

Participatory Paradigm of Licensingin the Implementation of Spatial Planning Development Policy in Indonesia: A Proposal

Didi Nursidi¹, Achmad Kholiq², Fauzan Ali Rasyid³, Abdul Aziz^{4*}, Roqiyul Ma'arif Syam⁵

¹ Faculty of Law, Universitas Wiralodra, Indramayu, Indonesia, didinursidi@univir.ac.id

² Faculty of Sharia, UIN Siber Syekh Nurjati, Cirebon, Indonesia, achmadkholiq672@gmail.com

³ Faculty of Sharia and Law, UIN Sunan Gunung Djati, Bandung, Indonesia, fauzan.ali.rasyid@uinsgd.ac.id

⁴ Faculty of Sharia, UIN Siber Syekh Nurjati, Cirebon, Indonesia, abdul_aziz@syekhnurjati.ac.id

⁵ Kent Law School, University of Kent, Canterbury, United Kingdom, rs2011@kent.ac.uk

*Corresponding Author: abdul_aziz@syekhnurjati.ac.id

Citation: Nursidi, D., Kholiq, A., Rasyid, F. A., Aziz, A. & Syam, R. M. (2025). Participatory Paradigm of Licensingin the Implementation of Spatial Planning Development Policy in Indonesia: A Proposal, *Journal of Cultural Analysis and Social Change*, 10(4), 2204-2215. <https://doi.org/10.64753/jcasc.v10i4.3160>

Published: December 11, 2025

ABSTRACT

The licensing paradigm in spatial planning development policy plays a crucial role as a regulatory instrument for controlling land use. However, if this function is applied partially and lacks public participation, the effectiveness of law enforcement in a spatial planning becomes weak. This article aims to analyze the role of licensing in the implementation of spatial planning development policies and formulates a collaborative model to enhance public participation. Using a normative approach with a juridical-normative method, this study examines licensing regulations based on applicable laws and the factors influencing their implementation. The findings indicate that policy inconsistencies, weak law enforcement, and low public participation are the main obstacles to effective spatial governance. Therefore, a new paradigm that emphasizes participation is needed to be institutionalized in order to plan, to utilize, and to control the use of land. By optimizing the licensing function not only as a control tool but also as an empowerment of social participatory instrument, spatial planning policies can become more inclusive and sustainable.

Keywords: Licensing Law; Policy Implementation; Spatial Planning; Development Policies

INTRODUCTION

One of the key factors shaping the dynamics of human civilization is the ability to maximize space utilization in all its forms. In Indonesia, particularly in urban areas, spatial utilization does not always align with the established spatial planning policies. This misalignment is generally caused by several factors, including market-driven demands for space, the lack of an integrated control mechanism, and weak law enforcement. Such conditions arise because spatial planning, land use, and its regulation have not fully accounted for evolving urban dynamics and active public participation.

Construction activities intended for spatial utilization in accordance with designated land use must be accompanied by a Building License (*Izin Mendirikan Bangunan*, IMB) or a Building Approval (*Persetujuan Bangunan Gedung*, PBG). However, data from the Time Series of the Local Government Administration Report (*Laporan Penyelenggaraan Pemerintahan Daerah*, LPPD), compiled by the Department of Public Works, Housing, and Energy Resources (*Dinas Pekerjaan Umum, Perumahan, dan Energi Sumber Daya Mineral*, DPUPESDM) and the Regional Investment and Licensing Agency (*Badan Penanaman Modal dan Pelayanan Perizinan Terpadu*, BPMPPT) in several cities, indicate that the number of buildings constructed with the required license remains low. If data collection

includes all types of buildings and their functions—whether new constructions, renovated buildings, or those that have undergone a functional change from their original purpose—the number of buildings without a Building Approval (PBG) will increase significantly. Therefore, accelerating the implementation of spatial planning policies is essential by maximizing the involvement and participation of all potential development stakeholders.

The approval or issuance of building license aims to ensure that the construction of residential, settlement, and other types of buildings is carried out in a more structured and integrated manner. This process considers factors such as population growth and distribution, land use planning, urban development, financing, employment expansion, environmental health, the availability of essential social facilities, local raw material production, and overall harmony between residential areas and broader urban development. Thus, to achieve orderly building management and legal certainty in construction governance, all building developments must adhere to the Building License (IMB) regulations.

The function of license or approvals as a spatial control mechanism through zoning regulation essentially serves as a control map for the government (both central and local) in managing spatial planning, ensuring that land use aligns with its intended purpose in an ideal and sustainable manner. However, in practice, numerous discrepancies arise in spatial planning implementation, particularly in relation to: a) land-use conversion, which is difficult to regulate due to legal frameworks and urban dynamics, including: market mechanisms, government political will, and evolving societal values; and b) building function shifts, which are equally challenging to regulate and generally fall into three categories: 1) functional shifts that comply with legal mechanisms; 2) functional shifts legalized through post hoc regularization mechanisms; and 3) unauthorized functional shifts, where buildings undergo changes in use but still retain license based on their original function. These conditions suggest that urban spatial planning often neglects active public participation. Empirical evidence indicates that uncontrolled land-use and building function shifts persist, primarily due to weak public engagement in spatial governance.

When driven predominantly by urban dynamics rather than adherence to established spatial planning policies, land-use and building function shifts can lead to an increasingly unstructured spatial order. This results in urban spatial planning that prioritizes economic growth over regulatory coherence. Consequently, local governments tend to focus more on revitalizing licensing functions as a means of increasing Local Own-Source Revenue (*Pendapatan Asli Daerah*, PAD) as economic incomes rather than ensuring effective spatial governance as societal. Moreover, this dualism leads to declining the quality of urban areas.

The function of license as a means of controlling spatial utilization becomes inefficient because users tend to optimize their respective interests. When the primary function of license is ineffective, urban spatial planning will, in turn, be affected and develop in an unregulated manner, deviating from the spatial plan and lacking sustainability. In other words, when the structure and spatial patterns are utilized without fully adhering to the spatial plan, sustainability, and are implemented on a massive scale, society members who perceive no direct relevance to their interests will eventually become apathetic.

The direction of spatial planning development described above is directly proportional to shifts in land use and building functions, whose dynamics evolve rapidly in geometric progression, while spatial planning regulations (particularly in urban areas) in the form of spatial development policies progress at a slower pace, following an arithmetic progression. Therefore, efforts to control spatial utilization through the refunctionalization of license—by establishing a collaborative model that strengthens public participation—offer greater potential in supporting the implementation of spatial development policies. This serves as a measurable approach to anticipating the decline in spatial and environmental quality, necessitating an integrated and sustainable approach while maintaining adherence to principles and legal frameworks as part of reinforcing law enforcement, particularly in realizing broad yet responsible regional autonomy.

From the perspective of collective interests, license can function as an indicator of the success of spatial development policy implementation, assessed in terms of the alignment between land use and the designated spatial utilization plan. Therefore, this study aims to understand how the licensing paradigm in the legislation is implemented in spatial planning development policies as well as to recommend a collaborative model for strengthening public participation that can be implemented as an effort to support spatial planning development policies.

METHODS

This research is normative legal research. Therefore, the methodology employed is the juridical-normative or doctrinal research method, which primarily focuses on the use of secondary data, including legislation, legal theories, and opinions of prominent legal scholars, analyzed qualitatively. Literature and field data are limited to those highly relevant to juridical aspects and are examined through a qualitative juridical analysis to provide a

comprehensive understanding of the research object. A review of the applicable legal provisions is conducted using both deductive and inductive reasoning, along with interpretation of the collected data.

The type of data used in this study is secondary data, consisting of previous research findings deemed relevant for addressing the research problem. These include studies in the fields of law, spatial planning, public policy, and social sciences, obtained through literature reviews, interviews, and field studies. The secondary data is sourced primarily through library research.

RESULTS AND DISCUSSION

Licensing in Spatial Development Policy in Indonesia

In the context of Indonesia, the dynamics of urban spatial development have shown increasing complexity in the functional orientation of buildings, ranging from private interests to institutional, social, and public needs. To ensure that these various interests are accommodated and properly managed, the government—particularly local governments—as the agent of regulation plays a crucial role in overseeing spatial utilization through licensetting mechanisms, such as Building License/License (*Izin Mendirikan Bangunan*, IMB). These licenses serve as regulatory tools to control spatial utilization in accordance with designated functions, as stipulated in legal and regulatory frameworks.

The necessity of building licenses fundamentally represents a proactive measure to anticipate and manage rapid and increasingly complex urban development. This continuous growth encompasses various sectors, including housing (ranging from simple housing to high-rise apartments and real estate developments), office buildings, commercial centers, shopping malls, entertainment venues (such as hotels and nightclubs), educational facilities, and other public and private infrastructure. The demand for such development is driven by population growth and the increasing needs of urban society. Consequently, regulation is essential not only to control spatial utilization but also to mitigate the broader impacts of development, ensuring both human well-being and environmental sustainability.

Urban spatial development cannot be effectively carried out without recognizing the critical role of license as control instruments. However, despite their importance, the implementation of licensetting systems continues to face several crucial challenges, including:

1. Spatial planning policies remain fragmented.
2. Inconsistencies in government apparatus in implementing established policies.
3. Public participation is generally superficial and tends to be formalistic.
4. Policy evaluations that prioritize procedural mechanisms while neglecting substantive policy considerations.

To ensure spatial utilization aligns with its designated purposes and to provide legal certainty, order in building construction—both for structures and non-structural facilities—must adhere to technical and administrative requirements.

The technical and administrative requirements for buildings include:

1. Land ownership status and/or utilization license from the rightful landowner.
2. Ownership status of the building.
3. Building construction license (*Izin Mendirikan Bangunan* – IMB);
4. Registration and documentation of buildings.

Meanwhile, Government Regulation (PP) No. 21 of 2021 on the Implementation of Spatial Planning, issued as follow-up to Law No. 11 of 2020 on Job Creation, sets forth the following objectives for spatial planning regulation:

1. Establishing order in the implementation of spatial planning.
2. Providing legal certainty for all stakeholders in fulfilling their duties, responsibilities, rights, and obligations in spatial planning implementation; and
3. Ensuring justice for all stakeholders in spatial planning implementation.

The implementation of spatial planning encompasses:

1. Spatial planning.
2. Spatial utilization.
3. Control of spatial utilization.
4. Supervision of spatial planning.
5. Spatial planning development; and
6. Spatial planning institutions.

The enactment of the Job Creation Law has brought significant shifts in spatial planning license policies, particularly in simplifying procedures, accelerating investment, and ensuring legal certainty. The integration of

spatial planning license into a risk-based licensing system is a fundamental prerequisite of the Online Single Submission (OSS) system. This integration is expected to drive development acceleration across various sectors, particularly in efficiency, investment, resource management, and sustainable development.

The regulation governing the granting of Building Approval (*Persetujuan Bangunan Gedung*, PBG) as a follow-up to spatial utilization for the construction of buildings and other structures is implemented to ensure that urban physical growth, aimed at supporting overall economic development, does not result in the deterioration of urban planning. Therefore, any construction activity must first obtain Building Approval (PBG) in accordance with the established technical standards to ensure compliance with spatial planning regulations and sustainable development principles.

From a regulatory perspective, licensing functions as a provision for controlling the utilization of space, which is part of the building license mechanism, as regulated in regional regulations (Perda) regarding building construction. These regulations include:

1. The building license (PBG) is issued by the regional head to individuals or legal entities for construction in accordance with the designated use of space.
2. Every individual or legal entity that builds, demolishes, renovates, replacing entirely or partially, expands, or removes a building must obtain a building (PBG) issued by the regional head.
3. The PBG covers several aspects, including (1) the suitability of space utilization (KKPR), (2) technical building standards, (3) technical building documents, (4) Environmental Impact Assessment (AMDAL), (5) Building Function Feasibility Certificate (SLF), and (6) PBG fees; and
4. The process of applying for a PBG involves submitting documents, examining technical standards, and issuing the PBG.

For buildings that have economic, social, and environmental impacts, an Environmental Impact Assessment (AMDAL) document is required. Buildings not meeting the criteria for mandatory AMDAL are required to submit an Environmental Management and Monitoring Effort (UKL-UPL) document, as regulated by Law No. 32 of 2009.

The process of preparing the AMDAL document must involve the affected community, environmental observers, and/or those impacted by the decisions made during the AMDAL process. This can be done through public announcements of the proposed project and/or activities, as well as public consultations. Public participation in this process occurs before the preparation of the Terms of Reference document. More technical guidelines on how to involve the community in the preparation of the AMDAL document and environmental license are outlined in the Ministry of Environment Regulation (PMNLH) No. 17 of 2012.

From this mechanism, there are several aspects that underscore the importance of a license that is provided by the following table:

Table 1. Key Aspects of AMDAL Licensing

Aspects	Description
Legal	Aims to prevent legal disputes after construction by ensuring land status clarity before building begins.
Environmental Carrying Capacity	Ensures cities are well-ordered, safe, and comfortable by requiring adherence to the Spatial Planning Master Plan (RTRW), Detailed Spatial Plan (RDTRKP), and Local Building Regulations (RTBL).
Safety	Prevents physical hazards by enforcing technical building standards, covering architecture, construction, and installation.
Supervision	Monitors compliance with technical building standards through licensing to mitigate potential hazards after construction.

In line with the enactment of Law No. 11 of 2020 on Job Creation, which is further implemented through Government Regulation No. 21 of 2021 on Spatial Planning Implementation, a review and adjustment of the Provincial and Regency/City Regional Regulations (Perda) on Spatial Planning Master Plan (RTRW) has been carried out. To enhance the effectiveness of spatial utilization control, a Regional Regulation on the Detailed Urban Area Spatial Plan (RDTRKP) has also been drafted, and preparations are underway for the Regional Regulation on Building and Environmental Spatial Plan (RTBL). However, as of the completion of this research, both Regional Regulations have not been optimally implemented for various reasons. The most significant of which is the lack of commitment from both the local government and the community regarding the importance of spatial planning. As a result, the implementation of the spatial utilization policy based on the RTRW with a scale of 1:30,000 has, in practice, led to decisions taken by authorized officials to provide technical recommendations that are often based merely on assumptions or estimations.

From the perspective of the applicability of regulations, although several laws and government regulations have been established at the national level as implementation measures, the support of comprehensive regulations

for local governments does not guarantee that these laws will be consistently, integrally, and continuously implemented at the regional level. In most regions, only the RTRW Regional Regulations, which serve as a master plan or spatial plan, are in place. These regulations primarily govern macro-level aspects or general zoning and area division, and they have yet to specify the detailed allocation of space based on the regional spatial maps, which in the RTRW are formulated into primary and supporting functions for the areas.

The implementation of spatial planning must respect the rights of individuals in accordance with legal provisions. In concrete terms, spatial planning is intended to ensure that space utilization is carried out according to the designated purposes established through legal mechanisms. Therefore, the aspect of licensing, as a tool for controlling space utilization, must be enforced consistently. Space utilization control is carried out in line with the principles of sustainable development, zoning regulations, license, incentives and disincentives, and administrative law enforcement (monitoring, license, guidance and enforcement, as well as the imposition of sanctions).

The weakness in controlling space utilization means that legal certainty becomes difficult to achieve. The consequences of neglecting legal certainty include potential conflicts or legal disputes, losses, and missed opportunities for legitimate profits, as well as chaos in implementation—both in government and societal activities. This also leads to weak law enforcement, abuse of power by government officials or law enforcers, and a loss of public trust in the law.

Therefore, the urgency of controlling space utilization that deviates from the spatial plan, whether accompanied by license or not, must be subject to administrative sanctions, criminal sanctions, and/or fines. In this regard, the role of the government (regional) in formulating and implementing policies is crucial. From an administrative law perspective, policies are often understood as the actions taken by the government (local government) in the field of public administration. The effectiveness of these policies is measured by whether governmental functions have been carried out effectively and efficiently.

In many countries, governmental functions evolve based on the needs of the community. The government, as the personification of the state, is responsible for addressing the needs of the community, wherever and whenever they arise. At the implementation level, the state's duties become the government's responsibility, concretely carried out through the mobilization of all resources for the benefit of societal needs.

The success of spatial development policy implementation is partly measured by the ability of the government (local) to carry out its functions. A good policy, in its implementation phase, must be able to achieve the intended goals. It cannot merely be a routine and technical procedure; rather, it must activate all available resources, such as human resources (HR), coordination among related agencies (SKPD), bureaucratic levels, and stakeholders. To achieve the established goals, a policy must function as a system. From the beginning, it should be designed and set in a way that outlines its sources, structure, environmental support, and the certainty of mechanisms and processes.

Policy failure often stems from internal factors and the political will of the government leadership. This means that policy implementation is not simply the translation of political objectives into routine procedures. It is much more complex, and it may encounter various conflicts, not only between decision-makers, implementers, and the target groups but also within these groups.

Regarding spatial planning policy implementation, it has failed to produce legitimacy, especially in terms of regulation and enforcement consistency. Furthermore, the public perceives the implementation of the apparatus paradigm as an agent of development, particularly through tangible services, as still being a policy on paper. As a result, the spatial plan, although established, is always fraught with recurring and critical problems in its application.

The concrete issues referred to in spatial planning and construction policies are as depicted below table:

Table 2. Legal and Regulatory Issues in Spatial Planning and Building Construction

No.	Condition	Recommended Action
1	Properly licensed, compliant with designation and building regulations, and causing no harm to the public or environment	Should be legally protected; rewards such as publicity for legal compliance should be granted to boost public trust.
2	Properly licensed but not in accordance with the designated use	Should be ordered to adjust to new spatial planning regulations with fair compensation provided to the license holder acting in good faith.
3	Properly licensed but violating building regulations	Should administrative sanctions such as fines or governmental coercion (forced fines). Heritage buildings may face cumulative penalties, including criminal sanctions.
4	Properly licensed but facing community objections	License should not be revoked; instead, community engagement and legal action should be allowed as per applicable mechanisms.
5	Properly licensed but violating the license terms	Should incur sanctions based on the nature of the violation as stipulated in relevant regulations.

6	Properly licensed with no violations but with temporary function shifts in some buildings	Should incur sanctions based on the violation type, as per regulations.
7	No license, but the building complies with designation and building regulations, and no public objections exist	We should still face sanctions and be required to obtain a license.
8	No license, non-compliant with designation and building regulations, and negligence from both government and public	Should not be granted a license; demolition should be enforced.
9	No license, non-compliant with designation but follows building regulations, and no public objections	Should face government coercion sanctions; cannot be substituted by fines and must follow legal mechanisms for spatial planning violations.
10	License under process, but construction is already underway	Construction should be halted until compliance is verified. If compliant, cumulative sanctions (such as fines) should be imposed, and the license process must be completed with penalties for delay.
11	License under process, construction ongoing with partial violation of spatial regulations	Licenses should be issued, but cumulative sanctions such as forced fines, penalties, and partial demolition should apply. Officials issuing licenses improperly should also face disciplinary action.

These forms of issues emphasize the need for consistency in enforcement, clarity in regulation, and accountability in spatial planning policies to achieve orderly development and prevent legal conflicts. To address the issues, policy innovations are required to break the cycle of challenges, either through more applicable policy frameworks or by creating space for raising public awareness regarding the significance and functions of licensing. These functions include fulfilling administrative requirements for constructing or demolishing buildings, as well as ensuring proper data collection and classification of existing structures to achieve order and legal certainty. These policies should be adapted to practical needs based on previous policies that have not been fully implemented or new policies requiring acceleration. Some key approaches include:

1. A licensing amnesty policy with a proactive awareness approach (JBK), implemented in a tiered and simultaneous manner alongside the Community Assistance Program (Bantuan RW), with full funding from the Regional Budget (APBD);
2. The acceleration of electronic licensing services (Online Service), with reduced processing times, in line with the September 2015 Policy Package, Legal Due Diligence, and the Job Creation Law (UU Cipta Kerja), aimed at simplifying systems and procedures while ensuring transparency in civil service (ASN) performance.
3. A continuous (multi-year) and simultaneous public awareness campaign on building license as a tool for spatial planning control, integrated with the Bantuan RW program and structured similarly to property tax (PBB) collection policies.
4. A reward program for high-performing and outstanding civil servants (*Aparatur Sipil Negara*, ASN) as an integral component of career tracking and promotion, also extended to the public and other relevant stakeholders; and
5. Inter-regional government cooperation, particularly regarding the licensing mechanisms for buildings planned to be constructed across administrative boundaries.

The authority and procedures for issuing Building Approval License (*Persetujuan Bangunan Gedung*, PBG) lie with the Regional Head, who, in practice, has delegated their implementation to the Head of the Integrated Licensing Service Agency (*Badan Pelayanan Perizinan Terpadu*, BPPT). The performance of BPPT is not measured by the physical output in terms of the number of licenses issued but by the extent to which service standards and operational mechanisms are implemented in accordance with the prescribed Service Standards and Mechanisms for Licensing and Non-Licensing. The primary objective is to enhance the quality, efficiency, and effectiveness of licensing services for the public, conducted through a coordinated approach among relevant regional government units (SKPD). However, the performance of BPPT in processing PBG license, despite available infrastructure, remains an area that requires further optimization.

To improve this, the following measures should be taken: *firstly*, a structured effort to enhance the technical competencies of BPPT's human resources, complemented by a recruitment policy focused on informatics engineering (management and networking), regional development engineering, administrative law, and statistics to support the digitalization of services; *secondly*, institutional coordination among relevant SKPDs, founded on integrity and a commitment to aspirational public service performance, while considering evolving urban dynamics; *thirdly*, the promotion of a culture of regulatory compliance in construction through systematic and continuous

dissemination of licensing regulations and their various functions, leveraging existing resources and fostering media partnerships (both print and digital) to advance public interest; and *finally*, the acceleration of spatial planning regulations through the enactment of Regional Spatial Detail Plans (RDTRKP), Regional Building and Environmental Design Plans (RTBL), and revisions to building license-related legislation to align with urban development dynamics and sustainable environmental planning.

The Participatory Paradigm of Licensing: A Proposal

The reality of growth and development across various sectors has given rise to numerous creative initiatives, both in the form of new ideas and as platforms for discussion and enlightenment. Ultimately, these efforts foster public participation and active engagement in different dimensions of development. Development can no longer be claimed as the achievement of a particular group or community; rather, it is a historical continuum and a collective endeavor involving the entire government apparatus and all segments of society, along with its resulting implications. Therefore, every aspect must function as part of an integrated system, where each element holds an equally interdependence position in achieving a shared and predetermined goal.

In addition, the fundamental purpose of law is to establish an orderly social and national structure, encompassing the principles includig: a) Justice. In the context of social and national life, legal provisions should be applied equally to all members of society and state officials. This ensures fairness, fosters public satisfaction, and promotes social harmony; 2) Order. A well-ordered society contributes to a balanced and proportional fulfillment of societal demands and needs, ultimately leading to a peaceful and stable environment; and 3) Certainty. Legal certainty guarantees that both individuals and state officials act within a clear legal framework. This assurance provides clarity regarding legal events, which in turn foster not only social stability but also economic growth.

From a functional perspective and effectiveness, law serves the purposes including:

- a. **Guidance Function.** Law provides a framework or direction for members of society to regulate their behavior.
- b. **Supervisory and Social Control Function.** Law acts as a mechanism to oversee and regulate social conduct, ensuring compliance with established norms.
- c. **Dispute Resolution Function.** Law serves to resolve conflicts and disputes within society through formal legal procedures; and d) **Social Engineering Function** – Law plays a role in shaping and driving societal change, fostering progress, and adapting to evolving social dynamics.

Furthermore, Sjachran Basah further enriches the substantive functions of law as an instrument of development by introducing five key functions:

1. **Directive Function** – Law serves as a guide in development, shaping society in accordance with the intended societal objectives.
2. **Integrative Function** – Law fosters national unity and cohesion.
3. **Stabilitative Function** – Law preserves and maintains harmony, alignment, and balance within the state and society, including the protection of development achievements.
4. **Perfective Function** – Law acts as a mechanism for refinement, both in terms of state administrative actions and citizens' conduct, particularly in cases of societal conflicts.
5. **Corrective Function** – Law functions as a corrective tool for both state administration and individuals when disputes arise concerning rights and obligations, ensuring justice is upheld.

Therefore, the functions of law in relation to spatial planning can be categorized as follows:

1. **Normative Function.** Encompassing justice, legal certainty, protection, utility, binding and coercive power, and liability.
2. **Instrumental Function.** Maintaining order and stability, preventive legal measures, and regulatory control (sturen).
3. **Guarantee Function, Democratic Rights:** The right to information, the right to express opinions, and the right to influence decision-making. Welfare Rights: Entitlement to fair compensation, subsidies, allowances, and other forms of financial support. Justice Rights: The right to oversight, the right to objection, and the right to file legal claims (including legal standing and class action lawsuits).

In line with the evolving complexities and dynamics of governance nationally and regionally, licenseting holds a dominant legal position as a key instrument for achieving spatial planning objectives in accordance with established Spatial Planning Regulations (RTRW), Detailed Spatial Plans (RDTRKP), and Building and Environmental Planning Regulations (RTBL). To serve this purpose, the government, through State Administration, exercises its authority by implementing legal instruments that define the function of license within the regulatory framework. In addition, according to Adrian Sutedi, licenseting serves several functions, namely: 1) Development Engineering Instrument; 2) Budgetering; 3) Regurelen.

However, the function of the license (PBG) with a specific role, as defined in the legislative regulations, can shift to another function, either due to the need to meet the demands of development or because of other factors

that emerge later in practice. This shift is generally proportional to the aspect of law enforcement, which can be said to be ineffective. In the case of building licenses, both conceptually and procedurally, they serve as a key instrument in spatial planning. Before a license is issued, several prerequisites that the applicant must fulfill must be completed, including land use license (IPPT), location license, site plans, and environmental license. Therefore, if these preceding licenses have followed the procedures in accordance with the applicable regulations, the issuance of the license should not deviate from the function that has been established, especially now that it is integrated through the Online Single Submission (OSS) system.

From this study, it can be stated that the function of licenses in spatial planning policy has expanded, including:

1. **Primary Function of the License**, which refers to its role within the integrated spatial planning policy system, consisting of a) Regulatory instrument function; b) Control instrument function for land use.
2. **Ancillary Function of the License**, which refers to functions that are inherent due to government (regional) policies in spatial planning, consisting of:
 - a. Budgeting
 - b. Development
 - c. Legal protection guarantees
 - d. Supervision
 - e. Information
 - f. Equity
 - g. Environmental damage prevention
 - h. Environmental health
 - i. Education
 - j. Public participation.

Regarding its function as a budgeting tool, the government has made efforts to optimize regional revenue through measures related to the intensification and extensification of regional taxes and levies. The realization of regional revenue (PAD) from building license (PBG) fees in the past five years across several regions (districts/cities), particularly since the introduction of policies for the intensification and extensification of local taxes and levies starting from the 2011 fiscal year, has shown significant results. However, in nominal terms, both the budget targets and actual realization of PAD remain relatively small, with the main causes being as follows:

1. The data collection and classification of buildings that are required to have a PBG have not been fully realized, except for the data collection of residential buildings.
2. The level of participation from building owners in fostering a culture of orderly construction remains low.
3. The commitment of regional governments in both finalizing spatial planning regulations and enforcing the law has not been optimal.
4. Coordination between relevant regional offices (SKPD) regarding license (PBG) has not been maximized, leading to the partial implementation of their authority.

In general, the spatial planning dimensions based on the function of license (licensing) continuously raise questions, including whether, both *ex ante* and *ex post* the implementation of the Online Single Submission (OSS) system, these licensing functions can be applied partially or simultaneously, whether one function is more dominant than the others, or whether one function precedes another in addressing the same issue. As of the time of this research, the implementation of license functions based on the authority of the central and regional governments still appears to be in a formative stage. Consequently, from a legal perspective, these functions continue to stand independently within the regulatory framework.

The implementation of license functions will be related to several aspects, namely:

1. National and regional spatial planning.
2. Spatial utilization and management.
3. Spatial planning regulations.
4. Human resources and other supporting capacities.
5. License service systems and mechanisms.
6. Societal values and their evolving dynamics; and
7. Monitoring and evaluation.

This study is conducted as an innovative effort to redefine the paradigm of license, which are commonly understood as mere “approvals,” into an instrument for spatial utilization control. It seeks to move beyond a normative understanding of license as mechanisms for spatial governance based solely on procedures and regulations, advocating instead for a new paradigm in spatial management. This paradigm emphasizes that legal frameworks must adapt to the unique environmental and societal characteristics of each region, acknowledging the factual differences between one area and another.

To achieve this, the study constructs a Collaborative Model of License Functions, integrating the primary function of license as a regulatory instrument and a tool for spatial utilization control with an accessory function

(*accessoir*) that prioritizes specific purposes or a combination of functions. This model is tailored to the dynamics of Regional Urban Areas (Bagian Wilayah Kawasan Perkotaan, BWKP) or Sub-Regional Urban Areas (Sub Wilayah Kawasan Perkotaan, SWKP).

By maximizing stakeholder participation in spatial planning, utilization, and control processes—while positioning the government (local authorities) as facilitators ensuring high-quality public services, the proposed model aims to create a win-win situation for all stakeholders. Thus, the formulation of spatial planning documents, spatial utilization strategies, and control measures, along with their implementation, requires real coordination among government institutions and the active participation of all development actors through a deliberate mechanism. Within this framework, the crucial role of public participation in sustaining the implementation of sustainable spatial planning policies becomes evident.

In essence, spatial planning without public involvement is untenable and would only result in inconsistencies in the enforcement of existing regulations. Thus, regulatory inconsistencies can be avoided if public participation is positioned as a key measure of success in spatial planning development. Consequently, a reality characterized by low participation levels—or even an apathetic attitude—serves as an indication of the need to develop a model that enables the fullest possible expression of public participation.

The proposed model serves as a mechanism to strengthen public participation, referred to as the Regional Spatial Planning Participation Forum (*Forum Partisipasi Penataan Ruang Daerah*, FPPRD or FP2RD) at the regional level and the National Spatial Planning Participation Forum (*Forum Partisipasi Penataan Ruang Nasional*, FPPRN) at the national level. These forums operate digitally, covering all administrative levels from neighborhood units (RT/RW), villages (*Kelurahan*), sub-districts (*Kecamatan*), and cities, up to the provincial and national levels. The FPPRD (FP2RD) and FPPRN function as platforms for fostering mutual understanding and agreements among development actors, government (regional and national), and the public (stakeholders) to ensure that spatial planning policies and objectives are implemented in a legally and procedurally compliant manner.

The FPPRD deliberations provide an effective mechanism for harmonizing bottom-up spatial planning and policy implementation with the top-down approach, thereby creating conditions that encourage active public engagement and responsiveness to urban dynamics while fostering collaboration toward shared goals. In such a setting, government institutions, the public (stakeholders), and development actors, particularly the business sector, can collectively engage in the spatial planning process—from aligning conceptual frameworks, designing regulatory drafts, enacting spatial planning regulations following legislative procedures, implementing policies, overseeing compliance, and maintaining development outcomes.

Through FPPRD deliberations, the expanded function of license can be integrated into amendments to Regional Spatial Planning Regulations (Perda RTRW) and Building Regulations (Perda Bangunan Gedung), along with their implementing regulations. Under this mechanism, the role of the Regional Spatial Planning Coordination Board (BKPRN) is not limited to its designated functions but also serves as a collaborative platform for the government, public (stakeholders), and development actors in implementing spatial planning policies.

This collaborative model ensures a balanced alignment of interests between license applicants or Building Approval (PBG) holders (individuals or legal entities), the public (stakeholders), and the regional government in promoting sustainable land use. By positioning the government as a facilitator, license applicants receive high-quality services, while public stakeholders are educated and empowered, making their participation more valuable and recognized. If consistently implemented and proven beneficial, this model will foster social harmony, ultimately leading to the greatest possible public welfare. License applicants, either individuals or legal entities, could benefit by avoiding community opposition and, instead in many cases, gaining public support. At the same time, public stakeholders benefit by mitigating adverse impacts from non-residential buildings and, in certain cases, gaining socio-economic incentives (e.g., Corporate Social Responsibility programs) to enhance their well-being. Ultimately, the regional government also benefits, as many of its policy-driven development programs can be successfully realized.

CONCLUSION

Regulations define license as instruments for controlling spatial utilization, emphasizing their primary function as regulatory and spatial control instruments. Additionally, licenses serve accessory functions, including budgetary support, development facilitation, legal protection, oversight, information dissemination, equitable resource distribution, environmental conservation, public health, education, and community participation. These diverse roles highlight the importance of license in ensuring sustainable and well-regulated spatial planning.

The role of license as a means of community participation can be effectively implemented through strengthened collaboration among spatial resources, environmental capacity, applicant interests, active stakeholder engagement, and government facilitation. The spatial planning policy framework should be based on the principle of mutual benefit. If public participation in spatial planning is not effectively implemented, it indicates a failure in

realizing the philosophical foundations of spatial planning laws. This necessitates legislative reforms, particularly in substantive aspects, to ensure the alignment of regulatory frameworks with participatory governance principles. Practically, spatial planning policies should prioritize public welfare and institutionalize participatory mechanisms through the Regional Spatial Planning Participation Forum (FPPRD/FPPRN) with BKPRD/BKPRN as facilitators. The core function of license as regulatory and control instruments should be adapted to urban dynamics, ensuring that public participation remains a key measure of spatial planning success.

ACKNOWLEDGMENTS

Researchers' gratitude expressed to the Rector of Universitas Wiralodra, the Rector of UIN Sunan Gunung Djati Bandung, the Rector and Director of the Postgraduate Program of UIN Syekh Nurjati Cirebon. Also, special gratitude for the financial support provided by Beasiswa Indonesia Bangkit (BIB), the Ministry of Religious Affairs of the Republic of Indonesia (Kemenag), and the Indonesia Endowment Fund for Education (LPDP) of the Ministry of Finance of the Republic of Indonesia. They have supported and provided opportunities for researchers to improve their academics through research and scientific publications so that the results can be published.

BIBLIOGRAPHY

Books

Basah, S. (1986). *Tigatalisan tentang hukum*. Jakarta: *Armico*.

Hartono, S. (1994). *Penelitian hukum di Indonesia pada akhir abad ke-20*.

Juwana Hikmahanto (2011). *Metode Penelitian (Normatif)*. Surakarta: UNS.

Khalla, A. W (1988). *Kaidah-Kaidah Hukum Islam IJmu Ushul Fiqh*, Penerjemah: Noer Iskandar al-Barsany & Moh. Tolehah Mansoer. Jakarta: PT. *Raja Grafindo Persada*.

Rakhmat, J. (2006). *Kata Pengantar Dalam Buku Abdul Manan Reformasi Hukum Islam*. Jakarta: PT. *Raja Grafindo Persada*.

Soemitro, H. R, (1990) *Metode Penelitian Hukum dan Jurimetri*. Jakarta : Ghalia Indonesia.

Soekanto, Soerjono., and Sri. Mamudji (2015). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada.

Journal Articles

Alcaide Manthey, Naomi. "The Role of Community-Led Social Infrastructure in Disadvantaged Areas." *Cities* 147 (April 1, 2024): 104831. <https://doi.org/10.1016/J.CITIES.2024.104831>

Aristyowati, Aristyowati, Evawani Ellisa, and Ahmad Gamal. "An Investigation of Socio-Spatial Equality in Blue-Green Space at the Setu Babakan Area, Jakarta." *City and Environment Interactions* 22 (April 1, 2024). <https://doi.org/10.1016/j.cacint.2023.100137>

Aufa, Muhammad Fikri, Noor Syahbania, and Fiko Agung Pradana. "Juridical Study in Implementing A System on Licensing for Establishing Buildings in Banjarmasin City." *Jurnal Penegakan Hukum Dan Keadilan* 3, no. 1 (March 31, 2022): 60–77. <https://doi.org/10.18196/JPHK.V3I1.13411>

Budiman, Haris, Anis Mashdurohatun, and Eman Suparman. "A Comparative Study Of Spatial Policy In Indonesia And The Netherlands." *Jurnal Dinamika Hukum* 18, no. 3 (September 14, 2018): 295–300. <https://doi.org/10.20884/1.JDH.2018.18.3.2154>

Craig, Robin Kundis, Ahjond S. Garmestani, Craig R. Allen, Craig Anthony Tony Arnold, Hannah Birgé, Daniel A. DeCaro, Alexander K. Fremier, Hannah Gosnell, and Edella Schlager. "Balancing Stability and Flexibility in Adaptive Governance: An Analysis of Tools Available in U.S. Environmental Law." *Ecology and Society : A Journal of Integrative Science for Resilience and Sustainability* 22, no. 2 (June 1, 2017): 1. <https://doi.org/10.5751/ES-08983-220203>

Dagan, Hanoch, and Roy Kreitner. "Economic Analysis in Law." *Yale Journal on Regulation* 38, no. 2 (August 25, 2020): 566–88. <https://doi.org/10.2139/SSRN.3680686>

Eakin, Hallie, Svenja Keele, and Vanessa Lueck. "Uncomfortable Knowledge: Mechanisms of Urban Development in Adaptation Governance." *World Development* 159 (November 1, 2022): 106056. <https://doi.org/10.1016/J.WORLDDEV.2022.106056>

Fajrina, Rizky Noor, Ana Silviana Program, and Studi Magister Kenotariatan. "Izin Mendirikan Bangunan (IMB) Sebagai Pengendalian Pembangunan Di Kota Semarang." *Notarius* 16, no. 1 (April 27, 2023): 485–99. <https://doi.org/10.14710/NTS.V16I1.41530>

Fauzani, Muhammad Addi. "Alternative Implementation of Regulations on Taking Over Regional Government Authorities By The Central Government." *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 9, no. 2 (November 1, 2024): 496–510. <https://doi.org/10.22373/PETITA.V9I2.343>

Fitra Wijanarko, Tunjung, Mochamad Moro Asih, and Sekolah Tringgi Pertanahan Nasional. "Legal Instruments in the Spatial Planning Sector as a Spatial Utilization Control Tool." *The International Journal of Politics and Sociology Research* 10, no. 4 (March 30, 2023): 249–62. <https://doi.org/10.35335/IJOPSOR.V10I4.87>

Gunawan, Adi, Adriana Pakendek, Win Yuli Wardani, Sri Sulastri, Achmad Taufik, and Nadir. "Indonesian Spatial Planning After the Enactment of the Job Creation Law as a Formulation Effort Towards the Society Era 5.0." *International Journal of Science and Society* 4, no. 2 (March 31, 2022): 16–26. <https://doi.org/10.54783/IJSOC.V4I2.446>

Hariram, N. P., K. B. Mekha, Vipinraj Suganthan, and K. Sudhakar. "Sustainable: An Integrated Socio-Economic-Environmental Model to Address Sustainable Development and Sustainability." *Sustainability* 2023, Vol. 15, Page 10682 15, no. 13 (July 6, 2023): 10682. <https://doi.org/10.3390/SU151310682>

Kapucu, Naim, Yue Ge, Emilie Rott, and Hasan Isgandar. "Urban Resilience: Multidimensional Perspectives, Challenges and Prospects for Future Research." *Urban Governance* 4, no. 3 (September 1, 2024): 162–79. <https://doi.org/10.1016/J.UGJ.2024.09.003>

Kuncorowati, Puji Wulandari, I Gusti, Ayu Ketut, Rachmi Handayani, and Rahayu Subekti. "Enforcement of Spatial Planning Laws in Controlling Spatial Use Permits in Yogyakarta." *Jurnal Civics: Media Kajian Kewarganegaraan* 21, no. 1 (April 30, 2024): 54–62. <https://doi.org/10.21831/jc.v21i1.70161>

Kusriyah, Sri. "The Implementation Of Spatial Planning Policy Through Spatial Utilization To Realize Sustainable Regional Spatial Order." *Journal of Governance and Regulation* 12, no. 4 Special Issue (2023): 277–86. <https://doi.org/10.22495/jgrv12i4siart7>

"Ministry Of Public Works And Housing Regional Infrastructure Development Agency Indonesia Tourism Development Program Environmental And Social Management Framework Final," 2018.

Nowak, Maciej J., Renato Monteiro, Jorge Olcina-Cantos, and Dimitra G. Vagiona. "Spatial Planning Response to the Challenges of Climate Change Adaptation: An Analysis of Selected Instruments and Good Practices in Europe." *Sustainability* 2023, Vol. 15, Page 10431 15, no. 13 (July 2, 2023): 10431. <https://doi.org/10.3390/SU151310431>

Nowak, Maciej, Alexandru Ionut Petrisor, Andrei Mitrea, Krisztina Filepné Kovács, Gunta Lukstina, Evelin Jürgenson, Zuzana Ladzianska, et al. "The Role of Spatial Plans Adopted at the Local Level in the Spatial Planning Systems of Central and Eastern European Countries." *Land* 2022, Vol. 11, Page 1599 11, no. 9 (September 18, 2022): 1599. <https://doi.org/10.3390/LAND11091599>

"Pagar Laut Punya Sertifikat HGB, Ini Hukumnya Menurut MUI | Republika Online." Accessed February 1, 2025. <https://khazanah.republika.co.id/berita/sqex2i430/pagar-laut-punya-sertifikat-hgb-ini-hukumnya-menurut-mui>.

Roitman, Sonia, Rusli Cahyadi, and Johanna Brugman Alvarez. "Inclusionary Planning Instruments in Two Indonesian Cities: A Missed Opportunity to Address Urban Inequalities." *Housing Studies*, November 6, 2024, 1–25. <https://doi.org/10.1080/02673037.2024.2421848>

Rustiadi, Ernan, Andrea Emma Pravitasari, Yudi Setiawan, Setyardi Pratika Mulya, Didit Okta Pribadi, and Narumasa Tsutsumida. "Impact of Continuous Jakarta Megacity Urban Expansion on the Formation of the Jakarta-Bandung Conurbation over the Rice Farm Regions." *Cities* 111 (April 1, 2021): 103000. <https://doi.org/10.1016/J.CITIES.2020.103000>

Schiavo-Campo, Salvatore, and Pachamet Sundaram. "To Serve and To Preserve: Improving Public Administration In A Competitive World," n.d.

Sumartini, R. Siti, Jajang Arifin, Suhendar Abas, and Didi Nursidi. "Implementasi Implementasi Tertib Administrasi Kependudukan Dan Relevansinya Dengan Konsep Asas-Asas Umum Pemerintahan Yang Baik (Good Governance) Dalam Konsep Negara Hukum." *Yustitia* 10, no. 1 (April 15, 2024): 16–30. <https://doi.org/10.31943/YUSTITIA.V10I1.243>

Suroso, Joko T., Dani Durahman, and Indra Budi. "The Simplification of Licensing Procedure in Job Creation Law: The Effectiveness to Attract Foreign Investor." *Cogent Social Sciences* 10, no. 1 (2024): 2414509. <https://doi.org/10.1080/23311886.2024.2414509>

Sutedi, Adrian. *Hukum Perizinan Dalam Sektor Pelayanan Publik*. Jakarta: Sinar Grafika, 2010.

Tan, Anselmus, Jalan Merdeka, Utara Nomor, and Jakarta Pusat. "Raising Local Fiscal Autonomy in the Local Autonomy Management: A Study in Bogor Regency." *Jurnal Bina Praja* 12, no. 1 (May 28, 2020): 53–63. <https://doi.org/10.21787/JBP.12.2020.53-63>

Wijatmoko, Erlan, Armaidy Armawi, and Teuku Faisal Fathani. "Legal Effectiveness in Promoting Development Policies: A Case Study of North Aceh Indonesia." *Heliyon* 9, no. 11 (November 1, 2023): e21280. <https://doi.org/10.1016/J.HELION.2023.E21280>

Regulations

Undang-Undang Dasar 1945

Undang-Undang Nomor 28 Tahun 2002 tentang Bangunan Gedung

Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah

Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah

Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang

Peraturan Pemerintah Nomor 26 Tahun 2008 tentang Rencana Tata Ruang Wilayah Nasional (RTRWN)

Peraturan Pemerintah Nomor 68 Tahun 2010 tentang Bentuk dan Tata Cara Peran Masyarakat Dalam Penataan Ruang

Peraturan Pemerintah Nomor 21 Tahun 2021 tentang Penyelenggaraan Penataan Ruang.

Peraturan Menteri Pekerjaan Umum Nomor 26/PRT/M/2007 tentang Pedoman Teknis Izin Mendirikan bangunan.

Websites

<https://khasanah.republika.co.id>, Ikhsan Abdulah : Pagar Laut Punya Sertifikat, accessed 21 Januari 2025