

**Information, Counselling and Legal Assistance Programme
in the occupied Palestinian territory**

April 2015

**Fact Sheet 8:
Building Permits in Gaza**
Gaza Housing, Land and Property Rights Series

The following information is provided as part of a series of eight fact sheets on Housing, Land and Property issues in Gaza. The fact sheets are intended to inform persons displaced in the latest Gaza conflict about their housing rights. The sheets are also designed to help agencies assisting displaced persons with their transitional shelter needs, as well as policy- and decision-makers planning how to address the shelter needs of beneficiaries.

1. Background

Urban planning and organisation are considered as one of the major pillars of town establishment and are crucial in the lives of people and communities. It facilitates the life of residents and the development of their community. The Palestinian society in Gaza has its own traditions and preferences of urban planning, which have been heavily influenced by the socio-economic and political changes in the coastal strip over the years.

This document introduces the procedures, permits, and competent government entities to facilitate shelter actors involved in the



Construction site, Gaza Strip, 2013. Photo: NRC.

reconstruction of the Gaza Strip after the most recent escalation of hostilities between Israel and Palestinian armed groups in the Gaza Strip during July-August 2014.

2. Building Permits

The building permit is the formal permission granted by the municipalities across the Gaza Strip to commence construction project. The building permit includes technical and engineering specifications for a specific location in accordance with the law. The issuing authority (the municipality) monitors the different stages of the construction project to ensure that its progress is in line with the granted permit and the drawings submitted as part of the process to obtain the permit.

The initial building permit is valid for one year from the date of issuance and must be renewed after it expires. Upon completion of the construction project, a specialised committee from the local municipality's Monitoring and Inspection Department visits the building for inspection to ensure compliance with the building permission's specifications.

Once the construction has been completed in accordance with the above-mentioned specifications, the municipality issues a completion licence. Any violation to the terms of the building permit or specifications will result in cancellation of the permit and may lead to the imposition of a financial penalty by the municipality.

3. Types of Construction Projects that Require Building Permits

The following list of different types of construction projects require building permits:¹

- All types of construction of buildings;
- Changes made to buildings, including expansion, modifications or demolitions;
- Road construction;
- Land digging and landfill;
- Construction of sewers and drains;
- Construction of bathrooms, toilets, latrine pits, septic tanks, sinks or washstands in any existing building;
- Using the building or the land for a purpose that contradicts the licensed purpose in conformity with the approved town planning;
- All construction related to the outer building;
- Wells drilling.

4. Process of Obtaining a Building Permit

The following requirements must be met before a building permit can be issued:

1. The land for which the application is made must be located within the official urban zoning project (parcelling) (*Ifrac*).
2. The purpose of the use of the land must be compatible with the assigned specified purpose of the area in accordance with the urban plan, for example industrial, commercial, or residential purpose.
3. The applicant must prove that ownership of the structure through a 'chain of ownership' document or a contract between the owner of the building and the application of the permit, granting him the right to apply for the building permit.
4. The municipality must issue a general site layout that shows the required constructional conditions in the building (general location).
5. Completed engineering drawings designed by an engineering firm and certified by the Palestinian Engineers Association to be submitted to the municipality.
6. Acknowledgment of supervision from the supervising engineer must be submitted.
7. A copy of the professional license of the engineering designing company must be submitted.

The Fees of Construction in the Gaza Strip Governorates Order (2005) specifies the required fees for different buildings and construction projects.² The fees are calculated per square metre. For example, this law determined that the fees for a residential building are 8 NIS per square metre and 20 NIS for a multi-floor building.

5. Licensing Authorities

The different licensing authorities can be classified depending on the nature of residential areas as follows:

5.1. Refugee Camps in Gaza

The buildings in these areas were built to meet the needs of Palestinian refugees who were displaced in 1948 as a result of the establishment of the State of Israel. In the refugee camps, there is no private ownership of houses. Residents cannot register the houses they reside in with the Land Registry Department with the Palestinian Land Authority, because they are only granted a right of usage to the property and not the ownership rights. Thus, granting a building permit, which requires ownership of the property, is not possible. In the master plan developed for the Gaza Strip, the camps were classified as 'organisationally frozen areas'. No building permits are granted or roads built; it is virtually impossible for the local authorities to control any construction in the camps.

¹ Town Planning Permits (Gaza District) law of 1941 as published in the Palestine Gazette (British Mandate), issue no: 1122, p 1625.

² As published in the Palestine Gazette (Palestinian National Authority), 2005, issue no. 58, p. 172.

5.2. Regional Areas

These are lands located beyond the boundaries of the administrative authority of municipalities and rural councils. As such, it is equally difficult for local authorities to control construction in these areas. In addition, these areas are not included in the organisational projects of villages and towns 'structural and detailed charts'. Therefore, they are not subject to laws and regulations of the municipal or rural councils and no building permits are granted, except by the Ministry of Local Government, for instance for road construction, telecommunication infrastructure, and public infrastructure.³

5.3. Town Planning Areas

These are areas included within the administrative authority of municipalities and rural councils. These areas have been included in master plans that provide for the urban planning of a city or village. Any construction project must be carried out in accordance with the local laws. In these areas, the local authorities and municipalities through their local committees issue building permits.

6. Rights and Responsibilities

With the issuance of the building completion licence, it is understood that the facility has been inspected and approved for use in line with its originally stated purpose. The facility must ensure access to water and sanitation services, and electricity (utilities).

In (partial) demolition cases, for instance for road expansion or otherwise in the public interest, the owner of the property has the right to compensation according to the Palestinian Basic Law.

If construction projects are undertaken without the necessary building permits or if the building permit is not complied with, the initiator of the project could be fined and risks imprisonment of up to two years in accordance with Article 143 of the Palestinian Penal Law of 1936.⁴ Moreover, unlicensed buildings have no right to claim access to utility networks. Unlicensed buildings can be demolished and the owner of the building does not have a claim to compensation.

7. Key Problems and Challenges Associated with Obtaining a Building Permit

1. The pre-condition that a plot of land has to be located in an official zoning area (parcelling) is a major obstacle to obtaining a building permit. The percentage of parcelled lands does not exceed 40 per cent of the land allocated for construction in Gaza.⁵

As such, a practice has evolved under which municipalities grant an exemption for the parcelling requirement, either through granting the applicant access to utility networks, or by requesting the applicant to pay a fine and extra fees for building projects located on non-parcelled lands.

2. Often the resident or occupant of a building is unable to prove ownership over the land, because of the lack of 'chain of ownership' documentation. The municipalities deal with these cases separately and on an individual basis. Some are referred to the legal consultant or the rural council to decide on whether or not to approve the building permit. In other cases, the applicant is required to publish an announcement in the newspaper for the duration of one month to allow for objection. Finally, the planning committee may require the applicant to sign a statement certified by a notary, acknowledging that the planning committee is not responsible for any ownership dispute that might arise in the future.
3. In cases of adverse possession or unlawful residence of governmental land, the residents are not granted a permit to build, regardless of what type of construction is applied for. In addition, utilities are also not provided for. However, there are some exceptional cases where municipalities have provided residents with utilities on an *ad hoc* basis to meet humanitarian needs.

³ See the website of the Palestinian Ministry Of Local Government <<http://molg.ps/ar/?p=128>> (in Arabic).

⁴ Criminal Code Ordinance of 1936 as published in the Palestine Gazette (British Mandate), issue no. 652, p. 450.

⁵ M. Kahlout, 'Violations against building regulations and their effects on the urban environment in Gaza strip' (2006) 1 Islamic University Journal, 73-103.

8. Recommendations for Key Stakeholders

- **To UN and (international) humanitarian agencies, in particular agencies involved in shelter and provision of basic services:** Ensure that reconstruction of destroyed homes follows the procedural requirements set out by the local authorities for obtaining building permits to ensure proper urban planning and development and guarantee security of tenure for beneficiaries.
- **To UN and (international) humanitarian agencies, in particular agencies involved in shelter and provision of basic services:** Lend support to local authorities in the development of urban plans and zoning areas to facilitate beneficiaries to obtain building permits for the reconstruction of their homes.
- **To UN and (international) humanitarian agencies, in particular agencies involved in shelter and provision of basic services:** Ensure that beneficiaries are supported in addressing their HLP rights, including through referring complicated legal cases for specialised legal advice, to ensure that beneficiaries have their land and property ownership documentation in place as this is a pre-requisite to obtaining a building permit.
- **To Municipalities and the Ministry of Local Governance:** Undertake a standardisation process to ensure that all municipalities adopt legal standards and best practices for the application of building permits across the Gaza Strip, thereby facilitating the reconstruction of homes destroyed during the most recent military offensive, as well as facilitate community development.
- **To Municipalities and the Ministry of Local Governance:** Facilitate the speedy and effective granting of building permits for houses that will be reconstructed as part of the reconstruction process by ensuring that land is parcelled.
- **To Municipalities and the Ministry of Local Governance:** Waive the fees for obtaining a building permit for a period of one to two years to ensure that people whose homes have been destroyed during the most recent escalation of hostilities can obtain a building permit for reconstruction.
- **To the National Authorities, including the Ministry of Local Governance, the Ministry of Public Works and Housing, Ministry of Planning, and the Palestinian Government of National Consensus:** Provide technical and financial support to all municipalities across the Gaza Strip to facilitate issuance of building permits, parcelling of land projects, and provision of basic services to households affected by the recent conflict.
- **To the National Authorities, including the Ministry of Local Governance, the Ministry of Public Works and Housing, and the Palestinian Legislative Council in light of the Palestinian Government of National Consensus:** As the lack of appropriate building legislation is a major obstacle to housing sector development in Palestine, it is recommended that a comprehensive review of the existing building and urban planning laws and regulations is undertaken to facilitate unification of different legal frameworks and ensure consistency across the different municipalities inside the Gaza Strip and between the Gaza Strip and the West Bank.

9. NRC Assistance

Through its Legal Aid Centre in Gaza City, as well as Mobile Legal Clinics throughout the Gaza Strip, NRC provides free legal assistance and advice with housing, land and property issues, including issues relating to unregistered private land. Legal advice is provided by qualified lawyers on a confidential basis. NRC can also assist with resolution of disputes.

For further information or to make an appointment to see an NRC lawyer, please contact the NRC Legal Aid Centre on +970(0)82860218 or send an email to Elisabeth Koek, ICLA Project Coordinator at elisabeth.koek@nrc.no.

The information provided in this document is provided by way of legal background information only and should not be relied upon by organisations or individuals in taking legal action in such cases. Individual legal advice should be sought in relation to the particular circumstances of each case. This advice should be sought from a practitioner with experience in the field, as there are significant discrepancies between the law and what is being applied in practice. In every case, the various legal possibilities and consequences should be explained to the beneficiary, community, humanitarian organisation or service provider.



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