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# Building Code<sup>1</sup>

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## Part 1 GENERAL PART

### Chapter 1 General provisions

#### § 1. Aim of the Code

The aim of this Code is to promote sustainable development and to ensure the safety, purposeful functionality and usability of the built environment.

#### § 2. Scope of application of the Code

(1) This Code applies to construction works, their design, building, use and maintenance insofar as this is not governed by other Acts, ratified international treaties or EU legislation. This Code also applies in the territorial sea and exclusive economic zone.

(2) This Code does not apply to building work that is carried out forthwith due to an unavoidable and urgent need in the case of a rescue event, in connection with countering and eliminating a threat and in relation to alleviating the consequences of a rescue event.

(3) This Code does not apply to extraction of mineral resources, unless the law governing the extraction of mineral resources provides otherwise.

(4) Provisions of the Administrative Procedure Act apply to the administrative procedure provided in this Act without prejudice to the rules established by this Act.

(5) This Code applies to construction works that serve national defence purposes and to construction works of security authorities, and to the design, building, use and upkeep of such construction works insofar as this does not contravene the State Secrets and Classified Information of Foreign States Act. This Code does not apply to the building of temporary construction works in the course of training events of the Defence Forces and of the Defence League.

(6) Provisions of the Environmental Impact Assessment and Environmental Management System Act apply to the assessment of environmental impact of building work. Where possible, the procedures of environmental impact assessment are combined with the procedures established in this Act. In that case, the requirements established for both procedures must be met.

#### § 3. Construction work

(1) Construction work means a structure that is created as a result of human action and that is attached to or supported by the ground underneath and whose purpose of use, aim, manner of use or durability make it distinguishable from other structures.

(2) A construction work is either a building or a civil engineering work. A building is a construction work that has an interior space that is separated from the external environment by the roof and other parts of the building envelope. A civil engineering work is any construction work other than a building.

(3) A complex structure that forms a functional whole and that may be composed of civil engineering works as well as of buildings may be regarded as a single construction work for the purposes of the notification and permit procedures established in this Code.

(4) Temporary construction work means a construction work which is built for a period of time that is shorter than five years and which is demolished after that period elapses.

(5) The minister responsible for the area makes regulations to establish the list of technical specifications concerning construction works and the principles of calculating these specifications, including the area, height and depth of the construction work.

#### **§ 4. Building work**

(1) Building work (also 'building' and 'construction') means the erection, construction, installation and demolition of a construction work and any other operations in relation to the construction work that lead to the creation of that construction work or to a change in the physical properties of the construction work. Building work also means the shifting of soil or paving layers to a degree that has a significant and permanent impact on the surrounding environment and is functionally related to the construction work.

(2) Adding an extension to a construction work means building work in the course of which the existing construction work is modified by the construction of an annex adjoining or abutting the construction work, overlying the construction work or underlying the construction work.

(3) The remodelling—i.e., renovation—of a construction work means building work in the course of which the properties of the existing construction work are significantly altered. Replacement of specific elements of an existing construction work with equivalent elements is not regarded as remodelling. The remodelling of a construction work means, first and foremost, building work in the course of which:

- 1) the building's envelope elements are altered;
- 2) the building's loadbearing or stiffening elements are altered or replaced;
- 3) a utility system is installed, modified or demolished, which alters the properties of the construction work, including its external appearance;
- 4) the working parameters of the construction work or the technology used are significantly altered;
- 5) the construction work is brought into conformity with the requirements corresponding to its purpose of use;
- 6) a construction work that has been partially or completely destroyed is restored.

(4) Demolition of a construction work means building work in the course of which a construction work is partially or completely removed or dismantled. If the aim of demolition is to build, on the site of the demolished construction work, a new construction work that essentially resembles the construction work that was demolished, this may be regarded as remodelling—i.e., restoration—of the construction work. If the aim of demolition is to build, on the site of the demolished construction work, an essentially new construction work, this is regarded as the demolition of one construction work and the building—i.e., erection or construction—of another. The new construction work is deemed to essentially resemble the previous construction work if its purpose of use, architectural design and volume remain unchanged.

(5) Technical system means the set of equipment, installations or utility lines that are required for the functioning and use of the construction work and for ensuring its safety, including all structural elements required for the functioning of such equipment, installations or lines.

#### **§ 5. Building design documentation**

Building design documentation means a document or set of documents that is prepared in the course of designing the construction work and that contains the information necessary to build the construction work. Where relevant, the building design documentation also reflects the information necessary for the use and maintenance of the construction work.

#### **§ 6. Maintenance of construction works**

The maintenance (upkeep) of a construction work encompasses operations whose purpose is to preserve the state in which the construction work retains its functionality and usability and corresponds to the conditions that must be fulfilled in order for the construction work to comply with its designed purpose, or to restore the construction work to such a state.

## **Chapter 2 Principles and principal requirements**

### **Division 1**

# Principles

## § 7. Good practice

Construction works must be designed, built and maintained according to good practice. Good practice must also be observed in pursuing any other actions or operations regulated by this Code.

## § 8. Principle of safety

Construction works, building work, the use of construction works and any other operations related to building work must be safe. Construction works, building work, the use of construction works and any other operations related to building work are safe if they do not pose a danger to humans, property or the environment. The safety of construction works and building work encompasses the protection of natural and cultural objects of value and, where relevant, also the life and health of animals.

## § 9. Principle of environmental soundness

Construction works, building work and the use of construction works must be as environmentally sound as possible; this principle also includes the requirement of sparing use of natural resources in the course of building work.

## § 10. Principle of professionalism

(1) The principle of professionalism requires natural and legal persons to exercise due diligence in order to ensure that their actions are safe, comply with established requirements and lead to a result that conforms to the requirements. The prerequisites of professionalism are knowledge and skills that correspond to the specific character of the operations.

(2) The principle of professionalism requires natural and legal persons pursuing an economic or professional activity to comply with the duty to give explanations. The duty to give explanations extends to giving information in relation to matters connected to the activity as well as informing the parties concerned of facts which affect the safety of the construction work, its conformity to established requirements and its purpose of use.

(3) The principle of professionalism requires natural or legal persons pursuing an economic or professional activity to cooperate with other persons involved in the preparation of the building design documentation and in the building work in order to ensure that building work is performed in a rational manner, the different parts of the building design documentation form a coherent whole, and all elements of the construction work function coherently in combination.

## Division 2 Principal requirements for constructions works and building work

## § 11. Requirements for construction works

(1) Construction works must comply with the requirements for their use throughout their entire useful life, and must remain safe throughout their entire existence.

(2) Where relevant, the requirements for construction works encompass:

- 1) mechanical durability and stability;
- 2) fire safety;
- 3) hygiene, health and the environment;
- 4) safety of use and access, including the needs of evacuation and rescue of people from the construction work and an operational map;
- 5) protection from noise;
- 6) energy conservation and energy efficiency;
- 7) sparing use of natural resources;
- 8) special needs of disabled people;
- 9) the functionality of a construction work, its functional coherence and compatibility;
- 10) requirements arising from the purpose of use and from use of the construction work—i.e., requirements concerning the state of the construction work, including maintenance requirements;
- 11) the marking of the construction work and its location.

(3) The requirements for construction works are defined in accordance with the essential requirements established in Annex I of Regulation (EU) 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 04.04.2011, pp. 5–43).

(4) The minister responsible for the area may make regulations to specify the requirements for construction works.

## **§ 12. Requirements for building work**

(1) Building work must be carried out according to building design documentation and in conformity with the requirements for construction works and the requirements for building work.

(2) The construction work that is being built and, where relevant, also the building work, must conform to the restrictions and spatial plans rendered operative by the location of the construction work. In the absence of a detailed spatial plan, the construction work that is being built must conform to the comprehensive plan and, in the case of an obligation to obtain design specifications, to the design specifications. In the cases provided in the Planning Act, the construction work that is being built must conform to the national or local special spatial plan.

(3) While carrying out building work, the rights of the persons affected by the building work must be taken into consideration and steps must be taken to avoid excessive harm to such rights.

(4) The properties of the products used in carrying out building work must be such that make it possible for the construction work to comply with the requirements during a reasonable period of time; this includes the obligation to ensure that construction works comply with the requirements in the case of permanent incorporation in the construction work of natural building materials which have not been processed industrially, of native construction products manufactured in a traditional way or of recovered construction products. The requirements for construction products are provided in Regulation (EU) 305/2011 of the European Parliament and of the Council, and in the Product Conformity Act and the legislation enacted under that Act.

(5) The minister responsible for the area may make regulations to establish requirements for building work.

## **§ 13. Requirements for building design documentation**

(1) Building design documentation must be such that the construction work built according to that documentation complies with the requirements; this includes taking into account the suitability and usability of the construction work and its need for maintenance.

(2) Building design documentation must be such that it is possible to build according to that documentation, to check the conformity of the construction work and of building work to the requirements and, where relevant, also to use and maintain the construction work.

(3) The minister responsible for the area makes regulations to establish the requirements for building design documentation.

## **§ 14. Preparation and verification of building design documentation**

(1) The following must be taken into account when preparing building design documentation:

- 1) the requirements established for the construction work, including special requirements arising from its purpose of use;
- 2) relevant risk analyses and other facts pertaining to the location of the construction work;
- 3) the spatial plan or design specifications where they exist or where their existence is mandatory;
- 4) restrictions arising from public law in relation to the location of the construction work;
- 5) requirements of the building process.

(2) Where necessary, site investigations must be conducted in order to obtain important technical information required for the preparation of the building design documentation. Site investigations may also include the determination of the impact of the construction work and of building work on other construction works. The results of site investigations must be submitted to the register of construction works and, in the cases provided in legislation, to other databases or administrative bodies. The results of site investigations should be preferably submitted in an electronic format.

(3) Before the commencement of building work, the conformity to the requirements of the building design documentation according to which the building work is to be carried out must be verified by a competent person who is independent of the person who prepared the building design documentation and who performs an expert assessment if:

- 1) the planned construction work is complicated in terms of its engineering or for other reasons possesses an increased threat potential or
- 2) the authority performing construction supervision has reasonable doubts as to the conformity of the building design documentation to the requirements, such as when the building design documentation has not been prepared by a person who meets the relevant qualification requirements.

- (4) The minister responsible for the area makes regulations to establish:
- 1) the requirements for the expert assessment of building design documentation, including specific criteria for identifying construction works whose building design documentation must be subjected to expert assessment;
  - 2) the requirements for site investigations, including the requirements for the formalisation of the results of the investigations and for their submission.

#### **§ 15. Documentation of building work**

(1) In the cases provided in legislation, the building work must be documented. Building work must always be documented where a building permit is required for carrying out the building work. Building work is documented by the person who performs it.

(2) The documents that characterise building work (hereinafter, 'building documents') must provide such information on the construction work and on the building work performed on the construction work that is relevant for using the construction work and for verifying the conformity of the construction work to the requirements, including information regarding the construction products and materials used. The building documents must contain information that permits identification of the person responsible for the building work.

(3) The building documents primarily include:

- 1) as-built drawings;
- 2) the journal of building operations;
- 3) reports of covered work;
- 4) minutes of work meetings;
- 5) other documents that characterise the building work, including equipment setup and testing logs and installation, maintenance and use manuals.

(4) The building documents must be handed over to the register of construction works, to the local authority or another competent authority designated in legislation. The documents should be preferably handed over in an electronic format.

(5) The minister responsible for the area makes regulations to establish:

- 1) the requirements for the documentation of building work;
- 2) the requirements for the preservation and handing over of building documents, specifying the documents that must be handed over.

#### **§ 16. Requirements for the use and maintenance of construction works**

(1) During the existence of the construction work, its safe condition and, where relevant, good upkeep must be ensured.

(2) The construction work must be used prudently and according to its purpose of use. During the time of use of the construction work, the professional maintenance required for the continued stability and safe use of the construction work must be ensured.

(3) The requirements for the use and maintenance of a construction work emanate from good practice, legislation or from the instructions on use and maintenance (hereinafter, 'maintenance instructions') drawn up in respect of the construction work.

(4) The minister responsible for the area may make regulations to establish requirements concerning the maintenance of construction works.

#### **§ 17. Maintenance instructions**

(1) Maintenance instructions contain the use and maintenance requirements prescribed by the manufacturer of the material, equipment or product incorporated in the construction work, taking into account the particular characteristics of the use of the construction work. Maintenance instructions may also contain information regarding the mandatory or voluntary nature of the audit of the construction work and any other information required for the maintenance of the construction work.

(2) Maintenance instructions are prepared by the person who designed or built the construction work or by another competent person. Where modifications are made to the construction work, the maintenance instructions must be amended if necessary.

(3) Unless otherwise provided in legislation, the existence of maintenance instructions is not mandatory. The existence of maintenance instructions or the compliance with the requirements and performance of operations specified in the maintenance instructions does not preclude the responsibility of the owner in the case of dangers arising from the construction work.

(4) The building documents must be electronically transmitted to the register of construction works and, in the cases provided in legislation, also to other registers or competent authorities.

(5) The minister responsible for the area may make regulations to establish requirements concerning maintenance instructions, their preservation and presentation, and may also specify the cases in which the existence of maintenance instructions is required.

#### **§ 18. The audit of construction works**

(1) The aim of the audit of a construction work is to prove that the construction work conforms to the requirements and that it is safe to use the construction work for its intended purpose and in the intended manner, or to provide another assessment concerning the construction work. Audits of construction works fall into pre-use, regular and extraordinary audits.

(2) Where this is provided in legislation, a pre-use audit of the construction work must be performed prior to commencement of the use of the construction work and a regular or extraordinary audit must be performed in the specified instances when the construction work is in use.

(3) The person who performs the audit of a construction work must be competent and independent and ensure the uniformity and reliability of the auditing process.

(4) The person who performs the audit of a construction work may not be connected to the owner, designer or builder of the construction work, to the manufacturer of a construction product incorporated into the construction work, to the importer or distributor of such a product and to the person who installed the product in a degree that would cast doubt on the independence and impartiality of the performer of the audit.

(5) The minister responsible for the area makes regulations to establish the requirements for the audit of a construction work, the methods of the audit, and the instances and frequency of regular and extraordinary audits.

### **Division 3**

## **Obligations of persons operating in the field of building work**

#### **§ 19. Obligations of the owner**

(1) The owner must ensure the conformity of the construction work, of building work and of the use of the construction work to the requirements arising from legislation; amongst other things, the owner must ensure:

- 1) the conformity of the construction work to spatial plans or to design specifications;
- 2) the existence of permits required for building work and for the use and occupancy of the construction work and the making of the required notifications and notices;
- 3) that any work which is performed directly at the owner's instruction and which is governed by this Code is performed by a person possessing sufficient skills and knowledge (hereinafter, 'qualifications') that correspond to the specific character of the work;
- 4) the maintenance and safety of use of the construction work;
- 5) owner supervision in the cases provided in law.

(2) If the owner performs the building work or prepares the building design documentation himself or herself or performs other work governed by this Code, he or she must observe the principle of professionalism and ensure the conformity of the work to the requirements; where relevant, this includes the duty to document the building work.

#### **§ 20. Owner supervision of construction works**

(1) The owner of the construction work ensures that professional supervision (hereinafter, 'owner supervision') is performed over any building work carried out on the construction work. Owner supervision over a construction work subject to building permit requirement may only be performed by a person who meets the qualification requirements.

(2) The person performing owner supervision may not, as part of his or her economic activity, be connected to the builder of the construction work or to the persons whose work he or she supervises.

(3) Where the person performing owner supervision lacks the skills or knowledge to perform supervision over certain operations, a competent person is instructed to perform supervision over such operations. Responsibility for the actions of the competent person lies with the party who instructed the competent person.

(4) The performance of owner supervision does not preclude or restrict the contractor's responsibility under the contract for services.

(5) The minister responsible for the area makes regulations to establish the procedure for performing owner supervision.

## **§ 21. Obligations of undertakings**

(1) A person who operates in the field of building work as part of its economic activity (hereinafter, 'undertaking') must in its actions observe the principles and requirements provided by laws; amongst other things, the undertaking must:

- 1) observe the principle of professionalism and ensure that the persons operating under its responsibility possess sufficient qualifications and that each particular project or site is assigned a competent person in charge of that project or site;
- 2) ensure that the operations performed under its responsibility and governed by this Code are documented according to the requirements and that the documents are handed over to the competent authority following established procedure;
- 3) comply with the requirements established in the General Part of the Code of Economic Activities Act; this includes the requirements established with regard to service providers.

(2) An undertaking assumes responsibility for the actions of persons who act in the undertaking's interests if the undertaking uses such persons to perform its obligations and the actions of the persons acting in the undertaking's interests are connected to the performance of such obligation.

(3) The obligations that this Code provides for undertakings do not affect the undertaking's contractual obligations or any other obligations that the undertaking may have under the Law of Obligations Act. In the case of a conflict between a contractual obligation and an obligation arising from this Code, the obligation arising from this Code takes precedence.

## **§ 22. Competence of undertakings**

(1) The undertaking must have the competence to perform any work it undertakes in a professional manner. The undertaking may not provide misleading information regarding its competence and may not perform work that it is not competent to perform.

(2) The competence of the undertaking corresponds to the qualifications of the persons acting in the undertaking's interests and under the undertaking's responsibility.

(3) The undertaking ensures that it is possible for the competent person to do his or her work with the due diligence that corresponds to the specific character of the work.

(4) The competent authority issuing building permits or the agency performing construction supervision may prohibit or suspend building work or refuse to issue the building permit until a sufficiently qualified person is appointed to manage the building work or to scrutinise the building design documentation, provided the lack of competence would have precluded a professional performance of the work and given rise to danger.

## **§ 23. Competent person**

(1) The competent person performs, scrutinises or manages work independently in an area of activity related to his or her competence and assumes responsibility for such work, submits technical opinions in his or her own name or, when acting in the interests of an undertaking, in the name of the undertaking, and, where necessary, arranges the allocation of resources and organises the work of others.

(2) A person is competent if he or she holds a qualification that corresponds to the specific character of the work. It is prohibited to provide misleading information regarding one's qualifications and to perform work that one is not qualified to perform.

(3) A competent person performs his or her tasks professionally and with the due diligence that corresponds to the specific character of the work; amongst other things, a competent person may not act as the competent person for several undertakings or be in charge of several sites if the resulting workload would not permit the competent person to perform his or her tasks as required.

(4) A person who holds a professional certificate or a certificate of competency is deemed to be qualified to perform any work covered by the certificate.

(5) In the cases provided and in relation to the areas of activity specified in this Code, the qualification of the competent person must be certified.

(6) If this Code does not provide the qualification requirements for operating in a specific area of activity, including the manner of proving one's qualification, the suitability of the person's qualification is assessed, first and foremost, by the owner of the construction work or, in the case of an undertaking, the party commissioning its services or, in the case of an employee or subcontractor, the undertaking.

(7) The minister responsible for the area may make regulations to establish recommended requirements for areas of activity in the field of building work.

#### **§ 24. Requirements for certain areas of activity**

(1) In the cases listed in this section, the undertaking and the competent person may provide their services and operate in the field of building work as part of their economic activity if the qualification of the competent person who acts in the interests and under the responsibility of the undertaking is proved by means of a professional certificate issued on the basis of the relevant education and work experience in accordance with the Professions Act or by means of a certificate of competency issued under other legislation.

(2) The qualification of a competent person must be proved in the following areas of activity:

- 1) the building of construction works subject to building permit requirement;
- 2) preparation of building design documentation of construction works subject to building permit requirement;
- 3) the performance of owner supervision;
- 4) the issuing of energy performance certificates;
- 5) the performance of energy audits;
- 6) the performance of site investigations;
- 7) the performance of expert assessment of building design documentation;
- 8) the auditing of construction works;
- 9) construction and installation of heating appliances that use solid fuel and of chimneys and flue vent connectors;
- 10) chimney sweeping;
- 11) the performance of road safety audits;
- 12) the maintenance of public roads;
- 13) the preparation of design documentation concerning traffic arrangements;

(3) If the person has acquired the qualification corresponding to the specific character of the work in a foreign state, he or she is not required to prove his or her qualification by means of a professional certificate issued in accordance with the Professions Act or of a certificate of competency issued under other legislation. The correspondence of the qualification acquired in a foreign state to the requirements provided in this Act is assessed and certified, in accordance with the Recognition of Foreign Professional Qualifications Act, by:

- 1) the Technical Regulatory Authority;
- 2) the Road Administration in the field of road building and in the area of activity of road safety audits;
- 3) the Rescue Board in the areas of activity listed in clauses 9 and 10 of subsection 2 of this section.

(4) The minister responsible for the area makes regulations to establish detailed divisions of the areas of activity listed in subsection 2 of this section and the specific qualification requirements corresponding to those areas of activity.

(5) When establishing qualification requirements under subsection 4 of this section, regard must be had to the need, appropriateness and proportionality of restricting access to the specific area of activity. Mandatory qualification requirements may be established only to the extent that and in the areas of activity where they are justified by a significant public interest.

#### **§ 25. Notification obligation**

(1) A notice of economic activities must be submitted to the register of economic activities by the undertakings who operate in the following areas of activity:

- 1) the building of construction works subject to building permit requirement, except where the work of the competent person of the undertaking does not involve managing and arranging the work of others;
- 2) the designing of construction works subject to building permit requirement;
- 3) the performance of owner supervision;
- 4) the performance of site investigations;
- 5) the performance of expert assessment of building design documentation;
- 6) the auditing of construction works, except where the undertaking is an accreditation body accredited for the auditing of construction works in accordance with Regulation (EC) No. 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No. 339/93 (OJ L 218, 13.08.2008, pp. 30–47).
- 7) the maintenance of public roads;
- 8) the preparation of design documentation concerning traffic arrangements.

(2) In addition to the information listed in the General Part of the Code of Economic Activities Act, the notice of economic activity sets out the specific activity within the area of activity as provided in the regulation enacted under section 24(4) of this Act, and the information specified in section 15(2) of the General Part of the Code of Economic Activities Act with regard to the competent person of the undertaking.

(3) The notification of an economic activity is deemed to have been submitted when a confirmation by the competent person regarding his or her legal relationship with the undertaking is recorded in the register of economic activities. A competent person may not, at any time, act as the competent person of more than three undertakings.

(4) If the notice mentioned in section 58(1) of the General Part of the Code of Economic Activities Act is not submitted via the Estonian information portal, it is submitted together with the consent of the competent person to the Technical Regulatory Authority who enters the information included in the notice and the competent person's consent in the register of economic activities.

(5) If the competent person does not submit his or her consent or withdrawal of consent via the Estonian information portal, he or she submits it to the Technical Regulatory Authority who enters the consent or withdrawal of consent in the register of economic activities.

(6) In the event of severance of the legal relationship between the competent person and the undertaking, the competent person is entitled to withdraw his or her consent. If the competent person has withdrawn his or her consent, the undertaking must submit to the registrar a notice concerning changes in the general information regarding economic activities in accordance with section 30(5) of the General Part of the Code of Economic Activities Act. If the competent person who has withdrawn his or her consent is the only competent person of the undertaking with regard to the specific activity within an area of activity, the undertaking is deemed not to comply with the notification obligation with regard to that specific activity.

## **Chapter 3**

### **Design specifications**

#### **§ 26. Building design specifications in cases where the preparation of detailed spatial plan is not mandatory**

(1) Design specifications are required for the preparation of building design documentation of buildings subject to building permit requirement or of civil engineering works of significant public interest (hereinafter, 'significant civil engineering works') in cases where the preparation of a detailed spatial plan is not mandatory.

(2) The competent authority issues design specifications:

- 1) for the erection or construction of buildings or significant civil engineering works;
- 2) for the expansion of buildings or significant civil engineering works by more than 33 percent of their original volume.

(3) When issuing design specifications, consideration must be given to:

- 1) the environment that has become established around the building or significant civil engineering work, including the types of building characteristic of the area;
- 2) the avoidance of breaches of legislation or harm to the rights of persons or to the public interest;
- 3) the requirements established in the comprehensive plan.

(4) With regard to the building or significant civil engineering work, the design specifications establish, where relevant:

- 1) its purpose of use;
- 2) the maximum number permitted to be built in a land area;
- 3) its location;
- 4) the maximum ground projection area that the building or significant civil engineering work may occupy;
- 5) its height and, where relevant, depth;
- 6) the requirements concerning architectural solution, building work and appearance;
- 7) the possible location of the construction work required to service the construction works situated in the land or water area;
- 8) the need for site investigations;
- 9) the principles for planting vegetation, for streetside maintenance and for traffic arrangements.

(5) If it becomes known in the process of issuing design specifications that the determination of design specifications may entail the need to subject a registered immovable or part thereof to compulsory acquisition or compulsory possession, the competent authority informs the owner of the relevant registered immovable within seven days as of the date on which the need to subject the registered immovable or to impose compulsory possession on the registered immovable became apparent.

#### **§ 27. Issuing design specifications in cases where a detailed spatial plan exists**

(1) Where a detailed spatial plan exists, the competent authority may, if this is warranted by the circumstances, issue design specifications for the preparation of the building design documentation of a building subject to building permit requirement or of a significant civil engineering work if:

- 1) more than five years have passed since the adoption of the detailed spatial plan;
- 2) since the adoption of the detailed spatial plan, new important facts have emerged or the area governed by or influenced by the plan has significantly changed, due to which the detailed spatial plan can no longer be fully implemented, or

3) after the adoption of the detailed spatial plan, the relevant legislation has been amended or spatial plans have been adopted that significantly affect the implementation of the detailed spatial plan.

(2) When issuing design specifications, consideration must be given to:

- 1) the environment that has become established around the building or significant civil engineering work, including the types of building characteristic of the area;
- 2) the avoidance of breaches of legislation or harm to the rights of persons or to the public interest;
- 3) the requirements established in the comprehensive plan.

(3) Under subsection 1 of this section, no design specifications may be issued to change the essential character of the planning solution established by the detailed spatial plan, to supplement a detailed spatial plan that amends the comprehensive plan, to issue supplementary criteria for construction works that are to be built in a public water body and that have a permanent connection to the shore or are functionally connected to the shore, or to supplement the national or local special spatial plan.

(4) Where relevant and in addition to the detailed spatial plan, in relation to the building or significant civil engineering work the design specifications specify:

- 1) its purpose of use; this includes specifying the ratio of the plot's zoned purposes from which the purposes of use of the home or office building are derived, provided both purposes have been established earlier in the detailed spatial plan;
- 2) the definition of the buildable area, including increase, decrease, rotation or movement of the area, but not in excess of 10 percent of the original solution;
- 3) a change in its height or, if needed, depth, but not in excess of 10 percent of the original solution;
- 4) the requirements concerning architectural solution, building work and appearance;
- 5) the possible location of a construction work required to service the construction works situated in the land area;
- 6) the need for site investigations;
- 7) the principles for planting vegetation, for streetside maintenance or for traffic arrangements;
- 8) the types of building allowed in the area governed by the plan; this includes the boundaries of the plots in the area provided the matter of boundaries is connected to the building of a complex of construction works, and provided that the building rights originally granted in the area governed by the plan remain unchanged.

(5) If it becomes known in the process of issuing design specifications that the establishment of design specifications may entail the need to expropriate or to impose compulsory possession on a registered immovable or part thereof, the competent authority informs the owner of the relevant registered immovable within seven days as of the date on which the need to expropriate or to impose compulsory possession on the registered immovable became apparent.

## **§ 28. Competent authority issuing design specifications**

Design specifications are issued by the local authority unless otherwise provided by law.

## **§ 29. Application for design specifications**

(1) The application for design specifications and the related documents are submitted electronically to the competent authority via the register of construction works. Where it is not possible to submit these documents via the register of construction works, they are submitted to the competent authority and the competent authority enters the relevant information in the register of construction works.

(2) The application for design specifications states, first and foremost:

- 1) the applicant's name, contact information, signature and the date of the submission of the application;
- 2) the manner of delivery to the applicant of the design specifications;
- 3) the particulars and cadastral code of the registered immovable on which building work is envisaged;
- 4) the aim of applying for the design specifications, including the description of the envisaged building or civil engineering work of significant public interest or the manner of building work to be performed and the possible location of the building or civil engineering work on the registered immovable;
- 5) information regarding payment of the state fee.
- 6) other requisite information.

(3) The minister responsible for the area makes regulations to establish the requirements concerning the form of the application and the form of design specifications and the procedure for issuing design specifications.

## **§ 30. Checking the application for design specifications and refusal to consider the application**

When the competent authority receives an application for design specifications, it checks the conformity of the application to the requirements. If it is obvious that the issuing of design specifications is impossible, the competent authority refuses to consider the application and returns it, stating the reasons for the refusal. Above all, consideration of the application is refused and the application is returned if the grounds referred to in s. 26(1) or s. 27(1) of this Code are absent.

### **§ 31. Procedure for issuing design specifications**

(1) The competent authority decides on the need to initiate the assessment of environmental impact and on the conduct of open proceedings to issue the design specifications. Open proceedings must be conducted in cases governed by section 27 of this Code.

(2) The competent authority prepares a proposal of design specifications and, primarily by electronic means, arranges the gathering of opinions and the giving of approvals concerning the proposal, and issues the design specifications within 30 days from the submission of the application. If the competent authority decides to conduct open proceedings, the design specifications are issued within 60 days from the submission of the application. The competent authority sets a time-limit of up to ten days to give the approval or express an opinion.

(3) Where the application is not submitted by the owner of the registered immovable named in the application, the competent authority invites that owner to join in the proceedings and, if necessary, also invites the owners of the adjacent registered immovables.

(4) Where necessary, the competent authority refers the proposal of design specifications:

- 1) for approval to the institution in whom the law vests competencies that are related to the subject matter of the application for design specifications;
- 2) for an opinion to the institution or person whose rights or interests may be affected by the construction work or building work envisaged in the application.

(5) If observations are submitted concerning the proposal of design specifications in the course of the giving of approvals and opinions, the competent authority takes appropriate consideration of these observations or states the reasons for not taking them into consideration.

(6) If the institution whose approval or the person or institution whose opinion is requested has not within ten days from receiving the proposal of design specifications refused to give the approval or opinion or applied for an extension of the time-limit, the proposal of design specifications is deemed to have been tacitly approved by the institution or the person or institution is deemed to have declined to express an opinion regarding the proposal, unless otherwise provided by law.

### **§ 32. Refusal to issue design specifications**

The competent authority refuses to issue design specifications if:

- 1) the drawing up of a spatial plan has been initiated and in connection with that a temporary building ban has been established;
- 2) the application for design specifications does not conform to the comprehensive plan;
- 3) the application for design specifications does not meet the criteria established in section 27 of this Code;
- 4) the application for design specifications does not conform to public-law restrictions provided in legislation or rendered operative by the location of the construction work;
- 5) the construction work envisaged according to the design specifications may excessively infringe the rights of a third party;
- 6) the institution named in s. 31(4)(1) of this Code has refused to approve the proposal of design specifications and it is not possible to amend the proposal;
- 7) the construction work envisaged according to the design specifications entails a significant environmental impact, which cannot be sufficiently avoided or alleviated;
- 8) in applying for design specifications, knowingly false information has been submitted that has an impact on the decision on issuing the design specifications, or
- 9) it is envisaged to issue design specifications additionally to the national or local special spatial plan.

### **§ 33. Validity of design specifications**

(1) Design specifications are valid for five years. Where this is warranted by the circumstances, the competent authority may establish a different validity period or modify the validity period of the design specifications issued.

(2) The design specifications issued earlier concerning the same subject matter are rendered invalid by the issuing of new design specifications in the matter.

### **§ 34. Revocation of design specifications**

The competent authority may revoke the design specifications if:

- 1) the possibility of revocation is provided in the design specifications;
- 2) the data or the spatial plan on the basis of which the design specifications were issued have changed or other requirements for the relevant construction work and building work have changed;
- 3) a detailed spatial plan has subsequently been established in respect of the relevant registered immovable;

4) a building ban has been established with regard to the registered immovable that is within the subject matter of the application for design specifications;

5) in applying for design specifications, knowingly false information has been submitted that had an impact on the decision on issuing the design specifications.

## **Chapter 4** **Building notice and building permit**

### **Division 1** **Building notice**

#### **§ 35. Building notice**

(1) In the cases provided in this section, the competent authority must be notified of building work prior to commencement of the work.

(2) The building notice is submitted to the local authority, unless otherwise provided by law.

(3) The submission of a building notice is required in the case of the construction works listed in Annex 1 to this Code.

(4) Where this is warranted by the circumstances, the competent authority is authorised to demand the submission of a building notice concerning a construction work that is not included in Annex 1 to this Code. When considering whether to demand the submission of a building notice, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with the similar indications provided in Annex 1 to this Code.

(5) Where the building design documentation of a construction work subject to building permit requirement includes construction works whose building is subject to the notification obligation, the building permit functions as the building notice.

(6) The minister responsible for the area makes regulations to establish the requirements concerning the format of building notices and the procedure for their submission.

#### **§ 36. Submission of the building notice**

(1) The competent authority is notified of the building of a construction work electronically via the register of construction works. If notification via the register of construction works is not possible, the building notice is submitted to the competent authority who enters the information in the register of construction works.

(2) The building notice must be submitted at least ten days before the building of the construction work commences. If, within ten days from the submission of the building notice, the competent authority does not inform the person who submitted the building notice of the need for further verification of the information presented in the building notice, building work may commence.

(3) The building notice states:

1) the name, contact information and signature of the person submitting the notice, the desired manner of the document's delivery and the date of submission;

2) the particulars and cadastral code of the registered immovable on which building work is to be performed;

3) the object of the submission of the building notice, including a description of the envisaged construction work and the type of building work, the location of the construction work on the registered immovable and its purpose of use;

4) in the case of a temporary construction work, the period of time envisaged for using the construction work;

5) where required, the energy performance certificate.

(4) In the cases identified in Annex 1 of this Code, the building notice must be accompanied by the relevant building design documentation.

(5) Where needed, the competent authority carries out a verification of whether, in relation to the construction work or building work stated in the building notice, it is necessary:

1) to bring the construction work or building work into compliance with the requirements;

2) to obtain the approval of the competent authority for the construction work or building work;

3) to establish further requirements for the construction work with regard to its architectural or engineering solution or appearance;

4) to involve the owner of the registered immovable or the owners of adjacent registered immovables.

(6) In the case of grounds listed in subsection 5 of this section, the rules established in relation to building permits are to be observed; this includes the time-limit for issuing building permits and the grounds for refusal

to issue a building permit. The requirements presented as a result of the verification are issued by the competent authority as an administrative act.

### **§ 37. Commencement of building work on the basis of building notice**

The building of the construction work according to the building notice may take place within two years following the submission of the building notice or receipt of further requirements or approval of the building design documentation.

## **Division 2 Building permit**

### **§ 38. Building permit**

(1) A building permit grants the right to build the construction work that corresponds to the building design documentation on the basis of which the building permit is issued.

(2) A building permit is required in the cases listed in Annex 1 to this Code.

(3) Where this is warranted by the circumstances, the competent authority is authorised to issue a building permit or to demand that a building permit be issued in respect of a construction work not included in Annex 1 to this Code. When considering whether to issue the building permit, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with the similar indications provided in Annex 1 to this Code.

### **§ 39. Competent authority issuing building permits**

(1) The building permit is issued by the local authority, unless otherwise provided by law.

(2) If the application for building permit includes construction works that are to be built on the basis of a national special spatial plan, the corresponding building permit is issued by the Technical Regulatory Authority, unless otherwise provided by law.

(3) If the application for building permit includes construction works in respect of which the issuing of the building permit is in the competency of the government and of the local authority, the corresponding building permit is issued by the Technical Regulatory Authority, unless otherwise provided by law.

(4) If the application for building permit includes construction works in respect of which the issuing of the building permit is in the competency of several government agencies, the corresponding building permit is issued by the Technical Regulatory Authority, unless otherwise provided by law.

### **§ 40. Application for building permit**

(1) The application for building permit and the related documents are submitted to the competent authority electronically via the register of construction works. Where it is not possible to submit these documents via the register of construction works, they are submitted to the competent authority who enters the information in the register of construction works.

(2) The application for building permit states:

- 1) the applicant's name, contact information and signature, and the date of submission;
- 2) the manner of delivery of the building permit;
- 3) the particulars and cadastral code of the registered immovable on which building work is to be performed;
- 4) the object of applying for the building permit, including the description and purpose of use of the envisaged construction work;
- 5) in the case of a temporary construction work, the period of time envisaged for using the construction work;
- 6) the particulars of the person who prepared the building design documentation; if the conformity of the building design documentation to the requirements was verified by a competent person who is independent of the person who prepared the building design documentation, also the particulars of that competent person;
- 7) where required, the energy performance certificate;
- 8) information regarding payment of the state fee.

(3) The application for building permit must be accompanied by building design documentation that conforms to the requirements. If an expert assessment has been conducted to verify the conformity of the building design documentation to the requirements, the expert assessment report must also be submitted.

(4) The minister responsible for the area makes regulations to establish the requirements concerning the format of the building permit and of the application for building permit and the procedure for submitting the application.

#### **§ 41. Checking the application for building permit and refusal to consider the application**

When the competent authority receives an application for building permit, it checks the conformity of the application to the requirements. If it is obvious that the issuing of the building permit is impossible, the competent authority refuses to consider the application and returns it, stating the reasons for the refusal.

#### **§ 42. Procedure for issuing building permits**

(1) The building permit is issued if the submitted building design documentation conforms to the requirements established in legislation, i.e., above all to the detailed spatial plan or design specifications and to the requirements for construction works and for building work. Where so provided by law, the construction work must conform to the national or local special spatial plan.

(2) The competent authority decides on the need to initiate the assessment of environmental impact.

(3) By way of supplementary conditions, the building permit may, above all, stipulate the following:

- 1) restriction of the validity period of the building permit to the time-limit for the demolition of the temporary construction work;
- 2) the possibility of altering the building permit in relation to the validity of several building permits issued in respect of the same registered immovable;
- 3) the possibility of amending the term of the building permit;
- 4) the possibility of repeated installation of the same construction work in the same location or within the territory defined in the building permit without submitting a building notice or building permit;
- 5) conditions for building work arising from the complexity of the construction work or building work or
- 6) the conduct of an expert assessment of the building design documentation.

(4) Where this is warranted by the circumstances, the competent authority is entitled to require the conduct of site investigations or of further investigations to elaborate the results of earlier investigations. The results of site investigations must be taken into account when preparing building design documentation.

(5) The competent authority issues the building permit within 30 days from the date of submission of the application. The competent authority sets a time-limit of up to ten days for the giving of approvals or opinions.

(6) Where the application is not submitted by the owner of the registered immovable named in the application, the competent authority invites that owner to join in the proceedings and, if necessary, also invites the owners of the adjacent registered immovables.

(7) Where necessary, the competent authority refers the proposal of the building permit:

- 1) for approval to the institution in whom the law vests competencies that are related to the subject matter of the application for building permit;
- 2) for an opinion to the institution or person whose rights or interests may be affected by the construction work or building work envisaged in the application.

(8) If observations are submitted concerning the proposal of the building permit in the course of the giving of approvals and opinions, the competent authority takes appropriate consideration of these observations or states the reasons for not taking them into consideration. The building permit is issued electronically in the register of construction works.

(9) If the institution whose approval or the person or institution whose opinion is requested has not within ten days from receiving the proposal of the building permit refused to give the approval or opinion or applied for an extension of the time-limit, the proposal of the building permit is deemed to have been tacitly approved by the institution or the person or institution is deemed to have declined to express an opinion regarding the proposal, unless otherwise provided by law.

#### **§ 43. Notice of the commencement of building work and notice of the complete demolition of a construction work**

(1) The person who applied for the building permit must submit to the competent authority a notice of the commencement of building work at least three days before the building work commences.

(2) The notice of the commencement of building work sets out the information regarding the construction work, the time of commencement of building work, the name, contact information, personal identification code (in the absence of a personal identification code, the date of birth) or registration number in the commercial register or other register of the person performing owner supervision and of the person performing building work.

(3) The person who applied for a building notice or building permit for the complete demolition of a construction work must submit to the competent authority a notice of the demolition of the construction work at least three days after the demolition.

(4) A notice of the demolition of a construction work sets out the cadastral code and the address of the land unit, its registration number in the register of construction works and a statement regarding the complete demolition of the construction work.

(5) The minister responsible for the area makes regulations to establish the requirements concerning the format of the notice of the commencement of building work and of the notice of the demolition of a construction work and the procedure for submitting the respective notices.

#### **§ 44. Refusal to issue a building permit**

The competent authority refuses to issue a building permit if:

- 1) the envisaged construction work does not conform to the detailed spatial plan, design specifications, a national or local special spatial plan, the requirements established for construction works or for building work, or other public-law restrictions;
- 2) the building design documentation has not been prepared by a competent person or an expert assessment by a competent person has not been performed in respect of the building design documentation;
- 3) the building design documentation does not take into account the results of the site investigations conducted at the site of the construction work to be built or the required site investigations have not been performed;
- 4) the construction work or building work entails a permanent negative impact for the owner of the registered immovable or the owners of adjacent registered immovables or other persons affected by the construction work or building work and it is not possible to sufficiently reduce or alleviate that impact;
- 5) the building design documentation does not conform to the requirements established for building design documentation;
- 6) the institution named in section 42(7)(1) of this Code has refused to approve the proposal of the building permit, where this is warranted by the circumstances;
- 7) the competent authority has initiated proceedings to repeal the detailed spatial plan that serves as the basis for the building design documentation;
- 8) the competent authority has initiated proceedings to revoke the design specifications that serve as the basis for the building design documentation;
- 9) a temporary ban on building work has been established with regard to the registered immovable in respect of which the building permit is applied for;
- 10) the construction work or building work entails a significant environmental impact that cannot be sufficiently avoided or alleviated;
- 11) the demolition of the construction work is contrary to a significant public interest;
- 12) in applying for the building permit, knowingly false information has been submitted that has an impact on the decision on issuing the building permit.

#### **§ 45. Validity of building permits**

(1) A building permit is valid for five years. When building work has commenced, the building permit is valid for up to seven years from the time it became valid. Where this is warranted by the circumstances, a longer term of validity may be stipulated or the term of validity may be amended.

(2) The date of commencement of building work is deemed to be the first day on which work corresponding to the building design documentation is performed.

#### **§ 46. Revocation of a building permit**

(1) The competent authority revokes the building permit if:

- 1) the building design documentation that served as the basis for the application for the building permit has been amended in a way that significantly changes important specifications of the construction work such as fire safety, energy performance, purpose of use, loads affecting the construction work or other important technical parameters stated in the building permit, or
- 2) in applying for the building permit, knowingly false information has been submitted that had a significant impact on the decision on issuing the building permit.

(2) The competent authority may revoke the building permit if:

- 1) the holder of the building permit or the owner of the registered immovable requests the corresponding revocation, except where other persons have a legitimate interest in the validity of the building permit, or
- 2) the construction work or building work does not conform to the building design documentation, the detailed spatial plan, the design specifications, a national or local special spatial plan, or the requirements for construction works or for building work.

## **Chapter 5**

# Use and occupancy notice and use and occupancy permit

## Division 1 Use and occupancy notice

### § 47. Use and occupancy notice

(1) In situations falling under this section, the competent authority must be notified in advance of the use and occupancy of the construction work or of a change in its purpose of use.

(2) A use and occupancy notice must be submitted when the construction work is complete if the construction work or a part of the construction work is intended to be used and occupied and if, with regard to the construction work or the part of the construction work, the requirements for the use and occupancy of construction works have been met.

(3) The use and occupancy notice is submitted to the local authority, unless otherwise provided by law.

(4) The submission of a use and occupancy notice is required in the case of the construction works described in Annex 2 to this Code.

(5) Where this is warranted by the circumstances, the competent authority is authorised to require the submission of a use and occupancy notice with regard to construction works that are not included in Annex 2 to this Code. When considering whether to require the submission of a use and occupancy notice, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with the similar indications provided in Annex 2 to this Code.

(6) Where the building design documentation of a construction work subject to the use and occupancy permit requirement includes construction works whose use and occupancy is subject to the notification obligation, the use and occupancy permit functions as the use and occupancy notice.

(7) The minister responsible for the area makes regulations to establish requirements concerning the format of the use and occupancy notice and the procedure for its submission.

### § 48. Submission of the use and occupancy notice

(1) The competent authority is notified of the use and occupancy of a construction work electronically via the register of construction works. If it is not possible to effect the notification via the register of construction works, the use and occupancy notice is submitted to the competent authority who enters the information in the register of construction works.

(2) The use and occupancy notice must be submitted at least ten days before commencement of the use and occupancy of the construction work or the change of its purpose of use. If, within ten days from the submission of the use and occupancy notice, the competent authority does not inform the person who submitted the notice of the need for further verification of the information presented in the notice, the use and occupancy of the construction work may commence or its purpose of use may be changed.

(3) The use and occupancy notice states:

- 1) the name, contact information and signature of the person submitting the notice and the date of submission;
- 2) the particulars and cadastral code of the registered immovable concerned by the location of the construction work;
- 3) the object of the submission of the use and occupancy notice, including a description of the construction work, its purpose of use and the type of building work;
- 4) in the case of a temporary construction work, the period time envisaged for the use of the construction work;
- 5) where required, the energy performance certificate;
- 6) the particulars of the builder.

(4) In the cases named in Annex 2 to this Code, the use and occupancy notice must be accompanied by the building design documentation according to which the construction work was built.

(5) Where necessary, the competent authority verifies whether in relation to the use and occupancy of the construction work or the change in its purpose of use as stated in the use and occupancy notice, it is necessary:

- 1) to bring the construction work into conformity with the requirements;
- 2) to obtain the approval of the competent authority for the use and occupancy of the construction work or for the change in its purpose of use;
- 3) to involve the owner of the registered immovable or the owners of adjacent registered immovables.

(6) Where the grounds provided in subsection 5 of this section are present, the procedure established in relation to use and occupancy permits is observed, including the time-limit of the use and occupancy permit procedure

and the grounds for refusal to issue a use and occupancy permit. The requirements specified as a result of the verification are issued by the competent authority as an administrative act.

#### **§ 49. Use and occupancy of a construction work on the basis of a use and occupancy notice**

On the basis of the use an occupancy notice, the construction work may be used and occupied indefinitely, unless otherwise provided by law.

## **Division 2 Use and occupancy permit**

#### **§ 50. Use and occupancy permit**

(1) A use and occupancy permit is issued if the building work performed on the completed construction work conforms to the building permit and it is possible to use and occupy the construction work in compliance with the requirements and in accordance with its purpose of use. A use and occupancy permit is required in the case of construction works listed in Annex 2 to this Code and in the event of a change in their purpose of use.

(2) Where this is warranted by the circumstances, the competent authority is authorised to issue a use and occupancy permit or to demand that a use and occupancy permit be issued in respect of a construction work not included in Annex 2 to this Code. When considering whether to issue the use and occupancy permit, the danger posed by the construction work and its impact on public space and on the rights of individuals is taken into account and a comparison is made with the similar indications provided in Annex 2 to this Code.

(3) The use and occupancy permit determines or changes the purpose of use of the construction work.

(4) If the change in the purpose of use of the construction work does not entail any operations that are listed in Annex 1 to this Code as subject to the notice or permit requirement, that change in the purpose of use is subject to the column concerning changes in the purpose of use as established in Annex 2 to this Code.

(5) A use and occupancy permit may be issued in respect of a part of the construction work if that part is complete and the requirements established in legislation—first and foremost, the requirement that it is possible to use the construction work safely—have been complied with.

(6) If the building design documentation submitted together with the application for use and occupancy permit includes several construction works and the civil engineering works necessary for servicing those construction works, the use and occupancy permit is issued in respect of each construction work separately. A separate use and occupancy permit is also issued for each independently used civil engineering work.

(7) The minister responsible for the area makes regulations to establish:

- 1) the list of the purposes of use of construction works;
- 2) the requirements for construction works arising from their purpose of use.

#### **§ 51. Authority competent to issue use and occupancy permits**

(1) The use and occupancy permit is issued by the local authority, unless otherwise provided by law.

(2) If the application for use and occupancy permit includes construction works that were built on the basis of a national special spatial plan, the corresponding use and occupancy permit is issued by the Technical Regulatory Authority, unless otherwise provided by law.

(3) If the application for use and occupancy permit includes construction works in respect of which the issuing of the use and occupancy permit is in the competency of the government and of the local authority, the corresponding use and occupancy permit is issued by the Technical Regulatory Authority, unless otherwise provided by law.

(4) If the application for use and occupancy permit includes construction works in respect of which the issuing of the use and occupancy permit is in the competency of several government agencies, the corresponding use and occupancy permit is issued by the Technical Regulatory Authority, unless otherwise provided by law.

#### **§ 52. Application for use and occupancy permit**

(1) The application for use and occupancy permit and related documents are submitted to the competent authority electronically via the register of construction works. Where it is not possible to submit these documents via the register of construction works, they are submitted to the competent authority who enters the information in the register of construction works.

- (2) The application for use and occupancy permit states:
- 1) the applicant's name, contact information and signature, and the date of submission;
  - 2) the manner of delivery of the use and occupancy permit;
  - 3) the particulars and cadastral code of the registered immovable on which building work is to be performed;
  - 4) the object of applying for the use and occupancy permit, including the description and purpose of use of the completed construction work and the type of building work;
  - 5) in the case of using a temporary construction work, the period of use applied for;
  - 6) in the cases provided in legislation, maintenance instructions;
  - 7) the particulars of the person who built the construction work and, where relevant, the particulars of the person who prepared the building design documentation and, if the conformity of the building design documentation to the requirements was verified by a competent person who is independent of the person who prepared the building design documentation, also the particulars of that competent person;
  - 8) where required, the energy performance certificate;
  - 9) in the cases provided in legislation, proof of the construction work having been audited;
  - 10) building documents, except where the object of the application for use and occupancy permit is limited to changing the purpose of use of the construction work;
  - 11) information regarding payment of the state fee.

(3) The application for use and occupancy permit must be accompanied by the building design documentation according to which the construction work was built. The submission of the building design documentation is not required if the object of the application for use and occupancy permit is limited to changing the purpose of use of the construction work.

(4) The minister responsible for the area makes regulations to establish the application for use and occupancy permit, the procedure for the submission of the application and the requirements concerning its format.

### **§ 53. Checking the application for use and occupancy permit and refusal to consider the application**

When the competent authority receives an application for use and occupancy permit, it checks the conformity of the application to the requirements. If it is obvious that the issuing of the use and occupancy permit is impossible, the competent authority refuses to consider the application and returns it, stating the reasons for refusal. The impossibility of issuing the use and occupancy permit is obvious, above all, if the building of the construction work required the existence of a building notice or building permit.

### **§ 54. Procedure for issuing use and occupancy permits**

(1) The use and occupancy permit is issued if the construction work conforms to the requirements established in legislation, i.e., above all to the requirements for construction works, and conforms to the building permit.

(2) The competent authority decides on the need to initiate the assessment of environmental impact above all, if the change in the purpose of use of the construction work may entail a significant environmental impact that has not been assessed before.

(3) By way of supplementary conditions, the use and occupancy permit may, above all, stipulate the following:

- 1) where warranted by the circumstances, the term of validity of the use and occupancy permit;
- 2) the term of validity of the use and occupancy permit as related to the time-limit for the demolition of a temporary construction work, which may not exceed five years since the issuing of the use and occupancy permit;
- 3) where the use and occupancy permit is issued in respect of a part of the construction work, the additional requirement to apply, within a specified time-limit, for use and occupancy permit for the entire construction work;
- 4) the conduct of an expert assessment of the building design documentation, including the time-limit for conducting the assessment;
- 5) the need to commission an opinion from a competent person to verify the compliance of the construction work with the requirements;
- 6) the requirement to perform an audit.

(4) The competent authority issues the use and occupancy permit within 30 days from the date of submission of the application. The competent authority sets a time-limit of up to ten days for the giving of approvals or opinions.

(5) Where the application is not submitted by the owner of the registered immovable named in the application, the competent authority invites that owner to join in the proceedings and, if necessary, also invites the owners of the adjacent registered immovables.

(6) Where necessary, the competent authority refers the proposal of the use and occupancy permit:

- 1) for approval to the institution in whom the law vests competencies that are related to the subject matter of the application for use and occupancy permit;
- 2) for an opinion to the institution or person whose rights or interests may be affected by the construction work.

(7) If observations are submitted concerning the proposal of the use and occupancy permit in the course of the giving of approvals and opinions, the competent authority takes appropriate consideration of these

observations or states the reasons for not taking them into consideration. The use and occupancy permit is issued electronically in the register of construction works.

(8) If the institution whose approval or the person or institution whose opinion is requested has not within ten days from receiving the proposal of the use and occupancy permit refused to give the approval or opinion or applied for an extension of the time-limit, the proposal of the use and occupancy permit is deemed to have been tacitly approved by the institution or the person or institution is deemed to have declined to express an opinion regarding the proposal, unless otherwise provided by law.

#### **§ 55. Refusal to issue a use and occupancy permit**

(1) The competent authority refuses to issue the use and occupancy permit if:

- 1) the construction work does not conform to the requirements;
- 2) the construction work poses a danger as a result of the change in its purpose of use;
- 3) the construction work does not conform to the building permit, to the national or local special spatial plan or detailed spatial plan currently in effect, including the operational plan for implementation of the detailed spatial plan, or to the design specifications;
- 4) the competent authority has initiated proceedings to revoke the building permit that served as the basis for the building of the construction work;
- 5) due to changes in the building design documentation or changes made during the building work, the building design documentation submitted with the application for use and occupancy permit differs significantly from the building design documentation submitted with the application for building permit;
- 6) the building design documentation does not conform to the requirements established for the building design documentation that served as the basis for the building work and, due to this, the completed construction work poses a danger;
- 7) the audit has not been performed;
- 8) where warranted by the circumstances, the institution named in section 54(6)(1) of this Code has refused to approve the proposal of the use and occupancy permit;
- 9) the use and occupancy of the construction work entails a significant environmental impact that cannot be sufficiently avoided or alleviated, or
- 10) in applying for use and occupancy permit, knowingly false information has been submitted that has a significant impact on the decision on issuing the use and occupancy permit.

#### **§ 55. Validity of use and occupancy permits**

The use and occupancy permit is granted for an unspecified term, unless stipulated otherwise in the permit.

#### **§ 56. Revocation of a use and occupancy permit**

(1) The competent authority revokes the use and occupancy permit if in applying for the use and occupancy permit, knowingly false information has been submitted that had a significant impact on the decision on issuing the use and occupancy permit.

(2) The competent authority may revoke the use and occupancy permit if:

- 1) the holder of the use and occupancy permit or the owner of the registered immovable requests the corresponding revocation, except where other persons have a legitimate interest in the validity of the use and occupancy permit;
- 2) the audit has not been performed;
- 3) the construction work or its use does not conform to the use and occupancy permit or to the requirements established for the construction work.

## **Chapter 6**

### **Register of construction works**

#### **§ 58. Register of construction works**

(1) The purpose of the register of construction works is to store, provide and disseminate information regarding envisaged construction works, construction works that are being built, existing construction works, and the proceedings related to these.

(2) The Government of the Republic makes a regulation to establish the register of construction works and enact its constitutive regulations.

## **§ 59. Controller and processor of the data in the register of construction works**

(1) The controller of the data in the register of construction works is the Ministry of Economic Affairs and Communications.

(2) The processors of the data in the register of construction works are designated in the constitutive regulations of the register of construction works.

## **§ 60. Information recorded in the register of construction works**

(1) The register of construction works contains the following general information:

- 1) the particulars of the construction work;
- 2) the particulars of the location of the construction work;
- 3) building documents;
- 4) the particulars of the building work;
- 5) in respect of the construction work that is a movable, the particulars of its owner;
- 6) information concerning the results of site investigations;
- 7) the particulars of any audits of the construction work;
- 8) maintenance instructions for the construction work;
- 9) the particulars of the persons connected with the construction work or the building work;
- 10) information concerning the applications, design specifications, notices, permits and enforcement orders connected with the construction work or the building work;
- 11) information concerning state supervision;
- 12) the particulars of the energy performance certificate;
- 13) information concerning the interest area of the network possessor or owner;
- 14) where necessary, other information related to the construction work or the building work.

(2) The constitutive regulations of the register of construction works may, in relation to the purpose of use of construction works, specify the definition of the particulars or information set out in subsection 1 of this section and provide special rules to govern the entry of those particulars or that information in the register.

(3) The information in the register of construction works is disseminated through the website of the register. The information in the register of construction works is made available via the X-road interface.

(4) Access via the X-road interface and the website of the register of construction works is provided to the entirety of the particulars and information in the register, except the archived particulars and information of the register of buildings, the particulars and information connected to enforcement orders that have been complied with and the particulars and information concerning construction works that have been removed from the register.

(5) The minister responsible for the area makes regulations to establish the requirements concerning the format of the notices to submit information to the register of construction works and the procedure for their submission.

## **§ 61. Significance of information stored in the register of construction works**

(1) The information stored in the register of construction works has informational and statistical significance.

(2) Applications, design specifications, notices, building permits, use and occupancy permits and enforcement orders have legal significance.

# **Part 2 SPECIAL CONSTRUCTION WORKS AND SPECIAL REQUIREMENTS**

## **Chapter 7 Energy performance of buildings**

### **§ 62. Scope of application**

(1) The requirements established in this Chapter apply to buildings that use energy to control indoor climate and the quality of indoor air, including to maintain, increase or reduce indoor temperature.

(2) The requirements established in this Chapter do not apply to the following buildings:

- 1) buildings that, according to the relevant comprehensive plan or detailed spatial plan, are located within a built-up area of cultural and historical value or have been recognised as a valuable monument, or buildings which, under the Heritage Conservation Act, have been designated as monuments, are located in a heritage conservation area or included in the UNESCO World Heritage List and in which compliance with the minimum requirements for energy performance would significantly alter the building's nature or appearance;

- 2) buildings which are mainly used as places of worship or for religious activities;
- 3) temporary buildings whose useful life is two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand;
- 4) residential buildings which are either intended to be used during less than four months of the year or have an alternatively limited period of annual use and whose expected energy consumption is less than 25 percent of the energy consumption corresponding to year-round use;
- 5) buildings whose enclosed net floor area does not exceed 50 m<sup>2</sup>.

### **§ 63. Definitions**

(1) The energy performance of a building means the calculated or measured amount of energy needed to meet the energy demand associated with a typical use of the building, which includes, inter alia, energy used for heating, cooling, ventilation, hot water and lighting.

(2) Minimum requirements for energy performance means the ceiling values of the total energy consumption of existing or new buildings, which are based on the purpose of use of the buildings and which take into account technical parameters, the requirements established for technical systems that consume significant amounts of energy or the conditions for introducing the use of renewable energy in buildings. Minimum requirements for energy performance may also include requirements for the building's other technical systems if the operation of those systems causes the building's energy demand to increase significantly.

(3) For the purposes of this Chapter, technical system that consumes a significant amount of energy means the space heating, space cooling, ventilation, water heating and lighting equipment or any combination of these installed in a building or part of a building.

(4) Renovation is deemed to be major if the costs of modification of the building's envelope elements and the modification or replacement of the building's loadbearing or stiffening elements, or of modification of the building's outer envelope and the building's technical systems or parts thereof, or of the complete replacement of a technical system, exceed one quarter of the average building cost of a building that is equivalent to the building that is being renovated.

(5) The minister responsible for the area may make regulations to establish the procedure for assessing the average building cost.

### **§ 64. Requirements for the energy performance of buildings**

(1) The building's outer envelope and technical systems that consume significant amounts of energy must be such as to ensure that the total energy consumption of the building corresponds to the climatic conditions of its location and to the purpose of its use.

(2) Measures are to be taken to improve the energy performance of the building, taking into consideration that:

- 1) the energy performance may not be achieved in a manner that would affect the building's indoor climate and conditions of use;
- 2) different options should be weighed and cost-effective solutions should be preferred;
- 3) when renovating a technical system that consumes a significant amount of energy, the optimum performance of the system must be ensured.

(3) A prerequisite for the optimum performance of a technical system is the appropriate choice of the system and of the equipment, their appropriate installation, setup and check and, where necessary, the employment of a smart measuring system.

(4) The energy audit is performed in order to obtain requisite knowledge concerning the energy consumption profile of a building or group of buildings, of an industrial or commercial process or installation or of specific services. The energy audit identifies cost-effective energy saving opportunities and quantifies the corresponding savings; an audit report is drawn up on the basis of its results.

(5) The minister responsible for the area makes regulations to establish requirements for the energy audits of buildings and for the methodology of calculating the energy performance of buildings.

### **§ 65. Minimum requirements for energy performance**

(1) Any new building that is being built or any existing building that is undergoing major renovation must conform to the minimum requirements for energy performance after the completion of the building or renovation work. If the building work was performed on the basis of a building permit, the construction work must conform to the minimum requirements for energy performance that were effective at the time the permit was issued.

(2) The building's outer envelope and technical systems that consume a significant amount of energy must be designed and built such that approaching them as an integral whole would allow for conformity to the minimum requirements for energy performance.

(3) The minister responsible for the area makes regulations to establish the minimum requirements for energy performance, including the requirements for technical systems that consume significant amounts of energy, and the conditions for introducing the use of renewable energy in buildings. The minimum requirements for energy performance are reviewed at least once every five years. When reviewing the minimum requirements for energy performance, technical progress is taken into account.

#### **§ 66. Energy performance certificate**

(1) Conformity to the minimum requirements for energy performance is proved by means of the energy performance certificate. An energy performance certificate provides information on the rated energy demand or the actual energy consumption of a building that already exists or that is being designed.

(2) A list of recommendations for improving the energy performance of the building is annexed to the energy performance certificate, except where there is no reasonable possibility for making the corresponding improvements.

(3) An energy performance certificate issued in respect of the rated energy demand is valid for two years after the completion of the building. An energy performance certificate issued in respect of the actual energy consumption is valid for ten years. A subsequently issued energy performance certificate revokes the energy performance certificate issued previously in respect of the same building or part of the building.

(4) If the building lacks a common heating system, a separate energy performance certificate may be issued in respect of a part of that building that can be used separately.

(5) The energy performance certificate is issued by a competent person who is a member of the relevant profession. The person who issues the energy performance certificate enters the particulars of that certificate electronically in the register of construction works. The particulars of the energy performance certificate issued in respect of a building that is being designed are entered in the register of construction works at the latest at the time of submission of the use and occupancy notice or of the application for use and occupancy permit.

(6) The minister responsible for the area makes regulations to establish the requirements for energy performance certificates and for the issuing of such certificates.

#### **§ 67. Energy performance certificate in the case of transfer of ownership in the building for a fee or in the case of assignment of the right to use and occupy the building for a fee**

(1) In order to allow the person interested in buying the building or acquiring the right to use and occupy the building to make an informed choice, the advertisement regarding the transfer of ownership in the building or part of the building for a fee or regarding assignment of the right to use and occupy the building or a part of the building that can be used separately for a fee must include the particulars of the energy certificate, including the energy performance indicator or the weighted specific energy use and the corresponding class.

(2) The person interested in buying the building or acquiring the right to use and occupy the building or a part of the building that can be used separately must be allowed to inspect the energy performance certificate. The energy performance certificate or a copy of the certificate is delivered upon the execution of the corresponding agreement to the person who acquires ownership of or the right to use and occupy the building or a part of the building that can be used separately. This requirement is deemed to have been met if it is possible to view the energy performance certificate in the register of construction works.

#### **§ 68. Displaying the energy performance certificate**

(1) The energy performance certificate must be displayed in a prominent place clearly visible to the public in any building in which:

- 1) the enclosed net floor area exceeds 500 square metres and which is visited by crowds of people;
- 2) a local authority or government agency or any other public-law agency has possession of an enclosed net floor area that exceeds 250 square metres and that is often visited by people.

(2) The minister responsible for the area may make regulations to establish a list of the types of building that are related to gatherings of crowds of people and in the case of which the presence of an energy performance certificate is required.

(3) The energy performance certificate must be displayed in a prominent place clearly visible to the public in any building that is covered by the list of the types of building established under subsection 2 of this section.

#### **§ 69. Energy performance of heating and cooling systems**

(1) The designer who designed the building or the heating or cooling system of the building or any other person who holds the relevant competency advises the owner in matters pertaining to the choice and replacement of

the boiler, heat pump and cooling equipment (hereinafter, the 'heating and cooling equipment') and to other modifications and possible solutions concerning technical systems, in a manner that allows the owner to assess the energy efficiency and appropriate capacity of the heating and cooling system.

(2) Where the nominal capacity of the heating equipment exceeds 20 kilowatts and the nominal capacity of the cooling equipment exceeds 12 kilowatts, the technical particulars of the heating and cooling equipment must be entered in the register of construction works.

(3) The specifications of the following heating and cooling equipment are not required to be entered in the register of construction works:

- 1) the technical particulars of the heating and cooling equipment that must be entered in the register of products, equipment, systems and containers containing fluorinated greenhouse gases and substances that deplete the ozone layer and of their handling operations;
- 2) the technical particulars of the heating and cooling equipment of a construction work serving national defence purposes or of a construction work of a security authority.

(4) The minister responsible for the area makes regulations to establish the precise definition of the heating and cooling equipment, the list of the particulars to be entered in the register of construction works and the procedure of transmitting the particulars.

## **Chapter 8**

### **Protection zone of construction works**

#### **§ 70. Protection zone of construction works**

(1) The protection zone of a construction work is the land underneath and around the construction work within which the owner of the registered immovable is obligated to tolerate the presence of a construction work belonging to another and within which the use of the registered immovable and operations on the registered immovable are restricted for the purposes of safety and of ensuring the functionality of the construction work.

(2) In the protection zone, it is prohibited:

- 1) to endanger the construction work or any use of the construction work that follows established procedure;
- 2) to build another construction work subject to building permit requirement, including the removal or heaping of soil;
- 3) to obstruct access to the construction work;
- 4) to obstruct maintenance of the construction work, including the installation of signs to alert the observer to the location of the construction work that has a protection zone or to the danger posed by such construction work;
- 5) to obstruct the preservation of the plant life or soil within the protection zone in a condition that does not endanger the construction work;
- 6) to pursue any other activities provided by law.

(3) The restrictions of the protection zone may be derogated from at the consent of the owner of the construction work that enjoys the protection zone, provided this does not reduce the safety of the construction work. The owner of the construction work that enjoys the protection zone may not charge a fee for giving the consent or demand the establishment of additional restrictions that are not related to safety. The owner of the construction work may not refuse to give the consent without valid reasons. The owner of the construction work that enjoys the protection zone is entitled to demand that any person carrying out operations within the protection zone be under the immediate supervision of the owner of the construction work that enjoys the protection zone.

(4) The owner of the construction work that enjoys a protection zone provides information regarding the location of that construction work free of charge to the owner of the registered immovable and to any lawful user of the immovable.

(5) The owner of the construction work that enjoys a protection zone must:

- 1) act in a manner that entails the least possible infringement of the rights of the owner of the registered immovable;
- 2) when exercising his or her rights, take into consideration the legitimate interests of the owner of the registered immovable, including giving reasonable advance notice to the owner of the land of any building work or repair work before the commencement of such work;
- 3) ensure the preservation of the registered immovable in good condition during any maintenance work performed on the construction work that enjoys a protection zone and, once the maintenance work has been completed, restore the registered immovable to its former condition, except where restoration to the former condition would contravene the restrictions of the protection zone.

(6) If several construction works that enjoy a protection zone are built on the same registered immovable, the greatest possible spatial overlap of the protection zones and the least possible encumbrance of the registered immovable must be preferred where this is possible. It is deemed possible that a construction work that enjoys a protection zone may be built in the protection zone of another construction work that enjoys a protection zone.

(7) The information regarding the existence of a protection zone, its content and spatial extent is entered in the Land Cadastre. The information to be entered in the Land Cadastre is provided by the owner of the construction work that enjoys the protection zone. If, after the building of a new construction work or after changing the location of an already existing construction work the application for entering the information concerning the protection zone in the Land Cadastre has not been submitted to the Land Cadastre within 30 days following the completion of the building of the construction work or following its relocation, the obligation to tolerate the construction work does not arise and the owner of the registered immovable is entitled to demand the removal of the construction work from the registered immovable.

(8) The minister responsible for the area makes regulations to establish the extent of protection zones, their protection and marking out and the recommendations for carrying out operations within protection zones.

#### **§ 71. Protection zone of public roads**

(1) The protection zone of a public road is the area of land that surrounds the road and allows for the protection of the road, permits the organisation of road maintenance, allows for safe traffic on the road and reduces the negative impact that is produced by the road with respect to the environment and the hazard that the road represents for people. If the road is a public road, it has a protection zone.

(2) The width of the protection zone of a road designated by the UN Economic and Social Council (hereinafter, the 'road in the European road network') is up to 50 metres from the outer edge of the outermost lane on both sides of the road. The width of the protection zone of other roads is up to 30 metres from the outer edge of the outermost lane on both sides of the road. The owner of the road may reduce the width of the protection zone where this is warranted by the circumstances.

(3) The width of the protection zone of a street is up to 10 metres from the outer edge of the outermost lane on both sides of the street. The width of the protection zone may be extended up to 50 metres where this is stipulated in the comprehensive plan or detailed spatial plan.

#### **§ 72. Operations within the protection zone of roads**

(1) In the protection zone of a road, it is prohibited to:

- 1) install any lighting equipment, information or advertising device that disturbs traffic on the road;
- 2) hold sports events and other public events;
- 3) extract mineral resources and earth materials;
- 4) carry out forest clearcutting operations;
- 5) perform land improvement operations that entail a change in the water regime.

(2) The owner of the registered immovable to which the protection zone of the road extends must permit the removal of plantations, trees or bushes that restrict visibility or the removal of any civil engineering works that pose a traffic hazard. The owner of the registered immovable must allow the installation of temporary snow fences, the erection of snow walls and ditches to block drifting snow and must allow snow to be removed to land outside the road area provided this does not obstruct access to the registered immovable.

(3) Detours may be constructed and built and another registered immovable used for their maintenance only on contractual basis. In the event of an accident or natural disaster, the making of the contract is not required. The owner of the registered immovable must be paid compensation for any damage resulting from the temporary use of the registered immovable.

(4) In areas where the preparation of a detailed spatial plan is mandatory, buildings that are subject to the detailed spatial plan requirement may be built in the protection zone of the road if this is permitted in the detailed spatial plan or in the national or local special spatial plan.

#### **§ 73. Protection zone of railways**

(1) The protection zone of a railway includes the ground underneath the railway and extends up to 30 metres from the centre of the railway track or from the centre of the outermost railway track in the case of multitrack railways and railway stations.

(2) In the protection zone of a railway, it is prohibited to endanger rail traffic and to obstruct visibility on the railway.

(3) In addition to permission of the owner of the railway, the permission of the Technical Regulatory Authority is required to carry out the following operations in the protection zone of a railway:

- 1) construction of land improvement systems, extraction of mineral resources, performance of excavation work;
- 2) renewal cutting of forest and other work that changes the natural environment;

- 3) production and storage of flammable substances or explosives;
- 4) installation and storage of equipment and materials if this jeopardises visibility in the protection zone;
- 5) building a construction work.

(4) Where this is warranted by the circumstances, the Technical Regulatory Authority is authorised to require the preparation of a risk analysis or other relevant analysis in order to assess the impact of the envisaged operations on the condition of the railway and on railway traffic.

(5) Where a grove of trees located in the protection zone obstructs the visibility needed for ensuring the safety of railway traffic or where a grove located within ten metres from the centre of the railway track is the source of a potential risk of fire and the owner of the registered immovable does not submit the notice of forest cutting operations or does not cut the grove, or where the visibility needed for ensuring the safety of railway traffic is obstructed or the source of the potential risk of fire is represented by other plants that do not qualify as woodland and the owner of the registered immovable does not clear these plants, the railway infrastructure manager or other owner or possessor of the railway is authorised to arrange, in the railway protection zone and in order to ensure the safety of railway traffic, the cutting of the grove or the clearing of other plants. The railway infrastructure manager or other owner or possessor of the railway informs the owner of the registered immovable in advance of the corresponding operations and of the measures to be taken while performing them.

#### **§ 74. Protection zone of public water supply and sewerage systems**

(1) The protection zone of a public water supply and sewerage system is the land area that surrounds the construction work of the public water supply and sewerage system and in that the use of the registered immovable has been restricted in order to ensure the safety and protection of that construction work.

(2) In the protection zone of a public water supply and sewerage system, it is prohibited to:

- 1) store materials and carry out any blasting, drilling, excavation, pile ramming, mineral resource extraction, land raising, flooding or land drainage operations, and, near construction works, also any lifting operations;
- 2) near a construction work of the public water supply and sewerage system that is located in a water body, perform any dredging operations or remove soil, dispose of solid substances, anchor water craft, or drag anchors, chains, logs, trawls or nets.

#### **§ 75. Protection zone of pressure equipment**

(1) The protection zone of pressure equipment is the land area which surrounds the pressure equipment that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the pressure equipment.

(2) In the protection zone of pressure equipment, it is prohibited to:

- 1) store waste, chemicals or fertilisers;
- 2) perform any blasting, drilling and excavation, as well as flooding, irrigation and land improvement operations, to store and move heavy objects and to arrange crossings of vehicles and to perform other work that may jeopardise the safety of the pressure equipment.

#### **§ 76. Protection zone of gas installations**

(1) The protection zone of a gas installation is the land area which surrounds the gas installation that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the gas installation.

(2) In the protection zone of a gas installation, it is prohibited to light fires and to grow trees. In the protection zone of a gas installation located in a water body, it is prohibited to perform dredging operations, anchor water craft or navigate with sunk anchors, chains, logs, trawls or nets.

#### **§ 77. Protection zone of electrical installations**

(1) The protection zone of an electrical installation is the land area which surrounds an electrical installation within the meaning of the Electricity Market Act that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the electrical installation.

(2) In the protection zone of an electrical installation, it is prohibited:

- 1) to store waste, materials and substances, to perform any kind of mining, loading, deepening, blasting and land improvement operations, to light fires, plant and cut trees;
- 2) to anchor water craft or navigate with sunk anchors, chains, logs, trawls or nets, to install traffic signs and buoys for water craft, and—in the protection zone of an electrical installation constructed as a submerged cable line—to harvest ice;

- 3) in the protection zone of overhead transmission lines—to drive machines and mechanisms whose total height above ground with or without cargo exceeds 4.5 metres;
- 4) in the protection zone of overhead transmission lines of high-voltage installations—to build wired fences, to construct drinking sites for animals and to hold large-scale events;
- 5) in the protection zone of overhead transmission lines and of underground cable lines—to work with impact mechanisms, to level ground, to perform topsoil work at a level deeper than 0.3 metres below ground or at a level deeper than 0.45 metres in land subject to ploughing, and to store and move heavy objects.

#### **§ 78. Protection zone of communication installations**

(1) The protection zone of a communication installation is the land area which surrounds a communication installation that constitutes an independent construction work, and within which the use of the registered immovable has been restricted in order to ensure the safety and protection of the communication installation. A communication installation is taken to mean communication installation as defined in Chapter 10 of this Code.

(1) In the protection zone of a communication installation, it is prohibited:

- 1) to perform any kind of mining, loading, deepening, blasting, flooding, irrigation and land improvement operations, to plant or cut trees, to remove tree stumps, to light fires, to use flammable materials and substances, to store waste, to obstruct access to the communication installation and, by any actions, to cause corrosion of the communication installation;
- 2) to climb a radio tower and to attach objects to a radio tower or to the fencing structures around the radio tower;
- 3) to perform deepening operations, to anchor water craft or navigate with sunk anchors, chains, logs, trawls or nets, to install traffic signs and buoys for water craft, and—in the protection zone of a communication installation located in a water body—to blast and harvest ice;
- 4) in the protection zone of a communication installation constructed as an overhead transmission line—to drive machines and mechanisms whose total height above ground with or without cargo exceeds 4.5 metres;
- 5) in the protection zone of a communication installation located in the ground—to work with impact mechanisms, to compact or level ground, to perform topsoil work at a level deeper than 0.3 metres below ground or at a level deeper than 0.45 metres in land subject to ploughing.

## **Chapter 9 Communication installations and other installations**

#### **§ 79. Scope of application**

(1) The provisions in this Chapter apply to communication installations and other installations.

#### **§ 80. Communication installations and other installations**

(1) For the purposes of this Act, other installations means equipment within the meaning of the Equipment Safety Act that is permanently installed in a construction work or that constitutes an independent construction work. Other installations are primarily:

- 1) electrical installations;
- 2) storage tanks and piping, including gas installations;
- 3) lifts;
- 4) cableways.

(2) Communication installation means a line or a line facility within the meaning of the Electronic Communication Act.

(3) Lift means:

- 1) a lifting device which is permanently installed in a construction work, which moves between the different levels of the construction work, whose platform or car moves along guides that are rigid and inclined at an angle of more than 15 degrees to the horizontal plane, and which is intended exclusively for the transport of people, or for the transport of people and objects, or exclusively for the transport of objects provided people may enter upon the platform or enter the car without difficulty and the platform or car is fitted with controls located inside the car or within the reach of the persons inside;
- 2) a lifting device that moves along a fixed course as provided in clause 1 of this subsection even if it does not move along rigid guides (for example, a scissor lift).

(4) The platform or car is the part of the lift that is used to lift or lower the people or objects that are on it or in it.

(5) The installer of the lift is the person who assumes responsibility for the design, manufacture, installation and placing on the market of the lift. The installer of the lift is its manufacturer within the meaning of the Product Conformity Act.

### **§ 81. Requirements for lifts and for the building of lifts**

(1) The lift and its safety components must conform to the requirements arising from the Product Conformity Act and the conformity of the lift and its safety components to these requirements must be proved following established procedure before the lift and its safety components are placed on the market and put into commission.

(2) Access to the engine assembly and related equipment of the lift or cableway must be obstructed. Access to the engine assembly and related equipment of the lift or cableway must only be possible for repair and maintenance purposes or in the case of danger.

(3) The shaft of the lift may not contain cables, pipes and other equipment that is not required for the functioning of the lift. The room that contains the lift's engine assembly and related equipment may not contain equipment that is not required for the operation of the lift if such equipment obstructs maintenance and repair operations on the lift.

(4) The installer of the lift and the person responsible for building work on the construction work must provide information to each other in matters pertaining to the installation of the lift and take the necessary measures to ensure the conformity of the installation to the requirements and the safety of use of the lift.

### **§ 82. Requirements for the marking out of communication installations**

(1) The marking out of the location of a communication installation that is being designed or built is specified in the building design documentation of the communication installation and the owner of the registered immovable is asked for his or her opinion in the matter.

(2) Where the owner of the registered immovable desires this or where the owner of the communication installation deems this necessary, the location of a communication installation that is in operation is marked out with above-ground stakes or with warning signs.

(3) Unauthorised removal, relocation or damaging of the markings of a communication installation or reducing the visibility of the markings in any other manner is prohibited.

### **§ 83. Design specifications**

(1) Design specifications are required:

- 1) in the case of a communication installation, for the preparation of the building design documentation concerning a new line facility;
- 2) for the construction of a new electrical installation that crosses several registered immovables or
- 3) for increasing the nominal voltage of an existing electrical installation to 110 kilovolts or more.

(2) Design specifications are not required for building a line or electrical installation or where the building of the line or installation is provided for in a detailed spatial plan or a national or local special spatial plan.

### **§ 84. Resolving disputes arising in relation to communication installations**

(1) In resolving disputes arising in relation to communication installations, the Technical Regulatory Authority takes guidance from the provisions established in section 149 of Electronic Communications Act.

(2) Disputes arising in relation to communication installations must be resolved within six months.

### **§ 85. Use and occupancy notice and use and occupancy permit**

(1) If a use and occupancy notice must be submitted or a use and occupancy permit is required before the use of a construction work can commence and if the construction work or an installation in the construction work is subject to the audit requirement, the use and occupancy notice or the application for use and occupancy permit must be accompanied by an opinion resulting from a pre-use audit that shows the construction work or installation to conform to the requirements.

(2) In the case of a lift, conformity assessment in accordance with the Product Conformity Act functions as the pre-use audit and the declaration of conformity by the lift's manufacturer that is drawn up on the basis of the conformity assessment functions as the opinion resulting from the pre-use audit referred to in subsection 1 of this section.

## **Chapter 10**

# Railway civil engineering works

## § 86. Scope of application

The provisions in this Chapter apply to railway civil engineering works.

## § 87. Requirements for use and maintenance

The use and maintenance of railway civil engineering works is subject to the requirements arising from the Railways Act.

## § 88. Design specifications

(1) The design specifications for railway civil engineering works are required for the preparation of building design documentation concerning railway civil engineering works that are subject to the building permit requirement and that are listed in Annex 1 to this Code, except in the case of demolition of the railway civil engineering work.

(2) The design specifications of railway civil engineering works must be approved by the Technical Regulatory Authority.

## § 89. Building notice and building permit

In order to build a railway civil engineering work, the building notice is submitted to the Technical Regulatory Authority who also issues the building permit.

## § 90. Use and occupancy notice and use and occupancy permit

In order to start using a railway civil engineering work, the use and occupancy notice is submitted to the Technical Regulatory Authority who also issues the use and occupancy permit.

## Chapter 11 Roads

## § 91. Scope of application

(1) The requirements in this Chapter apply to public roads and to private roads accessible to the public.

(2) The building, design and maintenance of roads and the related activities are not subject to the provisions concerning the register of construction works.

## § 92. Definitions

(1) Road means a civil engineering work that is intended for the movement or traffic of humans, vehicles or animals. Tunnels, bridges, overpasses and other civil engineering works used for traffic and required for the functioning of the road are regarded as parts of the road.

(2) Highway means a road that is located outside cities, towns or small towns and that is intended for vehicle and pedestrian traffic.

(3) Street means a road that is located in a city, town or small town.

(4) A road may consist of different road types.

(5) Public road means a national road, local road and a private road intended for public use. Public roads may be used by everybody while observing the restrictions established in legislation.

(6) National road means a road that belongs to the government and in respect of which the duties of the owner are performed by the Road Administration.

(7) Local road means a road in respect of which the duties of the owner are performed by the local authority. A local road may be a private road intended for public use, a road owned by the local authority or any other road that is necessary for the organisation of local traffic and that is administrated by the local authority in accordance with a resolution of the local council.

(8) Private road accessible to the public means a road that has a public function as determined by its owner and that is not a national or local road.

(9) Road of the trans-European road network means a road that is located on the territory of Estonia and that is named in Regulation (EU) No 1315/2013 of the European Parliament and of the Council.

(10) The minister responsible for the area makes regulations to establish the list of road types and the list of civil engineering works that constitute a part of a road, the definitions of the terms related to the building and maintenance of roads and the list of national roads.

### **§ 93. Forest roads**

(1) Forest road means a road that is situated on land retained in the ownership of the government and that is used predominantly for the management of public forests. A forest road may be used by anyone, unless the person or government agency who arranges the management of public forests has closed the forest road or a part of the road or restricted traffic on the road.

(2) The person or government agency who arranges the management of public forests is authorised to enter into agreements concerning the use of forest roads and to arrange for the upkeep of such roads.

(3) The minister responsible for the area makes regulations to establish the requirements for the condition of forest roads.

(4) A forest road must be marked by a name or indication.

(5) The person or government agency who arranges the management of public forests arranges for the building and upkeep of forest roads.

(6) The person or government agency who arranges the management of public forests may close a forest road or a part of the road or restrict traffic on the road:

- 1) if the load-bearing part of the road has deteriorated due to the thawing of the ground, rain or other factors that significantly affect traffic and traffic may damage the road or traffic on the road is dangerous;
- 2) for the purpose of fire safety;
- 3) for the purpose of protecting the ecosystems of the forest;
- 4) for the purpose of preventing the commission of an offence;
- 5) for the purpose of ensuring safety during forestry work or
- 6) if the road is not needed for the management of public forests or for local traffic.

(7) In order to close the forest road or restrict traffic, the person or government agency who arranges the management of public forests must install the required traffic control devices.

(8) The minister responsible for the area may make regulations to establish the requirements for the marking of forest roads and the procedure for the road marking system.

### **§ 94. Designating private roads for public use**

(1) A private road is designated for public use by the government or the local authority in whose area of administration the private road is located.

(2) In order to be able to designate a private road for public use, the government or the local authority must be authorised to use the land beneath the road on the basis of a limited real right. If the owner of the land does not agree to encumber the land with the limited real right, the government or local authority is authorised to apply for the establishment of compulsory possession in its favour in order to acquire the real right.

(3) Where a private road is designated for public use, the government or local authority assumes all obligations, rights and responsibilities of the owner of the road. It is possible to stipulate, in a regulatory contract, that the obligations, rights and responsibility of the owner of the road remain vested in the owner of the private road. The particulars of the regulatory contract are entered in the Land Cadastre.

### **§ 95. Right of pre-emption**

(1) When a registered immovable is sold that is crossed by an existing or envisaged road which, according to the detailed spatial plan, is to be designated for public use, the local authority in whose area of administration the registered immovable is located has the right of pre-emption.

(2) The local authority does not have the right of pre-emption if the property is sold to the owner's spouse, descendant or parent, as well as to the owner's brother, sister, or any of their descendants or to the Republic of Estonia, and also when the property sold is a commonhold apartment, the right of superficies or the right of commonhold apartment superficies.

(3) A note concerning the fact that the registered immovable has been encumbered with the right of pre-emption named in subsection 1 of this section is recorded in the third division of the land register entry concerning the immovable following an application by the local authority who adopted the detailed spatial plan that provides for designating the existing or envisaged road for public use. The recording of the note does not require the consent of the owner of the immovable. The application and the recorded note must cite this Act and this section and the detailed spatial plan that provides for designating the existing or envisaged road for public use.

(4) Where the entry in the Land Register shows that the registered immovable is encumbered with the right of pre-emption within the meaning of this section, the notary public, within five business days from authenticating the sales or other agreement that stipulates the obligation to acquire or transfer the registered immovable, transmits a notarially certified copy of the agreement by electronic means to the local authority in whose area of administration the registered immovable or construction work that is being sold is located, in order for the local authority to decide on the exercise of the right of pre-emption.

(5) The right of pre-emption provided in this section may not be exercised when the property is sold by way of compulsory enforcement or as part of insolvency proceedings, and when immovable property is subjected to compulsory acquisition. In the case of an auction in respect of immovable property whose entry in the Land Register shows that it is encumbered with the right of pre-emption within the meaning of this section, the bailiff or trustee in bankruptcy transmits, at least ten days before the auction is held, a corresponding notice to the local authority in whose territory the immovable property is located.

#### **§ 96. Requirements for the building of roads**

(1) When building or designing any tunnels whose length exceeds 500 metres, regard must be had to the requirements established in Directive 2004/54/EU of the European Parliament and of the Council on minimum safety requirements for tunnels in the trans-European road network.

(2) The minister responsible for the area may make regulations to establish the requirements for the building and designing of tunnels whose length exceeds 500 metres and to designate the authority responsible for ensuring the safety of the tunnel.

(3) The minister responsible for the area makes regulations to establish the quality requirements for the building of roads.

#### **§ 97. Road maintenance**

(1) Roads and any civil engineering works necessary for the functioning of the road must be maintained such that they conform to the requirements and such that the conditions for safe traffic are ensured.

(2) The minister responsible for the area makes regulations to establish the requirements for the condition of roads.

(3) At level crossings, building and maintenance work on the intersection is performed and conditions for safe traffic are ensured by the owner of the road, the railway infrastructure manager or the owner or possessor of the railway within the extent of the registered immovable in their possession, except for winter maintenance work which is to be performed by the owner of the road to the extent of the entire area of the level crossing. The owner of the road, the railway infrastructure manager or any other owner or possessor of the railway conclude an agreement that stipulates the details pertaining to winter maintenance work.

(4) At the crossing of roads belonging to different owners, each owner is responsible, within his or her registered immovable, for the condition of the road that is necessary for ensuring safe traffic.

(5) The upkeep of a non-road civil engineering work, including a soil amelioration or hydro-technical civil engineering work, that is located on the road and that is owned by another person is ensured by the owner of the non-road civil engineering work, which does not preclude the responsibility of the owner of the road to the person who sustained damage due to the non-conformity of the road to the requirements for road condition. The owner of the non-road civil engineering work is liable to compensate the owner of the road following the procedure established in the Law of Obligations Act.

(6) In a city, town and small town, the owner of the land adjacent to the road must arrange the clearing of the pavement that runs between his or her registered immovable and the carriageway, including snow clearing and gritting to an extent that allows for safe pedestrian traffic on the pavement.

#### **§ 98. Owner supervision**

When building a road subject to building permit requirement, owner supervision must be performed.

#### **§ 99. Building design documentation and design specifications**

(1) Design specifications are required for the preparation of the building design documentation concerning any road that is subject to building permit requirement and that is named in Annex 1 to this Code, provided the exact location of the road has not been determined in the relevant spatial plan.

(2) The design specifications for the road, except for national roads, are issued together with the traffic arrangement requirements by the local authority. The design specifications for national roads are issued by the Road Administration.

(3) When connecting to an existing road or constructing utility lines within the road area, the building design documentation must be approved by the owner of the road. The owner of the road may stipulate requirements, above all, in respect of:

- 1) materials;
- 2) measurements;
- 3) structural parameters;
- 4) technology.

(4) The minister responsible for the area makes regulations to establish standards for the designing of roads.

#### **§ 100. Documentation of the building of roads**

The building documents concerning the building of a national road must be handed over to the Road Administration and the building documents concerning the building of a local road must be handed over to the local authority.

#### **§ 101. Building notice and building permit**

(1) In order to build the road, a building notice is submitted to the local authority or the local authority issues a building permit.

(2) In order to build a national road, the building notice is submitted to the Road Administration or the Road Administration issues the building permit.

(3) Where a road is to be built together with other construction works that form a functional whole with the road, the institution issuing the building permit may join the issue proceedings of the building permits concerned.

#### **§ 102. Audits**

(1) The obligations of the competent authority specified in Directive 2008/96/EU of the European Parliament and of the Council on road infrastructure safety management (OJ L 319, 29.11.2008, pp. 59–67) are performed with regard to national roads by the Road Administration and with regard to local roads by the local authority, who also arrange, with regard to the roads of the trans-European road network and following the requirements of the Directive, the performance of the road safety impact assessment and road safety audits, the determination of road safety rankings and the safety inspection of the roads.

(2) The minister responsible for the area makes regulations to establish:

- 1) the conditions for road safety impact assessments and the requirements for performing the assessments;
- 2) the conditions for road safety audits and the requirements for performing the audits;
- 3) the conditions for determining the road safety ranking and the requirements for the determination of road safety rankings;
- 4) the conditions for road safety inspections and the requirements for the conduct of road safety inspections;
- 5) the training curricula for road safety engineering and accident analysis.

#### **§ 103. Register of roads**

(1) The purpose of the register of roads is to process and make public the information concerning roads.

(2) The Government of the Republic makes regulations to establish the register of roads and enact its constitutive regulations.

(3) The controller of the data in the register of roads is the Road Administration.

(4) The information in the register of roads includes:

- 1) technical specifications of the road;
- 2) specifications concerning the civil engineering works required for the functioning of the road.

(5) The register of roads consists of:

- 1) the database of national roads;
- 2) the database of local roads;
- 3) the database of private roads designated for public use.

(6) The information in the register of roads is public.

(7) The constitutive regulations may provide that other roads which are not regulated in this part of the Code or in the entire Code may also be entered in the register of roads.

(8) The information in the register of roads is disseminated through the website of the register of roads.

## **Chapter 12**

### **Construction works in public water bodies**

#### **§ 104. Scope of application**

(1) The provisions of this Chapter apply to the building, in public waterbodies, of construction works that have a permanent connection to the shore and of construction works that do not have such connection.

(2) Submerged cable lines, pipelines and other utility lines and civil engineering works that are connected to the shore, as well as any construction works that are connected to the shore by means of submerged cable lines, pipelines and other utility lines and civil engineering works, are not deemed to constitute construction works that have a permanent connection to the shore.

(3) The provisions of this Chapter do not apply to the deepening of water bodies, to navigation signs and to the building of bridges that form a part of the road.

(4) The monuments located in public water bodies are subject to the special rules provided in the Heritage Conservation Act.

#### **§ 105. Design specifications**

(1) The design specifications for construction works that are located in a public water body and that have a permanent connection to the shore are issued by the local authority within whose area of administration the registered immovable that is located on the shoreline and that is to support the building of the construction work is situated.

(2) Unless otherwise provided by law, design specifications are not required for the preparation of building design documentation concerning construction works that do not have a permanent connection to the shore.

(3) Where necessary, the local authority issues design specifications for the following construction works that do not have a permanent connection to the shore (hereinafter, 'construction work functionally connected to the shore'):

- 1) a harbour facility required to service water craft, including any quays, protection moles or breakwaters;
- 2) a water traffic facility that is functionally connected to the harbour;
- 3) a utility line or civil engineering work required to service the construction works referred to in clauses 1 and 2 of this subsection;
- 4) a civil engineering work that is located in a public water body and that is required to service a construction work located on the shore, except for any utility lines or civil engineering works that cross the national border or administrative boundary between counties;
- 5) a sport or recreation facility that does not have a permanent connection to the shore and that services a bathing beach.

#### **§ 106. Building notice**

(1) In order to build, in a public water body, the construction work that has a permanent connection to the shore or that is functionally connected to the shore, a building notice is submitted to the local authority.

(2) In order to build, in a public water body, the construction work that has no permanent connection to the shore, a building notice is submitted to the Technical Regulatory Authority.

(3) In order to build, in a public water body, the construction work that is functionally connected to the shore or that has no permanent connection to the shore, a superficies licence is submitted together with the building notice.

#### **§ 107. Authority competent to issue building permits**

(1) The competent authority to issue the building permit for building, in a public water body, a construction work that has a permanent connection to the shore or that is functionally connected to the shore is the local authority.

(2) The competent authority to issue the building permit for building, in a public water body, a construction work that has no permanent connection to the shore is the Technical Regulatory Authority.

### **§ 108. Applications for building permit**

(1) Applications for building permit concerning construction works that have a permanent connection to the shore or that have no such connection state, in addition to the particulars required under the General Part of this Code, the coordinates and surface area to be occupied by the construction work, or the coordinates and the surface area subject to building work.

(2) An application for superficies licence or the superficies licence is submitted together with the application for building permit concerning a construction work that has no a permanent connection to the shore. If the application for building permit is submitted together with an application for superficies licence, the proceedings concerning the issue of the building permit are suspended until the superficies licence is issued.

(3) When submitting an application for building permit concerning a construction work that does not have a permanent connection to the shore, the requirements applicable by virtue of the General Part of this Code to such applications, and by virtue of s. 22<sup>6</sup>(2) of the Water Act to the application for superficies licence are taken as guidance.

(4) Where, in respect of the area identified in the application, other proceedings for the issue of a building permit or superficies licence have been opened, and the nature of the construction work to be built on the basis of those proceedings is such as to rule out the issue, in respect of the area, of a second superficies licence, the competent authority may return the application for building permit without considering it.

### **§ 109. Procedure for issuing building permits**

(1) The competent authority may, by way of ancillary conditions to the building permit for a construction work that is located in a public water body and that has or does not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, establish:

- 1) the time-limit for demolishing the construction work and removing it from the public water body, and the related conditions, or
- 2) conditions connected to the use and operation mode of the construction work.

(2) The competent authority refuses to issue the building permit for a construction work that is located in a public water body and that has or does not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, under the conditions provided in s. 22<sup>10</sup> of the Water Act.

(3) The building permit for building a construction work that is located in a public water body and that does not have a permanent connection to the shore is valid for ten years.

### **§ 110. Use and occupancy notice**

(1) In order to use and occupy a construction work that is located in a public water body and that has a permanent connection to the shore or that is functionally connected to the shore, the use and occupancy notice is submitted to the local authority.

(2) In order to use and occupy a construction work that is located in a public water body and that does not have a permanent connection to the shore, a use and occupancy notice is submitted to the Technical Regulatory Authority.

(3) Where the building, in a public water body, of a construction work that has a permanent connection to the shore, led to a shift in the shoreline of the water body and to an increase in the surface area of the registered immovable located on the shore, the use and occupancy notice may be submitted only after the shift of the shoreline and the increase of the registered immovable located on the shore have been recorded in the Land Cadastre and in the Land Register.

### **§ 111. Authority competent to issue use and occupancy permits**

(1) The competent authority to issue the use and occupancy permit in respect of a construction work that is located in a public water body and has a permanent connection to the shore or that is functionally connected to the shore is the local authority.

(2) The competent authority to issue the use and occupancy permit in respect of a construction work that is located in a public water body and has no permanent connection to the shore is the Technical Regulatory Authority.

## **§ 112. Applications for use and occupancy permit**

Applications for use and occupancy permit concerning construction works that have a permanent connection to the shore or that have no such connection state the coordinates and surface area of the area occupied by the construction work or of the area subject to building work.

## **§ 113. Procedure for issuing use and occupancy permits**

(1) The competent authority may, by way of ancillary conditions to the use and occupancy permit for a construction work that is located in a public water body and that has or does not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, establish:

- 1) the time-limit for demolishing the construction work and removing it from the public water body, and the related conditions, or
- 2) conditions connected to the use and operation mode of the construction work.

(2) The competent authority refuses to issue the use and occupancy permit for a construction work that is located in a public water body and that has or does not have a permanent connection to the shore, in addition to the conditions contained in the General Part of this Code, if the construction work:

- 1) contravenes the interests of national security;
- 2) may disturb air traffic, vessel traffic on shipping lanes or in a harbour, or disturb the safe mooring of water craft;
- 3) contravenes the conditions established in the superficies licence or
- 4) contravenes another public interest.

(3) Where the building, in a public water body, of a construction work that has a permanent connection to the shore, led to a shift in the shoreline of the water body and to an increase in the surface area of the registered immovable located on the shore, the use and occupancy permit is issued only after the shift of the shoreline and the increase of the registered immovable located on the shore have been recorded in the Land Cadastre and in the Land Register and when, in accordance with the Water Act, the fee for encumbering a public water body with a construction work has been paid.

(4) The competent authority may refuse to issue the use and occupancy permit for a construction work that is located in a public water body and that does not have a permanent connection to the shore if the applicant is not a person of a member state of the European Union or the European Economic Area.

(5) The use and occupancy permit for using and occupying a construction work that is located in a public water body and that does not have a permanent connection to the shore is valid until the expiration of the superficies licence on the basis of which the construction work was built, unless otherwise provided in the use and occupancy permit.

# **Chapter 13**

## **Construction works that serve national defence purposes and construction works of security authorities**

### **§ 114. Scope of application**

The provisions of this Chapter apply to construction works that serve national defence purposes and to construction works of security authorities. The provisions of this Chapter apply to roads serving national defence purposes.

### **§ 115. Definitions**

(1) For the purposes of this Code, construction work that serves national defence purposes means any construction work belonging to the sphere of administration or in the possession of the sphere of administration of the Ministry of Defence, including any road that serves national defence purposes.

(2) For the purposes of this Code, construction work of a security authority means any construction work in the possession of a security authority.

### **§ 116. Documentation of building work**

The Government of the Republic makes regulations to establish the requirements for the documenting of the construction works serving national defence purposes and of the construction works of security authorities.

### **§ 117. Design specifications**

Design specifications are not required for the preparation of building design documentation regarding construction works serving national defence purposes and construction works of security authorities.

### **§ 118. Building notice and building permit**

(1) To construct a construction work serving national defence purposes or a construction work of a security authority, a building notice is submitted to the Technical Regulatory Authority. The building notice is not required for the building of a road that serves national defence purposes.

(2) The building permit for a construction work serving national defence purposes and of a construction work of a security authority is issued by the Technical Regulatory Authority. The building permit is not required for the building of a road that serves national defence purposes.

(3) In the cases provided by law, the building permit for a construction work serving national defence purposes and for a construction work of a security authority must respect the national special spatial plan.

(4) No building permit must be applied for in the case of demolishing a temporary construction work serving national defence purposes. A temporary construction work serving national defence purposes is demolished within one year after its use has ceased.

### **§ 119. Use and occupancy notice and use and occupancy permit**

(1) The submission of a use and occupancy notice and the application for use and occupancy permit is not required in order to use and occupy a construction work serving national defence purposes or a construction work of a security authority.

(2) The owner notifies the commencement of the use and occupancy to the Technical Regulatory Authority who enters the corresponding modification in the register of construction works.

### **§ 120. Restrictions related to building work around a construction work serving national defence purposes and to the building of construction works that have a potential impact on the construction work serving national defence purposes**

(1) In situations falling under this section, the erection, extension or remodelling of construction works is prohibited unless approved by the Ministry of Defence. The design specifications or, where there is no obligation to issue design specifications, the proposal of the building permit, or the building notice is referred to the Ministry of Defence for approval if:

- 1) a construction work whose height exceeds 28 metres is envisaged;
- 2) the envisaged construction work is situated in the protection zone of a construction work that serves national defence purposes;
- 3) the envisaged construction work may result in a reduction of the functional capacity of a construction work that serves national defence purposes.

(2) The protection zone of a construction work serving national defence purposes extends, from the exterior wall of the building that serves national defence purposes or from the exterior boundary of the civil engineering work that serves national defence purposes or from the exterior boundary of the registered immovable, to:

- 1) up to 25 metres with respect to any construction work whose purpose of use may entail a danger to the construction work that serves national defence purposes, or to the fulfilment of the functions of such construction work;
- 2) up to 300 metres in cities, towns and small towns with respect to any construction work that may affect the functional capacity of the construction work that serves national defence purposes;
- 3) up to 2000 metres in villages with respect to any construction work that may affect the functional capacity of the construction work that serves national defence purposes.

(3) The Ministry of Defence may, in the course of giving approval to design specifications, establish, by way of ancillary conditions, the requirement to obtain further approvals concerning the proposal of the building permit to be issued on the basis of the design specifications.

(4) The Government of the Republic or, where it has delegated the corresponding authority to the minister responsible for the area, that minister, makes regulations to establish the functional capacity criteria of construction works that serve national defence purposes, the spatial extent of the restrictions and the particulars concerning construction works that affect the functional capacity of construction works that serve national defence purposes.

### **§ 121. Restrictions related to building work around construction works of security authorities**

Any building work within 50 metres from the boundary fence of the construction work of a security authority or, where there is no boundary fence, the exterior wall of the building or the exterior boundary of the civil engineering work has to be approved by the security authority. The security authority may prohibit the construction of the building or civil engineering work if the construction of that building or civil engineering

work may obstruct the performance of the functions of the security authority or affect the security environment of the construction work of the security authority.

## **Chapter 14**

### **Drilled wells, boreholes and dug wells**

#### **§ 122. Scope of application**

(1) The provision of this Chapter apply to the designing, construction, commissioning, conservation and demolition of drilled wells, boreholes and dug wells.

(2) The redoing of drilled wells and boreholes is subject to sections 123–126 of this Code.

#### **§ 123. Definitions**

(1) Drilled well means wells drilled for water extraction, for ground water monitoring and for heat systems.

(2) Borehole means holes drilled for ground water monitoring and for heat systems.

(3) The remodelling of a drilled well or borehole means the redoing of the drilled well or borehole, the addition of parts to the drilled well or borehole or the replacement of parts in order to improve the condition or repair a malfunction of the drilled well or borehole, or to extend its useful life.

#### **§ 124. Approval of the location of drilled wells and boreholes**

(1) The person who envisages to construct a drilled well or borehole (hereinafter, ‘applicant’) must obtain the approval of the local authority regarding the location of the drilled well or borehole. The application for approval of the location of the drilled well or borehole includes:

- 1) the applicant’s name, registration number or personal identification code, contact information and, if the owner of the land is not the person who envisages to construct the drilled well or borehole, the consent of the owner of the land;
- 2) the address of the location envisaged for the drilled well or borehole, the name and cadastral code of the land unit;
- 3) the envisaged water extraction rate from the drilled well or borehole—in cubic metres per 24-hour day;
- 4) the purpose of use of the drilled well or borehole.

(2) In the giving of approval for the location of the drilled well or borehole, the local authority has regard to the comprehensive plan and the detailed spatial plan, the public water supply and sewerage development plan and the existing service areas of the water undertaking.

(3) The local authority approves the location envisaged for the drilled well or borehole, or refuses to approve it, within ten business days from receiving the application for approval of the location envisaged for the drilled well or borehole.

#### **§ 125. Documenting the building of drilled wells and boreholes**

(1) The person who performs the work of drilling the well or borehole (hereinafter, ‘driller’) must during the drilling operations keep a drilling journal that records the following:

- 1) the location of the drilled well or borehole;
- 2) the time of performing the operation;
- 3) a description of the method of drilling and of isolation;
- 4) the diameter of the drill and of the casing, and a description of the geological section in correspondence with the drilling depth;
- 5) the method used for sediment evacuation;
- 6) the hydrogeological particulars of the drilled well or borehole.

(2) The driller is required to submit the information in the drilling journal, in the format established in accordance with section 125(6) of this Code, to the Environmental Board who records that information in the environment register.

#### **§ 126. Procedure for issuing building permits for drilled wells and boreholes**

(1) The competent authority refers the application for building permit for a drilled well or borehole for approval to the Environmental Board. The Environmental Board approves the location of the drilled well or borehole, or refuses to approve it, within ten business days from receiving the application.

(2) When referring the application for approval, in addition to those required under the General Part of this Code, the following documents are annexed to the proposal of building permit:

- 1) the approval of the location of the drilled well or borehole;

- 2) the design documentation of the sanitary protection zone or of the supply zone of the water extraction point, if the drawing up of such documentation is required by legislation;
- 3) the building design documentation of the drilled well or borehole.

(3) The Environmental Board is authorised to refuse its approval regarding the application for building permit for the drilled well or borehole under subsection 1 of this section, if:

- 1) the building design documentation has been drawn up by a person who has not been authorised to perform hydrogeological work for the preparation of building design documentation for drilled wells or boreholes;
- 2) in choosing the location of the drilled well or borehole, the geological or hydrogeological conditions of the area, the possibility of establishing a due sanitary protection zone, maintenance zone or supply zone or the impact radius of existing drilled wells or boreholes in the area have not been taken into account;
- 3) the depth of the drilled well as provided in the building design documentation does not allow for the water extraction rate or quality that is provided in the building design documentation;
- 4) the depth, structure or drilling method of the drilled well or borehole as provided in the building design documentation do not allow to observe the requirements of groundwater protection;
- 5) the choice of the aquifer to be opened by the drilled well or borehole as provided in the building design documentation is not justified given the purpose of using the water;
- 6) the extraction rate of the drilled well as provided in the building design documentation exceeds the approved unallocated reserve of groundwater in the area;
- 7) it is likely that the quality of the aquifer to be opened by the drilled well for public water supply does not conform to the quality requirements regarding groundwater that is used or intended to be used for the production of drinking water;
- 8) the applicant has not submitted all required documents, or has knowingly submitted false information.

(4) In order to give its approval to the application for building permit for a drilled well or borehole, the Environmental Board is authorised to require the applicant to conduct hydrological or hydrogeological investigations.

(5) Where the total extraction rate provided in the building design documentation of a drilled well or wells for public water supply exceeds 500 cubic metres per 24-hour day, the Environmental Board is authorised, when giving its approval to the application for building permit, to require the applicant to construct groundwater monitoring boreholes in order to monitor the condition of water in the aquifer to be opened by the drilled well or wells for public water supply within the impact area of the groundwater extraction point or points.

(6) The minister responsible for the area makes regulations to establish:

- 1) the requirements concerning the structure of dug wells;
- 2) the requirement concerning the structure and building design documentation of drilled wells and boreholes, and the building design documentation regarding their demolition or remodelling;
- 3) the procedure for the designing, constructing, commissioning, remodelling, demolishing and conserving of drilled wells and boreholes;
- 4) the procedure for approving the location of drilled wells or boreholes, the procedure for submission, for entry into the environment register, of the information in applications for building permits and for use and occupancy permits, in building notices and use and occupancy notices, in the drilling journal, in respect of the drilled well or borehole, and the forms of the notice of demolition of drilled wells or boreholes.

### **§ 127. Commissioning of drilled wells or boreholes**

(1) Where the yield of the drilled well as provided in the building design documentation exceeds 10 cubic metres per 24-hour day or where the well is used by more than 50 people, the application for use and occupancy permit concerning the well includes, in addition to those required under the General Part of this Code, the following documents:

- 1) an extract from the environment register or a reference to the particulars recorded in that register in respect of the drilled well in respect of which the use and occupancy permit is applied for;
- 2) the name, registration number or personal identification code and contact information of the person who performs owner supervision;
- 3) the maintenance instructions of the drilled well.

(2) The application for use and occupancy permit in respect of a drilled well for public water supply is referred for approval to the Health Board. The Board does not approve the application for use and occupancy permit in respect of the drilled well or wells for public water supply if the water extracted from the well, after being treated in accordance with the requirements, has a directly or indirectly negative effect on human health.

(3) Where the yield of the drilled well as provided in the building design documentation is less than 10 cubic metres per 24-hour day or where the well is used by fewer than 50 people, the use and occupancy notice concerning the drilled well or borehole includes, in addition to those required under the General Part of this Code, the following documents:

- 1) an extract from the environment register or a reference to the particulars recorded in that register in respect of the drilled well or borehole;

- 2) the name, registration number or personal identification code and contact information of the person who performs owner supervision;
- 3) the maintenance instructions of the drilled well or borehole.

#### **§ 128. Demolition of drilled wells or boreholes**

(1) The owner of a drilled well or borehole or the owner of the land is required to demolish any drilled well or borehole that is unfit for use, represents a danger to the condition of groundwater or no longer serves a useful purpose.

(2) The competent authority refers the building design documentation concerning the demolition of a drilled well or borehole for approval to the Environmental Board.

(3) The Environmental Board is authorised to refuse to give approval to the building design documentation for demolishing a drilled well or borehole if:

- 1) the drilled well or borehole constitutes a national environment monitoring station;
- 2) the local authority has provided valid reasons for the need for the drilled well as a reserve well for drinking water;
- 3) the building design documentation does not ensure compliance with the requirements of groundwater protection.

(4) In addition to the competent authority, the notice of demolition of the drilled well or borehole is also submitted to the Environmental Board.

#### **§ 129. Conservation of drilled wells or boreholes**

The owner of a drilled well or borehole or the owner of the land is required to conserve any drilled well or borehole that has not been used for more than a year, and to notify this to the Environmental Board and the local authority.

## **Part 3 STATE SUPERVISION AND LIABILITY**

### **Chapter 15 State supervision**

#### **§ 130. Body exercising state supervision**

(1) State supervision over compliance with the requirements provided in this Code and the legislation enacted under it is exercised by the bodies named in this section.

(2) The local authority exercises state supervision by carrying out the following functions:

- 1) verifying whether the building or the building design documentation of construction works, including any construction work that has a permanent connection or functional link to the shore, conforms to the detailed spatial plan, the relevant local special spatial plan, the design specifications or other requirements rendered operative by the location of the construction work;
- 2) verifying whether construction works or the building of construction works conforms to the requirements, including pre-use safety inspection of construction works;
- 3) verifying the existence of the building notice or building permit and the correspondence of the information stated in that notice or permit to actual facts;
- 4) verifying the existence of the use and occupancy notice or use and occupancy permit and the correspondence of the information stated in that notice or permit to actual facts;
- 5) verifying the correspondence of the upkeep and use and occupancy of construction works to the requirements rendered operative by the purpose of use of the construction works;
- 6) verifying whether the requirements for the use and protection of local roads are complied with.

(3) The Technical Regulatory Authority exercises state supervision by carrying out the following functions:

- 1) the functions listed in clauses 2–5 of subsection 2 of this section in relation to verifying the conformity to the requirements of railway civil engineering works, of pressurised piping and pressurised containers, of electrical installations, of communication installations, of lifts, cableways or other lifting equipment, of construction works that are located in public water bodies and that do not have a permanent connection to the shore, of construction works that serve national defence purposes or of construction works of security authorities;
- 2) the functions listed in clauses 2–5 of subsection 2 of this section, above all in relation to verifying whether the construction work is safe to use and occupy;
- 3) verification of the conformity of construction works built on the basis of a national special spatial plan to the national special spatial plan and to other requirements;
- 4) verification of compliance with the requirements for protection zones of construction works and for operations undertaken in such zones;

- 5) verification of compliance with the requirements established with respect to the energy performance of buildings, to energy performance certificates and to energy audits;
- 6) verification of compliance with the requirements applicable to undertakings and competent persons.

(4) The Technical Regulatory Authority verifies, on the basis of random sampling and in respect of a statistically significant percentage, the conformity to the requirements of energy performance certificates issued during the year. The verification includes:

- 1) verification of the input data based on which the building's energy performance certificate was issued and verification of the validity of the results stated on the certificate;
- 2) verification of the relevance of the input information of and the results stated on the energy performance certificate, including the relevance of any recommendations made with a view to improving the energy performance, or
- 3) full verification of the input data based on which the building's energy performance certificate was issued, and full verification of the relevance of the results stated on the certificate, including the relevance of any recommendations made with a view to reducing the energy need, where possible undertaking a visit to the building in order to check the correspondence of the building to the particulars stated in the energy performance certificate.

(5) The Environmental Inspectorate exercises state supervision over the requirements for the use of construction works for environment protection and nature protection purposes, over radiation safety, over the sanitary protection zones and maintenance zones of drilled wells or boreholes and dug wells, over the requirements related to the use, in protected areas and in limited-conservation areas, in the conservation zones of individual protected natural objects, in permanent habitats and in the shoreline or bankline building ban zones, by construction works of environment protection resources and of natural resources.

(6) The Civil Aviation Administration exercises state supervision, to the extent provided in the Aviation Act, over construction works located in the immediate vicinity of aerodromes and heliports or construction works otherwise connected to the safety of aviation.

(7) The Road Administration exercises state supervision over the building of public roads, over the requirements concerning the condition of local authority roads, over the protection zone of national roads, over compliance with the requirements concerning use and protection, and over compliance with the requirements applicable in respect of undertakings connected to the building of roads and of competent persons.

(8) Police officials exercise state supervision over the requirements concerning the use and protection and condition of national roads and local roads where a violation of the requirements is identified in the course of police work.

(9) The National Heritage Board exercises supervision in accordance with the grounds and procedure provided in the Heritage Conservation Act.

(10) The Rescue Board exercises state supervision over compliance with the fire safety requirements for construction works.

(11) The Health Board exercises state supervision over compliance with the health requirements concerning construction works.

(12) The Maritime Administration exercises state supervision over compliance with the requirements related to the safety of maritime navigation and of navigation on inland waterways.

(13) The Veterinary and Food Board exercises state supervision over construction works used for the keeping of animals.

### **§ 131. Special measures authorised in relation to the exercise of state supervision**

The law enforcement agency may, when exercising state supervision as provided in this Code, apply the special measures of state supervision provided in sections 30, 31, 32, 49, 50, 51 and 52 of the Law Enforcement Act on the grounds and following the procedure provided in that Act.

### **§ 132. Special rules concerning state supervision**

(1) The Technical Regulatory Authority may require the owner of the building to inform the public of the dangers connected with the building or, at the owner's expense, itself inform the public of those dangers.

(2) The measure provided in section 50 of the Law Enforcement Act may only be applied when entering a construction work or part of construction work or, after the placing on the market of a construction product, when entering the premises on which that product is stored, installed or sold, or on which the product is used.

- (3) The law enforcement agency decides on the demolition of the construction work above all if:
- 1) the construction work does not conform to the requirements for construction works, and the non-conformity entails a significant or heightened danger;
  - 2) the unlawful building of the construction work has resulted in a permanent negative impact on the owner of the registered immovable or the owners of the adjacent registered immovable, and that impact is excessively burdensome and it is not possible to sufficiently avoid or alleviate it.

### **§ 133. The rate of compulsory payment**

In the event of non-compliance with an enforcement order, the law enforcement agency may resort to a means of compelling the compliance following the procedure provided in the Substitutive Performance and Penalty Payment Act. In order to compel the compliance, the maximum rate of the compulsory payment for natural persons is 6400 euros and for legal persons 64,000 euros.

## **Chapter 16 Liability**

### **§ 134. Violation of requirements applicable to the construction work**

(1) Violation of the requirements applicable to the construction work, where the violation causes the construction work that has been built or is being built to pose a danger to property or the environment, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

### **§ 135. Violation of requirements applicable to building work**

(1) Violation of the requirements applicable to building work, where the violation causes the construction work to pose a danger to property or the environment, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

### **§ 136. Designing of construction work that does not conform to requirements**

(1) The preparation of building design documentation, if the construction work that has been built or is being built according to the building design documentation poses a danger to the life or health of humans, to property or to the environment, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

### **§ 137. Violation of the obligation to retain data**

(1) Failure to retain, for at least seven years, in full the data of the building documents or of the site investigations performed, the data concerning verification of the building design documentation, audit documentation, the data related to the issuing of energy performance certificates for buildings, or copies of these, where that failure significantly impedes assessment of the safety of the building, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

### **§ 138. Performance of building work without building permit**

(1) The performance of building work without a building permit, where the building permit was required, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

### **§ 139. Use and occupancy without use and occupancy permit**

(1) Use and occupancy without a use and occupancy permit, where a building permit was required, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

### **§ 140. Illegal operations in the protection zone of the construction work**

(1) In the event of operations in the protection zone of the construction work that do not conform to the requirements, where this results in danger to the life or health of humans, to property or to the environment, the punishment is a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

#### **§ 141. Proceedings**

Extrajudicial proceedings concerning the misdemeanours provided in sections 134–140 of this Code are conducted, according to their sphere of competency, by:

31.03.2015 10:30

Rectification—in accordance with section 10(3) of the *Riigi Teataja* Act and following application 4-14/15-1/8 by the Chancellery of the *Riigikogu*, an obvious error has been corrected in the phrase ‘sections 134–140’.

- 1) the administration of the city or rural municipality;
- 2) the Technical Regulatory Authority;
- 3) the Environmental Inspectorate;
- 4) the Civil Aviation Administration;
- 5) the National Heritage Board;
- 6) the Rescue Board;
- 7) the Maritime Administration;
- 8) the Health Board;
- 9) the Veterinary and Food Board;
- 10) the Road Administration.

#### **§ 142. Entry into force of this Code**

This Code enters into force at the time specified in the Act to Implement the Building Code and the Planning Act.

<sup>1</sup>Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings (OJ L 285, 31.10.2009, pp. 13–35); Directive 2004/54/EU of the European Parliament and of the Council on minimum safety requirements for tunnels in the trans-European road network (OJ L 167, 30.04.2004, pp. 39–91); Directive 2008/96/EU of the European Parliament and of the Council on road infrastructure safety management (OJ L 319, 29.11.2008, pp. 59–67); Directive 2014/33/EU on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts (OJ L 96, 29.03.2014, pp. 251–308).

Eiki Nestor  
President of the Riigikogu

[Annex 1](#) Tabulated overview of the obligation to submit the building notice or building design documentation and to apply for building permit

[Annex 2](#) Tabulated overview of the obligation to submit the use and occupancy notice or building design documentation and to apply for use and occupancy permit