

Publication of the implementation status of the relaxed building use restrictions and commentary (Research period: FY 2016–)

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1. Introduction

In July 2020, the NILIM published the implementation status of the relaxed building use restrictions and commentary (hereinafter referred to as the "Commentary") that explains the implementation status of the relaxed regulation that allows the installation of buildings that are not permitted in the region, although they are expected to contribute to regional revitalization, as an exception.^{1,2} This paper introduces the background and objectives of the publication of this book and its outline.

2. Background and objectives of publishing the Commentary

In Japan, in order to realize the ideal image of urban areas, building use regulations (in addition to the prohibited uses in a given use district, standards for motor power output, and area for certain uses, etc.) are enforced in each use district defined in city planning. However, depending on the use districts, there are cases where

buildings that have the potential to contribute to regional revitalization etc. do not conform to the building use restrictions, and their installation (new construction, extension, change of use) is abandoned. For example, as a general rule, stores and restaurants with the floor area of more than 150 m² cannot be installed in Category 1 and Category 2 low-rise exclusive residential districts, and inns cannot be installed in Category 1 and Category 2 low-rise exclusive residential districts, and Category 1 and Category 2 medium-to-high-rise exclusive residential districts (Figure 1).

On the other hand, the City Planning Act and other relevant laws and regulations provide deregulation methods and special permission processes that allow the installation of buildings for prohibited uses according to local conditions (City Planning Act: special use districts, district plan, Building Standards Act: permission under Proviso of Article 48 etc.). However, according to a questionnaire survey conducted by the NILIM involving local governments, these methods and systems have not necessarily been used frequently for reasons, such as high hurdles in completing the procedures (special use districts and district plans), lack of established examination techniques at local governments, and applicants tend to postpone their applications due to the uncertain prospects of gaining permission (permission under the proviso of Article 48 of the Act).

In light of this background, this book has been prepared as a guide to the implementation of the deregulation of building use, which will serve as a reference for both local governments and applicants to facilitate the smooth implementation of the deregulated methods on building uses.

3. Outline of the Commentary

The Commentary covers the following three methods to relax the regulation on building use: (1) relaxation of the regulation of use through special use districts (Article 9 of the City Planning Act); (2) relaxation of the

Limit to the use of buildings in use districts		Category 1 low-rise exclusive residential districts	Category 2 low-rise exclusive residential districts	Category 1 medium-to-high-rise exclusive residential districts	Category 2 medium-to-high-rise exclusive residential districts
Residential	House, apartment, dormitory, boardinghouse	○	○	○	○
	A house combined with a non-residential section, with the floor area of the non-residential section being 50 m ² or less and occupying less than half of the total floor area of the building	○	○	○	○
Commercial	Stores				
	Floor area is 150 m ² or less.	×	△	△	△
	Floor area is 150 m ² to 500 m ² or less.	×	×	△	△
	Floor area is 500 m ² to 1,500 m ² or less.	×	×	×	△
	Floor area is 1,500 m ² to 3,000 m ² or less.	×	×	×	×
	Floor area is 3,000 m ² or larger.	×	×	×	×
	Offices other than the above	×	×	×	△
Hotels and inns	×	×	×	×	
Bowling alleys, ice skating rinks, swimming pools, etc.	×	×	×	×	
Karaoke box, etc.	×	×	×	×	
Mahjong parlors, pachinko parlors, shooting ranges, mutual teller counters, etc.	×	×	×	×	

Example of restriction on uses for buildings



Figure 1: An example where it is difficult to conform to the building use regulation (image)

- 1. Relaxation of use restrictions through the application of special use districts (Article 9 of the City Planning Act)**
 - ◆ A system of city planning in which local governments designate certain districts to supplement use districts and to promote the convenience of specific uses or to protect the environment for special purposes.
 - ◆ Use restrictions can be strengthened or relaxed by ordinance within the districts. Approval of the Minister of Land, Infrastructure, Transport and Tourism is required for relaxation of use restrictions (Article 49, Paragraph 2 of the Building Standards Act).
- 2. Relaxation of use restrictions through the application of district plan (Article 12-4 of the City Planning Act)**
 - ◆ A comprehensive plan for the development of district facilities and buildings, as well as for land use, formulated by a local government in order to realize a good urban environment for district residents in a detailed manner on a city block basis.
 - ◆ Use restrictions can be strengthened or relaxed by ordinance within the districts. Approval of the Minister of Land, Infrastructure, Transport and Tourism is required for relaxation of use restrictions (Article 68-2, Paragraph 5 of the Building Standards Act).
- 3. Permission under Proviso of Article 48 of the Building Standards Act**
 - ◆ A system under which buildings that cannot be built, in principle, because of the land use regulations, are allowed to be built as a special case if a specified administrative agency approves the installation if there is no risk of harm to the urban environment in the respective use districts or if it is unavoidable in the public interest.
 - ◆ As a general rule, when granting the permit, public hearings are held to obtain opinions from stakeholders and the consent of a building review council is required (Article 48, Paragraph 15 of the Building Standards Act).

Figure 2: Outline of methods to relax building uses regulations mentioned in the book regulation of use through district plan (Article 12-4 of the City Planning Act); and (3) the permission under Proviso of Article 48, the Building Standards Act (Figure 2).

Figure 3 describes the structure of the book. Chapter 1

Introduction
Structure of this book
Chapter 1. Outline related to the relaxation of use regulations
(1) Types of ways to relax main use regulations
(2) Characteristics of individual methods of implementation
(3) Concept of changing use districts
Chapter 2. Relaxation of use regulations through the application of special use districts
(1) Concept of relaxing use regulations through the application of special use districts
(2) Concept of setting areas
(3) Decision-making process and matters to pay attention to during the individual stages
(4) Discussion with relevant bureaus
(5) Effects on the surrounding urban environment
(6) Examples
Chapter 3. Relaxation of use regulations through the application of district plan
(1) Concept of relaxing use regulations through the application of district plan
(2) Concept of setting areas
(3) Decision-making process and matters to pay attention to during the individual stages
(4) Discussion with relevant bureaus
(5) Effects on the surrounding urban environment
(6) Examples
Chapter 4. Permission under Proviso of Article 48 of the Building Standards Act
(1) Concept of the permission under Proviso of Article 48
(2) Permission criteria
(3) Reviewing process and matters to pay attention to during the individual stages
(4) Points to keep in mind in the review of the permission under Proviso of Article 48 (examples)
(5) Effects on the surrounding urban environment
(6) Examples
(7) Q&A concerning the permission under Proviso of Article 48
References
● Excerpts from relevant laws and regulations (laws, government ordinances, public notices, operational guidelines, technical advice, old notices, etc.)
● List of districts with relaxed use regulations through the application of special use districts and district plans

Figure 3: Structure of the Implementation Status of the Relaxed Building Use Restrictions and Commentary

explains the characteristics of each method and how to properly use them. Chapters 2 and 3 explain the relaxation of use restrictions through special use districts

and district plans, which are city planning methods (relaxation through ministerial approval and ordinances). Chapter 4 explains the permission under Proviso of Article 48 of the Building Standards Act, which is a special permission system applied for individual lots.

Chapters 2 to 4 explain the specific procedures and review process of each method, required documents, measures to mitigate the impact of the deregulated use on the surrounding area, and other points to keep in mind upon applying deregulation based on laws and regulations (laws, government ordinances, public notices, operational guidelines, technical advice, old notices, etc.) and based on the results of surveys on the actual implementation by local governments with plenty of examples (Figure 4). The reference section at the end of the book contains a comprehensive list of related laws and regulations (excerpts) pertaining to the relaxation of building use restrictions for easy reference, as well as a list of districts with relaxed use restrictions through the application of special use districts and district plans, allowing the reader to refer to the details of the relaxation in each district.

Example of permission for the installation of a convenience store in Category I low-rise exclusive residential districts.

Outline: A store that had opened and continued to operate since the 1960s, before the area was designated Category I low-rise exclusive residential districts, was rebuilt as an apartment building, leaving the nearby area without stores selling food and daily necessities. Because of the aging of the population, residents requested the installation of stores in their neighborhood. Thus, permission was granted to change the use to install a convenience store on the first floor of the apartment building.

1. Outline of the permitted facility

(1) Outline of the site and building

Structure and number of floors	Steel framed building, two floors aboveground
Lot area	Approximately 450 m ²
Building area	Approximately 100 m ²
Total area	Approximately 280 m ²
Area where use is restricted	Approximately 150 m ²
Floor-area ratio (building/lot area)	Approximately 62%/25% (designated: 100%/50%)
Construction type and level	Change in use, expansion

(2) Outline of the permission as an exception

Date of the permission	August 17, 2017
Use districts	Category I low-rise exclusive residential districts
Detail of the permission	A building to be used in Category II low-rise exclusive residential districts where the restriction is relaxed by one stage (floor area of 150 m ² or less)
Background of the permission for the application	To install a convenience store in a residential area where the local population was aging.
Outline of the facility	The use of the first floor of the apartment building was changed to the use of a convenience store.
Outline of the nearby environment	The area is located in a hilly area about 1.6 km away from a train station, and local residents need to go there for daily shopping.
Location	The area is connected to a road with the width of 14 meters.
Local residents requested the installation.	Local residents submitted a request to the city to construct a convenience store.

Figure 4: Example of the description of a convenience store that received the Permission under Proviso of Article 48 of Building Standards Act (image)

4. Conclusion

The Commentary is currently available as a free PDF file on the website of the NILIM.¹ We hope you will download it for use. It is expected that both local governments and applicants will be able to use this information to facilitate the effective use of vacant houses by changing their use, which will lead to regional revitalization and tourism promotion, as well as to help consider deregulation in the form of detailed building use restrictions to meet regional needs, regardless of the use

or condition of the building, whether it is a change of use or construction, or whether it is an existing building or not.

☞For more information:

- 1) NILIM Reference #1123, the “Implementation Status of the Relaxed Building Use Restrictions and Commentary”
<http://www.nilim.go.jp/lab/bcg/siryou/tnn/tnn1123.htm>
- 2) NILIM press release “Effectively use vacant houses for regional revitalization! - Publication of an instruction on the implementation of deregulation for the facilitation of changes in building use, etc. -”
<http://www.nilim.go.jp/lab/bcg/kisya/journal/kisya20200807.pdf>