

REAL ESTATE & PLANNING

NEW ORDINANCES UNDER THE MAIS
HABITAÇÃO AND URBAN SIMPLEX PROGRAMMES

VdA EXPERTISE



March 2021

Following the entry into force of Law no. 56/2023, of 6 October, which approved a set of measures regarding housing, introducing several legislative changes (“Mais Habitação”), and Decree-Law no. 10/2024, of 8 January, which reformed and simplified licensing procedures concerning planning and zoning (“Urban Simplex”), the following ordinances were recently published:

In the context of the Mais Habitação:

- i. Ordinance no. 69-A/2024, of 23 February (“Ordinance 69-A/2024”); and
- ii. Ordinance no. 69-B/2024, of 23 February (“Ordinance 69-B/2024”).

In the context of the Urban Simplex:

- i. Ordinance no. 71-A/2024, of 27 February (“Ordinance 71-A/2024”);
- ii. Ordinance no. 71-B/2024, of 27 February (“Ordinance 71-B/2024”); and
- iii. Ordinance no. 71-C/2024, of 27 February (“Ordinance 71-C/2024”).

Below is a brief overview of the main aspects that these ordinances aim to regulate.

Mais Habitação

Ordinance 69-A/2024

The Mais Habitação created support options to promote affordable housing, namely the transfer of public lands and buildings for this purpose. Ordinance 69-A/2024 regulates the terms and conditions of support option to promote affordable housing in this form of transfer of public lands and buildings, specifically regulating the procedures for identifying public property suitable for this purpose, for selecting the entities benefiting from the surface rights to be set up on that public property and for selecting the tenants for the units subject to the affordable housing regime.

Ordinance 69-B/2024

The Mais Habitação created support options to promote affordable housing, namely the provision of a credit line with a mutual guarantee and interest rate subsidies, subjecting the housing built with this credit to the parameters and values in force for controlled-cost housing, namely with regard to the development cost per square metre. Ordinance 69-B/2024, which proceeds to the second amendment of Ordinance 65/2019, of 19 February, which revises the controlled-cost housing regime:

- (i) Considers housing built or refurbished through the aforementioned credit line as controlled-cost housing;
- (ii) Changes the definitions of “controlled-cost housing building” (*Edifício habitacional de custos controlados*) and “controlled-cost housing development” (*Empreendimento habitacional de custos controlados*) (to make these concepts compatible with the changes introduced under the Mais Habitação); and
- (iii) Establishes Technical Recommendations for Controlled-Cost Housing (*Recomendações Técnicas da Habitação de Custos Controlados*) in its annex, simplifying the Technical Rules (*Regras Técnicas*) currently in force.

Urban Simplex

Ordinance 71-A/2024

The Urban Simplex has limited the documents that can be required as part of the procedures laid down in Decree-Law no. 555/99, of 16 December, which establishes the legal regime of urban planning and construction ("RJUE"). Ordinance 71-A/2024 identifies those documents. In this context, the list of items that must be included in the processes submitted under the RJUE, as well as the respective conditions for submission, and the models of the terms of responsibility that must be submitted under the RJUE, were approved.

Ordinance 71-B/2024

The Urban Simplex provides for the approval of mandatory templates applicable to licences, responses to prior communications and acts to be carried out by technicians. Ordinance 71-B/2024 approves these templates, as well as those for publicising urban planning operations, under the RJUE. Specifically, the following have been approved:

- (i) Licence templates for allotment, urbanisation, construction, demolition, land remodelling and other urban planning operations;
- (ii) Templates for responding to prior communication of allotment, urbanisation and construction operations;
- (iii) Templates for responding to prior communication with deadline for use not preceded by an urban development operation subject to prior control and for responding to communication of use after an urban development operation subject to prior control; and
- (iv) Templates for responding to prior information requests regarding allotment, urbanisation and construction operations.

Note: Ordinance 71-B/2024 seems to contradict one of the great novelties brought about by the Urban Simplex: the end of permits.

Apparently based on a misunderstanding regarding the concepts of "licence" and "permit", Ordinance 71-B/2024 states that "the execution of works subject to licensing can only begin **once the respective licence has been issued**" (emphasis added), and then provides for a set of "licence" templates that are in every way similar to the old construction permits. On the other hand, also with regard to use in cases of urban planning operations subject to prior control, the ordinance seems to be making a mistake, as it seems to presuppose the need to issue a document identical to the old use permits, when the RJUE (as amended by the Urban Simplex) states that use can begin immediately after the terms of responsibility and the final blueprints (if applicable) have been submitted.

It seems clear to us that these aspects will have to be clarified and even rectified, otherwise they will create an environment of legal uncertainty, which the legislator certainly didn't want.

Ordinance 71-C/2024

The Urban Simplex amended the RJUE in the sense that the book of construction works is not considered to be an element of the licence or communication request, and should not be sent to the Municipality at the end of the work, nor be subject to any prior analysis, registration, validation or opening or closing term by public entities. Ordinance 71-C/2024 amends Ordinance no. 1268/2008, of 6 November, which defines the template and requirements of the book of construction works and sets out the characteristics of the scanned book of construction works, precisely in order to adjust the latter ordinance in line with the changes introduced by the Urban Simplex.

Contacts



MIGUEL MARQUES DOS SANTOS
MMDS@VDA.PT



PEDRO MORAIS VAZ
PVZ@VDA.PT