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# Reform of the Land Act of the Autonomous Region of Madrid

Legal Flash Public Law

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On October 15, 2020, [Act 1/2020](#), of October 8, was published, amending Land Act 9/2001, of July 17, on the Land in the Autonomous Region of Madrid, to boost and recover urban planning activities.



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Act 1/2020 of the Autonomous Region of Madrid, that will come into force of November 4, 2020, includes important developments affecting companies in the real estate sector and operators engaged in land and building works in Madrid. The reform amends the current legal framework of the urban planning licenses regime, giving priority to responsible statement (*declaración responsable*).

## Main new developments

- > Act 1/2020 reduces the list of actions subject to a planning license and prioritizes the submission of responsible statements for works.
- > It replaces of the first occupancy and operation license with a responsible statement for works.
- > It regulates works not subject to obtaining a planning operating license.
- > It establishes new provisions on the revocation of operating licenses that no longer meet planning requirements.



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## Prioritization of responsible statements

- Act 1/2020 reduces the actions subject to a planning license and prioritizes the submission of responsible statements for works the impact of which, owing to their scope and nature, is not amenable to control through the prior authorization process imposed on licenses. The aim is to increase the efficiency of the authorities involved in granting these permissions and, particularly, reduce the lengthy timeframes associated with the prior authorization process.
- The following are among the most noteworthy actions subject to the responsible statement regime: new building of minor, technically simple construction works, provided they are not for residential or public use and are constructed on a single floor; and first occupancy and operation of new buildings, prefabricated houses, and buildings and facilities in general.
- Other actions requiring a responsible statement include the following:
  - a) The demolition of existing constructions and buildings, provided they are not protected owing to their environmental or historical-artistic significance.
  - b) Extension, modification, refurbishment or renovation works on existing buildings that do not essentially change the general outside appearance, the dimensions, the total envelope or the whole structural system of a building, and do not require a technical project.
  - c) Land grouping affecting any types of plots, unless they are part of an approved replotting project.
  - d) Any actions regulated under [Act 2/2012](#), of June 12, on the promotion of commercial activity in the Autonomous Region of Madrid.
  - e) The enclosure of plots, works and land.
  - f) Changes in the use of buildings and facilities that do not affect their characteristic use.
  - g) Placing of outside advertising that is visible from the street.
  - h) Actions involving the use of air space over buildings and facilities.
  - i) The installation of prefabricated site offices or smaller cabins.
  - j) The repair of installations and ducts in the subsoil of plots considered urban land.
  - k) Preconstruction work such as soil sampling, boreholes and soil surveys.



- The applicant can exercise the intended action from the day the statement is submitted (without prejudice to any checks, control and inspection procedures). However, any works to be carried out that go against or do not comply with applicable urban planning laws will not be considered authorized.
- Each town hall, or its collaborating entities, is in charge of verifying whether the responsible statements meet the necessary requirements. If the verification procedure is favorable, the town hall will issue a certificate of compliance (*acta de conformidad*).
- Before submitting a responsible statement, applicants can also request a prior consultation to determine the feasibility of carrying out the works under urban planning regulations.
- The amendment of actions covered under a responsible statement requires the submission of a supplementary statement.

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### Reduced list of actions subject to a planning license

- Owing to the prioritization of responsible statements, the actions still subject to a planning license have been reduced to the following:
  - a) Earth moving works, excavations, leveling and landfilling on any kind of land, as long as this is not part of a planning development, construction or building project.
  - b) Works involving construction, land and subsoil use, and airspace that require a project, except those subject to a responsible statement.
  - c) Works carried out on listed buildings or buildings protected owing to their environmental or historical-artistic significance, and partial refurbishment affecting the protected parts of those buildings.
  - d) Actions involving land parceling, segregation and division affecting any types of plots, unless they are part of an approved reparceling project.
  - e) The felling and transplanting of trees, forested areas or shrublands.
  - f) The location of prefabricated houses and similar facilities, whether temporary or permanent, on any type of land.
  - g) Other works and the provisional uses.
- The authorities must issue a resolution on planning license requests within three months. If they have not issued a resolution by that deadline, the applicant should consider the request to have been rejected.



- Planning licenses will be granted in accordance with the law and urban planning regulations in force at the time of their resolution (if the resolution is issued outside the three-month term, they will be granted in accordance with the regulations in force at the time they should have been resolved).
- Partial authorization may be granted if the works are complex, but are clearly feasible as a whole in terms of urban planning (authorization system for separate parties). Likewise, when technically feasible, licenses may be granted for partial projects, a specific building stage, a separate element or a particular installation, to which successive licenses required to complete the whole project may be added.
- To begin the works once the license has been obtained in accordance with a basic project, applicants are only required to submit a responsible statement stating that the execution project develops the basic project, without introducing any significant changes with regard to the initially authorized project.

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### **Works not subject to obtaining an operating license**

- Minor works and urban planning actions do not require a prior license or responsible statement. These include electrical rewiring and re-cabling works, gas and air conditioning installations, replacement interior finishes in a single residence or premises, tiling and flooring work, and painting work.
- Other works that do not require a license are those entitled to exemption under sector-specific legislation; urban planning actions regulated by municipalities in their own municipal area (the municipal agreement or approval granting permission will have the same effect as a planning license), and urban development, land parceling, segregation, and grouping, or any other actions involving the modification or division of plots or land covered by the corresponding parceling projects, as applicable.
- Also excluded are actions covered by municipal enforcement orders.
- The reform also establishes a system and specific procedure for planning actions not subject to obtaining an operating license that have been put forward by other public administrations to implement public policies that are urgent or of general interest



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## Terms and expiry of responsible statements

- Act 1/2020 maintains the previous terms of temporary effectiveness of actions covered by a license and regulates those related to responsible statements. Specifically, it establishes six months to begin works subject to a responsible statement and one year for their completion, both counting from filing date. A single extension may be granted for a new period not exceeding the first one. The applicant is required to request the extension before the end of the initial term granted.
- As in the case of licenses, responsible statements are subject to an expiry system (*ex officio* declaration or by a party, after hearing the applicant, once the term of temporary effectiveness of the existing license has expired or has not been met). A statement of expiry will terminate the operating license, meaning that no planning actions can be resumed unless a new operating license is requested and granted, which must be in line with applicable urban development regulations. The references provided under article 158 of the former Madrid Land Act regarding alternative measures and seizures have been removed.

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## Revocation of operating licenses that no longer meet planning requirements

- If an operating license no longer meets the planning requirements, the municipal authorities must adhere to the following rules:
  - If the building works have already begun, the license or responsible statement may be revoked, or the authorities may allow the works to be completed. In the second case, the building would be considered as in a non-conformity situation with planning regulations .
  - If the building works have not yet begun, the operating license may be revoked.
- These actions require the applicant to file for a hearing. If the operating license is finally revoked, the injured party is entitled to seek compensation. This compensation must be specified in the revocation agreement and the amount will be based on the corresponding provisions under Spanish law.



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## Others

- **Utility suppliers:** It is necessary to prove ownership of the corresponding operating license statements for the provisional supply electricity, water, gas and telecommunications. The maximum term of provisional agreements for these services will coincide with that of the planning license or will be one year in the case of actions subject to responsible statements.

**New developments regarding penalties:** There are no major developments regarding penalties. Broadly speaking, Act 1/2020 adapts the previous regulations to the introduction of responsible statements.

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## Entry into force of the reform and transitional regime

- The reform will enter into force on November 4, 2020.
- Under the approved transitional regime, applications for licenses and responsible statements filed before November 4, 2020, will be processed and resolved in accordance with the regulations in force at the time of their submission, unless the applicant decides to withdraw the application and submit an urban planning responsible statement.

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For additional information, please contact Cuatrecasas.

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