear

SUPPLEMENT TO THE REGIONAL GAZETTE OF THE MUNICIPALITY OF
TANGERANG NUMBER 4