

Gazebo Regulations

of the Association of Gardeners of the Hanseatic City of Rostock (Verband der Gartenfreunde e.V. Hansestadt Rostock)
Resolution of the Assembly of Delegates of 28 March 2003, last amended by resolution on 4 May 2013



1. Scope

The Gazebo Regulations are the binding building regulations for tenants in the member associations of the Verband der Gartenfreunde e.V. Hansestadt Rostock for the construction, modification, extension or renewal of gazebos and other structures. They form an integral part of the Allotment Garden Lease Agreement and are binding on the contracting parties. Conservation measures are not subject to these regulations.

2. Legal framework and relevant legal provisions

- 2.1 Federal Allotment Garden Act (Bundeskleingartengesetz/BKleingG) of 28 February 1983 (BGBl. I p. 210), as last amended.
- 2.2 Mecklenburg-Vorpommern state building regulations (Landesbauordnung Mecklenburg-Vorpommern, LBauO M-V) in the version of 18 April 2006 (GVOBl. M-V p. 102), as last amended.
- 2.3 Building Code, (Baugesetzbuch, BauGB) in the revised version of 27 August 1997 (BGBl. I p. 2141), as last amended.
- 2.4 Water Resources Act (Wasserhaushaltsgesetz, WHG) in the published revised version of 19 August 2002 (BGBl. I p. 3245), as last amended.
- 2.5 Water Act of the State of Mecklenburg-Vorpommern (Wassergesetz des Landes Mecklenburg-Vorpommern, LWaG) of 30 November 1992 (GVOBl. P. 669), as last amended.
- 2.6 Mecklenburg-Western Pomerania road sweeping and inspection ordinance (Kehr- und Prüfungsverordnung Mecklenburg-Vorpommern, KÜO) of 13 December 2009, as last amended.
- 2.7 In addition, the arrangements set out in the General Lease Agreement, the Management Agreement, the Allotment Garden Lease Agreement and the Framework Garden Regulations of the Verband der Gartenfreunde e.V. Hansestadt Rostock apply.

3. Compliance with public law regulations

According to the BKleingG, Gazebos in allotment gardens are other projects that do not require authorisation according to § 61 LBauO. However, the exemption from authorisation does not affect the obligation to comply with public regulations. In the event of breaches of lease agreements (in this case against the specified size of the structures or the erection of additional structures), the lessor has a claim for demolition or removal in accordance with § 550 BGB. Lessors include not only the owner of allotment land, but also the Verband der Gartenfreunde e.V. Hansestadt Rostock and the member associations, insofar as they are authorised to conclude interim lease agreements. If the lessor has obtained a judgement by filing an action with the district court or regional court for removal or dismantling, they can enforce their claim by compulsory enforcement (§§ 704 ff ZPO).

The building authority of the Hanseatic City of Rostock can demand the partial or complete removal of any structures that have been erected or modified in contravention of public law regulations. The rights of the association's governing body in accordance with BKleingG § 9 (1) point 1 and the Allotment Garden Lease Agreement §§ 4 (2) and 7 (1) remain unaffected. The Verband der Gartenfreunde e.V. Hansestadt Rostock checks the compatibility with the above-mentioned legal framework and stipulations before carrying out construction measures in accordance with these regulations and gives its approval upon registration.

4. Gazebo

4.1 Size and fixtures

In the allotment garden, a simple gazebo with a maximum surface area of 24 m² – including a covered outdoor seating area – is permitted. If the plot is smaller than 240 m², the size of the gazebo must not exceed 10% of the plot area. It must not be suitable for permanent living in terms of its condition, in particular, its fixtures and furnishings [§ 3 (2) BKleingG]. For newly founded allotment gardens, the confirmed plot plans, authorisations according to building law and the stipulations of these regulations apply. However, a confirmed development plan may impose other admissibility requirements.

4.2 Base area and height

The base area is the area of the allotment garden built over with a gazebo – including a roofed outdoor seating area. It is the area covered by the vertical plan projection of the gazebo. Eaves that serve solely to keep the rain away from the gazebo are not to be counted (i.e., 30 cm and max. 60 cm in the area of the main entrance door to the gazebo). The permitted height of gazebos follows from § 3 (2) BKleingG, according to which gazebos may not be suitable for permanent living. The eaves height must not exceed 2.75 metres and the ridge height must not exceed 3.25 metres for monopitch roofs and 3.60 metres for pitched roofs (for sketch, see Annex 1).

4.3 Simple design

Gazebos are only permitted as single-storey buildings. It is not permitted to build a basement under a gazebo (cf. OVG Bremen, judgment of 05 May 1981). A non-accessible pit with a capacity of 1 m³ and a maximum depth of 0.5 m is permitted. Only a gazebo with a simple design is permitted, i.e. using inexpensive building materials and components with structurally simple finishing measures (e.g., wood or bricks) tailored to the function of the gazebo. The wall thickness can correspond to a maximum of 24 cm of brickwork. Full thermal insulation, analogous to the renovation of residential buildings, is not permitted. The use of high-value materials should be avoided.

4.4 Design

Gazebos must be designed in such a way that they are not unsightly in terms of shape, scale, relationship of the building mass and components to each other, material and colour. They must be harmonised with their surroundings in such a way that they do not impair the streetscape, townscape or landscape and do not detract from their intended use.

4.5 Unsuitability for permanent residence

Gazebos may only be equipped in such a way that only a temporary stay is possible. The allotment garden use of a gazebo consists of the storage of gardening tools and garden produce as well as short-term visits to the garden by the tenant and their family. This function of the gazebo determines what is and what is not permitted in terms of fixtures and furnishings.

4.6 The following are permitted:

- The connection of the gazebo to the water network of the allotment garden association subject to the granting of a water law statement/authorisation by the Office for Environmental Protection, Water Management Department (Amt für Umweltschutz, Abteilung Wasserwirtschaft) for the allotment garden association with regard to wastewater disposal
- The connection of the gazebo to the electricity network of the allotment garden association
- A dry toilet, such as a composting toilet – if careful composting of putrescible materials is carried out – or an evaporative toilet for the accelerated biological conversion of faeces into dry matter
- A locally authorised small sewage treatment plant or a brainless pit with locally authorised disposal subject to the issue of a water law statement/authorisation by the Office for Environmental Protection, Water Management Department for the allotment garden association with regard to wastewater disposal.
- The use of solar systems up to a size of 1 m² for heating domestic water.

4.7 The following are prohibited:

- Covered terraces in excess of the permitted 24m² gazebo size. The relevant terrace areas can be fitted with a retractable awning to achieve the desired sun protection.
- The connection of the gazebo to systems for the supply of gas, district heating
- The connection of the gazebo to the association's water network if no water law statement/authorisation has been issued by the Office for Environmental Protection, Water Management Department for the allotment garden association with regard to wastewater disposal
- The connection of the gazebo to the public sewage network
- Drainless pits or small sewage treatment plants if no authorisation under water law has been granted by the Office for Environmental Protection, Water Management Department
- The use of chemical toilets
- The construction and operation of showers or bathtubs
- The installation and operation of washing machines or dishwashers
- Telephone connections

- Antenna systems more than 1.0 m above the roof ridge
 - Fixed combustion systems, chimneys and exhaust systems for the supply of heat or hot water
- 4.8 Clearance areas for gazebos (alternatively, tool shed, etc.)
The distance between gazebos must be at least 5 m. This complies with the fire protection requirements of the state building regulations. The distance between the gazebo and the garden boundary should not be less than 2.50 m. If the required 2.50 m cannot be objectively achieved, a minimum distance of 1.0 m from the garden boundary is essential. If the minimum distance of 2.50 m between the gazebo and the garden boundary is not met, the consent of the respective neighbouring tenant must be obtained.
- 5 Other structural facilities**
- 5.1 Garden sheds or tool sheds (or tool boxes, tool containers, utensil and equipment sheds) are not permitted when there is a gazebo (see OVG Bremen, judgment of 23 September 1996) and are not required. Garden tools must be stored in the gazebo. This regulation does not affect permissible additions to the gazebo within the statutory total size of 24 m² (see point 3.1.).
- 5.2 Party tents, pavilions or similar structures constitute an additional construction within the allotment garden plot if they remain there for a long period of time. The year-round installation of such structures is therefore not permitted.
- 5.3 Small animal hutches are not relevant to allotment gardening and are therefore not permitted.
- 5.4 Small greenhouses (max. 12 m² and max. height 2.5 m) and cold frames (max. 6 m²) are permitted if they are used to produce horticultural products for personal use. The distance to the garden boundary must be at least 2 m, or at least 1 m with the written consent of the neighbouring tenant. The construction of a small greenhouse requires the consent of the association's Committee.
- 5.5 Playhouses or tree houses are generally permitted on the plot for a limited period of 5 years (the association's Committee decides on exceptions). Their base area must not exceed 1.5 m² and the height must not exceed 1.20 m. The distance to the garden boundary must not be less than 1 m. The construction requires the consent of the association's Committee. Playhouses or play towers that already existed before these regulations came into force must be dismantled after 5 years at the latest.
- 6 Protection of gazebos and other structures**
The protection of existing buildings only extends to legally erected structures and only applies for the duration of their existence. It does not apply to replacement by a new structure.
- 6.1 Protection of gazebos and other structures built before 3 October 1990 (§ 20 a No. 7 and 8 BKleingG)
Gazebos legally erected before the Unification Treaty took effect (3 October 1990), which exceed the maximum size of 24 m² provided for in § 3 (2) BKleingG, can be used unchanged. Other structures that were legally built before 3 October 1990 can be used unchanged. Legal within the meaning of these regulations means:
- Several structures were possible before 1977. The building permit or authorisation or consent for this must be submitted. A transition period until 1980 was agreed
 - From January 1981, only one building structure will be recognised as legally erected. This does not include greenhouses and small animal hutches if they have been authorised and continue to be used as such.
 - Structures within the meaning of the authorisation requirement
 - a) Gazebos in various designs and types up to max. 40 m²
 - b) Garden sheds and tool houses
 - c) Greenhouses and masonry cold frames
 - d) Small animal hutches and apiaries
- Exception: Structures built illegally before 3 October 1990 can only be used unchanged until a new tenant takes over.
- 6.2 Gazebos and other structures built after 3 October 1990 (§ 3 (2) BKleingG)
Gazebos and additional structures erected after 3 October 1990, insofar as they do not comply with points 4 and 5, are unlawful. Unlawful within the meaning of these regulations means that the gazebos or other structures were erected contrary to the laws in force at the time of construction. As the general lessor, the association demands immediate demolition upon discovery and does not provide legal assistance in legal disputes concerning unlawfully erected buildings.
- 7. Application for registration**
The tenant of an allotment plot shall submit the documents required in Annex 2 (in a single copy) to the office of the Verband der Gartenfreunde e.V. Hansestadt Rostock, Viergewerkerstrasse 2 a, 18057 Rostock. The registration of a project (see sample in Annex 3) constitutes confirmation by Verband der Gartenfreunde e.V. Hansestadt Rostock vis-à-vis the allotment gardener that the project has been checked for legality and approval. A copy of the registration including attachments is given to the Committee of the allotment garden association for its records and a complete copy is filed at the office in the respective association file. Applications that do not meet the requirements of these regulations will be rejected with a statement of the reasons.
- 8. Tasks of the association's Committees**
The association's Committees shall ensure compliance with the Gazebo Regulations in their associations. The procedure for registering building projects (new buildings or extensions) with the Verband der Gartenfreunde e.V. Hansestadt Rostock must be explained to tenants wishing to build or interested in building. The Committee shall check the application for legality (in accordance with point 4 ff of these regulations) and completeness, sign the documents as approved if they comply with the Gazebo Regulations and return them to the tenant. The respective tenant is responsible for submitting the documents for registration to the office of the Verband der Gartenfreunde e.V. Hansestadt Rostock. After registration with the association, the Committee monitors the execution of the work. Deviations from the construction documents will be prevented by the issue of a construction stop notice by the association's Committee. The office of the Verband der Gartenfreunde e.V. Hansestadt Rostock must be informed immediately to initiate the necessary measures. The same procedure must be followed if the association's Committee discovers buildings/extensions or construction activities that have not been approved by it and have not been registered with the Verband der Gartenfreunde e.V. Hansestadt Rostock.
- 9. Duties of the tenants**
When constructing, modifying, extending or renovating buildings, proceed in accordance with point 7 (Annex 2 and 3). If a plot of land is given up, the leaving tenant must remove all structures that do not comply with points 4 to 6 at their own expense until the next tenant takes over. During the appraisal, the leaving tenant must provide the appraisers with proof of the legality of the buildings on the plot. In the event of a change of tenant, all evidence, approvals, consents and registrations must be handed over to the subsequent tenant.
- 10. Duties of the appraisers**
During the appraisal, proof of the legality of the existing building structures must be required from the leaving tenant. If this proof cannot be provided, the appraisal report must indicate that all buildings and structures not covered by points 4 to 6 must be removed by the leaving tenant. A copy of the appraisal report must be submitted immediately by the appraiser to the office of the Verband der Gartenfreunde e.V. Hansestadt Rostock for the initiation of the necessary measures.
- 11. Final provisions**
- 11.1 The Gazebo Regulations were adopted at the Assembly of Delegates on 4 May 2013.
- 11.2 The Gazebo Regulations of the Verband der Gartenfreunde e.V. Hansestadt Rostock as binding regulations for all member associations and tenants of the Verband der Gartenfreunde e.V. Hansestadt Rostock come into force upon adoption of the resolution.
- 11.3 The following resolutions shall be repealed upon entry into force of the Gazebo Regulations: Gazebo Regulations of 31 March 2007
- 11.4 Where statutory regulations are amended or supreme court decisions are handed down after these Gazebo Regulations come into force, the regulations that correspond as closely as possible to these Gazebo Regulations shall apply.
- 11.5 These Gazebo Regulations do not release you from the obligation to comply with the requirements arising from laws and other legal provisions.
- Annexes: 1. Terms and dimensions; 2. Contents of the application for registration; 3. Certificate of registration