

# Act LXXVIII of 1997

## on the Formation and Protection of the Built Environment

With respect to the fundamental requirements, instruments, and rights and obligations related to the formation and protection of the built environment, as well as the associated responsibilities, jurisdictions and regulatory spheres of competence, based on Subsection (2) of Section 70/D. of the Constitution of the Republic of Hungary and on Act LIII of 1995 on the General Regulations of Environmental Protection, Parliament hereby passes the following Act:

### Chapter I.

## GENERAL PROVISIONS

### Scope of the Act

#### *Section 1.*

- (1) With regard to the formation and protection of the built environment, this Act shall apply to:
- a)* the regulation of areas of settlements (hereinafter referred to as "settlement regulation"),
  - b)* the establishment of the guidelines for settlement regulation (hereinafter referred to as "settlement planning"),
  - c)* the drafting of building regulations for buildings, engineering works and other types of structures (hereinafter jointly referred to as "structures"),
  - d)* the architectural and engineering planning of structures (hereinafter referred to as "architectural and engineering planning"),
  - e)* the construction of structures,
  - f)* the establishment of quality requirements for building products, materials, structures, equipment and technologies,
  - g)* the aesthetic and human-oriented design of the built environment, and the protection of architectural heritage,
  - h)* the responsibilities related to green areas of settlements,
  - i)* the research activities, technical improvements and the application of the achievements of the activities listed under the scope of Paragraphs *a)* through *h)*,
  - j)* the responsibilities, jurisdictions and regulatory spheres of competence in connection with Paragraphs *a)* through *i)*, and
  - k)* the establishment of regulations for the provisions of Paragraphs *a)* through *j)*, supervision of the observation and the enforcement of such regulations (hereinafter jointly referred to as "construction regulation").
- (2) With regard to unique types of structures, and protected buildings and areas of historical value, this Act shall be applied in conjunction with the applicable and relevant laws and Government Decrees, and with the supplements and deviations contained herein.

### Definitions

## Section 2.

For the purposes of this Act:

1. *Accessible*: the built environment shall be considered accessible if convenient, safe and independent use of such areas is ensured for all persons, including handicapped persons or groups for whom special facilities, equipment or technical solutions are necessary.
2. *Non-built up area*: parks, public rights of way, agricultural areas and forest areas within a settlement, or areas for other purposes (such as mining, water channels or waste disposal).
3. *Built-up area*: areas within a settlement which are built-up or designated for future building activities.
4. *Central area*: the designated area within a settlement which is typically established through the course of history, primarily contiguous and is already built-up or is designated for building activities.
5. *Built environment*: the built-up (man-made) portion or specific portion of the environment which is the result of intentional construction work implemented primarily for establishing living conditions for individuals or a community.
6. *Building lot*: a lot located in a built-up area which is formed in accordance with the building code and has direct access for vehicles via public or private roads.
7. *Construction area*: a lot or group of lots for the construction of linear-type structures.
8. *Structure (collective term for buildings and engineering works)*: all fixed-location engineering structures whose construction permanently alters the natural state of the land, water or the air space above such, regardless of the purpose, structural design, material, degree of completion or size of such object(s).
9. *Building*: a structure with walls and roof confining, in part or in whole, an area or a room or a combination of such for a specific purpose, with the exception of engineering structures (engineering works) erected for the storage and transportation of gas, liquids or other bulk materials.
10. *Local building code*: a local government ordinance establishing and ensuring building regulations in accordance with local characteristics.
11. *Local public roads*: roads, related engineering works and appurtenances, pursuant to Paragraphs *h*), *j*) and *k*) of Section 47 of Act 1 of 1988 on Road Transportation.
12. *Public areas*: all tracts of land owned by the state or by local governments, that may be used for its intended purpose by the general public, and is registered as such in the land registry. With regard to portions of other real properties surrendered for public use, the provisions on public area shall be applied within the scope of the relevant agreement concluded. In particular, the purpose of public areas is to provide space for traffic (roads, squares), recreational and memorial areas (parks, statues, etc.) and public utilities.
13. *Outlying area*: areas not classified as central areas in a settlement, which are used primarily for agricultural, forest or special purposes (such as mining, water channel or waste disposal).
14. *Engineering works*: all types of structures other than buildings, that are used by people solely for maintenance or transportation purposes, or temporarily under special circumstances.
15. *Municipal (county or settlement) chief architect*: a person with a relevant, higher education degree who is in charge of the local government's regional development and planning responsibilities, as well as the construction regulation responsibilities specified in this Act.
16. *Local government decision on settlement development*: a resolution on settlement regulation for the purpose of advancing local interests, based on a settlement's natural characteristics and its economic, social, public health and financial aspects, by defining its fundamental development opportunities.
17. *Special structures*: structures for transportation, communication, public utility and energy supply, water management and mining purposes or in connection with the use of atomic energy which are not classified as buildings.
18. *Comprehensive regulation plan*: the settlement regulation policy showing graphically on a map the comprehensive building regulations for Budapest, establishing the general requirements for utilization of and building on the areas within the city-limits of Budapest and for the protection of the natural, scenic and man-made resources, and environmental elements.

19. *Regulation plan*: a settlement regulation policy showing graphically on a map the building regulations to be applied within a settlement, establishing the general requirements for the utilization of and building on the areas within a settlement and for the protection of the natural, scenic and man-made resources, and environmental elements.

20. *Lot*: a parcel of land registered under one topographical lot number.

21. *Redistribution of lots*: the merger of groups of adjacent lots for the reason of subdividing into new lots for the purposes specified in the local building code and in the settlement regulation policy.

22. *Lot merger*: the merging of adjacent lots into a single lot.

23. *Lot subdivision*: the division of a single lot into several lots.

24. *Regulation of lot boundaries*: alteration of common boundary lines of immediately adjacent lots.

25. *Block*: a group of lots surrounded on all sides by public areas or in part by other non-built up area.

26. *Settlement development strategy*: a document, approved by a local government resolution, outlining the settlement development decisions of the local government on which the settlement regulation policy is based.

27. *Settlement regulation policy*: includes the settlement structure plan, the comprehensive regulation plan and the regulation plan.

28. *Settlement structure plan*: the settlement regulation policy outlining the options and the guidelines of the formation and protection of the built environment, accordingly, the utilization method of lots and the construction and design of engineering infrastructure elements determining the structure and necessary for the functioning of the settlement.

29. *Regional chief architect*: a public official with a relevant, higher education degree in charge of carrying out, coordinating and stating positions in respect of the Minister's regional development, settlement regulation and construction regulation responsibilities in designated regions of the country.

## **General requirements**

### *Section 3.*

(1) The formation and protection of the built environment shall be achieved:

- a) on the basis of settlement regulation policies and architectural and engineering plans conforming to legal regulations,
- b) in conformity with the architectural, engineering, safety, health, utilization, and environmental protection and conservation of nature areas requirements prescribed by legal regulations,
- c) with due consideration of the human environment and aesthetic design, and furthermore
- d) in cooperation between the participants, such as developers, architects, planners and contractors.

(2) During the process of formation and protection of the built environment and prior to measures and decisions passed in the public interest, or during the execution of such, public participation and the opportunity for community inspection shall be provided as defined in this Act and in separate legal regulations. Citizens and organizations concerned shall be adequately informed and allowed a forum to express their opinion and to present their proposals.

## **State responsibilities in construction regulation**

### *Section 4.*

(1) Central guidance, coordination and supervision of construction regulation, and with respect to settlement regulation, the definition of relevant national regulations and public requirements, is a responsibility of the State.

(2) In the interest of attending to the central responsibilities of construction regulation specified in Subsection (1), the Parliament shall:

- a) establish the planning system and economic guidelines aiding in the formation and protection of the built environment,
- b) establish and operate the State's institutional system of construction regulation,
- c) allocate the funding necessary for attending to the central responsibilities of construction regulation.

(3) In the interest of attending to the central responsibilities of construction regulation specified in Subsection (1), the Government shall:

- a) enact and continuously update legal regulations, in accordance with international standards, to ensure organized planning and protection of the built environment,
- b) manage the institutional framework for construction regulation,
- c) attend to state responsibilities arising from international treaties,
- d) facilitate and implement national research and technical development programs.

(4) The Government shall exercise the central guidance of construction regulation by way of the Minister of Environmental Protection and Regional Development (hereinafter referred to as the "Minister").

#### *Section 5.*

(1) The Minister, as part of his central guidance, coordination and supervisory responsibilities, shall:

- a) ensure the professional preparation of laws and government decrees related to construction regulation and shall attend to the legal regulatory responsibilities within his scope of authority,
- b) supervise and control construction regulation activities,
- c) promote the development of architectural culture,
- d) ensure the professional supervision and guidance of building authorities, including routine on-site inspection of the work of building authorities and the enforcement of applicable legal regulations.

(2) The Minister shall perform his responsibilities defined in Paragraphs b) and c) of Subsection (1) through the regional chief architects, as prescribed in separate legal regulation.

(3) The responsible minister shall proceed in respect of regulatory issues for special structures.

(4) In the interest of promoting professional standards and high quality of settlement regulation policies and architectural and engineering plans of particular significance with respect to the protection of the regions, of regional environment and architectural heritage, and of the coordinated enforcement of regional planning, architectural and engineering, environmental planning and other important building and planning-related objectives

- a) the Minister shall set up a central planning board, and
  - b) the regional chief architect shall set up a regional planning board.
- The municipal chief architect may operate a municipal planning board.

## **Local government responsibilities in construction regulation**

#### *Section 6.*

(1) The responsibilities of local governments (or districts in Budapest) in construction regulation shall include:

- a) attending to settlement regulation-related responsibilities, in Budapest with due consideration of the over-all metropolitan regulations and comprehensive regulation plan, within the framework of applicable legal regulations,

b) aesthetically pleasing, human-oriented design of the built environment, and the protection of local architectural heritage,

c) providing the financial and personnel background necessary for attending to local responsibilities of construction regulation,

(2) The construction regulation responsibilities of the local government of Budapest and its organs, with respect to the area of all districts within the city shall include:

a) establishing comprehensive general building regulations,

b) approval of the comprehensive regulation plan,

c) attending to the scope of responsibilities specified in Paragraphs b)-c) of Subsection (1).

(3) The local governments of settlements and their organs and in Budapest, the City Council and the local governments of the districts, shall, in accordance with their respective scopes of authority as defined in separate legal regulations, attend to their settlement regulation responsibilities:

a) by establishing local building codes and by having the settlement regulation policies prepared and approved, furthermore

b) by the application of special legal institutions defined in Section 17.

(4) If necessary in the national interest, the local governments of settlements may be required by law to have the local building code and the settlement regulation policies prepared, reviewed, amended and established or approved by a prescribed deadline. In this case the Government shall provide the necessary funding from the account allocated in the central budget for this purpose.

(5) The construction regulation responsibilities of county-level local governments are, in particular:

a) to assist in coordinating settlement regulation policies and county regional planning policy,

b) the formation and protection of natural, scenic and the built environment, affecting several settlements and influencing the overall impression of the county, and providing assistance to the local governments of settlements in their activities in this regard.

(6) The decisions of local governments concerning construction regulation, with the exception of those falling under the scope of the building authority, shall be prepared by the municipal (county or settlement) chief architect (hereinafter referred to as "chief architect") having the professional background prescribed by law.

## **Chapter II.**

### **SETTLEMENT REGULATION**

#### **Objectives, responsibilities and instruments of settlement regulation**

##### *Section 7.*

(1) The objective of settlement regulation is to outline the utilization of areas and the infrastructure network within a settlement, to regulate the local building policy, to improve and protect natural, scenic and man-made resources, and furthermore to harmonize national, regional, local and legitimate private interests, to provide solutions in cases of dispute and to assist in low-impact utilization of resources.

(2) In establishing the local regulations on the utilization of and building on the settlement's areas and lots, the responsibility of settlement regulation is to:

a) define the spatial and physical framework for coordinated and orderly improvement of the settlement;

b) improve the settlement's functionality by effectively using its characteristics and available potential, while reducing negative environmental impact to a minimum;

c) ensure protection of characteristic, valuable settlement structures, the built environment, and of the architectural and natural look of the settlement (neighborhoods) which is worth preserving.

(3) Instruments for settlement regulation are:

a) the settlement development strategy established by a resolution of the representative body of the settlement's local government (Point 26 of Section 2);

b) the settlement structure plan which is drafted, and established by resolution, by the representative body of the settlement's local government, with due consideration of the local government's decision on settlement development (Point 28 of Section 2);

c) the local building code and the regulation plan which is drafted, and established by resolution, by the representative body of the settlement's local government based on the settlement structure plan (Points 10 and 19 of Section 2);

### *Section 8.*

As part of the settlement regulation process, areas are to be used to best accommodate public interests with due consideration of legitimate private interests, and to ensure human-oriented design and protection of the built environment, taking into account:

a) the general requirements of healthy living and working conditions and the safety of the population,

b) demographic developments in terms of population and the housing needs of the population,

c) the physical, moral and spiritual needs of the population, with particular emphasis on the needs of families, the youth, the elderly and those with restricted capacity, on education, sports, recreational activities and on the operating conditions of social organizations and churches,

d) the protection, rehabilitation or further improvement of historically or visually important settlement areas and of the architectural heritage, and the preservation of the view (overview) of valuable structures and landscapes and the view from the properties, to the extent as not to impede the legally consistent building on the lots concerned,

e) protection of the harmonized interests of environmental protection and natural preservation, utilization of the countryside and shaping the landscape, with special emphasis on the protection of water, air, soil, climate and the fauna and flora,

f) the economic interests of the well-being and supply of the population, the aspects of job safety and the addition of new jobs, furthermore of agricultural and forestry activities, transportation, postal services and communications, general supply, in particular the provision of energy, water, waste removal and disposal, sewage disposal and treatment and raw material resources,

g) national and civil defense considerations,

h) economical management of areas and farming land,

i) providing protection and assistance for the utilization of natural reserves beneficial for medical purposes.

## **General regulations for settlement regulation**

### *Section 9.*

(1) The local building code and the settlement regulation policies shall be prepared with due consideration of the professional standards for settlement regulation and by the application of the terms and symbols defined in separate legal regulations.

(2) During preparation of the local building code and the settlement regulation policies:

a) the citizens, organizations and representative bodies concerned shall be given the opportunity to express their opinions, in the interest of which the parties concerned are to be notified, in the fashion locally accepted, regarding the decision of having such instruments prepared, as part of which

aa) the area subject to planning shall be specifically designated, and

ab) the general purpose and presumed impact shall be made known, in order to allow the parties concerned express their observations and recommendations on the matter;

b) state administration organs and bodies of the settlement's local government shall be included in the preparations, in order to provide a forum for such bodies to present their key plans and actions concerning the settlement's development and building scheme, along with the timetable for such actions, and the legal requirements concerning the issues within their competence;

c) in order to prevent or reduce any detrimental influence on the living conditions of the local inhabitants, the values and social situation of those affected, and any expected changes in the aforementioned, shall be taken into consideration, furthermore the living conditions and needs of the population shall be investigated.

(3) Prior to the establishment and approval of local building codes and settlement regulation policies, the mayor (first mayor) shall request an opinion statement by the state administration organs specified in separate legal regulations, by the settlement's local government and representative bodies concerned and by social organizations, which may issue a written opinion statement on the subject within 45 days.

(4) In the interest of settling contradictory opinions, the mayor (first mayor) shall hold a conference to which all parties involved in the assessment procedure are to be invited, with the date and place indicated, at least 8 days in advance. Minutes of the conference shall be prepared and shall include all opinions which are approved or are not approved, along with the relevant explanations.

(5) Parties which did not issue a written opinion statement during the procedure and did not participate in the conference shall be regarded as non-objecting parties.

(6) After the conclusion of the opinion statement procedure, the mayor (first mayor) shall publish the regulations and the plans prior to establishment and approval, along with the pertaining explanations, for a period of no less than one month in the fashion locally accepted, allowing the parties concerned to contribute their comments during the aforementioned period, furthermore the regulations and plans are to be sent for professional assessment

a) to the Minister in cases involving Budapest, or county-level cities,

b) to the regional chief architect in cases involving other settlements.

The body authorized to approve the local building code and the settlement regulation policies shall be notified of the professional opinion of the Minister or the regional chief architect.

(7) The local building code and the settlement regulation policies may not be approved without the assessments prescribed in Subsections (2)-(6).

(8) The mayor (first mayor) shall forward the established local building code and the approved settlement regulation policy to the state administration and representative organs and to the social organizations which have participated in their preparation.

(9) The relevant public administration organs shall enforce the provisions of the established local building code and the approved regulation plan during the proceedings falling under their scope of authority. The provisions of Subsections (1)-(8) are to be applied for amendment of the local building code and the settlement regulation policy as well.

(10) When preparing the local building code and the settlement regulation policy, the provisions of the approved national and regional planning policy pertaining to the settlement shall be taken into due consideration.

## **Settlement structure plan**

(1) The purpose of the settlement structure plan is to determine the settlement's design and protection options and its direction of development, the consequent utilization method for individual land areas and the construction and system of engineering infrastructure elements determining the structure and necessary for the everyday functions of the settlement, while taking into consideration the national and regional interests and the basic rights and the regulation plans of neighboring or otherwise interested settlements, while improving or at least maintaining the status of the environment.

(2) The local governments of settlements shall enact the settlement structure plans

a) for settlements without a general or comprehensive planning policy at the time of this Act entering into force, within five years,

b) for settlements with the planning policy specified in Paragraph a) at the time of this Act entering into force, upon amendment of the decisions on settlement development, but no later than within ten years,

of this Act entering into force.

(3) The settlement's local government shall review the settlement structure plan at no less than ten-year intervals and, if necessary, shall have the plan amended or have a new plan enacted.

(4) In addition to observing the provisions of Section 9, the settlement structure plans shall be discussed with the local governments of neighboring settlements, in the case of Budapest with the local governments of the city districts, and with the county local governments as well.

#### *Section 11.*

(1) Settlement structure plans shall consist of a graphic diagram section and text section.

(2) Settlement structure plans are to be indicated on a map in the scale complementing the size of the settlement.

(3) Central and outlying areas, built-up and non-built up areas, public areas establishing the settlement's structure (arterial roads, large public parks, etc.), the division into parts of the aforementioned, protected areas and buffer zones and areas proposed for protection, areas where a change of function is proposed, and the existing and planned infrastructure networks are to be indicated in the settlement structure plan.

(4) Within the areas defined in Subsection (3), all factors representing potential hazards or having influence on the area shall be indicated as well. Such factors are subterranean mines, contamination, danger of flood, erosion or landslide, natural and man-made cavities, areas without sewage services, and all other factors which are influential to the utilization of and building on the area and are specified by separate legal regulations.

## **Regulation plan**

#### *Section 12.*

(1) A regulation plan may be prepared for the entire administrative area of a settlement or individual ones for at least block-sized sections of settlements.

(2) Regulation plans shall be prepared in all of the following cases:

a) for newly built-up areas or areas undergoing major reconstruction (e. g. rehabilitation),

b) for areas requiring special attention due to their natural characteristics, the settlement structure, construction, architectural heritage or functionality (e. g. special resorts, medical facilities),

c) in all other instances where the enforcement of the local order of construction regulation otherwise requires it.

(3) The regulation plan must conform with the approved settlement structure plan. If any deviation should be necessary, the settlement structure plan shall be modified in advance.

(4) The regulation plan shall be depicted in a to-scale map containing all the required horizontal, vertical and other data so that its specifications allow for clear establishment of such data for lots, construction areas and public areas.

(5) The regulation plan shall include:

- a) the boundaries of central and outlying areas (boundary line of the central area),
- b) the boundaries of built-up and non-built up areas and the boundaries of parts of areas (belts) within such,
- c) within parts of areas, the boundaries of public areas and other areas,
- d) within public areas, areas designated for various purposes (road, plaza, park, etc.),
- e) within areas not regarded as public area, information on the design and formation of lots, building lots and other areas,
- f) within parts of areas, protected areas, areas proposed for protection and buffer zones, and structures,
- g) the elements of infrastructure networks and structures requiring regulation,
- h) the boundaries of parts of areas affected by the application of special legal institutions defined in Section 17.

(6) The local building code and its regulation plan shall be applied together.

## **Local building code**

### *Section 13.*

(1) The settlement's local government shall, in accordance with national standards and with the deviations allowed therein, establish in the local building code all the special local requirements and the rights and obligations related to the protection of the natural, scenic and man-made resources of the area and with the utilization of and building on the areas within the administrative area of the settlement for the enforcement of the local building code.

(2) The local building code shall contain at least the following:

- a) the boundaries of the central and external areas (boundary line of the central area),
- b) the boundaries of built-up areas and the boundaries of areas (zones) within, the utilization of such and the conditions and regulations therefore,
- c) the break-down of non-built up areas and the conditions and regulations of the utilization of and construction on such areas,
- d) the conditions and regulations of the utilization of and construction on public areas of various purposes, as well as
- e) the demarcation of and provisions pertaining to local architectural preservation areas
- f) protected areas and buffer zones,
- g) and areas effected by the application of special legal institutions defined in Section 17.

(3) The local building code shall be applied throughout the entire administrative area of the settlement.

(4) The local governments of settlements shall enact the local building code

- a) for settlements without a general or comprehensive planning policy at the time of this Act entering into force, within one year,
- b) for settlements having a planning policy as specified in Paragraph a) at the time of this Act entering into force, within six years by local ordinance.

(5) A local building code shall be enacted to include at least block-size areas, and independently of the provisions of Subsection (4):

- a) for newly built-up areas or areas undergoing major reconstruction (e. g. rehabilitation),
- b) for areas requiring special attention with regard to their natural characteristics, the settlement structure, construction, architectural heritage or functionality (e. g. special resorts, medical facilities),

c) all other instances where the enforcement of the local order of construction regulation otherwise requires it.

## **Special provisions for Budapest**

### *Section 14.*

(1) With regard to Budapest, the provisions on local building codes and on settlement regulation policies shall be applied with the deviations specified in this Section.

(2) The City Council of Budapest shall issue comprehensive building regulations to establish the general provisions on the utilization of and building on the areas within the city-limits of Budapest and on the protection of the natural, scenic and man-made resources, and environmental elements.

(3) The local governments of the districts of Budapest, within the comprehensive building regulations of Budapest, shall establish local building codes for the entirety of their respective district.

(4) The settlement regulation policies of Budapest shall include the following:

- a) the settlement structure plan of Budapest approved by the City Council of Budapest,
- b) the comprehensive regulation plan of Budapest approved by the City Council of Budapest,
- c) the regulation plans of the districts approved by the district local governments.

(5) The regulatory segments falling under the scope of responsibilities and authority of the City Council and having an impact on the entirety or on several districts of the city shall be established in the comprehensive regulation plan of Budapest, in particular

- a) the boundaries of central and outlying areas (boundary of the central area),
- b) the boundaries of built-up and non-built up areas and the boundaries of parts of areas within these,
- c) the boundaries of public areas and other areas necessary for the everyday functions of Budapest,
- d) within the public areas owned by the City of Budapest, the areas designated for various purposes (road, plaza, public parks, etc.),
- e) protected areas, areas proposed for protection and buffer zones, and structures,
- f) the elements of infrastructure networks and structures requiring regulation,
- g) the boundaries sections of areas effected by the application of special legal institutions.

(6) The regulation plans of the districts shall include the regulatory elements contained in the comprehensive regulation plan of Budapest that involves the district. If any deviation should be necessary, the comprehensive regulation plan of Budapest shall be modified in advance.

## **Joint planning for multiple settlements**

### *Section 15.*

(1) Local governments of settlements may combine their efforts to carry out their respective settlement regulation responsibilities. In such case, the parties involved may enact a joint local building code and a joint settlement regulation policy.

(2) The sections of joint local building codes and joint settlement regulation policies that apply to the individual settlements shall be established by the representative bodies of the local government of settlements respectively. The mayor of the settlement appointed by an agreement between the local governments shall organize and conduct the opinion statement procedure.

(3) With respect to joint local building codes and joint settlement regulation policies, the provisions of Sections 7-14 shall be otherwise appropriately applied.

## **Settlement planning**

### *Section 16.*

(1) Only persons with a relevant degree in higher education and with other professional background as defined by law (hereinafter referred to as "eligibility for settlement planning") may be involved in settlement planning activities.

(2) Persons involved in settlement regulation policy planning may not use any of the information acquired during the procedure for other purposes, and may not surrender such data to third parties.

(3) The names of the persons eligible for settlement planning shall be listed in a register of names.

## **Special legal institutions ensuring execution of settlement regulation responsibilities**

### *Section 17.*

The following special legal institutions shall ensure the execution of settlement regulation responsibilities:

- a) legal requirements on construction regulation,
- b) prohibitions,
- c) lot formation,
- d) preemptive rights,
- e) expropriation,
- f) expropriation for potential public roads,
- g) road construction and public utility installation contributions,
- h) mandatory measures related to settlement regulation,
- i) compensation regulations.

## **Legal requirements for construction regulation**

### *Section 18.*

(1) Construction work may only be performed in accordance with the provisions of the local building code and regulation plan, and in observation of the provisions of this Act and separate legal regulations.

(2) Construction work in an area without a local building code and regulation plan, until the fulfillment of the obligation defined in Subsection (4) of Section 13 as well, may be performed in observation of the provisions of this Act and separate legal regulations and only if the nature of the proposed function and the extent and mode of construction measures are in harmony with the existing environment.

### *Section 19.*

(1) Within built-up areas a building may only be erected on a building lot.

(2) Within non-built up areas, the construction of a new structure or the remodeling, expansion or changing the function of an existing structure shall only be allowed if:

- a) it serves the purpose of proper use of the area,

- b) it is not inconsistent with public interests, in particular
  - ba) it does not adversely effect the aspects of protection of the environment's natural, scenic or architectural resources,
  - bb) it does not jeopardize soil and water management,
  - bc) it does not adversely effect the proper utilization of the area,
  - bd) adequate access is available or could be provided, furthermore
- c) the structures only require an insignificant portion of the relevant area and it is ensured that the structures may not be alienated separately from the lot, or
  - d) it is to be used as an ancillary residential building by the party previously utilizing the area and if the conditions for the continuation of such activities are provided, furthermore if it is built adjacent to existing structures,
  - e) it is permanently fixed, furthermore, if, pursuant to special protection requirements of the environment or due to its impact on its environment, it cannot be erected in a built-up area,
  - f) it is a community structure or community object.

## Prohibitions

### *Section 20.*

(1) In the interest of the implementation of settlement regulation responsibilities and for the prevention of endangerment to nature and to the environment, modification, lot formation or building prohibition (hereinafter referred to as "prohibition") may be issued regarding the area concerned.

(2) The prohibition shall be limited to the extent and duration absolutely necessary and shall be withdrawn immediately when the reasons based on which it was issued no longer exist. The review of prohibitions shall be performed in conjunction with the revision of the local building code and its regulation plan.

(3) The prohibition shall not apply, during the validity period of a building permit, to the construction, repair/maintenance and other legally permitted work allowed before the prohibition was issued, furthermore, to the continuance of previous activities and to damage prevention or rehabilitation activities regarding stability, life and health, and public or asset safety.

(4) The prohibition, if so requested by the issuing authority, shall be recorded in the land registry. Non-registration shall not impair the force of the prohibition.

### *Section 21.*

(1) The local government of a settlement may issue a prohibition on modification for the period of preparation of the local building code and the regulation plan.

(2) The prohibition on modification shall expire after three years, unless otherwise ordered by resolution of the local government issuing it. If the grounds for issuing the prohibition remain, the term of the prohibition may be extended by one year no more than once.

(3) Prohibitions, with the exception of the prohibition on modification, shall be issued by the building authority of the first instance by resolution with regard to the parties concerned. The resolution shall state the factors in the interest of which the prohibition was issued, the duration and the party of interest of whom the prohibition was issued.

(4) With regard to cases of prevention of endangerment to nature and to the environment as defined by law, the building authority shall issue prohibitions on modification and construction by resolution upon request of the competent state administration organ.

### *Section 22.*

(1) For areas subject to prohibition on modification, to form lots, build new structures or to remodel, expand or demolish an existing ones, and to implement any other value-increasing changes other than to eliminate hazards to life and limb, are prohibited.

(2) For areas subject to prohibition on construction, no construction regulation related activities are allowed, with the exception of the following:

- a) site preparation work for future purposes,
- b) demolition work,
- c) construction activities in the interest of protection of architectural heritage, archeology, and of conservation of nature areas and environmental protection,
- d) preservation maintenance of existing structures and construction work for the conversion, improvement and expansion of the area for future purposes, and
- e) remodeling or renovation of existing residential buildings without producing any new residential units, or one-time expansion by no more than 25 m<sup>2</sup>.

## **Lot formation**

### *Section 23.*

(1) Lots shall be formed in such a way as to suit the proper utilization of the area, and in accordance with legal regulations and regulation plans with regard to its shape, size, degree of construction density and accessibility.

(2) A permit from the building authority is required for the formation of lots.

(3) As part of lot formation planning:

a) a map and a list are to be prepared to record the existing status of the formation area and information on the lots such as the owner, situation, size, registered mode of utilization, registered building rights and restrictions,

b) after negotiations with the owners concerned, a map is to be prepared showing the lots after formation along with a list of the new lots to include the information on the lots, such as land registry data, rights and restrictions regarding the owner of a lot, the prescribed obligations and the monetary contributions provided for the fulfillment of such obligations, etc.

(4) Having a lot formation plan prepared and the costs thereof shall be covered by the person initiating such formation.

### *Section 24.*

(1) The formation of lots may involve any of the following:

- a) redistribution of lots (Point 21 of Section 2),
- b) subdivision of lots (Point 23 of Section 2),
- c) lot merger (Point 22 of Section 2), and
- d) regulation of lot boundaries (Point 24 of Section 2).

(2) During the redistribution of lots, the lots in question are to be merged and if a public area needs to be formed, it is to be taken out of the area while the remainder is to be divided into lots in accordance with the regulations applicable to the area.

(3) The building authority may order the party requesting the lot formation to have roads and public utilities installed or to cover the costs of installation in accordance with the local building code and the regulation plan and up to the extent necessitated by the formation.

(4) With regard to the legal aspects of ownership of lots involved in formation, the provisions of civil law shall be observed.

## **Preemptive rights**

### *Section 25.*

(1) The settlement's local government shall have preemptive rights concerning the properties necessary for the implementation of settlement regulation objectives defined in the local building code and the regulation plan.

(2) The settlement's local government, for the implementation of settlement regulation objectives, may establish preemptive rights regarding undeveloped land areas and areas where settlement regulation measures are planned, and where necessary for the orderly improvement of the settlement. The resolution issued thereto shall include the objective for which the local government intends to use the lot.

(3) In Budapest, the City of Budapest shall have the preemptive right or the local government of the district acting, on the basis of the division of responsibilities, as the executor of the settlement regulation objective.

(4) The local government shall have the preemptive right defined in Subsections (1)-(3) recorded in the land registry.

(5) The preemptive rights of the local government as prescribed in Subsections (1)-(4), not including properties of historical value, shall precede preemptive rights stipulated by separate legal regulations or contracts.

(6) Should the local government fail to act upon its preemptive right within sixty days, the property in question may be alienated.

## **Expropriation**

### *Section 26.*

Properties necessary for the implementation of settlement regulation responsibilities in the public interest may be expropriated in the cases and by the methods set forth in separate legal regulations.

## **Expropriation of land for local public roads**

### *Section 27.*

(1) If according to the local building code or regulation plan a local road needs to be built, expanded or improved in the interests of the owners concerned, the building authority may expropriate the portion of a property that is necessary for the local road on behalf of the local government without having to obtain the consent of the party or parties concerned and without the expropriation procedure, but with provision of the compensation prescribed in the expropriation compensation provisions.

(2) With regard to protected areas, areas proposed for protection and buffer zones, expropriation may only take place upon the prior consent of the competent authorities.

(3) If the expropriation takes place for public road purposes upon the request of the parties concerned or as part of the lot formation procedure initiated upon request of the parties concerned, and if the parties concerned waived their claim for compensation, no compensation shall be paid for the expropriation.

(4) If there is a building or structure on the section of the property necessary for the local road, an expropriation proceeding shall be conducted unless an agreement on compensation was reached between the parties concerned.

(5) If the expropriation renders the property involved unsuitable for its original function, the entire lot shall be taken over if so requested by the owner.

(6) Any property that has become unnecessary for the local road shall be offered for sale to the property owners involved. If such land was expropriated in accordance with Subsection (3), it is to be returned to the property owners involved, free of charge.

(7) When establishing the amount of compensation for a property expropriated for a local road, the increase in property value resulting from the construction of the new road and from the consequent installation of public utilities shall be taken into consideration.

## **Road construction and public utility installation contributions**

### *Section 28.*

(1) The public roads and public utilities specified for the area in the local building code and in the regulation plan are to be completed before the structures they serve are occupied. This obligation, unless otherwise ordered by law or an agreement, shall be the responsibility of the settlement's local government or, in Budapest of the City of Budapest or the local government of the district of Budapest in accordance with their division of responsibilities.

(2) If the local road or the public utility is being installed by the settlement's local government, the local government may order the property owners involved to cover portions or all of the costs. The local government shall govern the extent and percentage of such contribution by local ordinance.

(3) In Budapest, with regard to the provision defined in Subsection (2), the City of Budapest or the local government of the district of Budapest shall have jurisdiction in accordance with their division of responsibilities. The City of Budapest and the local government of the district of Budapest shall be entitled to receive the percentage of the contributions in proportion of their share in the costs of the road.

## **Settlement regulation orders**

### *Section 29.*

(1) Within the sphere of settlement regulation obligations:

- a) construction orders,
  - b) rehabilitation orders and
  - c) landscaping orders
- may be issued.

(2) In the interest of planned land management, the proper order of construction and achieving a more favorable settlement image, the local building code may issue a construction order for the non-built up lots within a prescribed deadline. Should the owner fail to comply with the construction order, the local government may expropriate the property. A property owner who is unable to comply with the aforementioned construction order may request the property to be expropriated.

(3) The local building code, in the interest of improving the overall settlement image, may order the buildings which do not comply with the image to be rehabilitated within a specific deadline. The local government may financially support compliance with the aforementioned order.

(4) The local building code, for the development of the environment in the public interest, may order the landscaping (sod, trees and other plants planted) of a property in the way and within the time specified. If the fulfillment of this order requires excessive expenditures measured by the proper utilization of the property, the local government shall reimburse the owner of the property in the extent specified by decree.

(5) The building authority shall issue the decree to issue the orders prescribed in Subsections (2)-(4) in accordance with the local building code.

(6) The orders issued on the basis of Subsection (5) shall be recorded in the land registry if so requested by the building authority.

## **Compensation regulations**

### *Section 30.*

(1) In the event that a change in the original function or mode of utilization of the property is required by a settlement regulation measure, and if the owner or beneficiary of the property suffers damage due to such change, the owner or beneficiary shall be entitled to receive compensation.

(2) The amount of compensation shall be the difference between the property's value established in accordance with its previous function and the new market value after the change of function.

(3) If the function of a property is established by the local building code or the regulation plan for a public purpose to be implemented in the future and such measure restricts ownership and development rights, the owner may demand that the beneficiary of the public interest objective or, in the absence of such, the local government purchase the property. If no purchase agreement is reached within three years of the date of request, the property shall be expropriated.

(4) If alteration or termination of the rights deriving from the previous function of the property takes place within three years of the inception of such rights, compensation may be demanded immediately.

(5) If a property falling subject to a prohibition issued for over three years, which was allowed to be subdivided or built on before the prohibition, was not expropriated or the owner was not given property in exchange, or if the prohibition was not withdrawn in the meantime, the owner, upon request, shall be entitled to receive annual compensation for restraint from the fourth year on. This payment obligation shall not apply to the prohibition issued for the prevention of potential damages by natural endangerment or for the protection of the owner's interests. For prohibitions issued for the protection of protected areas, structures or unique resources, the provisions of the relevant legal regulations shall be observed for payment obligations.

(6) The annual compensation for restraint shall be in the amount established in accordance with the property's potential utilization and the damage resulting from the restriction, not to exceed 5% of the property's market value. The amount of annual compensation may not be included in expropriation compensation in the event of expropriation, or in the value of the replacement property if such is provided.

(7) The compensation for restraint shall be paid by the party in the interest of which the settlement regulation measure was issued.

(8) The procedure of compensation for restraint shall be conducted by the head of the competent county or Budapest public administration office as prescribed by the provisions on expropriation compensation, with the deviations specified in this Act.

## **Chapter III.**

### **CONSTRUCTION REGULATION**

#### **General requirements for structures**

### *Section 31.*

- (1) In designating the site of a structure the following aspects shall be ensured:
  - a) proper and safe utilization of the structure and the adjacent properties and structures,
  - b) accessibility of the structure by public service vehicles (fire engine, ambulance, etc.),
  - c) special requirements and interests of environmental protection and conservation of nature areas,
  - d) with regard to public buildings, safe, unobstructed access for physically handicapped persons,
  - e) proper utilization of the lot.
- (2) During construction, remodeling or renovation of a building, national building standards and requirements shall be enforced, in particular:
  - a) protection of valuable landscape and townscape aspects and unique architectural resources,
  - b) favorable orientation,
  - c) mechanical endurance and stability,
  - d) fire safety,
  - e) public hygiene, health and environmental protection,
  - f) safe usage,
  - g) noise and vibration protection,
  - h) energy conservation and thermal insulation,
  - i) physical safety.
- (3) An exemption permit for the observation of national building standards and requirements may be issued in the cases and manner specified in separate legal regulations.
- (4) During construction, remodeling or renovation of a structure the following shall be ensured:
  - a) ability to carry out regular maintenance,
  - b) that the environmental impact generated by the proper use of the structure does not exceed the limits prescribed for the location, and
  - c) that public buildings can be used safely and without obstructed access by physically handicapped persons.

## **Architectural and engineering planning**

### *Section 32.*

- (1) For construction, remodeling, expansion, renovation, rehabilitation, improvement, demolition, relocation of a structure, a section of a structure or group of buildings and for changing the function of such that involves construction, an architectural and engineering plan with the content and extent specified by law shall be required.
- (2) Only persons with a relevant university or college-level degree and with other professional background (hereinafter referred to as "planning authorization") may be involved in architectural and engineering planning.
- (3) Persons authorized for architectural and engineering planning may only conduct such planning activities for which he is qualified and capable based on his professional background.
- (4) The names of persons authorized for architectural and engineering planning shall be listed in a register of names.
- (5) For the planning of settlement regulation, structures and groups thereof, building components and methods, and for interior architecture and landscaping, a tender may be invited in the cases and manner prescribed by law.
- (6) The tender is a special form of competition for the purpose of having several alternative architectural and engineering plans prepared, in the interest selecting the best concept as far as the aspects of engineering, urban landscape, architecture and feasibility are concerned and, in the cases specified by law, to have the professional conditions of the planning contract clarified in advance.

(7) With regard to construction projects falling under the scope, and defined in Subsection (5), of Act XL of 1995 on Public Procurements

a) a tender is to be announced for having the construction licensing plans prepared as prescribed by law,

b) following successful completion of the tender and in light of its result, a contract is to be concluded for the completion of the construction licensing plan.

(8) The obligation to announce a tender may be ordered by law in other cases as well.

(9) Architectural and engineering plans are protected by copyright laws.

#### *Section 33.*

(1) The planner shall be responsible

a) for observing all quality, safety and professional regulations with regard to architectural and engineering planning, and

b) having the architectural and engineering plans prepared in a professional manner.

(2) The planner shall coordinate and agree on the work of sub-planners.

## **Construction licensing procedure of the building authorities**

#### *Section 34.*

(1) A building authority permit shall be required for the formation of lots and for the construction, remodeling, expansion, renovation, rehabilitation, improvement, demolition, relocation and occupancy or changing the original function of a structure, section of a structure or group of buildings (hereinafter jointly referred to as "construction work") in the cases defined by law.

(2) A building authority permit may be conditional.

(3) The building authority is to conduct an on-site inspection as part of the permit application evaluation procedure.

(4) During the licensing procedure the building authority shall enforce the provisions of legal regulations and the architectural and engineering requirements, as well as ensure the protection of legitimate interests of the parties concerned.

(5) Resolutions on building permit applications shall be adopted within 60 days of the date of filing the application.

(6) The special authorities and other organs specified in separate legal regulations and the technical experts included in the register of names shall participate in the building authority's licensing procedure.

#### *Section 35.*

(1) Clients may also request a preliminary permit before applying for the permit of the building authority for reasons of having issues related to construction, architecture, historical preservation, archeological, townscape, conservation of nature areas and environmental protection, physical safety and technical requirement clarified in advance. Having to obtain a preliminary permit may be rendered mandatory by legal regulation.

(2) The special authority and the building authority participating in issuing the preliminary permit shall abide by the statements issued in the preliminary permit during the building authority's licensing procedure initiated within one year of the preliminary permit becoming final and executable. The preliminary permit shall be repealed if the licensee of the permit fails to apply to the building authority for a building permit within one year of the preliminary permit becoming final and executable. The validity of the permit may be extended once, by no more than one additional year, if the general and local legal regulations and the mandatory regulatory

provisions have not changed in the meantime. No construction work may be executed on basis of the preliminary permit.

*Section 36.*

The building authority may issue a building permit within the framework of legal regulations, if

- a) the proposed project conforms with the national standards prescribed by Sections 18-19 and 31 and any standards made mandatory by separate legal regulations,

- b) the proposed project conforms with the legal regulations for the protection of structures and areas or establishing special requirements therefore, furthermore with the special authority's requirements clarified during the preliminary regulatory proceedings and with the specifications issued in the statement of approval of the competent special authorities,

- c) the construction and proposed function of the structure do not have a detrimental effect on the environment in excess of the extent appropriate for the function of area, and do not endanger stability, life and health, public or property security and public interests in any other way,

- d) if the ancillary buildings for the proper use of the structure, connection to the transportation network in the cases and in the way defined by legal regulations, and the implementation of public utilities and energy supplies are provided and available,

- e) the organization or person indicated as planner has the proper authorization for architectural and engineering planning,

- f) the developer has provided adequate proof of his eligibility for performing construction work.

*Section 37.*

(1) With respect to the special requirements contained in the building permit, the building authority permit shall also function as the special authority permit, which however shall not exempt the developer from having to obtain other regulatory permits prescribed by separate legal regulations.

(2) A permit issued by the building authority shall not represent a judgment in civil law claims in connection with construction related issues.

## **Construction**

*Section 38.*

(1) Construction work, unless otherwise prescribed by law, may only be performed in accordance with the final and executable building permit and the plans affixed with the seal of approval and with other documents, and, in the cases defined by law, in accordance with the implementation plans prepared on basis of the aforementioned.

(2) Deviations from the approved and officially sealed plans may only be implemented upon the prior consent of the building authority, unless such deviation is not subject to licensing in its own right.

*Section 39.*

(1) Actual construction work may be performed if

- a) construction is included in the sphere of activities of the construction contractor (hereinafter referred to as "general contractor"), or

- b) the technical phases of construction are performed under the supervision of an appointed construction superintendent having the qualification and trade experience specified by law.

(2) Work in the construction trade may only be performed by the persons having the proper professional training specified by law.

(3) Persons with the relevant vocational training may also perform repair, maintenance or remodeling work on sections of structures other than its load-bearing structures without the supervision of the construction superintendent.

(4) Entities whose sphere of activities does not include construction may only perform construction work, in observation of Subsections (2) and (3), for their own purposes.

#### *Section 40.*

(1) The general contractor shall be responsible for the proper and safe serviceability of the finished structure and for compliance with the specifications prescribed in the final and executable building permit and in the approved licensing plans furnished by the developer.

(2) The construction superintendent shall be responsible for the completion of the structure in accordance with the final and executable building permit and the approved licensing plans, and the construction plans when necessary, and for the enforcement of the professional, quality and safety specifications for the construction to be completed in a professional manner.

(3) The general contractor shall maintain a construction journal, in the cases and manner specified by law, to record daily progress, shall keep the journal on the job site at all times and shall make it available for regulatory inspections or present it to the inspector upon request.

(4) The developer, for monitoring the professional execution of the construction work, may delegate a technical inspector as its on-site representative, in accordance with the provisions of separate legal regulations.

#### *Section 41.*

(1) Building materials, fixtures and equipment may only be marketed, ordered, installed or used for a structure with a domestic conformity certificate.

(2) The domestic conformity certificate is the written confirmation of the materials, fixtures or equipment conforming with the requirements specified in

- a) international standards,
- b) industrial technical regulations and specifications,
- c) building and engineering permits, and
- d) Paragraphs c)-h) of Subsection (2) of Section 31.

(3) Conformity tests shall provide the basis for domestic conformity certificates.

(4) A domestic conformity certificate may be

- a) a declaration of conformity by the supplier (distributor, manufacturer),
- b) a document issued by an independent certification body.

#### *Section 42.*

(1) If a natural asset, architectural or archeological relic or a work of art related to a built structure is found during construction activities, the general contractor shall report it to the building authority or to another competent authority without delay, and leave the place undisturbed until official action.

(2) During construction activities the conditions are to be provided for any environmental impact or potential damage to remain within the extent specified in and allowed by separate legal regulations.

#### *Section 43.*

(1) The developer shall be responsible for having the ancillary buildings necessary for the proper and safe use of the structure, and the terrain, landscaping and gardening works to be completed parallel with the structure.

(2) The developer and the general contractor shall be required to remove all construction debris, leftover building materials and construction equipment from the construction area within the deadline specified by the building authority, as well as having the surroundings and surface of

the terrain returned to its original state or an approved condition and to eliminate all damages caused to the environment.

## **Occupancy of the structure**

### *Section 44.*

(1) The developer, unless otherwise prescribed by legal regulation, shall be required to obtain an occupancy permit for all structures and sections of structures for which a building permit was required. Declarations by the construction superintendent and, in cases specified by law, by the special authorities concerned, the public utility companies operating the relevant infrastructure network and from the chimney sweeper stating that the structure conforms with the final building permit and with the approved licensing plans and is suitable for proper and safe occupancy shall be attached to the application for an occupancy permit.

(2) With regard to construction work for which a building permit was required, the occupancy permit is to be granted if the structure or section thereof was constructed in accordance with the permit and in a manner suitable for proper and safe use.

(3) If the structure or a section thereof is not suitable for proper use, or if the construction work jeopardized stability, life and health, public and property security in another property, the building authority shall prohibit occupancy of the structure or shall issue a mandatory order in its function as the building authority to make such permit conditional upon having the defects and discrepancies eliminated. Granting the occupancy permit may be rendered conditional and special clauses may be included in the permit.

(4) Without the occupancy permit defined in Subsection (1), the structure may not be occupied.

## **Inspections by the building authority**

### *Section 45.*

(1) The building authority of the first instance shall conduct on-site inspections regarding any construction work subject to licensing, and shall examine the following as part of this procedure:

- a) the presence and observation of the final and executable building permit and the approved licensing plans,
- b) completion of the structures of the building in accordance with the licensing plan and in observation of professional and safety specifications,
- c) compliance of the construction superintendent in charge of construction with the qualification and other trade specifications requirements,
- d) the observation of requirements for stability, life and health and public and property security.

(2) The building authority of the first instance shall, in addition to conducting inspections on the progress of construction, take actions to avert, investigate and prevent construction work in progress without a proper permit or deviating from the permit, or with respect to construction not subject to licensing requirement, in violation of the building code (hereinafter referred to as "unlawful"), and use of the structure other than its function.

(3) Inspections by the building authority shall be conducted regularly, during construction at least when the building's location is determined and at the conclusion of construction.

(4) The party carrying out the building inspection may order work to be stopped for no more than 30 days on each occasion if work is performed unlawfully or by endangering stability, life and health or public or property security. During this time, the building authority shall decide whether to terminate or continue the proceeding.

(5) The police, the municipal public services organization and other organs specified by law shall also participate in the execution of building inspections, if so requested by the building authority.

(6) The owner, the beneficiary, the user, and the developer and the general contractor shall tolerate official inspections.

## **Building inspections**

### *Section 46.*

(1) The objective of building inspections is to establish

- a) whether the legal regulations, standards and permits related to structures and to the quality requirements on building products (materials, structures and equipment), on technologies and procedures are observed during construction,

- b) whether the condition of the structures and building products acquired during use or otherwise conform with stability, life and health and public or property security requirements.

(2) Building inspections shall be conducted by

- a) the head of the public administration office,

- b) with regard to special structures, the state administration organ specified in other relevant legal regulations.

(3) The special institutions delegated pursuant to separate legal regulations shall conduct tests that may become necessary during building inspections.

(4) The state administration organ conducting building inspections shall, if any unlawful action is revealed, order the offending status to be remedied or shall initiate implementation of measures by the competent authority.

## **Mandatory orders by the building authority**

### *Section 47.*

(1) The building authority may order:

- a) cessation of usage of the structure or section of the structure which deviates from the function specified in the building permit and other regulatory permits,

- b) in case of unlawful construction, to have the work stopped and to have the previous condition reestablished, or to establish the conditions specified in the final and executable building permit and licensing plans,

- c) replacement of building products which do not conform to technical specifications,

- d) improvement of the structure or section of the structure to a state in excess of mandatory maintenance standards if necessary to improve the overall image of the settlement, or if so required for the enforcement of the provisions of the regulation plan or for the protection of architectural heritage,

- e) in the cases specified by law, to have the lot fenced around or to have landscaping and other work performed in the interest of improving or for the protection of the settlement's overall image and the environment.

(2) The building authority shall order

- a) partial or complete remodeling, or if this is not possible or the general contractor refused, demolition or reconstruction of a structure or section of a structure, if construction is conducted in a manner to jeopardize stability, life and health or public or property security,

- b) usage of the structure or section of the structure to be ceased, if such usage jeopardizes stability, life and health or public or property security,

c) elimination of defects or discrepancies in the structure or section of the structure, if it is constructed in contradiction of the requirements of proper and safe use, or if detrimental conditions are caused in another property endangering stability, life and health or public or property security,

d) compliance with mandatory requirements of maintenance standards for the structure, or examination of the structure or, if necessary, to have a structure remodeled, renovated or demolished if its condition endangers stability, life and health or public or property security.

(3) The final and executable order issued in accordance with Subsections (1)-(2) shall be recorded in the land registry if so requested by the building authority.

(4) In the event of the building authority having to officially issue and to cover the costs of the fulfillment of an executable order on its own accord and on behalf of the obliged party's failure to comply, the building authority shall file a lien on the property for the amount of the costs involved and until such costs are recovered.

## **Licensing the continued existence of a structure**

### *Section 48.*

(1) The building authority may grant a continuation permit for an unlawfully constructed structure or section of a structure if requested by the developer or the legitimate user of the property, if the conditions specified in Sections 18-19 and 31 exist or could be established.

(2) If the provisions of Subsection (1) are satisfied, a continuation permit may also be issued, if

- a) the structure or section of the structure can be made to comply to code by remodeling, or
- b) the damage to interests caused by contravention is insignificant, not detrimental to public interests or can be eliminated within a deadline specified by the authority.

(3) The building authority may order the developer, if no application is submitted, to submit an application for a continuation permit or may proceed ex officio at the expense of the developer.

(4) The continuation permit may be for a specific period, or for an unspecified period to remain valid until revoked, or permanent, and may include a penalty and/or a resolution establishing an order and deadline for renovation necessary pursuant to Subsections (1)-(2).

(5) The continuation permit shall also serve as an occupancy permit for the structure if the applicable conditions exist. Upon granting a continuation permit for a section of a structure, the building authority shall also order construction to be continued and the structure completed. After all phases of construction are completed, an occupancy licensing proceeding shall be conducted pursuant to the provisions of Section 44.

(6) Upon expiration of the deadline or revocation of the permit, the licensee shall be required to demolish the structure or the section of a structure without any reimbursement claims. The same applies if the renovation orders prescribed in the continuation permit are not fulfilled. In the event of failure to comply with the renovation order, the building authority shall issue an order for demolition.

(7) If no continuation permit can be issued for an unlawfully built structure or section of a structure, the building authority must order the work necessary to achieve compliance to be performed, or demolition, should the obliged party refuse to perform such mandatory work.

(8) The building authority shall take actions within one year of gaining knowledge of the violation, but no later than within ten years of the completion of construction or, if such information is not available, of the occupancy of the structure. With respect to the provisions of Subsection (6) and to new proceedings, the beginning of the one-year period shall be the expiration date of the specified deadline of completion or of the revocation of the permit, the expiration of the deadline for the fulfillment of the order or the date of the final resolution ordering the new proceeding.

(9) Granting a continuation permit may not be denied because of the expiration of the administration period defined in Subsection (8). In this case, no order for remodeling may be issued and no penalty may be imposed.

(10) The owner (beneficiary, user) of the property shall tolerate the enforcement of remodeling or demolition orders imposed in connection with an unlawfully constructed structure or section of a structure.

## **Construction fine**

### *Section 49.*

(1) If the continuation permit can be granted in accordance with Section 48, a construction fine shall be imposed at the same time as well. The value, as established in separate legal regulations, of the unlawfully constructed or demolished structure or section of the structure shall serve as basis for the construction fine. The construction fine shall be no less than 20% and no more than 100% of the value pro-rata according to the degree of completion of the structure or section of the structure. The construction fine shall be paid by the time specified in the building authority resolution issued in accordance with Subsection (4) of Section 48.

(2) In the event that the developer demolishes the unlawfully constructed structure or section of the structure before the payment deadline of the imposed construction fine, or should eliminate the contravention, the building authority shall cancel the fine. A construction fine which has been imposed may not be canceled under other circumstances.

### *Section 50.*

(1) In order to provide financial support for the formation and protection of the built environment, in particular for:

- a) promotion of settlement regulation responsibilities,
- b) providing assistance for quality, construction supervision and building inspection related responsibilities and for improving the professional level and efficiency of inspections,
- c) carrying out regulatory measures or for providing funding in advance by tender,
- d) promotion of local government expenditures in connection with the placement of local architectural resources under protection by way of tender,
- e) assistance in the execution of international treaties on the protection of architectural heritage,
- f) promotion of the display of architectural resources,
- g) providing assistance in the responsibilities of building and settlement regulation social organizations,
- h) improvement of architectural culture

financial resources are available in the Central Environmental Protection Fund (hereinafter referred to as the "Fund") in accordance with the separate Act on the Fund and on the Management and Application of the Fund.

(2) Of the sums paid to the Fund as construction fines, 30% shall be allocated to the local government where the structure involved is located and 30% to the building authority acting in the first instance. If the authority of the second instance also participates in the regulatory proceeding, 15% of the 30% allocated to the building authority of the first instance shall be credited to the building authority of the second instance.

(3) If the construction fine is imposed against the local government where the structure or section of the structure is located, the 30% portion of the sums paid as construction fines for which the local government should otherwise be entitled, shall also be credited to the Fund.

(4) The sums credited to the local government pursuant to Subsection (2) shall be used for the construction regulation objectives specified in Subsection (1).

### *Section 51.*

(1) The building authority shall mandate the owner of property to complete the work prescribed, unless otherwise ordered by law. If the unlawful construction work was performed for the order of another party, the developer shall be mandated to have the aforementioned work completed.

(2) If, during or in consequence of construction, a situation jeopardizing stability, life or health, or public or property security was created, the general contractor shall, in addition to the provisions of Subsection (1), also be mandated to carry out the work required on such grounds.

(3) The building authority may order any parties hindered execution of the required work to allow execution of such.

(4) The costs of work ordered by the building authority shall be covered by the obliged party, unless otherwise provided by law.

## **The building authority**

### *Section 52.*

(1) The clerk of the settlement's local government, with the exceptions defined in Subsection (2), shall act as the building authority in the first instance.

(2) The clerk of the settlement's local government (or Budapest district), within the area of jurisdiction defined in a Government Decree, shall act in the first instance in preliminary, construction, demolition, occupancy and continuation licensing proceedings and the related inspection and obligatory cases.

(3) The building authority's scope of jurisdiction as defined in Subsection (2) may also be exercised by the clerk of the local government that routinely provides the required professional background. The settlement's local government shall provide the required professional background independently or within a local government association. The representative body of the settlement that is not listed in the Government Decree may file an application for appointment for exercising the building authority jurisdictions defined in Subsection (2) to the Government in agreement with the Minister of Interior and by way of the Minister.

(4) The building authority having jurisdiction in accordance with this Act shall transfer the documents of the building authority proceeding to the clerk, who is to file the documents in accordance with the provisions on document administration and handling, of the settlement's local government where the structure is located within 30 days of the resolution becoming final or of the conclusion of the execution.

(5) The competent county (Budapest) public administration organ shall act in the second instance in construction regulation regulatory proceedings.

(6) With regard to special structures and to structure and areas under protection, the building authority jurisdiction shall be exercised by the state administration organs specified in the relevant legal regulations.

### *Section 53.*

(1) With regard to the licensing, inspection and obligatory proceedings of the building authority and during building inspections, the general provisions on state administration shall be applied with the supplements and deviations defined in this Act.

(2) Handling the aspects of professional preparation and the execution of decisions on preliminary, building, demolition, occupancy and continuation licensing procedures and on building authority inspection and obligatory matters, and building inspection activities may only be performed by a person having a relevant university or college-level degree, or at least a relevant secondary education with respect to other construction related regulatory matters, specified by law, furthermore, with other professional background and a public administration graduate degree in construction regulation also specified by law.

(3) No exemption may be granted from the qualification requirements defined in Subsection (2).

## Chapter IV.

# MAINTENANCE AND UTILIZATION OF THE BUILT ENVIRONMENT, AND THE PROTECTION OF SUCH RESOURCES

## Maintenance and utilization of the built environment

### *Section 54.*

(1) The components of the built environment, such as building lots and areas, structures, sections of structures, groups of buildings, paved and green surfaces may only be used properly and for the purpose and in the way prescribed in the relevant regulatory specifications and licenses, while routinely maintaining suitable technical conditions. Legal regulations on the utilization of public areas may provide otherwise.

(2) The owner shall have the condition and stability of the structure periodically examined in the cases and manner specified by law, and have the necessary work completed.

(3) A building authority permit is required for using a structure or section of a structure in deviation from the occupancy or continuation permit, or if not available for use for purposes other than originally intended, unless otherwise prescribed by law. Changing the function shall be substantiated by proof of applicability for the new function and, in the cases defined by law, by examining the correlation of the structure, the section of a structure and the environment.

### *Section 55.*

(1) For the protection of the settlement's overall appearance, the building authority may order

- a) coordinated architectural and engineering planning and execution of the structure(s) and its environment, and of the facades of all commercial establishments, shop-windows, signs and advertisements in the building, and

- b) renovation and/or painting of the exterior of the building and other work for rendering the building more attractive for architectural purposes.

(2) The conditions for ordering the work defined in Subsection (1) shall be governed by resolution of local government of the settlement, or the district in Budapest.

(3) If the remodeling or renovation of a structure or section of a structure specified in Paragraph d) of Subsection (1) of Section 47 was required for improving the overall appearance of the settlement or by settlement regulation reasons, the costs involved and the compensation for damages due to restrictions in the use of the building because of renovation shall be covered by the local government, with any increase in value prompted by the remodeling deducted.

(4) If a structure or a section of a structure had to be demolished for reasons of improving the overall appearance of the settlement or for settlement regulation purposes, the owner shall be compensated in accordance with the provisions on expropriation compensation.

## Protection of architectural heritage

### *Section 56.*

(1) Architectural heritage includes historical monuments, groups of buildings and cultural landscapes. Adequate maintenance and protection of architectural heritage is a public interest.

(2) Elements of architectural heritage of special importance are to be designated (placed under protection), maintained, preserved, used and displayed as a part of international (universal), national and local architectural heritage.

(3) The unique and universal elements of international architectural heritage, registered in the "World Heritage Register", are to be maintained, preserved, used and displayed in accordance with the relevant international treaties as well.

(4) The Government shall carry out its world heritage related responsibilities through the Minister and with the active participation of Hungarian National Committee for World Heritage established by the Minister.

(5) The detailed regulations on the elements of the country's architectural heritage of special and national value, registered in the records of historical monuments, conservation of nature areas and other types of protection, are established by separate laws.

#### *Section 57.*

(1) Elements of the architectural heritage which, based on their value and in accordance with Section 56, are not under national protection, and which, however, due to their unique appearance, characteristic, townscape or settlement structural value are important for the region or for the settlement, represent traditional values and are true reflections of the work of the area's people and communities, shall be considered as part of the local architectural heritage.

(2) The exploration, registration, designation as protected, maintenance, improvement, safeguarding and provision of protection of local architectural heritage is the responsibility of the municipal government.

(3) Designation or cancellation of local protection, and restrictions and orders in connection with protected status shall be resolved by the municipal government, in Budapest the City Council of Budapest or the local governments of districts within the guidelines issued by the City Council, by decree.

## **Chapter V.**

### **MISCELLANEOUS AND CLOSING PROVISIONS**

#### **Records and registers**

#### *Section 58.*

(1) The building authorities, the clerks (chief clerks) of settlements, operators of public utilities, public funds, chambers and other organs delegated by law shall keep regulatory records, prescribed by legal regulations, on all regional, social, environmental, nature and technical data and information that are necessary for performing construction regulation related activities and are essential for settlement regulation and planning and for construction regulation regulatory activities.

(2) The following shall be regarded as regulatory records defined in Subsection (1):

- a) basic geodetic maps showing the administrative areas of settlements (including central and outlying areas),
- b) register of the local building code and settlement regulation policy,
- c) plans attached to lot formation permits,
- d) register of public utilities in central areas,
- e) records on structures,

- f) layout map of record,
  - g) records of linear-type and attached assets in outlying areas,
  - h) register of names of planners, chief planners, experts and technical inspectors,
  - i) records of new and eliminated residential units,
  - j) register of regulatory and building inspection journals,
  - k) records of the collection of sums imposed in regulatory construction regulation related proceedings,
  - l) register of structures built of bauxite cement,
  - m) records defined by separate legal regulations falling under the sphere of Subsection (1).
- (3) In accordance with the provisions of Act LXIII of 1992 on the Protection of Personal Data and the Publicity of Information of Public Interest, the records defined in Subsections (1)-(2) may contain the following personal data:
- a) name,
  - b) address,
  - c) personal identification number.
- (4) For the creation and continuous maintenance of databases, all natural and legal persons shall disclose the information on their property, with the exception of ones that may be obtained from registers prescribed by legal regulation.
- (5) In the records defined in Subsection (2), personal data must be kept separately. Personal data may only be disclosed to persons authorized by law and to persons having the consent of the party involved.

## **The role of the public prosecutor in construction regulation related proceedings**

### *Section 59.*

- (1) In the interest of having a violation of public interest eliminated, the public prosecutor may also file an appeal against the building authority's resolution in the second instance within the period of appeal available to the parties.
- (2) The public prosecutor, acting within his legal supervisory authority and based on the relevant legal regulations, shall participate in ensuring the lawful operation of the building regulatory authority's proceedings and decisions.

## **Entry into force and interim provisions**

### *Section 60.*

- (1) With the exception of Subsection (2), this Act shall enter into force on 1 January 1998, and simultaneously the following legal regulations shall be repealed:
- a) Act III of 1964 on Construction regulation,
  - b) Law-Decree No 10 of 1985 on the Amendment of Act III of 1964 on Construction regulation and Act XXXVIII of 1994,
  - c) Sections 41 and 43-46 of Act XXII of 1990 on the Repeal and Amendment of Certain Acts and Law-Decrees,
  - d) Section 2 of Act LXVIII of 1990 on the Amendment of Certain Acts In Connection with the Change in Work Distribution Within the Government,
  - e) Sections 74-83 of Act XX of 1991 on the Scope of Responsibilities and Jurisdiction of Local Government and their Organs, of the Delegates of the Republic and of Certain Organs of Central Subordination

f) Government Decree 30/1964 (XII. 2.) on the Execution of Act III of 1964 on Construction regulation, and Schedule No. 2 of MT Decree 88/1990 (VI. 30) on the amendment thereof, Government Decree 25/1992 (I. 28.) Korm., Government Decree 44/1995 (IV. 24.) Korm. and 60/1995 (V. 30.) Korm.,

g) the sixth sub-paragraph of Subsection (3) of Section 16 of MT Decree 73/1989 (VII. 7.) on the Amendment of MT Decree 26/1987 (VII. 30.) on the Promulgation of Act 1 of 1987 on Land,

h) Paragraph j) of Subsection (2) of Section 6 of Government Decree 142/1993 (X. 13.) Korm. on the Foundation of a Single Communication Authority and on the Amendment of Certain Legal Regulations on Communication.

(2) The provisions on compensation prescribed in Section 30; the provisions in connection with settlement planning, architectural and engineering planning, technical experts, building inspection authority and with settlement regulation and architectural tenders, furthermore the provisions of Section 41 and Paragraph j) of Subsection (2) of Section 62 of this Act shall enter into force on the 8th and on the 60th day following promulgation of the Act respectively. At the same time the following shall be repealed:

a) Subsections (3)-(6) of Section 13 of Act III of 1964 on Construction regulation -established by Subsection (2) of Section 77 of Act XX of 1991 on the Scope of Responsibilities and Jurisdiction of Local Government and their Organs, of the Delegates of the Republic and of Certain Organs of Central Subordination, and Sections 41, 42, 43 and 45, and

b) Section 23 of Government Decree 30/1964 (XII. 2.) Korm. on the Execution of Act III of 1964 on Construction regulation.

With regard to the lot formation and building prohibitions still in force at the time of this Act entering into force and for compensations for restraint, the provisions of Subsections (2)-(6) of Section 13 of Act III of 1964 shall be applied. The head of the competent county or Budapest public administration shall conduct the compensation for restraint proceeding in observation of the provisions on expropriation compensation.

(3) At the time of this Act entering into force

a) with respect to the content requirements of completed, but yet approved settlement regulation policies the provisions of former legal regulations shall be observed, however such plans shall be approved no later than within one year of this Act entering into force in accordance with the provisions of this Act,

b) already approved settlement regulation policies shall be applied until amended or replaced by other plans,

c) with regard to the existing central areas of settlements, the provisions of this Act on built-up and non-built up areas, and with regard to outlying areas the provisions on non-built up areas shall be applied.

(4) The Parliament shall allocate funds for the first time in the State Budget for 1998 for ensuring the foundation and operation of building supervisory and special building authorities of the first instance.

(5) With the exception of Subsection (4), local government resolutions shall be reviewed and resolutions inconsistent with the provisions of this Act and of the legal regulations based on this Act shall be repealed within one year of this Act entering into force.

(6) With regard to the cases defined in Subsection (2) of Section 52, the clerk of the settlement's local government shall deliver the documents necessary for exercising regulatory jurisdictions to the competent building authority within 15 days of this Act entering into force.

(7) Instead of the public administration graduate degree defined in Subsection (2) of Section 53 specializing in construction regulation, until 31 December 1998, a public administration basic degree may be accepted as well.

(8) The building authority defined in Subsection (2) of Section 52, at the time of this Act entering into force shall act

a) in observation of the legal regulations in force when the application is submitted with regard to the cases in progress, and

b) in accordance with the legal regulations in force at the time of construction (demolition) of the structure (section of a structure) during the regulatory inspection of cases concluded with a final and executable decision.

(9) The local governments concerned shall submit the application for appointment defined in Subsection (3) of Section 52 for the first time before 1 October 1997 to the Minister.

(10) Proof of having the professional requirements defined in this Act satisfied and a declaration for filling the office for no less than 4 years by the specified professional requirements shall be attached to the application. If the regulatory jurisdiction is filled by a regulatory administration association of the local government, the agreement to that effect shall be attached as well.

#### *Section 61.*

(1) Where a legal regulation

- a) mentions general development plan, it is to be understood as settlement structure plan,
- b) mentions basic plan or detailed development plan, it is to be understood as the local building code and regulation plan,
- c) uses the term "state administration" with regard to settlement regulation, it is to be understood as "public administration".

(2) Section 23 of Law-Decree No 24 of 1976 on Expropriation shall be supplemented with the following Subsections (2)-(3) and simultaneously the numbering of the current Subsection is changed to (1):

"(2) In the event of expropriation, the party in the interest of whom the expropriation is implemented shall assume the order as using the property for the purpose of expropriation within a specified deadline.

(3) If the objective of the expropriation is not realized, the former owner of the property shall have preemptive right."

#### *Section 62.*

(1) The Government is hereby delegated to establish

- a) on the Minister's initiative, the scope of jurisdiction of the clerks of the local government of settlements (Budapest districts) defined in Subsection (2) of Section 52,
- b) on the Minister's initiative, the sphere and scope of jurisdiction of the building authorities acting on the basis of Subsection (3) of Section 52,
- c) the professional requirements defined in Section 53,
- d) the content requirements and the order of submission and evaluation of the initiative submitted to the Government on the basis of Subsection (3) of Section 52,
- e) the qualification requirements of the public officers attending to construction regulation regulatory responsibilities,
- f) the detailed regulations on conducting building inspection activities,
- g) the national professional requirements on settlement regulation and structures and the deviations allowed in the local building code,
- h) the general regulations on the activities of technical experts regarding the formation and protection of the built environment,
- i) the general regulations on the eligibility for architectural and engineering planning
- j) the conditions for the foundation and operation of registers and data disclosure (databases and information systems) used for the activities in the sphere of construction regulation,
- k) the regulations on building regulatory licensing, operation and inspection of elevators and escalators and of the activities of the experts and inspectors of elevators,

by decree.

(2) The Minister is hereby delegated to establish

- a) The detailed trade regulations on lot formation, on ordering lot formation and building prohibition and on providing replacement lots,
- b) the contextual requirements on architectural and engineering plans,
- c) the detailed regulations on the eligibility of settlement planning and architectural and engineering planning,
- d) the detailed regulations on construction regulation activities, in conjunction with the Minister of Industry, Trade and Tourism,

e) the detailed professional regulations on regulatory building inspections,  
f) the detailed regulations on building inspections,  
g) the detailed regulations on imposing construction fines,  
h) the detailed regulations on settlement regulation and architectural tenders,  
i) the detailed regulations on building regulatory licensing and obligatory proceedings and on the expression of opinion of local governments of settlements,  
j) the detailed regulations on the technical requirements, certification of approval, marketing and application of building materials, structures and equipment, in conjunction with the Minister of Industry, Trade and Tourism,  
k) the order of business of the Hungarian National Committee of World Heritage,  
l) the trade regulations on the protection of local architectural heritage,  
m) the regulations on the settlement regulation and architectural and engineering planning committees,  
n) the detailed regulations on construction regulation related expert activities,  
o) the detailed regulations and conditions on the activities of the municipal (settlement or county) chief architect,  
p) the professional requirements defined in Subsection (2) of Section 53 and, in addition to the provisions of the Government Decree on the Education Requirements of Public Servants, the method of training  
by decree.

(3) The national standards that are mandatory may be ordered to be partly or fully mandatorily applied by the competent minister for a term specified by law.

(4) With regard to unique types of structures, the competent minister, according to the type of the structure shall, in agreement with the Minister, exercise the regulatory responsibilities described in Subsection (2).

(5) For the implementation of the provisions of Paragraph *d*) of Subsection (1) of Section 31 and Paragraph *c*) of Subsection (4) of Section 31 the Government and the local governments shall draw up programs concerning state-owned and local government owned properties respectively within two years of this Act entering into force.