

# Planning Act

Passed 13 November 2002

(RT<sup>1</sup> I 2002, 99, 579),

entered into force 1 January 2003,

amended by the following Acts:

06.04.2005 entered into force 08.05.2005 - RT I 2005, 22, 150;

22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87;

23.11.2004 entered into force 01.04.2005 - RT I 2004, 84, 572;

21.04.2004 entered into force 10.05.2004 - RT I 2004, 38, 258;

24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148.

## Chapter 1

### General Provisions

#### § 1. Scope of application and purpose of Act

(1) This Act regulates relations between the state, local governments and other persons in the preparation of plans.

(2) The purpose of this Act is to ensure conditions which take into account the needs and interests of the widest possible range of members of society for balanced and sustainable spatial development, spatial planning, land use and building.

(3) For the purposes of this Act, spatial planning (hereinafter planning) is democratic and functional long-term planning for spatial development which co-ordinates and integrates the development plans of various fields and which, in a balanced manner, takes into account the long-term directions in and needs for the development of the economic, social, cultural and natural environment.

(4) The provisions of this Act also apply to buildings which are movables and to their owners or possessors.

(5) The strategic environmental assessment resulting from implementation of the planning policy shall be organised in the cases and pursuant to the procedure provided for in the Environmental Impact Assessment and Environmental Management System Act (RT I 2005, 15, 87).

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

#### § 2. Plans

A plan prepared in the process of planning is a document which consists of a text and maps. The types of plan are as follows:

1) national spatial plan, which is prepared with the aim of defining the prospective development of the territory of the state and the settlement systems located therein in a generalised and strategic manner;

2) county plan, which is prepared with the aim of defining the prospective development of the territory of a county in a generalised manner and determining the conditions for the development of settlement systems and the location of the principal infrastructure facilities;

3) comprehensive plan, which is prepared with the aim of determining the general directions in and conditions for the development of the territory of a rural municipality or city, and of setting out the bases for the preparation of detailed plans for areas and in the cases where detailed planning is mandatory and for the establishment of land use provisions and building provisions for areas where detailed planning is not mandatory;

4) detailed plan, which is prepared with the aim of establishing land use provisions and building provisions for cities and towns and for other areas and in other cases where detailed planning is mandatory.

#### § 3. Principles of planning

(1) Planning activities are public. Public disclosure is mandatory in order to ensure the involvement of all interested persons and the timely provision of information to such persons and to enable such persons to defend their interests in the process of planning.

(2) The preparation of detailed plans is mandatory for areas located in cities and towns and for existing or planned, clearly delimited built-up parts of small towns and villages in the following cases:

1) as the basis for the preparation of building design documentation for new buildings, except for outbuildings of detached houses, outbuildings of summer-houses, outbuildings of garden houses and other small buildings with an area occupied by buildings of up to 20 m<sup>2</sup>, and as the basis for the erection of such new buildings;

2) as the basis for the expansion of the cubature above ground of existing buildings, except for detached houses, summer-houses and garden houses and their outbuildings, by more than 33 per cent and for the preparation of building design documentation for such work;

3) in the event of land areas being divided into plots.

(3) Land use provisions, building provisions and restrictions arising from law may be established for immovable property on the basis of the following plans:

1) on the basis of an adopted detailed plan where preparation of a detailed plan is mandatory;

2) on the basis of an adopted comprehensive plan where preparation of a detailed plan is not mandatory.

#### § 4. Administration of planning activities

(1) Administration and supervision of planning activities at national level is within the competence of the Ministry of Internal Affairs, while administration and supervision of planning activities in a county is within the competence of the county government.  
(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(2) Administration of planning activities within the administrative territory of a rural municipality or city is within the competence of the local government. The local government shall:

1) ensure that there are plans which serve as the basis for land use and building;

2) ensure, as a prerequisite for adoption of a plan, that the interests of interested persons are taken into consideration in a balanced manner;

3) ensure that adopted plans are adhered to.

#### § 5. Building regulation of rural municipality or city

The relevant local government shall establish the building regulation for a rural municipality or city in order to:

1) establish the general principles and rules for planning and building in the rural municipality or city or parts thereof;

2) determine the division of the internal functions of the local government in administration in the field of planning and building.

### Chapter 2

#### Types of Plan

#### § 6. National spatial plan

(1) The national spatial plan is prepared for the entire territory of the state.

(2) The objectives of the national spatial plan are to:

1) define the principles of and directions in sustainable and balanced spatial development;

2) create the spatial bases for the regional development of the state;

3) direct the development of settlement systems;

4) direct the creation of a national transport network and the development of technical infrastructures;

5) create the basis for a system ensuring the preservation of various types of ecosystems and landscapes and balancing the impact of settlement systems and economic activities which is comprised of natural and semi-natural biotic communities (hereinafter green network);

6) establish objectives for county plans.

(3) Upon preparation of the national planning policy, the results of the strategic environmental assessment shall be taken into account.

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

#### § 7. County plan

(1) A county plan is prepared either for the whole territory of a county or for a part thereof.

(2) A county plan may be prepared:

1) for the territories or parts of the territories of several counties if there is mutual agreement between the county governments concerned;

2) as a thematic plan to specify or amend the county plan in force in accordance with the objectives specified in subsection (3) of this section.

(3) The objectives of a county plan are to:

1) define the principles for and directions in the spatial development of the county;

2) balance state and local needs and interests with regard to spatial development;

3) create the bases for sustainable and balanced development and involve them in spatial development, taking balanced account of the needs for development of the economic, social, cultural and natural environment in the preparation of the plan;

4) direct the development of settlement systems;

5) designate the areas and cases outside cities and towns where preparation of a detailed plan is mandatory, unless they have been designated by an adopted comprehensive plan;

6) designate densely populated areas within the meaning of the Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565; 2002, 11, 59; 47, 297 and 298) unless they have been designated by an adopted comprehensive plan;

7) plan measures to ensure the preservation of natural resources, valuable arable land, landscapes and natural biotic communities, and the functioning of the green network;

8) define general provisions for the use of land and water areas;

9) define the land use provisions for areas influenced by the mining of mineral resources or earth material;

(23.11.2004 entered into force 01.04.2005 - RT I 2004, 84, 572)

10) determine the location of roads, railway lines, waterways, utility network routes, airports, ports, sites for the final disposal of waste and other technical infrastructure;

11) take account, in planning, of protected areas and of the provisions for their use and, where necessary, to make proposals for the amendment of such provisions, the establishment of new protected areas or termination of the protection regime;

12) designate recreation areas and define the provisions for their use;

13) designate national defence areas of national importance.

(4) An adopted county plan serves as the basis for the preparation of comprehensive plans for rural municipalities and cities and, in the absence of an adopted comprehensive plan, for the preparation of detailed plans and the issue of design provisions for rural municipalities and cities.

(5) Upon preparation of a county plan, adopted comprehensive plans shall be taken into account or, upon agreement with the local governments, a proposal shall be made to amend the comprehensive plans.

(6) Upon preparation of a county plan, the results of the strategic environmental assessment shall be taken into account.

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

#### § 8. Comprehensive plan

(1) A comprehensive plan is prepared for the whole territory of the rural municipality or city or for parts thereof.

- (2) A comprehensive plan may be prepared:
    - 1) for the territories or parts of the territories of several rural municipalities or cities if there is mutual agreement between the local governments concerned;
    - 2) as a thematic plan to specify or amend the comprehensive plan in force in accordance with the objectives specified in subsection (3) of this section.
  - (3) The objectives of a comprehensive plan are to:
    - 1) form the principles for the spatial development of the rural municipality or city;
    - 2) assess the potential economic, social and cultural impact of the proposed spatial development and the potential impact on the natural environment and, on the basis thereof, to establish conditions for sustainable and balanced spatial development;
    - 3) determine general use and building provisions for land and water areas;
    - 4) designate the areas and cases outside cities and towns where preparation of a detailed plan is mandatory;
    - 5) designate densely populated areas within the meaning of the Land Reform Act;
    - 6) designate built-up areas of cultural and environmental value, valuable arable land, parks, green areas, landscapes, individual features of landscapes and natural biotic communities, and to establish the provisions for their protection and use;  
(21.04.2004 entered into force 10.05.2004 - RT I 2004, 38, 258)
    - 7) establish the conditions to ensure the functioning of the green network;
    - 8) define the location of roads, streets, railways, ports and airports and the general principles of traffic management;
    - 9) declare, where necessary, a road on land in the ownership of a person in private law to be a public road pursuant to the procedure provided in the Roads Act (RT I 1999, 26, 377; 93, 831; 2001, 43, 241; 50, 283; 93, 565; 2002, 41, 249; 47, 297; 53, 336; 61, 375; 63, 387);
    - 10) define the location of principal utility network routes and technical infrastructure;
    - 11) designate recreation and leisure areas;
    - 12) determine limited management zones and building exclusion zones of shores and banks of water bodies pursuant to the procedure provided in the Nature Conservation Act (RT I 2004, 38, 258);  
(21.04.2004 entered into force 10.05.2004 - RT I 2004, 38, 258)
  - 13) make proposals, where necessary, for specification, amendment or termination of the protection regime for areas or objects placed under protection;
  - 14) make proposals, where necessary, for placing areas and objects under protection;
  - 15) take account of general national defence needs and, where necessary, to designate national defence areas and specify the boundaries of national defence areas designated by the county plan;
  - 16) make proposals to prevent, by way of planning, the risk of criminal activity in urban areas;
  - 17) address in the plan land use provisions and building provisions arising from Acts and other legislation.
- (4) In the event of justified need, a comprehensive plan may include proposals to amend an adopted county plan.
  - (5) Upon selection of the location for an object of significant spatial impact, the preparation of a comprehensive plan is mandatory. The size of the comprehensive planning area in the case of an object of significant spatial impact shall be determined by the county governor in co-operation with the local government concerned and concertation therefor shall be sought from the Minister of the Environment.
  - (6) For the purposes of this Act, an object of significant spatial impact is an object which creates a significant change in comparison with the existing situation in the flow of transport, volume of pollutants, amount of visitors or need for raw materials or labour force at the proposed location of the object and which has an impact on a large territory. The list of objects of significant spatial impact shall be established by the Government of the Republic.
  - (7) Adopted comprehensive plans serve as the basis for the preparation of detailed plans for areas and in the cases where the preparation of a detailed plan is mandatory and for

establishment of land readjustment and design provisions for areas where the preparation of a detailed plan is not mandatory.

(8) A comprehensive plan shall determine the need for and sequence of detailed planning and indicate the economic possibilities for implementation of the comprehensive plan.

(9) Upon preparation of a comprehensive plan, the results of the strategic environmental assessment shall be taken into account.

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

#### § 9. Detailed plan

(1) A detailed plan is prepared for a part of the territory of a rural municipality or city and it serves as the basis for building activities and land use in the short term.

(2) The objectives of a detailed plan are to:

1) divide the areas being planned into plots;

2) determine the building rights of a plot;

3) delimit the area that can be occupied by buildings, meaning that share of a plot on which buildings permitted by the building rights of the plot may be erected;

4) determine the areas and traffic management of streets and, where necessary, to declare an existing or proposed street located on land in the ownership of a person in private law as a public road pursuant to the procedure provided for in the Roads Act;

5) determine the principles for planting vegetation and providing public services and amenities;

6) determine clearances;

7) determine the location of utility networks and technical infrastructure;

8) establish environmental provisions for implementation of the plan and, where necessary, to designate buildings in the case of which the preparation of the building design documentation requires environmental impact assessment to be carried out;

9) make proposals, where necessary, for specification, amendment or termination of the protection regime for areas or individual objects placed under protection;

10) make proposals, where necessary, for placing areas and objects under protection;

11) designate, where necessary, built-up areas of cultural and environmental value and to establish the conditions for their protection and use;

12) establish the essential architectural requirements for buildings;

13) determine the need for easements;

14) determine, where necessary, land areas for national defence purposes;

15) establish requirements and conditions to prevent the risk of criminal activity;

16) determine the scope of other restrictions on immovable property ownership arising from Acts and other legislation in planning areas.

(3) A plot is a land unit intended for building purposes and located in an area where the preparation of a detailed plan is mandatory.

(4) The building rights of a plot define:

1) the intended use or intended uses of the plot;

2) the maximum permitted number of buildings on the plot;

3) the maximum area to be occupied by the buildings;

4) the maximum permitted height of the buildings.

(5) Clearance is the shortest permitted distance between buildings.

(6) A detailed plan shall include at least one drawing illustrating the content of the detailed plan to render the plan understandable both in the course of the public display and to the participants in the decision-making process.

(7) In the event of justified need, a detailed plan may include proposals to amend an adopted comprehensive plan.

(8) Adopted detailed plans serve as the basis for the formation of new cadastral units and, in the cases where the preparation of a detailed plan is mandatory, for alteration of the boundaries of existing cadastral units.

(9) In the cases where preparation of a detailed plan is mandatory, the building design documentation shall be prepared on the basis of adopted detailed plans pursuant to the procedure provided for in the Building Act (RT I 2002, 47, 297).

(10) Local governments may, except in areas placed under state protection and built-up areas of cultural and environmental value, permit the following without the requirement to prepare a detailed plan:

1) extension of an existing industrial building located on the plot of an industrial undertaking, erection of outbuildings connected thereto and preparation of building design documentation for such purpose;

2) preparation of building design documentation for and erection of a detached house on an empty plot in an existing built-up area provided that, upon the design and erection of the detached house, the style of building and principles of planning applied in the area are taken into consideration and that concertation is sought for the building design documentation from the owners of the neighbouring registered immovables;

3) preparation of building design documentation for and erection of an apartment building on an empty plot in an existing built-up area provided that the number of storeys of the new apartment building and the area occupied by the buildings is in correspondence with the corresponding parameters of the existing buildings and that concertation is sought for the building design documentation from the owners of the neighbouring registered immovables;

4) division of a plot occupied by several buildings into several plots between the owners of the buildings, provided that the request for division of the registered immovable does not include an application by the owners for permission to erect buildings for which the preparation of a detailed plan is mandatory;

5) relocation of the boundaries of neighbouring plots, provided that such relocation does not result in the alteration of the existing building rights of the plots, except for the area occupied by the buildings, or in the alteration of the existing land use provisions and provided that it is carried out in agreement between the owners of the neighbouring plots.

(11) In the event of justified need, a local government council may initiate the preparation of a detailed plan for areas and in the cases where, pursuant to the provisions of subsection 3 (2) of this Act, the preparation of a detailed plan is not mandatory.

(12) Upon preparation of a detailed plan, a strategic environmental assessment shall be organised if required in the cases provided for in clause 33 (1) 3) of the Environmental Impact Assessment and Environmental Management System Act. In such cases, the results of the strategic environmental assessment shall be taken into account upon preparation of the detailed plan.

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

## Chapter 3

### Preparation of Plan and Public Participation

#### § 10. Initiation and administration of preparation of plan

(1) Anyone may make a proposal for initiation of the preparation of a plan.

(2) The Government of the Republic shall initiate the preparation of a national spatial plan and the Ministry of the Internal Affairs shall administer the preparation of the plan.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(3) A county governor or the Government of the Republic shall initiate and administer the preparation of a county plan.

(4) A local government shall initiate and administer the preparation of a comprehensive plan.

(5) A local governments shall initiate and administer the preparation of a detailed plan.

(6) A local government may enter into a contract for the preparation of a detailed plan with a person interested in the preparation thereof. The contract shall determine the respective obligations of the local government and the person interested in the preparation of the detailed plan in the course of preparation of the plan and in the financing of its preparation. A person in private law shall not contract for the preparation of a detailed plan for areas under nature

conservation or heritage conservation or in cases where the detailed plan is not prepared in compliance with the adopted comprehensive plan or, in cities divided into city districts, with the comprehensive plan adopted for the respective city district.

(7) Initiation of the preparation of a plan as specified in subsections (2)–(5) of this section is the decision of the Government of the Republic, a county governor or a local government to commence planning.

#### § 11. Notification of intention to plan

(1) Local governments shall inform the public of any proposed comprehensive planning and detailed planning at least once a year in the relevant newspaper.

(2) For the purposes of this Act, the relevant newspaper is:

- 1) in the case of a national spatial plan, at least one daily national newspaper;
- 2) in the case of a county plan, a county newspaper published on a regular basis or at least one daily national newspaper and a rural municipality or city newspaper published at least once a month;
- 3) in the case of a comprehensive plan or a detailed plan, a rural municipality or city newspaper published at least once a month and a county newspaper published on a regular basis or a daily national newspaper, designated by the local government as the newspaper where the official notices of the rural municipality or city are published.

#### § 12. Notification of initiated plans

(1) Within one month after the decision to initiate planning is made, the ministry, county governor or local government administering preparation of the plan shall publish a notice concerning the initiation of planning, provide information on the size and location of the planning area and communicate the objectives of the initiated planning in the relevant newspaper.

(2) Any notices regarding initiation of the preparation of a national spatial plan shall be published in the *Riigi Teataja Lisa*<sup>2</sup>.

(3) The county governor shall notify local governments of the initiation of county planning concerning the territories of those local governments within two weeks as of the date on which the decision to initiate planning is made.

(4) If it is known upon the initiation of detailed planning that the initiated detailed planning may bring about a need to transfer immovables or parts thereof, the local government shall, by way of registered letter, inform the owners of the relevant immovables of the initiation of preparation of the detailed plan within two weeks as of the date on which the decision to initiate planning is made.

(5) Local governments shall notify county governors of the initiation of comprehensive planning or detailed planning within two weeks as of the date on which the decision to initiate planning is made.

#### § 13. Right to prepare plans

(1) A national spatial plan, county plan or comprehensive plan may be prepared or the preparation of the plan may be directed by specialists with higher education in an appropriate field to whom either the ministry, county governor or local government administering preparation of the plan assigns the task of preparing the plan.

(2) Architects and planners with higher education and other specialists with higher education who have received training in the field of planning may undertake or direct the preparation of detailed plans independently and on their own responsibility.

(3) The persons specified in subsections (1) and (2) of this section also include persons who have acquired their professional qualifications as an architect in a Member State of the European Economic Area or Switzerland and who hold a document issued in the corresponding Member State of the European Economic Area or Switzerland certifying their professional qualifications. If a person holds a document certifying his or her professional qualifications, it shall be presumed that the person has the qualifications to organise the allocation of resources or the work of other persons and to take responsibility for such work.

The list of documents certifying acquisition of professional qualifications in a Member State of the European Economic Area or Switzerland shall be established by the Minister of Economic Affairs and Communications.

(06.04.2005 entered into force 08.05.2005 - RT I 2005, 22, 150)

§ 14. Accessibility and filing of information necessary for preparation of plan

(1) Persons who are located in a planning area or who possess information concerning such an area are required to provide, free of charge, information required for the preparation of a plan to the ministry, county governor or local government administering preparation of the plan or to the compiler of the plan authorised thereby.

(2) The ministry, county governor or local government administering preparation of a plan is required to ensure the preservation of information and materials collected in the course of preparation of the plan and that interested persons have access to such information and materials.

§ 15. Temporary building ban during preparation of plan

(1) A local government may establish a temporary building ban in a planning area or a part thereof if, upon initiation of comprehensive planning or detailed planning, it is known that the initiated comprehensive planning or detailed planning will result in amendments to the previously adopted detailed plan of the area as well as to the land use provisions, building provisions or building rights of plots determined thereby.

(2) A temporary building ban may be established for up to two years.

(3) A temporary building ban does not apply to buildings for which building permits have been issued prior to the establishment of the building ban.

(4) The local government shall, by way of registered letter, inform the owners of immovables who may be affected by a temporary building ban of the intent and reasons to establish the temporary building ban at least two weeks prior to the date on which the temporary building ban is to be established.

(5) Owners of immovables who are affected by a temporary building ban shall, by way of registered letter, be informed of the temporary building ban within one week as of the date on which the temporary building ban is established.

§ 16. Co-operation in preparation of plans

(1) Owners of immovables located in and residents of the planning area and other interested persons shall be involved in the preparation of comprehensive and detailed plans.

(1<sup>1</sup>) In the case of land still in state ownership within the meaning of subsection 31 (2) of the Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565; 2002, 11, 59; 47, 297 and 298; 99, 579; 100, 586; 2003, 26, 155), the owner of the immovable, for the purposes of this Act, is the Ministry of the Environment or a person authorised by the Minister of the Environment.

(21.04.2004 entered into force 10.05.2004 - RT I 2004, 38, 258)

(2) The local government shall organise public discussions to present the initial planning outline, the draft plans and the potential impact of the implementation of a comprehensive plan.

(3) The need to organise public discussions to publicise the initial detailed planning outline and the draft plans shall be determined by the local government. At least one public discussion shall be organised if the detailed plan is prepared for an area under heritage conservation or nature conservation, a region of significant urban development potential or an area concerning which a corresponding proposal was made in the course of processing the plan.

(21.04.2004 entered into force 10.05.2004 - RT I 2004, 38, 258)

(4) Plans shall be prepared in the following manner:

1) aa national spatial plan shall be prepared in co-operation between the county governors, county local government associations and ministries;

2) a county plan shall be prepared in co-operation between the local governments of the planning area, the county governors of counties neighbouring on the planning area, the Ministry of the Environment and other ministries whose area of government covers matters treated in the planning;

3) a comprehensive plan shall be prepared in co-operation between the local governments neighbouring on the planning area and the county governor concerned;

4) a detailed plan shall be prepared in co-operation between the owners of the immovables located in the planning area and the owners or possessors of existing or planned utility networks in order to ensure that the planning area is supplied by utility networks.

(5) If a strategic environmental assessment is conducted in the course of preparation of a plan, it is required to cooperate with an expert on strategic environmental assessment within the meaning of the Environmental Impact Assessment and Environmental Management System Act.

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

(6) If expedient, the proceedings regarding the strategic environmental assessment and the proceedings regarding preparation of a plan may be joined. In such case, the requirements established for both proceedings must be complied with.

(22.02.2005 entered into force 03.04.2005 - RT I 2005, 15, 87)

#### § 17. Concertation of plans

(1) Concertation for a national spatial plan shall be sought from ministries, county governors and county local government associations.

(2) Prior to adoption of a plan pursuant to the procedure provided for in § 18 of this Act, a county governor or local government administering preparation of the plan shall seek concertation for:

1) a county plan from the county governors of counties neighbouring on the planning area and from the local governments of the planning area;

2) a comprehensive plan from the local governments neighbouring on the planning area and from the county environmental services;

3) a comprehensive plan or a detailed plan from the relevant state authority or manager of a protected area if the planning area includes an area or object placed under state protection or if the plan serves as a proposal to place that object under protection or if earth deposits belonging to the state or subsurface mining areas are located in the planning area.

(3) In cases not specified in subsection (2) of this section, the need to seek concertation for plans from state authorities or county environmental services shall be determined by:

1) the Ministry of Internal Affairs for a county plan;

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

2) the county governor for a comprehensive plan, a detailed plan including a proposal to amend a comprehensive plan, or a detailed plan prepared for an area where there is no comprehensive plan;

3) the local government for a detailed plan prepared on the basis of an adopted comprehensive plan.

(4) A plan is deemed to have been concerted regardless of any proposals or objections submitted concerning the plan unless, upon seeking concertation, reference is made to contradiction with an Act, legislation established on the basis of an Act or an adopted plan.

(5) If the agency authorised to concert a plan has not concerted the plan within one month as of the date on which the plan is sent thereto, the compiler of the plan shall assume that the agency has no proposals or objections concerning the plan.

#### § 18. Acceptance and public display of plans

(1) A local government shall make a decision on acceptance of a plan and shall organise the public display of the plan.

(2) Plans shall be displayed to the public as follows:

1) comprehensive plans – in the rural municipality or city centre, the larger settlements of the rural municipality or the settlement for which the plan is being prepared;

2) detailed plans – in the rural municipality centre and the settlement concerned, or the city centre and the city district concerned.

(3) A county governor shall decide on acceptance of a county plan and shall organise the public display of the plan in the county centre, in other cities in the county and in rural municipality centres of the planning area.

(4) The ministry administering the preparation of the national spatial plan shall present the main planning outline in the relevant newspaper.

(5) If the proposals made in a comprehensive plan or detailed plan result in a need to expropriate immovables or in changes to the existing land use or building rights on the plots against the will of the owner, the local government shall, by way of registered letter and at least two weeks before displaying the plan to the public, inform the owners of the immovables concerned of the time and place of the public display of the plan and of the public discussion regarding the comprehensive plan.

(6) The local government or county governor administering preparation of a plan shall, at least one week before displaying the plan to the public, publish a notice in the relevant newspaper setting out the time and place of the public display of the plan and, in the event of a county plan or comprehensive plan, the time and date of the public discussion regarding the plan. The notice shall:

- 1) provide information on the size and location of the planning area;
- 2) provide a short overview of the contents of the plan;
- 3) in the case of a detailed plan, provide information on the nature of the proposed buildings and the most significant land use provisions and building provisions.

(7) At least one week before a plan is publicly displayed, the local government shall display a notice concerning the holding of the public display as follows:

- 1) in the case of a comprehensive plan or a detailed plan of public interest – in at least one public building or place open to the public (shop, library, school, bus stop or other such place) in the villages of the rural municipality or in the urban regions of the city;
- 2) in the case of a detailed plan – in at least one public building or place open to the public in the relevant village of the rural municipality or in the relevant urban region of the city.

(8) During the time the plan is on public display, all interested persons shall have access to all material and information related to the plan in the possession of the county government or local government administering preparation of the plan during the office hours of the county government or local government.

(9) Concertations issued for a plan and the opinions of the county governor or local government administering preparation of the plan on the proposals and objections presented in the concertations shall be displayed to the public together with the plan.

#### § 19. Duration of public display

The duration of a public display shall be:

- 1) two weeks for a detailed plan;
- 2) four weeks for a comprehensive plan;
- 3) four weeks for a county plan.

#### § 20. Procedure for presentation of proposals and objections

(1) Everyone has the right to present proposals and objections concerning a plan during the time the plan is on display to the public. An objection is the presentation of a disagreeing opinion concerning a planning solution or a claim that the requirements of law have not been met in the processing of the plan.

(2) The local government or county governor administering preparation of a plan shall inform persons who have sent proposals and objections by post or electronic mail during the time the plan is on display to the public (hereinafter written proposals and objections) of the opinion of the local government or county governor on such proposals and objections and shall specify the time and place of the public discussion within two weeks after the end of the public display of the plan. In the case of proposals and objections sent by post, the opinion

shall be sent by way of registered letter, and in the case of proposals and objections sent by electronic mail, the opinion shall be sent by way of electronic mail.

#### § 21. Taking outcome of public display into consideration

(1) A local government shall organise a public discussion regarding a comprehensive plan and the outcome of the public display thereof and a county governor shall organise a public discussion regarding a county plan and the outcome of the public display thereof within one month after the end of the public display. If written proposals or objections concerning a detailed plan are received during the public display thereof, the local government shall organise a public discussion regarding the detailed plan within one month after the end of the public display.

(2) The local government shall publish a notice concerning the time and place of the public discussion regarding the detailed plan in the relevant newspaper at least one week before the public discussion is held.

(3) If written proposals or objections concerning a plan are received during the public display thereof, the local government or county governor administering preparation of the plan shall publish information concerning the outcome of the public display and public discussion in the relevant newspaper within two weeks as of the date on which the public discussion is held.

(4) On the basis of the outcome of the public display and public discussion, the local government or county governor shall make the necessary amendments to the plan and, in the cases arising from subsections 23 (1) and (2) of this Act, shall submit the plan to the supervisory authority together with information on the proposals and objections which were not taken into consideration.

(5) If the amendments resulting from a public display and public discussion bring about changes to the basic content of a plan, concertation for the plan shall be re-sought from the person whom the amendment concerns and a new public display and public discussion shall be organised pursuant to §§ 17–20 of this Act and this section after the plan has been amended.

(6) A person who presents written proposals or objections concerning a plan during the public display thereof may withdraw those proposals and objections by giving written notice thereof to the local government or county governor administering preparation of the plan within at least two weeks as of the date on which the public discussion regarding the plan is held.

#### § 22. Simplified procedure for preparation of detailed plan

(1) Upon preparation of a detailed plan, the local government may waive the requirements of public disclosure as provided for in subsection 12 (1) and §§ 18-21 of this Act and substitute the procedure with concertations from the owner of the plot being planned and the owners of the neighbouring plots, if the detailed plan is prepared:

1) for the planning of plots of up to five detached houses, summer-houses or garden houses in an existing built-up area;

2) for the planning of an empty plot between existing buildings in a city or town, if the main function of the building planned on the plot is a residential building or office building and if the size of the building will not change the character of the urban district.

(2) In the case of a detailed plan which is prepared to determine the size of plots for existing buildings and constructions located in areas where no new buildings are erected for which the preparation of a detailed plan is mandatory and where the intended purpose of the buildings will remain unchanged, the local government may waive the requirements of public disclosure as provided for in subsection 12 (1) and §§ 18-21 of this Act and substitute the procedure with concertations from the owner of the plot being planned and the owners of the neighbouring plots.

(3) The simplified procedure for preparation of detailed plans does not extend to areas and construction works under heritage conservation or nature conservation.

(21.04.2004 entered into force 10.05.2004 - RT I 2004, 38, 258)

## Chapter 4

### Supervision of Preparation of Plans. Adoption and Repeal of Plans

#### § 23. Supervision of preparation of plan

(1) Supervision provided for in this Act over the preparation of county plans, comprehensive plans and detailed plans shall be exercised before the plans are adopted. Supervision shall be exercised by:

1) the Ministry of Internal Affairs, with regard to county plans;  
(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

2) county governor, with regard to comprehensive plans and detailed plans.

(2) Supervision as provided for in this section is not exercised with regard to a detailed plan if:

1) the detailed plan has been prepared in accordance with the adopted comprehensive plan and all the objections presented during the public display have been taken into consideration;

2) the detailed plan concerns any of the cases specified in subsections 22 (1) and (2) of this Act.

(3) The supervisory authority is entitled to:

1) monitor the legal compliance of a plan;

2) monitor the compliance of a plan with a more general plan which has been adopted;

3) grant consent for the amendment of a more general plan which has been adopted, upon the adoption of a plan which include a proposal to amend the more general plan submitted to the supervisory authority;

4) monitor compliance with national interests in planning if no more general plan has been adopted for the planning area;

5) hear persons who have presented written objections concerning a plan during the public display thereof and the county government or local government administering preparation of the plan, and to present an opinion concerning the objections if they have not been taken into consideration in planning.

(4) If the persons specified in clause (3) 5) of this section fail to reach an agreement during supervision, the supervisory authority shall provide them with a written opinion concerning the objections within two weeks after hearing the parties.

(5) Differences in opinion between the local government administering preparation of the plan and the county governor exercising supervision which remain unsolved during supervision shall be resolved by the Ministry of Internal Affairs.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(6) A supervisory authority shall approve a plan after the plan is brought into compliance with the requirements prescribed in the process of supervision and the objections specified in clause (3) 5) of this section are resolved or after providing an opinion concerning such objections, and shall make a proposal to the county governor or local government for the plan to be adopted.

(7) In the event of justified need, a supervisory authority may make a proposal for a plan submitted for supervision to be adopted partially. For the purposes of this Act, alteration of the size of the planning area in connection with the partial adoption of a plan is not deemed to be amendment of the basic content of the plan.

#### § 24. Adoption of plans

(1) National spatial plans submitted by the Minister of Regional Affairs shall be adopted by the Government of the Republic.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(2) A county plan approved by the Minister of Regional Affairs shall be adopted by the county governor.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(3) Detailed plans with regard to the preparation of which supervision is not exercised and comprehensive plans or detailed plans approved in the course of supervision shall be adopted by local governments.

(4) If an adopted comprehensive plan includes a proposal to amend an adopted county plan and the county governor has given his or her consent to the amendments in the course of supervision, the county governor shall enter the corresponding amendments in the county plan. A decision to adopt a comprehensive plan which includes a proposal to amend an adopted county plan enters into force after the amendments made to the comprehensive plan are entered in the county plan.

(5) If a detailed plan to be adopted includes a proposal to amend an adopted comprehensive plan and the county governor has given his or her consent to the amendments in the course of supervision, the local government shall enter the corresponding amendments in the comprehensive plan and adopt the plan.

(6) As of the adoption of a plan, any plan of the same type adopted earlier for the same area, or a corresponding part of a plan of the same type adopted earlier for a larger area becomes invalid. A thematic plan prepared pursuant to § 7 or § 8 of this Act supplements and specifies a county plan or comprehensive plan adopted earlier.

(7) Administrative measures necessary to implement adopted plans may be taken pursuant to the procedure provided for in the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375) on the basis of officially certified copies and extracts.

#### § 25. Notification of adoption of plans

(1) A notice concerning the adoption of a national spatial plan shall be published in the relevant newspaper.

(2) A county governor shall publish a notice concerning the adoption of a county plan in the relevant newspaper within one month as of the decision to adopt the plan.

(3) A county government shall send a copy of the decision to adopt a county plan and the adopted county plan to the local governments of the planning area and to the Ministry of Internal Affairs within one month as of the date on which the plan is adopted.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(4) A local government shall publish a notice concerning the adoption of a comprehensive plan or detailed plan in the relevant newspaper within one month as of the date on which the plan is adopted.

(5) A local government shall send a copy of the decision to adopt a comprehensive plan or a detailed plan and the adopted plan to the county governor and shall send information concerning the land use provisions, building provisions and restrictions on land use or building which enter into force upon adoption of the comprehensive plan, and the adopted detailed plan to the state registrar of the land cadastre within one month as of the date on which the plan is adopted.

(6) If an adopted comprehensive plan includes any amendments to the county plan and the county government has entered the corresponding amendments in the county plan, the county government shall send an extract of the county plan containing the amendments to the Ministry of Internal Affairs within one month as of the date on which the amendments are entered in the plan.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(7) Within one week as of the decision to adopt a comprehensive plan or detailed plan, the local government shall, by way of registered letter, give notice of the adoption of the plan to:

1) the persons whose written proposals and objections made in the course of the public display of the plan were not taken into consideration upon adoption of the plan;

2) the owners of immovables whose current land use or building rights are restricted on the basis of the adopted plan;

3) the owners of immovables concerning whose registered immovable a temporary building ban has been established in the course of preparing the plan.

#### § 26. Contestation of adoption of plans

(1) Every person who finds that a decision to adopt a plan is in conflict with an Act or other legislation or that his or her rights have been violated or freedoms restricted by the decision has the right to contest the decision in court within one month as of the day on which he or she became or should have become aware of the adoption of the plan.

(2) Every person who finds that an adopted detailed plan or comprehensive plan is in conflict with an Act or other legislation or the decision to adopt the plan is in conflict with an Act has the right to make a proposal to the authority which adopted the comprehensive plan or detailed plan to bring the adopted plan or the decision to adopt the plan into compliance with the Act or other legislation. The county governor or local government who adopted the plan shall make a decision concerning the proposal and, if the proposal is found to be justified, bring the plan or the decision to adopt the plan into compliance with the Act or other legislation and, by way of registered letter, inform the person who made the proposal of the decision and of the reasons for accepting or rejecting the proposal within one month after the date on which the proposal is received.

(3) If, in the course of processing a plan, a proposal or contestation is filed concerning the plan, the local government or another administrative authority shall not issue, within fourteen days after the date of adoption of the plan, any administrative acts concerning construction work to be performed on the basis of such plan, such as a construction permit, including a road-construction permit, written consent or permit for use.

(06.04.2005 entered into force 08.05.2005 - RT I 2005, 22, 150)

#### § 27. Repeal of adopted detailed plans

(1) An adopted detailed plan or a part thereof may be repealed if the local government or the owner of an immovable located in the planning area wishes to waive the right to implement the plan.

(2) A local government shall publish a notice on the repeal of an adopted detailed plan or a part thereof and set out the reasons for the repeal in the relevant newspaper within one month as of the date on which the plan is repealed.

#### § 28. Accessibility of adopted plans

(1) Everyone has the right to study adopted plans.

(2) Access to an adopted plan shall be ensured as follows:

1) in the case of a national spatial plan – in the Ministry of Internal Affairs and county governments;

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

2) in the case of a county plan – in the county governments concerned and the local governments of the planning area;

3) in the case of a comprehensive plans and detailed plan – in the local governments of the planning area.

#### § 29. Obligation to review adopted plans

(1) A review of adopted plans identifies the results of the plan-based development, the possibilities for further implementation of the plans, the need to amend the basic content of the plans or to declare a detailed plan invalid, and other issues relating to implementation of the plans.

(2) The Minister of Regional Affairs shall review an adopted national spatial plan and submit the findings and an overview of the situation in the field of planning in the country to the Government of the Republic not later than within six months after regular Riigikogu<sup>3</sup> elections are held.

(24.03.2004 entered into force 08.04.2004 - RT I 2004, 22, 148)

(3) The local government shall review adopted comprehensive plans and submit its findings to the county governor not later than within six months after regular local government council elections are held.

(4) The local governments shall inform the public of the results of the review of adopted plans in the relevant newspaper.

## Chapter 5

### Transfer of Immovables to Implement Adopted Plans

#### § 30. Transfer of immovables

At the request of the owner of an immovable or a part thereof located in an existing built-up area, the local government is required to purchase the immovable for immediate and fair compensation if an adopted detailed plan or comprehensive plan:

- 1) prescribes use of the immovable or a part thereof for public purposes;
- 2) significantly restricts the current use of the immovable or renders its current use impossible.

#### § 31. Application of expropriation to implement plan

In order to implement an adopted comprehensive plan or detailed plan, an immovable may be expropriated on the bases and pursuant to the procedure prescribed by the Immovables Expropriation Act (RT I 1995, 30, 380; 59, 1006; 2002, 47, 297; 61, 375).

## Chapter 6

### Specifications for Planning of Objects of National Importance

#### § 32. Definition of object of national importance

For the purposes of this Act, the following are objects of national importance:

- 1) Defence Forces training areas of national importance;
- 2) military airfields of national importance;
- 3) international civil airports;
- 4) power stations with energy production exceeding one third of the national electricity consumption;
- 5) national landfills for the final disposal of hazardous waste;
- 6) national radioactive waste storage facilities;
- 7) ports of national importance with a national defence purpose.

#### § 33. Proposal for site of objects of national importance

(1) The ministry in whose area of government a planned object of national importance belongs (hereinafter in this Chapter ministry) shall prepare proposals for site of the object.

(2) Proposals are generally prepared for several sites. A proposal shall include economic and technical justifications and an environmental impact assessment.

(3) On the basis of proposals for the site of an object, the ministry shall enter into negotiations with the local governments of the potential sites of the object in order to agree on the final site of the object. The provisions of § 34 of this Act do not apply if an agreement on the site of an object of national importance is reached with the local government of one of the potential sites of the object.

#### § 34. Preparation of plans determining site of objects of national importance

(1) The provisions of this section may be applied in cases where the local governments of the potential sites of an object of national importance have refused to permit the object of national importance to be located within their territories and the possibilities for reaching an agreement have been exhausted. If an agreement has not been reached, the local government shall, within six months after the ministry's written proposal is submitted to the local government, submit its written justifications for refusing to permit an object of national importance to be located within its territory.

(2) Taking into account the economic and technical justifications for the proposals for location and the findings of the environmental impact assessment, the ministry shall propose

to the Government of the Republic that the provisions of this section be applied and comprehensive planning at one of the sites specified by the proposals be initiated.

(3) The Government of the Republic shall make a decision on application of the provisions of this section and initiation of comprehensive planning at one of the sites specified by the proposals for the site of an object of national importance.

(4) The size of the area subject to comprehensive planning which serves as the basis for selection of the final site of an object of national importance shall be determined by the county governor of the site of the object of national importance in co-operation with the ministry and the local government of the site of the object. Concertation shall be sought from the Minister of the Environment for the size of the planning area.

(5) Upon preparation and adoption of a comprehensive plan determining the final site of an object of national importance and upon preparation and adoption of a detailed plan on the basis of which the object will be built, the county governor concerned shall perform the functions of a local government provided for in Chapters 3 and 4 of this Act. The county governor shall administer preparation of the plan in co-operation with the ministry in whose area of government the object of national importance belongs and with the local government of the site of the object of national importance.

(6) Supervision over the preparation of a comprehensive plan and detailed plan determining the site of an object of national importance, in compliance with the provisions of § 23 of this Act, shall be exercised by the Ministry of the Environment.

(7) In addition to the authorities specified in § 17 of this Act, concertation shall be sought for a comprehensive plan and detailed plan determining the site of an object of national importance from the local governments of the planning area.

## Chapter 7

### Implementation of Act

#### § 35. Amendment of Land Reform Act

The Land Reform Act (RT 1991, 34, 426; RT I 2001, 52, 304; 93, 565; 2002, 11, 59; 47, 297 and 298) is amended as follows:

1) the sixth sentence of subsection 6 (1) is amended and worded as follows:

“Upon return of land, reallocation or planning may be carried out pursuant to law, and the land shall be returned on the basis of the reallocation plan or the adopted detailed plan.”;

2) Subsection 7 (4) is amended and worded as follows:

“(4) The provisions of this section apply in densely populated areas. For the purposes of this Act, densely populated areas are areas which are designated as densely populated areas by an adopted plan. In the absence of a comprehensive plan or if it is impossible to designate a densely populated area on the basis of a county plan, the areas deemed to be densely populated areas are those concerning which valid general plans of cities or towns, detailed plans, general plans for groups of enterprises, planning projects and building projects for rural settlements and other valid planning projects exist. In the absence of the plans specified above, the county governor shall designate densely populated areas on the proposal of the local government council.”;

3) section 22 is amended by adding subsection (1<sup>2</sup>) worded as follows:

“(1<sup>2</sup>) If it is not possible or practical to form a separate cadastral unit which complies with land readjustment requirements on land bordering on an immovable in private ownership, the owners of the bordering immovables have the right to privatise the land by a right of pre-emption for the purpose of joining the lands to their plots with the permission of the county governor and on the basis of a detailed plan.”

#### § 36. Amendment of Local Government Organisation Act

Clauses 22 (1) 31–33) of the Local Government Organisation Act (RT I 1993, 37, 558; 1999, 82, 755; 2000, 51, 322; 2001, 82, 489; 100, 642; 2002, 29, 174; 36, 220; 50, 313; 53, 336; 58, 362; 61, 375; 63, 387; 64, 390 and 393; 82, 480) are amended and worded as follows:

“31) the initiation and adoption of comprehensive plans;

- 32) the acceptance of comprehensive plans and notification of the public display thereof;
- 33) the repeal of detailed plans, and the adoption of detailed plans in the case where supervision in compliance with the Planning Act over preparation of the plan is mandatory or with which built-up areas of cultural and environmental value are designated;”.

#### § 37. Amendment of Protected Natural Objects Act

Subsection 9 (7) of the Protected Natural Objects Act (RT I 1994, 46, 773; 2002, 6, 21; 53, 336; 61, 375; 63, 387) is amended and worded as follows:

“(7) Within a protected area, approval shall be sought from the manager of the protected area for the following:

- 1) alteration of the boundaries of land use type categories;
- 2) land readjustment plans before they are approved;
- 3) forest management plans before they are issued to the forest owners;
- 4) detailed plans and comprehensive plans before they are adopted in compliance with the Planning Act;
- 5) design provisions and building design documentation before a building permit is issued for a building.”

#### § 38. Amendment of Land Cadastre Act

The Land Cadastre Act (RT I 1994, 74, 1324; 2001, 9, 41; 93, 565; 2002, 47, 297; 61, 375; 63, 387) is amended as follows:

- 1) section 18 is amended and worded as follows:

“§ 18. Determination of intended use of cadastral unit

(1) Upon registration of a cadastral unit, the cadastral registrar shall document the areas of the land use types and the intended use or uses thereof in the cadastre.

(2) In the case where preparation of a detailed plan provided in the Planning Act is mandatory, the local government shall determine the intended use of the cadastral unit on the basis of an adopted detailed plan.

(3) The categories of intended use and the procedure for their determination shall be established by the Government of the Republic.

(4) Upon alteration of the purpose of the use of a construction works or a part thereof which does not result in building, the local government shall determine the intended purpose or purposes of the cadastral unit on the basis of the purpose or purposes of use of the construction works or a part thereof as specified in the permit for use of the construction works issued pursuant to the Building Act (RT I 2002, 47, 297).

(5) If alteration of the purpose of the use of a construction works or a part thereof results in building which does not lead to the preparation of a detailed plan as being mandatory, the local government shall determine the intended purpose or purposes of the cadastral unit on the basis of the purpose or purposes of the use of the construction works specified in the permit for use or in the written permission for use of the construction works issued pursuant to the Building Act.

(6) The local government shall determine the intended purpose of a cadastral unit on the basis of the comprehensive plan prepared in compliance with the Planning Act unless preparation of a detailed plan is mandatory also in compliance with the Planning Act. In the absence of a comprehensive plan, the local government council shall determine the intended purposes of the cadastral unit.

(7) For erection of a construction works on a cadastral unit used as profit yielding land on which no construction works are located, with the exception of the construction of roads and utility networks or technical infrastructure on such land, a separate cadastral unit shall be formed which covers the area under the construction works and the land necessary for the servicing thereof, and the local government council shall determine the intended purpose of the cadastral unit on the basis of the purpose of the use of the construction works, unless preparation of a detailed plan is mandatory. In the case where preparation of a detailed plan is mandatory, the intended purpose of the cadastral unit being formed shall be determined on the basis of the detailed plan.

(8) A separate cadastral unit shall not be formed for the erection of construction works which constitute a single complex with a construction works situated on a cadastral unit used as profit yielding land, or for the erection of construction works or the building of utility networks or technical infrastructure needed for the intended use of the profit yielding land and, where necessary, several intended purposes shall be determined for the land pursuant to the procedure provided in subsection (7) of this section. The provisions of subsection (7) apply to the erection of construction works not specified in this section.”;

2) section 19 is amended and worded as follows:

“§ 19. Notification of alteration of intended purposes of cadastral unit

The local government shall inform the cadastral registrar of the decision on the basis of which the intended purpose or purposes of a cadastral unit is changed within one month as of the date on which the decision is made.”

#### § 39. Amendment of Environmental Impact Assessment and Environmental Auditing Act

The Environmental Impact Assessment and Environmental Auditing Act (RT I 2000, 54, 348; 2002, 61, 375; 63, 387; 90, 521) is amended as follows:

1) subsection (3) is added to § 1 worded as follows:

“(3) Assessment of the potential economic, social and cultural impact and the potential impact on the natural environment resulting from the implementation of plans and establishment of conditions for sustainable and balanced spatial development on the basis thereof shall be carried out pursuant to the Planning Act.”

2) Subsection 4 (2) is amended and worded as follows:

“(2) The environmental impact of activities proposed on the basis of a national development plan or programme shall be assessed in the course of preparation or subsequent amendment of the national development plan or programme.”

3) section 22 is amended and worded as follows:

“§ 22. Strategic environmental assessment

(1) Strategic environmental assessment is assessment of the potential environmental impact resulting from activities proposed by a national development plan or programme.

(2) The potential environmental impact resulting from activities proposed by a national development plan or programme shall be assessed in the course of drafting the plan or programme.

(3) A strategic environmental assessment statement constitutes a separate part of a national development plan or programme.”

#### § 40. Amendment of Shores and Banks Protection Act

The Shores and Banks Protection Act (RT I 1995, 31, 382; 1999, 95, 843; 2001, 50, 290; 2002, 61, 375; 63, 387) is amended as follows:

(1) subsection 4 (2) is amended and worded as follows:

“(2) For the purposes of this Act, a densely populated area is the territory within the boundaries of a city or town or existing or planned clearly delimited built up parts of the territory of a small town or village. Existing densely populated areas situated on shores or banks shall be expanded on the basis of existing comprehensive plans.”

(2) Section 6 is amended and worded as follows:

“§ 6. Specification of extent of shores and banks and building exclusion zones

(1) The areas of shores and banks and building exclusion zones may be increased by the local government on the basis of an adopted comprehensive plan.

(2) Consent to decrease the areas of shores and banks and building exclusion zones shall be given by the Minister of the Environment on the basis of an application from the local government and the following documents adopted pursuant to the Planning Act:

1) a comprehensive plan, or

2) a detailed plan which includes a proposal to amend the adopted comprehensive plan,  
or

3) a detailed plan, in the absence of an adopted comprehensive plan.

(3) Any decrease of the areas of shores and banks and building exclusion zones enters into force as of the date of adoption of the comprehensive plan or detailed plan.”

(3) In § 9:

1) the title of the section is amended and worded as follows:

“§ 9. Restrictions on use of shores and banks”;

2) subsections (2) and (3) are amended and worded as follows:

“(2) The following is prohibited on shores and banks:

1) the erection or extension of industrial production sites or stores where hazardous substances belonging to divisions I, II or III are used, produced or stored;

2) the erection of industrial production sites whose harmful effects extend to a water protection zone or beach;

3) the division of immovables into plots without an adopted detailed plan.

(3) Shores and banks are protected by building exclusion zones where the building of new buildings and constructions is prohibited. The width of building exclusion zones measured from the usual boundary of the water shall be:

1) 200 m on the sea coast at Narva-Jõesuu and the sea islands;

2) 100 m on the sea coast of the Estonian mainland and on Lake Peipus and Lake Võrtsjärv;

3) 50 m on the banks of lakes and reservoirs with a total area of more than 10 ha and on the banks of rivers and water conduits with a catchment area of more than 25 km<sup>2</sup>;

4) 25 m on the banks of lakes and reservoirs with a total area of 5 to 10 ha and on the banks of rivers and water conduits with a catchment area of 10 to 25 km<sup>2</sup>;

5) 10 m on the banks of lakes and reservoirs with a total area of less than 5 ha and on the banks of rivers and water conduits with a catchment area of less than 25 km<sup>2</sup>;

6) 50 m in densely populated areas on the sea coast, except in the city of Narva-Jõesuu.”;

3) subsection (7) is repealed;

4) subsection (8) is amended and worded as follows:

“(8) The building ban does not extend to the following works built on the basis of a comprehensive plan or detailed plan:

1) construction works in ports or works related to water traffic and water intakes;

2) utility networks and technical infrastructure;

3) monitoring stations and construction works in connection with hydrographical services;

4) construction works related to fish farming and fishing;

5) land improvement systems, except for polders;

6) construction works intended for national defence, border guard and rescue service purposes;

7) extensions to existing construction works;

8) new buildings in the yard of an existing farm which are not prescribed for the economic activities of the farm;

9) construction works prescribed for fortification of shores and banks;

10) public roads and streets;

11) new buildings in an existing area occupied by construction works within densely populated areas.”

(4) Section 10 is repealed.

#### § 41. Amendment of Building Act

The Building Act (RT I 2002, 47, 297) shall be amended as follows:

(1) In the entire text of the Act, the words "Ministry of Economic Affairs" shall be substituted by the words "Ministry of Economic Affairs and Communications" in the appropriate case form, and the words "Minister of Economic Affairs" shall be substituted by the words "Minister of Economic Affairs and Communications" in the appropriate case form, except for in §§ 99 and 101 of the Act.

(2) Section 14 is amended and worded as follows:

“§ 14. Utility networks and utility works

(1) The owner of an immovable shall permit utility networks and utility works (heating, water supply or sewerage systems, telecommunications or power networks, weak current installations, gaseous fuel installations, electrical installations or pressure assemblies and construction works necessary for servicing thereof) to be built on the owner's immovable on the ground, in the earth and in the airspace if the building thereof is not possible without using the immovable or if the building thereof at another location would cause excessive expense. The owner of an immovable shall also permit work to be performed if it is necessary for servicing a utility network or utility works situated on the owner's immovable on a legal basis. Emergency work may be performed without the prior agreement of the owner of the immovable.

(2) The provisions of subsection (1) of this section do not apply if the utility network or utility works do not enable the immovable to be used in the manner intended."

(3) Section 16 is amended by adding subsection (9) worded as follows:

"(9) Written consent is granted without a specific term. A written consent becomes invalid if building is not commenced within two years as of the date of the grant of the written consent. A written consent shall be published on the web site of the state register of construction works."

(4) subsection 19 (1) is amended and worded as follows:

"(1) The following information constitutes the basis for building design documentation prepared for the erection of a construction works:

1) an adopted detailed plan where preparation of a detailed plan is mandatory and also any supplementary architectural and structural criteria for construction works established by the local government;

2) if the preparation of a detailed plan is not mandatory, the design criteria."

(5) subsection 23 (5) is amended and worded as follows:

"(5) A building permit for building at sea in the territorial sea or inland sea shall be issued to the person concerning whom the corresponding real right has been entered in the land register or who has entered into a corresponding real right contract or a notarised agreement confirming entry into such contract or who has the right arising from law to use land in the ownership of another person. A building permit for building a utility network or utility works on an immovable in the ownership of another person shall be issued to the owner of the utility network or utility works concerning whom the corresponding real right has been entered in the land register or who has entered into a corresponding real right contract or a notarised agreement to build the utility network or utility works with a person who has the right arising from law to use land or who has the right arising from law to use land in the ownership of another person. Such agreements shall be presented to the local government."

(6) In § 29:

1) clause (2) 4) is amended and worded as follows:

"4) upon completion of building, to apply for a permit for use of the construction works, or upon liquidation of a construction works, to submit notification regarding the construction works.";

2) subsections (6) and (7) are amended and worded as follows:

"(6) A notice concerning commencement of building shall include information concerning the construction works, the time at which building is to commence, the name and personal identification code or commercial or other register code or, in the absence of a personal identification code, date of birth of the person exercising owner supervision and the person performing the building, and the contact details of such persons.

(7) The requirements for the format of a notice concerning the commencement of building and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications."

(7) subsection 33 (8) is amended and worded as follows:

"(8) An application for a permit for use shall be submitted by the owner of the construction works. In the event that a construction works is in the joint ownership of several persons, the owners of the construction works shall submit a joint application for a permit for use. A permit for use of a utility network or utility works erected on an immovable in the ownership

of another person shall be issued to the owner of the utility network or utility works concerning whom the corresponding real right has been entered in the land register or who has entered into a corresponding real right contract or who has entered into a notarised agreement to build or use the utility network or utility works with a person who has the right arising from law to use the land or who has the right arising from law to use land in the ownership of another person. Upon application for a permit for use of a utility network or utility works on the land of another, the owner of the utility networks or utility works shall present certification in proof of the right of ownership regarding the utility networks or utility works.”

(8) Clauses 82 9) and 10) are repealed.

(9) Section 93 is amended and worded as follows:

“§ 93. Amendment of Apartment Ownership Act

The Apartment Ownership Act (RT I 2000, 92, 601; 2001, 93, 656; 2002, 47, 297) is amended as follows:

1) clause 5 (3) 1) is amended by adding the words “or permit for use” after the words “building permit”;

2) section 28<sup>1</sup> is added to the Act worded as follows:

“§ 28<sup>1</sup>. Separated space

Upon establishment of apartment ownership of privatised dwellings or privatised non-residential premises, separate space, meaning space separate from the dwelling, located in the same building and necessary for servicing the dwelling, or space separate from the non-residential premises, located in the same building and necessary for servicing the non-residential premises within the meaning of the Non-Residential Premises Privatisation Act (RT I 1995, 57, 979; 1996, 2, 27; 1997, 13, 210; 1999, 27, 386; 82, 754; 2000, 88, 576), or part of a construction works which is separate from the delimited part of the construction works and necessary for servicing part of the construction works, is also included in the physical share of the apartment ownership.”

(10) Section 97 is amended and worded as follows:

“§ 97. Amendment of Law of Property Act

Section 158 of the Law of Property Act (RT I 1993, 39, 590; 1999, 44, 509; 2001, 34, 185; 93, 565; 2002, 47, 297; 53, 336) is amended and worded as follows:

“§ 158. Utility networks and utility works

Utility networks or utility works (heating, water supply or sewerage systems, telecommunications or power networks, weak current installations, gaseous fuel installations, electrical installations, or pressure assemblies and construction works necessary for servicing thereof) located on an immovable belonging to another person are not essential parts of the immovable.”

(11) Section 101 is amended and worded as follows:

“§ 101. Activity licence

An undertaking to which the Minister of Economic Affairs or the Minister of Economic Affairs and Communications has, prior to the entry into force of this Act, issued an activity licence for business in the field of construction with a period of validity which expires after 1 January 2003 may operate in the area of activity entered in the activity licence until the due date indicated in the activity licence but not longer than until 31 March 2003.”

§ 42. Amendment of Environmental Supervision Act

The Environmental Supervision Act (RT I 2001, 56, 337; 2002, 61, 375) is amended as follows:

(1) clause 4) is added to subsection 4 (2) worded as follows:

“4) organise, in the cases prescribed by law, the liquidation of unauthorised construction works.”

(2) In § 21:

1) subsection (2) is amended by adding clause 6) worded as follows:

“6) for the liquidation of unauthorised construction works situated in a protected zone, except for a programme area in a general zone, in a limited management zone of an individual

protected natural object and a protected zone of nesting trees of a species in category I within the meaning of the Protected Natural Objects Act (RT I 1994, 46, 773; 2002, 6, 21; 53, 336; 61, 375; 63, 387) (hereinafter areas placed under nature protection), and on the shores and banks within the meaning of the Shores and Banks Protection Act (RT I 1995, 31, 382; 1999, 95, 843; 2001, 50, 290; 2002, 61, 375; 63, 387).”;

2) subsection (8) is added to the section in the following wording:

“(8) The Environmental Inspectorate shall inform the corresponding local government of a precept issued for removal of unauthorised construction works situated in areas placed under nature protection or on shores and banks within three working days.”

(3) The Act is amended by adding § 22<sup>1</sup> worded as follows:

“§ 22<sup>1</sup>. Liquidation of unauthorised construction works

(1) The Environmental Inspectorate has the right to impose a coercive measure for the liquidation of an unauthorised construction works situated in an area placed under nature protection or on a shore or banks pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). The upper limit for a penalty payment is 25 000 kroons.

(2) The Environmental Inspectorate shall give advance notice of the application of substitutive enforcement to the corresponding local government.”

#### § 43. Amendment of Law of Property Act Implementation Act

The Law of Property Act Implementation Act (RT I 1993, 72/73, 1021; 1999, 44, 510; 2000, 51, 325; 88, 576; 2001, 31, 171; 42, 234; 94, 582; 2002, 47, 297; 53, 336) is amended as follows:

(1) Section 15<sup>2</sup> is amended and worded as follows:

“§ 15<sup>2</sup>. Toleration of utility networks and utility works

(1) The owner is required to tolerate utility networks and utility works (heating, water supply or sewerage systems, telecommunications or power networks, weak current installations, gaseous fuel installations, electrical installations or pressure assemblies and construction works necessary for servicing thereof) erected on the owner’s immovable or land not entered in the land register before 1 April 1999 regardless of whether or not the immovable is encumbered with a corresponding real right. Among other things, the owner shall allow work to be performed if it is necessary to service, repair or reconstruct a utility network or utility works (hereinafter utility works). The owner may demand removal of the utility works if the works are no longer used for their intended purpose.

(2) As of 1 April 1999, encumbrance of immovables with a corresponding real servitude or personal right of use is required for the erection of utility works on the immovable of another. For the erection of utility works on land not entered in the land register or land in state or local government ownership, unattested or notarised agreement of the owner of the land is sufficient.”

(2) In § 15<sup>3</sup>:

1) subsection (1) is amended and worded as follows:

“(1) The owner of a utility works whose works were built on the land of another on a legal basis after 1 April 1999 has the right, within ten years as of the entry of the land attached to the utility works in the land register, to demand establishment of a real servitude or personal right of use for the provision of the obligation to tolerate the utility works.”;

2) subsection (1<sup>1</sup>) is added to the section worded as follows:

“(1<sup>1</sup>) The owner of an immovable may refuse to establish a real servitude or personal right of use if the continued location of the utility works on the immovable materially hinders the use of the immovable and the damage caused by the utility works to the owner is higher than the cost of relocating the utility works to another location, and also if the owner bears all the costs of relocating the utility works and provides the owner of the utility works with sufficient security therefor beforehand.”

(3) Section 15<sup>4</sup> is amended and worded as follows:

“§ 15<sup>4</sup>. Payment for tolerating utility works

(1) The owner of an immovable has the right to demand payment for tolerating a utility works erected on the immovable of the owner regardless of whether the obligation to tolerate arises from law, the encumbrance of the immovable with a servitude or a personal right of use. The size of the payment shall equal the amount of the land tax corresponding to the area of the protected zone of the utility works multiplied by the factor prescribed for the intended purpose of the land. The Government of the Republic shall establish the period and procedure for payment and the factors prescribed for the intended purposes of land.

(2) The owner of utility works whose works were erected on the immovable of another before 1 April 1999 is released from payment for performance of the obligation to tolerate utility works until 1 January 2009.

(3) The owner of utility works whose works were erected on a legal basis on the immovable of the state or a local government before 1 April 1999 is released from payment for the obligation to tolerate utility works until 1 January 2009.”

#### § 44. Application of Act to holders of land use rights

The rights of the owners of immovables in the preparation of plans as provided for in this Act also extend to holders of land use rights which were created before 1 November 1991.

#### § 45. Obligation to prepare comprehensive plans

Local governments are required to ensure:

- 1) that comprehensive plans are adopted for cities not later than by 1 January 2006;
- 2) that comprehensive plans are established for rural municipalities not later than by 1 July 2007.

#### § 46. Implementation of Act in event of plans being processed, adopted plans and adopted building regulations

(1) Prior to the adoption of a county plan, comprehensive plan or detailed plan accepted by a county governor or local government, the plan shall be processed on the basis of the Planning and Building Act (RT I 1995, 59, 1006; 1996, 36, 738; 49, 953; 1999, 27, 380; 29, 398 and 399; 95, 843; 2000, 54, 348; 2001, 42, 234; 50, 283; 65, 377; 2002, 47, 297; 53, 336; 63, 387) in force until the entry into force of this Act.

(2) Plans adopted on the basis of the Planning and Building Act shall remain in force after the entry into force of this Act.

(3) The building regulations of a rural municipality or city established on the basis of the Planning and Building Act shall remain in force after the entry into force of this Act and the Building Act in so far as they are not contrary to the provisions of this Act and the Building Act concerning building regulations. Local governments shall bring the building regulations of rural municipalities or cities into compliance with the provisions of this Act and the Building Act within six months after the entry into force of these Acts.

#### § 47. Entry into force of Act

This Act enters into force on 1 January 2003.

<sup>1</sup> RT = *Riigi Teataja* = *State Gazette*

<sup>2</sup> *Riigi Teatja Lisa* = *Appendix to the State Gazette*

<sup>3</sup> Riigikogu = the parliament of Estonia