

**GOVERNMENT OF MONTENEGRO  
MINISTRY OF ECONOMIC DEVELOPEMNT**

**D R A F T**

**LAW ON SPATIAL DEVELOPMENT  
AND CONSTRUCTION**

**Podgorica, April 2008**

**DRAFT****LAW ON SPATIAL DEVELOPMENT  
AND CONSTRUCTION****I GENERAL PROVISIONS****Subject of the law****Article 1**

This law regulates the framework of spatial development of Montenegro, ways and requirements for building construction and other issues relevant to spatial development and building construction.

**Purpose of spatial development and building construction****Article 2**

Spatial development shall create conditions for spatial development of Montenegro.

Regulating the building construction shall create conditions for building construction in line with law and other regulations, standards, technical normative and quality norms in the field of building construction.

**Spatial development****Article 3**

Spatial development is considered as monitoring of the state in the space (monitoring), determining purpose, conditions and ways of utilization of space through elaboration and enacting of planning documents and development of construction land.

**Building construction****Article 4**

Building construction is a group of actions encompassing elaboration of technical documentation, issuing building permit, building construction and issuing occupancy permit.

## **Principles**

### **Article 5**

Spatial development is based on the following principles: harmonized economic, social, ecological, energy and cultural development of the area of Montenegro, sustainable development; encouraging balanced economic development of the area of Montenegro; rational use and protection of space and natural resources; harmonization with European normative and standards in the field of spatial development; protection of integral values of land, and protection and improvement of environment; public interest in the field of spatial development; harmonization of interests of land-users and priorities of land-use; transparency of the spatial development processes; establishment of an IT system on land-use for the purpose of more efficient spatial development; seismic planning.

Building construction is based on the following principles: protection of public interest and assets, compliance with European norms and standards, stability and long life of buildings, seismic planning and construction, health protection, protection of land and the environment, protection from natural and technical/technological hazards, protection from fire, explosions and industrial incidents, heat protection, rational use of energy and energy efficiency, protection from noise and vibration.

## **Public participation**

### **Article 6**

Everyone has the right to be informed, in accordance with the law, about the affairs in spatial development and building construction, to give initiatives, opinions and in other ways participate in the affairs related to spatial development and building construction.

## **Professional exam**

### **Article 7**

Professional exam stipulated as a precondition for conducting affairs stipulated by this law serves for checking the knowledge of regulations from the field of spatial development and building construction, as well as other regulations of significance for its implementation.

Exceptionally from the provisions of Paragraph 1 of this Article, for persons having master degree or doctor's degree, obligation of professional exam is excluded.

Program and ways of passing the professional exam shall be stipulated by the ministry responsible for spatial development and building construction (further: the Ministry).

## **Structures of public interest**

### **Article 8**

Structures of public interest are the following: roads (highways, main and regional roads) with supplementary facilities; airports with supplementary facilities, railway infrastructure of public transport with supplementary facilities; sea ports and port shields; infrastructural structures important for Montenegro (arterial gas lines and oil lines; interregional and regional sewage systems...); hydropower plants and thermopower plants with supplementary facilities; structures for electricity transmission (long hall lines and transformer stations with 110 KV voltage and switching facilities of 110 KV and above); telecommunication facilities (transit and main telephony-telegraphic centrals and supplementary facilities and links between the respective centrals); broadcasting facilities; shelters.

## Definition of terms

### Article 9

Some terms used in this Law have the following meaning:

- **Space** is a set of physical structures above and below the land surface, which are affected by the direct influence of human action;
- **Spatial development** is the change of space due to human action with the aim to improve it, use and manage it;
- **Land use** is the purpose defined in the planning document for which the land can be adapted, developed or used in the manner prescribed by the planning document;
- **Public area** is the space defined in the planning document for the structures the use, i.e. development of which is of the general interest;
- **Development index** is the ratio between the construction gross area of the structure and the area covered by the parcel (location, block, zone) expressed in the same measurement units;
- **Occupation index** is the ration between the constructed area in a specific parcel (location, block, zone) and the total area covered by the parcel expressed in the same measurement units;
- **Regulatory solution** is the definition of regulatory and urban requirements for development on the basis of the planning document, that is, on the basis of the rules of the urban planning profession;
- **Leveling solution** is the definition of leveling technical requirements for development on the basis of the planning document, that is, on the basis of the rules of the urban planning profession;
- **Urban parcel** is part of the space established on the basis of the parceling plan or guidelines defined in the planning document, which incorporates one or more cadastre parcels or their parts and which fulfills the requirements for development prescribed in the planning document;
- **Regulatory line** is the line that divides public area from the areas planned for other purposes;
- **Construction line** is the line on, above or below the surface of land and water, defined graphically and numerically, up to which development is permitted;
- **Urbanization** is directing and stimulating development in an area in accordance with the natural characteristics, distribution of the population, business activity, construction of infrastructure systems and network of public facilities;
- **Protective zones** are land areas, water areas or air space defined in the planning document and planned for the protection of lives and health of the people, security and function of the structures, land or space, in accordance with the provisions of the special regulations.
- **Construction land** is a land stipulated by the planning document;

- **Construction work** shall mean carrying out work (preparatory work, earth work, work on building structural elements, fitting work, work on installing building products, machinery and equipment, and other work) in order to construct – erect new building, or during reconstruction, building maintenance or change of organization of space
- **Structure / building** shall mean a spatial, functional, structural, architectural, aesthetic, technical-technological or biotechnical unit with all installations, machinery and equipment, or those installations, machinery and equipment that are installed into building or processed separately (buildings of all types, transport, water and power supply structures, internal and external network and installations, communal infrastructure structures, industrial, agricultural and other business structures, public green areas, sport and recreation structures, cemeteries, shelters etc.);
- **Investor** shall mean the person to whom building permit is issued;
- **Preparatory work** shall mean work preceding construction work and referring in particular to: enclosure of building site; work on removing existing structures, moving transport lines and installations, diversion of waterflows etc., building and placing structures of temporary character for the needs of construction activities; ensuring space for delivering and locating building material, as well as other work intended to ensure the safety of neighbouring structures, sanation of the terrain, undisturbed traffic and safe use of surrounding land; soil work;
- **Reconstruction** shall mean carrying out construction and other work on existing structure with an intention to extend, repair, change installations, machinery, plants and equipment, thereby altering the capacity; affecting the stability and safety of building; altering important structural elements thereof; changing a technological process; changing the appearance of structure specified by spatial organization requirements; affecting the safety of neighbouring buildings, traffic and the environment, changing a water regime, conditions for protection of natural or cultural heritage or a structure enjoying earlier protection and that of its surroundings, excluding conservation and restoration work etc.;
- **Adaptation** shall mean carrying out work on building maintenance and work that has no impact on the stability of building, or individual parts thereof; one that is not considered construction work;
- **Structure maintenance** shall mean technical oversight of building in use and ensuring the appropriate use of building during its useful life, replacement of instalations, facilities and equipment not affecting the existing capacity as well as investment maintenance of road and railway infrastructure structures, and power and water supply, sewage system, telecommunications and other structures;
- **Construction products** shall mean construction materials and elements made thereof, as well as other products or semi-products intended for permanent installation into buildings;
- **Construction site** shall mean the area where construction is taking place, or where a building is being removed or demolished, as well as the area necessary for using construction technology;
- **Energy efficiency** shall mean a relation between achieved output, service, goods or anergy and energy inputs;
- **Improvement of energy efficiency** shall mean increase of effectiveness of use of final energy as a result of changes in technology, user behaviour changes or economic changes;

## II SPATIAL DEVELOPMENT

### 1. Special provisions

#### Planning document

#### Article 10

Planning document shall stipulate the organisation, use and purpose of the space as well as measures and guidelines for development, protection and improvement of the space.

Planning document shall have public character.

## **Interdependent harmonisation of planning documents**

### **Article 11**

Planning documents shall be mutually harmonised in a way that planning documents of smaller territorial units shall be harmonised with planning documents of wider territorial units, in terms of land use and spatial development concepts.

## **Harmonisation with particular regulations**

### **Article 12**

Spatial development and building construction shall be harmonised with particular regulations in the field of environmental protection, rational energy use and energy efficiency, cultural-historical development, created and natural heritage, soil, air, forests, waters, health as well as protection of energy, mining and industrial structures and networks, sports, tourism and structures of special purpose and their infrastructure.

## **2. Monitoring of the land use (monitoring)**

### **Article 13**

Monitoring of the land use involves establishment and maintenance of records with documents on land-use, preparation and adoption of reports on spatial development, preparation and adoption of spatial development programs, as well as establishment and maintenance of an IT system on land-use.

## **Basic documentation on space**

### **Article 14**

For the purpose of monitoring of the use of land and the preparation of planning documents, the state administration authority in charge of spatial development and building construction affairs (hereinafter referred to as: the state administration authority) shall, together with the local self-government authority in charge of spatial development and building construction affairs (hereinafter: local administration authority), keep the basic documentation on land-use.

Basic documentation on land-use shall include in particular: data significant for space and respective analyses and studies of space; geodetic- cadastre, topographic, morphological, geological, seismic, hydrological, pedological, and climate data; cadastre of underground installations and other strata and analyses regarding suitability of the terrain, endangered and

pathogen zones, zones of possible industrial hazards, as well as graphic layout of the current state of spatial development with analysis and evaluation of the state of environment.

Besides data from Paragraph 2 of this Article, basic documentation on space also contains the records of requests and needs of land users; records of requests (applications) and needs of the space users, records with data about structures, records of structures built contrary to the law etc.

Administrative authorities and other organizations and institutions in charge of monitoring of land-use and/or keeping records in the sense of Paragraphs 2 and 3 of this Article shall supply the authority in charge of keeping the basic documentation on land-use with the data they dispose of, free of charge.

The Ministry shall define a more detailed content and manner of keeping the basic documentation on space.

## **Report on the current situation in development and use of land**

### **Article 15**

Once a year, the Ministry local self-government authority shall prepare for the parliament responsible for the adoption of the planning document the report on development and use of land.

The report referred to in Paragraph 1 of this Article contains specifically: the analysis of enforcement of planning documents, assessment of the measures implemented and their impact on land-use management, assessment of the protection of space, data about built structures and of structures built contrary to the law, assessment of the expressed needs of the space users, as well as other elements relevant for the areas of land for which the report is being prepared.

Local administration authority shall submit the report on the current situation in development and use of land to the Ministry and state administration authority no later than 15 days after it is being prepared.

The report on the current situation in development and use of land shall be published in the "Official Gazette of Montenegro", in a printed media with the seat in Montenegro and on the web site of the Ministry i.e. local administration authority.

## **Program of spatial development**

### **Article 16**

Parliament of Montenegro i.e. parliament of local self-government shall enact annual program of spatial development.

Program of spatial development (hereinafter: the Program) contains the assessment of the need for elaboration of new i.e. changes and amendments of existing planning documents and measures relevant for elaboration and enacting of those documents.

Program shall be enacted on the basis of the Report from the Article 15 of this Law.

The Program defines spatial development schedule (dynamics), sources of financing, deadlines for development, operational measures for implementation of the planning document, in particular measures for communal furnishing of the construction land from the Article 63, paragraph 1 of this Law and other measures for implementation of the spatial development policy.

Public participation in the preparation and adoption of the Program is exercised in accordance with the Article 6 of this Law.

The Program shall be published in the "Official Gazette of Montenegro", in one printed media with the seat in Montenegro and on the web site of the Ministry i.e. local administration authority.

## **Management of the IT system**

### **Article 17**

The state administration authority and the local self-government authority shall establish and maintain an integrated IT system on space.

The content and manner of maintaining the IT system from Paragraph 1 of this Article shall be prescribed by the Government of Montenegro (hereinafter: the Government).

## **3. Spatial development Council**

### **Article 18**

In order to give expert assessment of the state planning document, the Government shall establish the Spatial Development Council (hereinafter: the Council).

The Government determines the number of members of the Council through the Act on establishment, and appoints them from the selection of renowned experts and scientists in the field of spatial development.

Besides the affairs from the Paragraph 1 of this Article, the Council shall give recommendations on the occasion of some issues in the field of spatial development and other affairs in line with this law.

The Council shall adopt the internal Rulebook.

Members of the Development Council shall be appointed for the period of four years.

## **4. Types and contents of planning documents**

### **1. Types of planning documents**

#### **Article 19**

Planning documents are the following:

- 1) State planning documents,
- 2) Local planning documents.

#### **a) State planning documents**

##### **Article 20**

State planning documents are as follows:

1. spatial plan of the Republic,
2. spatial plan of a special purpose area,
3. detailed spatial plan,
4. state study of a location.

Adoption of the spatial plan of Montenegro and spatial plan of the special purpose area is mandatory.

#### **Spatial Plan of Montenegro**

##### **Article 21**

Spatial plan of Montenegro is a strategic document and a general basis for the organization and development of space in the Republic.

Spatial plan of the Republic defines state objectives and measures of spatial development in conformity with the overall economic, social, environmental, cultural and historical development of Montenegro.

Spatial plan of Montenegro includes specifically: the policy of use of land and development of functions and economic activities in Montenegro; elements of the long-term policy of spatial organization, the basic infrastructure systems and basic technical systems and the manner of their integration with the infrastructure systems in the surrounding area; guidelines for increasing the energy efficiency and use of renewable energy resources; basis of natural and cultural heritage protection; strategic environmental impact assessment, basis of protection of an interest for national defense; basis of prevention and protection against natural and technical/technological hazards; areas and modalities of cross-border and international cooperation; guidelines for the preparation of spatial plans of smaller territorial units, identification of areas of high significance to Montenegro; concession areas; conditions and guidelines for construction of structures of public interest; guidelines, measures, phases and schedule of implementation.

## **Spatial plan of a special purpose area**

### **Article 22**

The spatial plan of a special purpose area shall be elaborated and adopted for the territory or parts of the territory of one or more local self-government units with common natural or other features of a special importance for Montenegro, which require a special regime of organization and use (national parks, coastal zone, natural reserves, recreational and tourist areas, monumental sites, exploitation sites where superficial exploitation of mineral raw materials is carried out, etc.).

The spatial plan of a special purpose area shall include specifically: boundaries of the area for which the plan is being prepared; excerpts from the spatial plan of the Republic; assessment of the current state of development and land-use; the status and directions of development in relation to the immediate surrounding; regimes of development and land-use and zone boundaries as per these regimes; measures for the protection of cultural heritage; measures for the protection of landscape values; landscape plan; strategic environmental impact assessment; concept of use of renewable energy resources and implementation of energy efficiency measures; requirements for construction, development, use and protection of land; other measures and requirements which correspond to the needs and characteristics of the purpose of the area for which the plan is being prepared; the guidelines and measures for implementation of the plan; areas, zones, locations and structures of public interest; concession areas; methods, phases and implementation schedule; criteria and guidelines for the construction, i.e. reconstruction of buildings and execution of works in areas for which state study of a location is adopted.

The integral part of spatial plan of a special purpose area, as a separate document, contains conditions and guidelines for building construction in areas for which other planning document will not be enacted.

## **Detailed spatial plan**

### **Article 23**

The detailed spatial plan shall be adopted for the areas designated for building of structures, unless terms and requirements for building are defined by other planning document or planning document is not enacted, and which are of a special importance for the Republic or of importance for the territory of a local self-government i.e. local self-governments.

The detailed spatial plan shall be prepared specifically for: structures of public interest: industrial, storage and free zones; concession areas; areas designated for building of tourist settlements and resorts; recreational, health and similar facilities; areas along lake and river banks and other shorelines.

The detailed spatial plan shall include specifically: boundaries of the area for which the plan is prepared, marked on maps or in topographic-cadastral plans; excerpts from the spatial plan Montenegro, an assessment of the current state of development; a concept of the purpose, development, building and use of land; protection zones; a concept pertaining to the infrastructure systems and the manner of their integration with the infrastructure systems in the nearby region; methods, phases and implementation schedule of realization of infrastructural networks and facilities; a concept pertaining to the construction of facilities for production, transmission, and distribution of energy in accordance with principles of energy efficiency and encouraging use of renewable energy resources; fundamentals of protection of natural and cultural heritage, measures for the protection of landscape values, strategic environmental impact assessment, fundamentals of protection against natural hazards, guidelines and measures for the implementation of the plan; methods, phases and implementation schedule; areas, zones, locations and structures of public interest.

Integral part of a detailed spatial plan, as a separate document, is urban-technical conditions for building construction for each urban parcel as well as urban-technical conditions for construction of structures of public interest.

## **State study of a location**

### **Article 24**

For the areas within the scope of the spatial plan of a special purpose area, which are not elaborated in details by that plan, the state study of a location may be adopted.

State study of a location defines requirements for construction, and execution of works in the area covered by the spatial plan of a special purpose area.

State study of a location shall include specifically: borders of the area for which it is adopted; detailed specification of purpose of the space; urban-technical requirements for construction of buildings; construction and regulatory lines; routes of infrastructure networks and roads, and guidelines for the construction of infrastructure and communal buildings; leveling and regulatory solutions; points of connection to the traffic routes, infrastructure networks and communal facilities; guidelines for urban and architectural development with guidelines for implementation of energy efficiency and renewable energy resources; measures for protection of landscape values and guidelines for implementation of projects of landscape architecture; method, phase and implementation time table for infrastructure networks and structures; strategic environmental impact assessment.

State study of a location shall contain broader assessment of urbanization of the area on the level of general concept of land use and infrastructure systems, in accordance with contents and level of elaboration of the general urban plan.

Integral part of state study of location, as a separate document, is urban-technical conditions for building construction for each urban parcel as well as urban-technical conditions for construction of structures of all infrastructure and communal structures foreseen by the plan.

## **b) Local planning documents**

### **Article 25**

Local planning documents are as follows:

1. Spatial plan of the local self-government unit
2. General urban plan
3. Detailed urban plan
4. Urban project
5. Local study of a location.

Adoption of the spatial plan of the local self-government unit and general urban plan for the centre of the local self-government unit is mandatory

### **Spatial plan of local self-government**

#### **Article 26**

Spatial plan of a local self-government unit defines objectives and measures of development of the local self-government units in accordance with the planned economic, social, environmental, cultural and historical development.

Spatial plan of the local self-government unit shall be prepared and adopted for the territory of the local self-government unit.

Spatial plan of a local self-government unit shall include specifically: excerpts from the spatial plan of Montenegro; an assessment of the current development and land-use; the status and directions of development of the local self-government unit in relation to the neighboring local self-government units and the Montenegro as a whole; basic concepts regarding the purpose, development, building and use of land; fundamentals of spatial organization with regard to the position and connection between infrastructure installations with the settlements and other public facilities; detailed definition of the network of settlements with the guidelines for the preparation of detailed urban plans or urban projects; criteria and guidelines for elaboration of local studies of location; guidelines and fundamentals for grouping of the rural settlements; guidelines and measures for the protection of cultural heritage; landscape plan; measures for protection of landscape values; plan of seismic macro zoning; guidelines and measures for the prevention and protection against natural and industrial hazards; measures for the protection which is of interest to the national defense; guidelines for the phased development; guidelines for the implementation of the plan; methods, phases and implementation schedule; concession areas; areas, zones, locations and structures of public interest; guidelines for construction of specific infrastructure and communal facilities of special interest for local self-government; conditions and guidelines for construction of local structures of public interest (water and sewage infrastructure, municipal roads and supplementary facilities, streets in settlements, squares etc.); guidelines for detailed elaboration of energy efficiency infrastructure networks and structures using renewable energy resources; strategic environmental impact assessment; criteria and guidelines for construction for areas for which local study of a location is adopted.

### **General urban plan**

#### **Article 27**

General urban plan shall define objectives and measures of spatial development for the center of the local self-government unit.

General urban plan can also be adopted for other settlements within the territory of the local self-government unit.

General urban plan can be adopted as an independent local planning document or as part of the spatial plan of the local self-government unit.

General urban plan shall include specifically: boundaries of the area for which the plan is being prepared, marked on maps or in topographic-cadastral plans; excerpt from the spatial plan of the special purpose area; excerpts from the spatial plan of a local self-government unit; an assessment of the current state and a projection of the spatial organization and development with definition of approximate needs and possibilities for the use of land; purpose of land with the adequate graphical presentations; guidelines for the development and spatial organization and guidelines for the preparation of detailed urban plans and urban projects; networks of infrastructure systems with conditions of connections (traffic communication lines, hydro-technical and communal facilities); fundamentals of the network of public facilities; landscape plan with guidelines for landscape shaping of the space; the green area planning document; a plan of reconstruction and/or restoration of old parts of a settlement; plan of seismic micro zoning; urban measures of protection against natural and technical/technological hazards; measures for protection of the cultural heritage; measures for the protection which is of interest for the national defense in the territory of that settlement; guidelines for phased development and phases of implementation of the plan; basic concept and parameters of housing construction; strategic environmental impact assessment; measures for increasing the energy efficiency and use of renewable energy resources; criteria and guidelines for construction, for areas for which local study of a location shall be adopted and criteria and guidelines for the construction in the areas for which general urban plan has not envisaged adopting detailed urban plan or urban project.

Integral part of a general urban plan, as a separate document, is criteria and guidelines for building construction for areas where adoption of detailed urban plans or urban projects is not envisaged.

## **Detailed urban plan**

### **Article 28**

Detailed urban plan shall define the requirements for building construction in the settlements within the spatial plan of the local self-government unit and the general urban plan, in the way which secures implementation of those plans.

Adoption of detailed urban plan for all settlements or parts thereof as specified in the spatial plan of the local self-government unit or the general urban plan is mandatory.

Detailed urban plan shall include specifically: boundaries of the area for which the plan is being prepared, marked in topographic-cadastral plans; recording of the current development state on cadastre blueprints; excerpt from the spatial plan of a local self-government unit or from a general urban plan with the purpose of land, principles and guidelines for the related area; detailed purpose of space; draft plan of urban parcelling; development index and occupation index; urban-technical requirements for the construction of buildings and development respecting the criteria for energy efficiency and use of renewable energy resources (size of urban parcel, type of structure, height and orientation of structure, maximum number of floors, number of apartments, gross developed construction land surface etc.); construction and regulatory lines; routes of infrastructure networks and traffic routes and guidelines for the construction of infrastructure and communal facilities; levelling and regulatory solutions; points and requirements of connection to traffic routes, infrastructure networks and communal facilities; method, phases and schedule (dynamics) of implementation of infrastructure networks and facilities; strategic environmental impact assessment; guidelines for urban, architectural and landscape shaping of space; measures for protection of landscape values and guidelines for implementation of projects of landscape architecture i.e. development of terrain.

Integral part of detailed urban plan, as separate document, is urban-technical requirements for building construction for each urban parcel as well as urban-technical requirements for construction of all infrastructure and communal structures foreseen by the plan.

## **Urban project**

### **Article 29**

The urban project may be adopted for smaller areas within or outside of a settlement which are to be subject to significant and complex construction works, or which represent particularly distinct units.

Adoption of the urban project for a settlement and parts of a settlement, as well as other areas which are registered as cultural heritage shall be mandatory.

The urban project shall contain all the elements of a detailed urban plan and preliminary design for buildings.

For the area for which the spatial plan of the local self-government unit does not prescribe the adoption of the general urban plan, urban project can contain a general concept of purpose of space and urban development of an area, in accordance with the content and level of preparation of the general urban plan.

Integral part of detailed project, as separate document, is urban-technical requirements for building construction for each urban parcel as well as urban-technical requirements for construction of all infrastructure and communal structures foreseen by the plan.

## **Local study of a location**

### **Article 30**

For the areas within the scope of the spatial plan of a local self-government unit or the general urban plan, for which it is not envisaged to prepare a detailed urban plan and urban project, local study of a location may be adopted.

Local study of a location shall define the requirements for construction in the area covered by the spatial plan of the local self-government unit and general urban plan, in accordance with the guidelines and criteria prescribed in those plans.

Local study of a location for the area covered by the spatial plan of the local self-government unit contains the elements of the study of a location from Article 24, Paragraphs 3 and 4 of this Law.

Local study of a location for the area covered by the general urban plan contains the elements of the study of a location from Article 24, Paragraph 3 of this Law.

Integral part of local study of a location, as separate document, is urban-technical requirements for building construction for each urban parcel as well as urban-technical requirements for construction of all infrastructure and communal structures foreseen by the plan.

**Bylaw****Article 31**

For the purpose of defining the contents of a planning document, more detailed categories of land use, methodology for determination of manner of use of space, uniform graphic symbols and other necessary contents shall be prescribed by the Ministry.

**Public competition****Article 32**

For exceptionally complex and attractive parts of urban units and other areas and locations, a planning document may foresee opening of a public competition for urban-architectural design solution of an area.

Urban-architectural design solution adopted via public competition shall represent an integral part of a planning document.

**5. Preparation and adoption of a planning document****Decision on preparation of a planning document****Article 33**

Planning document preparations shall commence subject to the decision of the Government or the executive body of a local self-government unit.

Decision on the preparation of a planning document shall be passed in accordance with the Program referred to in Article 16 of this Law.

Decision on the preparation of a planning document shall determine specifically: the type of the planning document; the territory or area comprised by the plan; way of funding; the time period for which it is passed; deadlines for the preparation of the document; need for public competition from Article 32 of this law; basic guidelines from the plans of broader territorial units etc.

The Terms of Reference that define the basic principles of the planning document represent an integral part of the decision to elaborate a planning document, as well as the needs and requests of the space users, expressed in the report from Article 15 of this Law.

Decision to elaborate a planning document, together with the terms of reference, adopted by the executive authority of the local self- governance unit, shall be submitted to the Ministry.

**Publishing the decision on elaboration****Article 34**

Decision to elaborate a planning document shall be published in the “Official GHazette of Montenegro”, in one printed media, with the seat in Montenegro, as well as on the web-site of the Ministry, i.e. local self-government unit.

### **The body in charge of preparatory activities and preparatory activities**

#### **Article 35**

The body in charge of preparatory activities related to elaboration and adoption of a planning document is the Ministry i.e. local self-government authority.

In the sense of Paragraph 1 of this Article, preparatory activities shall include the following: preparation of decision on elaboration of a planning document; preparation of terms of reference; preparation of the documentation required for the planning document drafting (basic documentation); requirements regarding the assignment of the planning document preparation; affairs related to organization of planning document preparation; execution of the public bidding procedure referred to in Article 33 of the present Law; acquisition of required approvals and opinions and cooperation with competent bodies; as well as other activities pertaining to the preparation and adoption of the planning document.

### **Prohibition of building**

#### **Article 36**

Decision on the elaboration of a detailed spatial plan, state study of a location, detailed urban plan, urban project and local study of a location shall include, if so required, a decision on the prohibition of construction in the area or a part of the area for which that plan is being elaborated.

Decision referred to in Paragraph 1 of this Article shall be in force no longer than one year.

### **Authorizations for elaboration of a planning document**

#### **Article 37**

A planning document can be elaborated by the company e.g. other legal entity that has been recorded into the Central register of the Economic Court for carrying out of the tasks referring to the elaboration of planning documents and which fulfills the requirements prescribed by this Law.

The company from the Paragraph 1 of this Article shall have planner in chief employed.

For the elaboration of some parts (phases) of a planning document, as defined by the terms of references, the company from paragraph 1 of this article may conclude the contract on business/technical cooperation with other company which employs planner.

### **Responsible planner and planner**

#### **Article 38**

Responsible planner may be a graduated engineer of architecture or graduated spatial planner with minimum three years of experience in preparation, elaboration, adoption and implementation of at least two planning documents, with passed professional exam and being a member of the Chamber.

Responsible planner manages the elaboration of the planning document and shall be responsible for harmonization of parts (phases) of a planning document defined by the terms of references.

The planner may be a person with university degree (four years study program) and minimum three years of work experience in preparation, elaboration, adoption and implementation of at least two planning documents, with passed professional exam and being a member of the Chamber.

### **Authorization of a foreign entity for elaboration of planning documents**

#### **Article 39**

Planning document may be elaborated by a foreign legal or physical entity having the authorization for elaboration of planning documents confirmed by the authorized state body of EU member state or other state which certificates are recognized by EU.

Authorisation in a sense of paragraph 1 of this article shall be proved by valid certificate translated into Montenegrin language by authorised court translator.

Foreign physical entity is a member of Chamber and shall be registered in the register from Article 134 of this Law. The foreign legal entity shall be registered in the register of licenses from the Article 129 of this Law.

### **Provision of data, opinions and proposals**

#### **Article 40**

The authorities, companies, institutions and other legal entities in charge of projections of development, water engineering, electricity supply system, transportation, broadcasting, health, national defense, culture, residential-communal activities, geodesic, geological, geophysical, seismic, hydro-meteorological works, works related to statistics, agriculture, forestry, tourism, protection of nature, protection of cultural heritage, as well as the protection of the environment are obliged, to provide all available data necessary for elaboration of a planning document and building construction upon the request of the authority responsible for preparatory activities, within 15 days notice.

Authorities, companies, institutions and other legal entities referred to in Paragraph 1 of this Article shall submit to the authority responsible for preparatory activities their opinions and proposals relevant to elaboration of a planning document.

### **Expert assessment of a draft planning document**

#### **Article 41**

Authority in charge of preparatory activities shall present the planning document for expert assessment (review).

Expert assessment, referred to in paragraph 1 of this article, involves checking the conformity of draft planning document with the decision to elaborate it; checking conformity of draft planning

document with prescribed standards and norms, as well as checking the justification of planning solution.

Council gives expert assessment of the state planning document.  
Local Council, that is, other expert entity or legal person appointed by the executive authority of the local self-government unit gives expert opinion on the local planning document.

Provisions of Articles 37, 38 and 39 of the present Law shall be applied accordingly to the persons/entities referred to in Paragraph 4 of this Article,

Persons who participated in the preparatory activities to the elaboration and adoption of the planning document, persons that participated in the elaboration of draft planning document, their spouses, children, parents, brothers and sisters cannot perform the expert assessment of the draft planning document.

### **Submitting the planning documents to the Government or executive body of a local self-government unit**

#### **Article 42**

Planning document, for which the expert assessment referred to in Articles 41 the present Law was given, shall be presented by the body in charge of preparatory activities to the Government i.e. executive body of a local self-government unit for the purpose of formulating the draft planning document.

The planning document referred to in Paragraph 1 of this Article shall be accompanied by a timetable of the public hearing.

### **Submission of the planning document for public hearing**

#### **Article 43**

The Government or the executive body of a local self-government unit shall submit the draft planning document for public hearing.

The public hearing referred to in Paragraph 1 of this Article shall be announced in a printed media with the seat in Montenegro, as well as on the web-site of the body in charge of preparatory activities, and shall last 15 to 60 days from the day of its announcement.

The body in charge of preparatory activities is obliged to draw up a report on public hearing and to submit it to the Council i.e. expert authority.

The Council, that is, an expert authority shall examine the report on public discussion and make an expert review of acceptability of remarks and suggestions from the report.

The body in charge of elaboration of the planning document is obliged to incorporate in the planning document the expert review from paragraph 4 of this Article.

### **Repeated public hearing**

#### **Article 44**

If after the public hearing is over, draft planning document is significantly different as compared to the draft presented for public discussion, it is possible to organize another public hearing.

The level of differentiation in a sense of paragraph 1 of this article shall be determined by the government, i.e. the executive body of local self-government, on the proposal of the Council i.e. expert authority.

Repeated public discussion from paragraph 1 of this Article is organized for the whole planning document, i.e. for the part thereof, in the manner prescribed in article 43 of this Law, whereas repeated public discussion shall last for 10-30 days from the day when it is announced.

### **Insight in the report and expert assessment**

#### **Article 45**

Body in charge of preparatory activities shall enable all the interested parties to get an insight into the report on public hearing and performed expert assessment of the draft planning document, and it shall publish the report and the expert assessment on the web-site.

### **Submitting the planning document proposal**

#### **Article 46**

The body in charge of preparatory activities shall submit the draft planning document with incorporated public hearing report and the expert assessment report to the Government or the executive body of a local self-government unit.

### **Submitting to the Ministry for the approval**

#### **Article 47**

The executive body of a local self-government unit shall submit the proposal of a local planning document to the Ministry for approval, for the purpose of assessment of compliance of the proposal with the planning documents of broader territorial units, assessment of the concept of planning solution as well as its compliance with the provisions of the present Law.

The Ministry, referring to paragraph 1 of this article, can form expert commission in order to assess compliance of the planning document.

If the Ministry does not provide approval within 30 days from the date of receipt of the planning document, it shall be deemed that Ministry had approved the plan.

The approval of the proposal of a planning document given by the Ministry may contain the obligation of opening public competition from article 32 of this Law.

Costs of publishing and conducting the public competition from paragraph 4 of this Article shall be born by the investor.

## **Competencies for the adoption of planning documents**

### **Article 48**

State planning document shall be adopted by the Parliament of Montenegro.

Local planning document shall be adopted by the local self-government assembly.

## **Decision on adoption**

### **Article 49**

The decision on adoption of a planning document shall include: boundaries of the area comprised by the plan, the time period for which the plan is being adopted, general content and provisions relevant for the implementation of the plan, communal equipping of the construction land etc.

## **Scales of planning documents**

### **Article 50**

Spatial plan of the Republic and spatial plan of a local self-government unit shall be drawn on the maps at scales of 1:100,000; 1:50,000 or 1:25,000.

Spatial plan of a special purpose area is drawn on the 1:25,000-scale map and on topographic-cadastral plans of 1:2500 and 1:1000 scale for zones for which detailed elaboration is prepared.

Detailed spatial plan shall be drawn on the maps at scales 1:25,000; 1:10,000; 1:5000 and topographic-cadastral plans at scales 1:2500 or 1:1000.

Study of a location shall be drawn on the maps at scales 1:10.000; 1:5.000 and topographic-cadastral plans at scales 1:2.500 and 1:1.000 .

General urban plan shall be drawn on the maps at scales 1:10,000; 1:5000 or topographic-cadastral plans of scale 1:2500 and 1:1.000.

Detailed urban plan is drawn on topographic-cadastral plans of scales 1:1000 or 1:500.

Urban project shall be drawn on topographic-cadastral plans at 1:1000; 1:500 or 1:250 scales.

Local study of a location shall be drawn on maps at scales of 1:10.000; 1:5.000; and on topographic-cadastral plans at scales of 1:2.500 and 1:1.000.

State and local planning documents shall be drawn on maps and topographic-cadastral plans in digital form (CD), and shall be presented on maps and topographic-cadastral plans in analogue form drawn on paper, and shall be updated and identical in content.

Analogue forms of geodetic-cadastral plans on paper surface must be updated and notarized by the Republican administrative body responsible for surveying, cadastre, and registration of the real- estate ownership rights.

### **Publication of decisions**

#### **Article 51**

The decision on the elaboration of the planning document and decision on adoption of the planning document shall be published in the "Official Gazette of Montenegro, a printed media with the seat in Montenegro as well as on the web-site of the body in charge of preparatory activities.

Planning document from paragraph 1 of this article shall be published in electronic form.

### **Determining public interest**

#### **Article 52**

Public interest for building construction shall be determined by adoption of a planning document.

### **Changes and amendments**

#### **Article 53**

Changes and amendments to the planning document shall be made in the manner and in line with the procedure prescribed by the present Law for preparation and adoption of planning documents.

### **Method of insight and taking action**

#### **Article 54**

The Ministry shall prescribe the method of insight, verifying, signing, presenting, filing, multiplying and keeping as well as the assigning of the planning document with compensation.

### **Funds for elaboration of planning documents**

#### **Article 55**

Funds for the preparation of a planning document shall be provided by Montenegro or the local self-government unit.

## **6. Implementation of planning documents**

## **Parcelling plan**

### **Article 56**

In the aim of implementation of a planning document, body in charge of preparatory activities shall submit the planning document to the body in charge of cadastral affairs within 15 days from the date of its adoption.

Body in charge of cadastral affairs is obliged to transfer the parcelling plan determined by the planning document into the cadastral plans within 30 days from the day of receiving it.

## **Urban parcel**

### **Article 57**

An urban parcel shall be determined on the basis of the parcelling plan or requirements and guidelines contained in the planning document, encompassing one or more cadastral parcels or their parts and fulfilling construction requirements prescribed by the planning document. Graphical presentation of an urban parcel shall be given on the copy of a parcel plan.

## **Completion of an urban parcel**

### **Article 58**

The owner of cadastral parcel, encompassed by the urban parcel, is obliged to allow completion of that parcel in favour of the owner who possesses the major part of respective urban parcel.

Reimbursement of the person from paragraph 1 of this article shall be made in accordance with the expropriation regulations.

## **Location**

### **Article 59**

Location is a place in which works are executed in order to shape the space according with urban-technical requirements envisaged by a planning document.

Location may be one urban parcel, several urban parcels or part of one urban parcel.

## **Urban-technical requirements**

### **Article 60**

Upon the request of a person, the responsible authority, for structures foreseen by the state planning document i.e. local self-government authority for structures foreseen by the local planning document, shall issue urban-technical requirements, containing the following:

- 1) geodetic-cadastral bases,
- 2) purpose, type, technological units, category, basic features of structure etc., for structures of building construction and civil engineering (traffic lines, energy structures, hydro technical systems, communal infrastructure, communication infrastructure etc.)
- 3) number of floors, i.e. maximal altitude peak of structure;
- 1) maximum allowed capacities of a structure (number of apartments or effective floor area surface),

- 2) site plan with the boundaries of the urban parcel and relations with neighboring parcels i.e. places of construction or execution of works by which the area is shaped according to the purposes envisaged by the planning document,
- 3) building and regulatory lines,
- 4) leveling elevation peaks of the structure,
- 5) type of façade material,
- 6) type of roof material and camber,
- 7) orientation of the structure to the cardinal points,
- 8) meteorological data (wind rose, insulation, precipitation trends, temperature extremes etc.),
- 9) data on the bearing capacity of the terrain and the level of underground waters,
- 10) parameters for seismic projecting as well as other requirements for protection from earthquake;
- 11) environmental protection requirements;
- 12) requirements for landscape shaping of the location;
- 13) vehicle parking parcels and garages,
- 14) place and type of connections of structure to urban traffic line or public roads,
- 15) place and type and requirements of connections of structure to electro, water supply, sewage, atmospheric and other infrastructure network;
- 16) cable distributive systems of RTV programs;
- 17) requirements for the protection against natural and technical-technological hazards,
- 18) requirements for development of the urban parcel i.e. pertaining location of the object,
- 19) requirements for designing objects registered in the Register of monuments of culture,
- 20) requirements for energy efficiency,
- 21) possibility of construction in phases.

The requirements from paragraph 1 of this article shall be obtained with reimbursement of real costs.

## **7. Development of construction land**

### **Concept of development**

#### **Article 61**

Development of construction land shall be considered as equipping of land in a manner which enables implementation of a planning document.

Development of construction land shall imply: preparation of construction land for communal equipping and communal equipping.

Development of construction land shall be provided by local self-government, pursuant to the Program.

Relations between the Government and local self-government in relation to development of construction land implied by state planning document shall be regulated by an agreement.

### **Preparation for communal equipping**

#### **Article 62**

Preparation of construction land for communal equipping shall imply particularly the following:

- 1) production of technical and other documentation;
- 2) taking measures for protection of cultural monuments and protection of natural monuments, which might be jeopardized by the work on preparation of the land;
- 3) destroying existing buildings and devices and removing material, as well as displacing of the existing ground and underground installation.

## **Communal equipping**

### **Article 63**

Communal equipping of construction land includes building construction and communal infrastructure facilities, especially:

- 1) communal buildings and installations to connection to urban parcel (main road, primary and secondary buildings and lines; water supplying and sewage system; atmospheric drainage system, telecommunication, radio-diffusion and other buildings and installations);
- 2) roads and streets in settlements, overpass, underpass and bridges, pedestrian passes, pavements, squares, and public parking places in settlement;
- 3) green areas in settlement, greenery in blocks, recreation fields, children playgrounds, parks, pedestrian paths and lawns, public town communal facilities and cemeteries, and
- 4) landfills and facilities for processing and destroying of waste material.

## **Payment of fees**

### **Article 64**

For communal equipment of construction land under Article 63 of this Law the investor shall pay fee.

Condition, manner and procedure of fee payment under paragraph 1 of this Article shall be regulated by local self-government, depending on the level of equipment of construction land, participation of a investor in the communal equipment.

## **Communal equipping by investor**

### **Article 65**

Communal equipping of construction land can be done by investor, pursuant to planning document.

Mutual relations of investors and local self-government, in sense of paragraph 1 of this Article, shall be regulated by an agreement.

### **III BUILDING CONSTRUCTION**

#### **1. Special provisions**

##### **Requirements for construction**

###### **Article 66**

A building may be constructed only after obtaining a building permit and technical documentation.

##### **Requirements for use**

###### **Article 67**

A building may only be used after obtaining an occupancy permit.

Only building with issued occupancy permit may be entered into the Real Estate Cadastre.

##### **Construction products**

###### **Article 68**

Only those building materials, products, machines, plants and equipment that meet the requirements defined by the regulations may be used in building construction.

##### **Requirements for access by disabled persons**

###### **Article 69**

Construction of buildings in public use, must be done in a manner that provides free access, moving, staying and working of disabled people (without obstacles in communication).

Construction of residential and residential-business buildings shall be done in a manner which enables free access and movement in common rooms to persons under paragraph 1 of this Article.

Residential and residential-business buildings with more than 10 flats must be constructed in a manner which provides easy adaptation of the building, at least of one residential unit on each 10 flats for free access, moving, staying and work of disabled people.

Detailed conditions and manner of adaptation under paragraph 1, 2 and 3 of this article shall be defined by the Ministry's regulation.

##### **Technical regulations**

###### **Article 70**

Technical regulations, standards, technical norms and quality norms for field of building construction, in accordance with European principles of technical legislation, specify i.e. stipulate

regulations for: stability and duration of building, aseismic designing and building construction, protection of health, environmental and spatial protection, protection against natural and technical-technological accidents, fire protection, explosion and industrial incidents; thermal protection; rational use of energy and energy efficiency; noise and vibration protection.

The Ministry, respectively the ministry competent for affairs to which the technical regulation refers, shall define technical regulations under paragraph 1 of this Article.

## **Authorisation of foreign entity for production of technical documentation and construction**

### **Article 71**

Technical documentation may be produced i.e. a building can be constructed also by a foreign legal entity or natural person who has authorisation for producing technical documentation, namely for construction of building, certified by authorised body of a member state of European Union or other state with certificates recognized by the European Union.

Authorisation in sense of paragraph 1 of this Article shall be verified in the manner defined by the paragraph 2 of Article 39 of this Law.

A foreign natural person is a member of the Chamber and is entered into the register from Article 134 of this Law and a foreign legal entity is entered into the licence register from Article 129 of this Law.

## **Protection of public interest**

### **Article 72**

Production of technical documentation, revision of technical documentation, construction, expert supervision and technical inspection must be performed pursuant to the law and other regulations, technical and quality standards.

A building site or a building on which work is carried out without a building permit and without a building design or a building constructed without a building permit and a building design may not be connected to technical infrastructure (power and water supply, sewer etc.)

## **Recommendations for Building Construction**

### **Article 73**

In order to improve requirements for application of technical regulations, standards and quality norms in field of designing and construction, the Government shall establish the Council for Building Construction (hereinafter: the Council).

By the Act on Education, the Government determines number of members of the Council, who shall be appointed out of members of the foremost scientific persons and experts in field of building construction.

The Council shall give opinions, suggestions and recommendations related to certain issues in field of building construction.

The Council shall adopt a rulebook o work.

Members of the Council shall be appointed for period of four years.

## **2. Technical documentation**

### **1. Producing technical documentation**

#### **Concept and requirements for producing technical documentation**

##### **Article 74**

Technical documentation is a set of plans that define concept, requirements and manner of building construction.

A company, i.e. a foreign legal entity is obliged to produce technical documentation based on urban-technical requirements.

In producing technical documentation, principles of building construction defined under Article 5 of this Law must be respected.

#### **Types of technical documentation**

##### **Article 75**

Depending on the type of building and level of specification, technical documentation shall be produced as the following:

- 1) project outline;
- 2) preliminary design;
- 3) building design with details for performing of work (hereinafter: the building design);
- 4) finished building design.

Technical documentation under paragraph 1 of this Article includes the following elements:

- 1) building architecture design and interior architecture design;
- 2) design of building structures and other building designs;
- 3) plans for electrical installation for strong and weak current;
- 4) plans of thermo-technical installations, machinery, plants and installations;
- 5) plan for site organization and landscape architecture plan;
- 6) other plans and surveys: geomechanic, technology, environmental impact assessment, fire protection, work safety, thermal and sound isolation of buildings, energy efficiency and other in accordance with the purpose of a building.

The manner of producing, scope and specific content of technical documentation under paragraph 1 and 2 of this Article shall be provided by the Ministry.

## **Project outline**

### **Article 76**

Project outline is a plan that specifies the following: general concept, technical-technological and economic characteristics and justification for building construction.

Project outline expressly includes data about: building macro-location, technical-technological concept of building, ways for ensuring infrastructure, possible variants of spatial and architectural solutions from the aspect of fitting into space, natural conditions, environmental impact assessment, protection from fire and explosion, concept of energy systems of buildings (acclimatization, heating and lighting); protection of natural and immovable cultural heritage, functionality and economy of the solution.

Project outline is produced for needs of investor and for need of control of attractive locations in planning documentation through a public competition.

## **Preliminary design**

### **Article 77**

Preliminary design is a plan that specifies the following: location, capacity, architectural, technical, technological and functional characteristics of a building, organizational elements of building construction, elements of building maintenance, approximate value of work on building construction.

Preliminary design expressly includes data about: building micro-location with installations and equipment, technical-technological and exploitation characteristics of building, preliminary calculation of stability and safety of building, calculation of construction physics, technical-technological and organizational elements of building construction, measures for the prevention and mitigation of negative environmental impact and protection from fire and explosion, analyses of energy systems variants for buildings with estimation of energy efficiency of building, outline of infrastructure, comparative analysis of variants of architectural, constructive and building solutions from the aspect of location and soil, functionality, stability, environmental impact assessment, natural and immovable cultural heritage, approximate value of work on building construction, transport, maintenance, energy supply and other costs.

Preliminary design may define also phases (technical-technologic and functional whole) and building construction.

Preliminary design is produced for needs of issuing a building permit.

## **Building design**

### **Article 78**

Building design is a plan that defines technological, architectural-constructional, technical and exploitation characteristics of a building with equipment and installations, with specification of all necessary details for building construction, the value of work on building construction.

Building design expressly includes:

- 1) architectural and constructional solutions, calculation of stability and safety of building and calculations from the field of constructional physics and energy efficiency;
- 2) specification of technical-technological and exploitation characteristics of building with equipment and installations including energy characteristics of building/s;
- 3) specification of details for performing the work included in the building design, as well as technical-technological and organizational solutions for building construction;
- 4) specification of building's connections to adequate road and other infrastructure and the organization of non-built area;
- 5) technical solutions for protection of building and the surrounding buildings from fire and explosion and other safety technical solutions;
- 6) specification of measures for prevention or mitigation of negative environmental impact;
- 7) costs of building construction and maintenance, and
- 8) other plans and surveys, in accordance with the purpose of building.

If installing of parts, elements and equipment industrially produced is anticipated by the building design, the building design does not have to include the part based on which respective parts, elements and equipment have been produced, but the proof of existence of the documentation, test certificates and a guarantee of their functionality must be enclosed.

Building design is produced for purposes of building construction.

### **Finished building design**

#### **Article 79**

Finished building design is a plan produced for purpose of building construction on which, due to unpredicted circumstances, alterations have been made during construction in relation to approved building design that serves as a basis for building construction.

Unpredicted circumstances in sense of paragraph 1 of this Article shall be deemed to be circumstances related to load carrying capacity of land, level of underground waters, change of parts of elements and equipment industrially produced, installations, etc.

Finished building design includes all elements of the building design.

### **Keeping documentation**

#### **Article 80**

Administration body i.e. local self-government body shall permanently keep two copies of technical documentation based on which a building permit has been issued, i.e. finished building design, one in paper form and the other in protected digital form.

The investor shall permanently keep one copy of the technical documentation under Article 75 of this Law.

### **Authorisation for producing of technical documentation**

#### **Article 81**

Technical documentation may be produced by a company entered into the Central Register of the Commercial Court for performing activities of producing technical documentation and which meets the requirements defined under this Law.

A company under Paragraph 1 of this Article must have a person employed as a responsible designer.

For producing particular parts of technical documentation a company from paragraph 1 of this Article shall sign a contract on business-technical cooperation with another company, which has a person employed as a responsible designer.

### **Chief designer and responsible designer**

#### **Article 82**

Producing technical documentation is managed by a principal designer and a responsible designer.

Principal designer is a physical person managing the production of overall technical documentation and is responsible for coordination of all planning phases.

Responsible designer is a physical person managing the production of particular parts of technical documentation.

Principal designer can be also a responsible designer.

Technical documentation, as well as its integral parts i.e. designs, shall be signed by persons under Paragraph 1 of this Article.

Principal designer and responsible designer can be only a person with university degree (four year study program) in the related technical field, with a specific professional exam for production of particular parts of technical documentation, with at least three years of working experience on producing, revision, control, review or evaluation of technical documentation and who is a member of the Chamber.

## **2. Revision of technical documentation**

### **Revision of preliminary design and building design**

#### **Article 83**

Preliminary design and building design shall be subject to revision.

Revision under Paragraph 1 of this Article expressly includes: project's compliance with urban-technical requirement, assessment of grounds for laying the foundations, checking the functionality and accuracy of the building's technical-technological solutions, architectural solutions for building construction, constructional stability and safety, economical use of planned materials, compliance with law and other regulations, technical norms and standards and quality standards; mutual compliance of all parts of technical documentation, as well as checking of bill of quantities and calculations for the building construction.

Person performing revision is appointed by the investor.

Costs for revision of preliminary design and building design shall bear the investor.

Manner of performing the revision of preliminary design and building design shall be defined by the Ministry.

### **Repeated revision**

#### **Article 84**

In case that, after the revision of preliminary design and building design and before the request for issuing a building permit is submitted i.e. before the construction has begun, technical regulation, standards and quality norms change, preliminary design and building design shall be harmonized with the changes and shall be subject to repeated revision.

### **Authorisation for performing revision**

#### **Article 85**

Revision of preliminary design and building design may be performed by a company (hereinafter: the reviser), who meets the requirements from Articles 71, 81 and 82 of this Law.

The revising may not be performed by a company that has produced the preliminary design, i.e. building design, a person employed by the company that has produced the designs, a company which is the investor as well as by a person employed by the investor.

#### **alternative for paragraph 2:**

**Revision of preliminary design and building design may not be performed by a person participating in the elaboration of those designs.**

### **Revision of technical documentation produced pursuant to other countries' regulations**

#### **Article 86**

Technical documentation produced pursuant to other countries' regulations shall be subject to revision for purposes of checking its compliance with law, standards, and technical and quality norms. In case the suggested solution uses regulations which are more strict compared to national regulations, it may be accepted as the correct one.

Technical documentation produced pursuant to other country's regulations under paragraph 1 of this Article must be translated into Montenegrin language by an authorised court translator.

#### **alternative for paragraph 2: delete this paragraph.**

### **Report on revision and verification of technical documentation**

#### **Article 87**

A report shall be made on performed revision of preliminary design and building design. The report shall be submitted together with preliminary design and building design, verified and signed by the reviser.

A person performing the revision is obliged to make in the report accurate and true statements on compliance of the preliminary design and building design with the requirements under the Articles 83, 84 and 86.

Verification of design under paragraph 1 of this Article shall be done for each part of technical documentation, by a stamp with a number, date and signature of an authorised person, as well as with the stamp on each page of technical documentation in part of architecture.

The report and designs under paragraph 1 of this Article shall be submitted to the investor.

### **3. Building permit**

#### **Competency for issuing building permit**

##### **Article 88**

A building permit for building constructed according to a national planning document, shall be issued by an administration body.

A building permit for building constructed according to a local planning document, shall be issued by a local administration body.

Building permit shall be issued by an ordinance.

Exceptionally from paragraph 2 of this Article, administration body shall issue building permit for the following:

- 1) building of base and chemical industry, ferrous and non-ferrous metallurgy, plants for production of wood-pulp and paper, plants for processing leather and fur, plants for production and storing of hazardous materials and similar buildings and plants that, by their work, may endanger the environment;
- 2) plants using liquid and liquefied petroleum gas;
- 3) high dams and accumulations filled with water, spoil or ash, for which technical supervision is required;
- 4) buildings of special interest for national defence;
- 5) business and residential buildings of over 3000 m<sup>2</sup>,
- 7) universities, institutes, schools, hospitals, hotels, religious buildings, theatres, cinemas, sports, exhibition halls and similar buildings, stadiums;
- 8) silos with 1.500 m<sup>3</sup> volume and more;
- 9) halls with 20m span and more; shell system constructions, prestressed and composite constructions and domes;
- 10) bridges with 15m span of and more;
- 11) sanitary waste landfills and plants for treatment of hard and hazardous wastes;

- 12) system and buildings constructed on territory of two or more local self-government units;
- 13) concessions causing changes in space;
- 14) stations and plants for storing and decanting of motor vehicles fuel.

### **Submitting a request**

#### **Article 89**

A request for issuing a building permit shall be submitted by investor.

The request under paragraph 1 of this Article includes basic data about the building and the investor, as well as the documentation under Article 90 of this Law.

Request for issuing of a building permit shall be published on the internet site of administration body, i.e. local administration body in terms of seven days from the day the request has been submitted.

### **Documentation base on which building permit is issued**

#### **Article 90**

A building permit shall be issued on the bases of the following:

- 1) preliminary design (made in four copies one of which is in protected digital form);
- 2) report on performed revision of preliminary design done pursuant to the law;
- 3) evidence on right to construct on the land or evidence on right to construct or other right on building, if reconstruction of building is in question;
- 4) other evidence pursuant to other special regulations.**

**The evidence under paragraph 1 point 3) of this Article implies also Government's decision i.e. local self-government decision on determining of public interest (for expropriation of real estate for purposes of building construction).**

During procedure of issuing a building permit it is checked if the preliminary design has been done in accordance to urban-technical requirements.

In case preliminary design is done in accordance with urban-technical requirements, each particular part of the project is verified by a stamp containing number, date and signature of authorised person, as well as by a stamp on each sheet of project in part of architecture.

### **Issuing of building permit**

#### **Article 91**

A building permit shall be issued within a period of 30 days from the day a request has been submitted, if the requirements from Article 90 of this Law are met.

A building permit includes, expressly; basic data about the person submitting a request, location, type and purpose of building, size of building, phases of building construction, obligation to produce building design.

If administration body, respectively local administration body determines that stipulated requirements for issuing of a building permit have not been met, i.e. that there are shortcomings in the enclosed documentation, a deadline shall be defined for the investor which shall not exceed 30 days for eliminating the determined shortcomings.

In case the investor, during the defined deadline, does not meet the stipulated requirements or does not eliminate determined shortcomings, the body from paragraph 3 of this Article shall reject the submitted request.

A building permit shall be published on the internet site of administration body, respectively local administration body in terms of seven days from the day of its issuing.

### **Issuing of building permit until the purpose of location is realized**

#### **Article 92**

Reconstruction necessary for maintenance and occupancy of building according to its purpose may be approved, in scope of existing size, for an existing building with location or other features which do not correspond to a planning document requirements until the building purpose is realized according to adequate planning document.

In case from paragraph 1 of this Article provisions from Article 90 of this Law are applied accordingly.

### **Deciding an appeal**

#### **Article 93**

Main administrator shall decide an appeal against ordinance on building permit issued by local administration body, and the Ministry shall decide an appeal against ordinance issued by administration body.

### **Validity period of building permit**

#### **Article 94**

Building permit shall cease to be valid if building construction does not commence within a period of two years from the day ordinance has been issued.

### **Change of investor**

#### **Article 95**

If there has been a change of investor during building construction, the new investor is obliged to submit a request to the competent organ within a period of 7 days from the change, in order to change the building permit to the new investor.

Together with the request from paragraph 1 of this Article the new investor is obliged to enclose a proof of the title to property or other right to land for purposes of construction, or a proof of the right to property or other right to the building, for purposes of building reconstruction.

A request for change of the building permit under Paragraph 1 of this Article may be submitted until the day of issuing of an occupancy permit.

### **Introducing building permit to local public**

#### **Article 96**

The investor is obliged to place on the building site a plate with data about the issued building permit (number and date of ordinance, data about the investor, the contractor, person producing technical documentation, supervisory body).

### **Deadline for completing work**

#### **Article 97**

A building permit shall define a deadline by which work must be completed.

A deadline under Paragraph 1 of this Article may not exceed:

- 1) three years from the commencement of validity of a building permit for a new building;
- 2) one year from the commencement of validity of a building permit for a building that is reconstructed.

Provision of paragraph 2 of this Article shall not refer to buildings from Article 8 of this Law.

If work on a building does not finish within a period under Paragraph 2 of this Article, the period may be extended if requested by the investor.

### **Nullity of ordinance on building permit**

#### **Article 98**

An ordinance on a building permit issued without compliance with this law shall be considered null and void.

A body that has issued an ordinance that is declared null and void shall cover the costs of turning land into the state it had been before issuing the ordinance, while the investor has the right to damage compensation and lost profit.

### **Delivering building permit**

#### **Article 99**

A building permit issued by the local administration body shall be submitted to inspection body of local administration, within a period of three days from the day a permit has been issued.

A building permit issued by the administration body is submitted to the construction inspector, within a period of 3 days from the day a permit has been issued.

## **Reporting on work not considered reconstruction**

### **Article 100**

If work is carried out on an existing building which is not considered reconstruction in sense of this Law, the investor shall submit a report thereof to the administration body, respectively local administration body, not later than eight days before the commencement of work.

Together with the report under paragraph 1 of this Article the investor shall submit a description of work.

If the body under paragraph 1 of this Article determines that work listed in the report is considered building reconstruction, it shall warn the investor of the obligation to obtain a building permit, not later than eight days from the day the report has been received.

The investor shall inform the competent inspection body on the report under paragraph 1 of this Article.

## **4. Building construction**

### **1. Carrying out work**

#### **Preparatory work for construction**

### **Article 101**

The investor may initiate preparatory work for construction after a building permit has been issued.

Preparatory work is performed based on elaborate including the following: scheme of construction site organization, necessary construction facilities, place for conveying of material, construction connection (electro, traffic, water supply), etc.

The investor is obliged to report to the competent inspection body on initiation of preparatory work, not later than eight days before the commencement of the work.

A building permit is submitted together with the report under paragraph 3 of this Article.

Reporting on preparatory work is published on internet site of competent inspection body.

#### **Building construction**

### **Article 102**

Building construction can be started based on a building permit and revised building design.

The investor is obliged to report initiation of building construction to the competent inspection body eight days before the initiation of building construction.

Together with the report from paragraph 2 of this Article, the investor shall submit building construction.

Commencement of building construction shall be published on internet site of competent inspection body.

## **Authorisation for construction**

### **Article 103**

Building construction, namely carrying out of particular work on building construction may be performed by a company entered into the Central Register of the Commercial Court as a company performing construction, i.e. carrying out particular work and which meets the requirements stipulated by this Law.

Company under paragraph 1 of this Article, must have a person employed as responsible engineer.

For carrying out of certain work on building construction, the company from paragraph 1 of this Article shall sign a contract on business-technical cooperation with another company which has a person employed as a responsible engineer.

## **Chief engineer and responsible engineer**

### **Article 104**

Carrying out of works on building shall be managed by a chief engineer and a responsible engineer.

Chief engineer shall be responsible for integrity, mutual compatibility and coordination of work being carried out on a building.

Chief engineer may, at the same time, be responsible engineer.

Responsible engineer shall manage carrying out of certain type of work on building.

Chief engineer and responsible engineer may be a person with university degree (four year study program) in related technical field, specific professional exam, with at least three years of working experience on work, designing, construction, supervision or technical control of buildings and that he is member of the Chamber.

If two or more contractors are taking part in the construction, the investor shall determine one of the contractors which would be responsible for harmonization of work and who shall appoint chief engineer of the construction site.

## **Investor's obligations**

### **Article 105**

Before the commencement of construction work an investor is obliged to ensure the following: marking of the location, regulation, levelling and construction lines.

If a building is listed in the register of cultural monuments of Montenegro, a notice must be placed stating that it is a cultural monument.

A building site encompassing larger areas (railways, roads, power supply lines etc. and parts of building site that cannot be fenced) must be marked with required road signs or signposted in another way, in accordance with special regulation.

## **Contractor's obligations**

### **Article 106**

A contractor is obliged to:

- 1) carry out work in accordance with building permit and building design, in accordance with regulations, standards and technical and quality norms specified for particular types of work, installations and equipment;
- 2) organize the building site in such manner that provides access to the location, undisturbed traffic and environment protection during construction work;
- 3) ensure safety of the building, persons on the building site and surrounding area (neighbouring buildings and roads);
- 4) provide proof of quality of construction work, used material, installations and equipment issued by an authorized organization;
- 5) keep record of work that cannot be controlled after closing i.e. covering (quality of the soil on which the building is located, foundations, reinforced iron, isolation, underground installations and those that can be closed etc.);
- 6) keep a building log, building record and inspection record;
- 7) ensure measuring and geodetic reviewing of soil and building during construction work;
- 8) secure buildings and their surroundings in case of interruption of work.

The manner of keeping and content of building log and building record under Paragraph 1 point 6) of this Article shall be defined by the Ministry.

## **Investor's and contractor's obligations**

### **Article 107**

A contractor or an investor is obliged to notify competent inspection body as well as administration body competent for cadastre affaires on the commencement of construction work, at least eight days before the commencement of construction work, as well as on completion of foundations construction.

The administration body competent for cadastre affaires shall perform control of compliance of constructed foundations with the building design within a period of three days from the day of receiving the notification under Paragraph 1 of this Article and shall issue a written attestation thereof.

If a contractor identifies any shortcomings in building design, he is obliged to warn the investor and the company that has produced the building design in written form.

If the investor or the company that has produced the building design fails to immediately remove the shortcoming they have been warned thereof, a contractor must notify a body that has issued the building permit, as well as the competent inspection organ.

If the shortcomings endanger people's lives and health, building's safety, environment, traffic or neighbouring buildings, contractor must immediately stop the work and remove the shortcomings.

The contractor is obliged to notify in written form the competent body of any case of finding an archaeological site, fossils, active landslides, underground waters, etc.

## **Building site documentation**

### **Article 108**

A contractor is obligated to have the following on the building site:

- ordinance of contractor's registration in the Commercial Court Central Register;
- licence for carrying out work;
- ordinance on appointing building site chief engineer;
- ordinance on appointing a supervisory body;
- building log, building record and inspection record;
- building permit;
- preliminary design based on which the building permit has been issued;
- building design;
- report on revision of building design;
- required approvals of the competent bodies for building design and surveys;
- design (survey) of organization of the building site and of work;
- work safety survey;
- minutes of location marking and building marking;
- minutes of competent inspection bodies,
- other documentation a contractor is obligated to collect and keep during construction, necessary for performing technical inspection and for issuing of occupancy permit.

## **Special documentation**

### **Article 109**

If technical documentation for a building construction anticipates installation of parts, elements and equipment industrially produced, together with the building design additional documentation shall be enclosed, as well as test certificates and guaranty of functionality.

## **Limitations in law implementation**

### **Article 110**

Provisions of this Law shall not apply in case a building is constructed because of a threat from natural and other hazards and extraordinary events, in order to prevent their impact or provide protection and alleviate their harmful consequences.

A building under Paragraph 1 of this Article may remain in place after the cessation of those circumstances if it meets certain urban, technical and other specified requirements and if the investor obtains a building permit within one year period after the cessation of those circumstances.

An investor who fails to obtain a building permit for a building under Paragraph 1 of this Article within the specified period is obliged to remove such a building.

## **2. Expert supervision**

### **Performing expert supervision**

#### **Article 111**

During building construction, an investor is obliged to ensure expert supervision.

The investor may entrust expert supervision of building construction to a company of perform direct supervision in case he meets the requirements under Articles 71, 81, 82, 103 and 104 of this law.

Supervision under Paragraph 1 of this Article includes, expressly: control of carrying out of work in accordance with technical documentation, checking the quality of carrying out of work and implementation of regulations, standards, technical and quality norms, controlling the quality of materials used, controlling implementation of environment protection measures, respecting agreed deadlines, providing instructions to contractor, cooperation with architect in order to provide details of technological and organizational solutions for carrying out of work and solving other issues in connection to building construction.

Expert supervision shall be performed from the day of commencement of preparatory work.

A person performing expert supervision is obliged to notify the investor, without any delay, on all shortcomings in technical documentation, on building construction which is contrary to technical documentation, regulations, standards, quality norms and to take appropriate measures.

Manner of performing expert supervision shall be specified by the Ministry.

## **3. Temporary buildings on the territory of the special purpose spatial plan**

#### **Article 112**

Buildings of temporary character may be installed in the territory of a spatial plan for a special purpose area in accordance with the present Law.

Locations and buildings in the sense of Paragraph 1 of this Article shall be determined by a plan for temporary character building which is adopted annually (hereinafter: the Plan).

The Plan is adopted for a three year period.

The Plan is adopted by the Ministry, after obtaining opinion from the ministry competent for tourism and environmental protection affairs, local self-government, as well as from the company established for managing special purpose area for which the Plan is adopted.

Elaboration of the Plan may be entrusted to a company from Articles 37 and 39 of this Law.

## **Competencies in respect to temporary buildings**

### **Article 113**

The ruling on the location together with the urban-technical requirements for the installation of facilities referred to in Article 112 of this Law shall be rendered by the company established for the purpose of management of the special purpose area, in accordance with the plan of temporary buildings.

#### **Alternative for article 113:**

**Approval for placement of buildings from article 112 of this Law shall be issued by the administration body.**

## **4. Buildings the construction of which is regulated by local self government**

### **Article 114**

Provisions of this Law shall not apply to the following:

- 1) auxiliary buildings intended for the use of residential and other building, which is constructed on the same allotment (sheds, garages, storages, cesspools, wells, fences etc.);
- 2) prefabricated buildings of temporary character placed on public spaces in populated areas (kiosks for sale of various types of goods and services, summer terraces, movable counters etc.).

Construction, placement and removal of buildings under Paragraph 1 of this Article shall be regulated by local self-government.

## **5. Occupancy permit**

### **Competence**

### **Article 115**

An occupancy permit is issued by an ordinance of the body competent for issuing a building permit.

An occupancy permit is issued for entire building or for part of building for which phases of construction have been determined by a building permit.

A representation may be made against the ordinance from Paragraph 1 of this Article in the way defined by Article 93 of this Law.

Occupancy permit ordinance issued contrary to this Law is null and void.

## **Trial period**

### **Article 116**

In case of buildings with installed installations, equipment and devices used for technological process of the investor's activity, and not the building itself, the investor shall start trial activities after the installation but before the technical check with previously obtained approval of relevant technical inspection.

After obtained approval in the sense of Paragraph 1 of this Article the inspector for construction shall issue an ordinance for trial period.

Trial period serves to check functioning of constructed installations, equipment and plants, it determines the quality of performed works, used material and fulfilment of parameters of technical process determined by the design.

Requirements and duration of trial period shall be determined by technical documentation.

## **Request for issuing occupancy permit**

### **Article 117**

Investor is obliged to submit request for issuing occupancy permit before starting to use a building and latest within the deadline of eight days from the day of termination of works.

Enclosed with the request for issuing occupancy permit investor shall submit:

- statement of the competent engineer that the building has been constructed in line with the building permit, revised building design, i.e. finished building design;
- proofs on fulfilled obligations, determined by special provisions;
- proof on settlement of duties regarding payment of the fee for communal equipping.

If the body determines that there are lacks in submitted documentation it shall define to investor a deadline for removal of determined lacks which may not be longer than 30 days.

If an investor does not remove determined lacks within defined deadline the body from Paragraph 3 of this Article shall deny the submitted request.

Request for issuing occupancy permit shall be published on the site of administration bodies, i.e. bodies of self-government within the deadline of seven days from the day of issuing.

## **Issuing occupancy permit**

### **Article 118**

Occupancy permit shall be issued within the deadline of eight days from the day of receipt of report that the building is suitable for use.

A building is suitable for use:

- 1) if it has been constructed in line with building permit and revised building design,
- 2) if proof has been provided of the quality of work carried out, or used material, installations and equipment, issued by the competent organization;

- 3) if work has been carried out in accordance with regulations, standards, technical and quality norms applying to certain types of work or material, equipment or installations.

Occupancy permit shall be published on the site of administration body, i.e. body of local self-government within a deadline of seven days from the day of issuing.

## **Technical inspection**

### **Article 119**

Suitability for the use of a building is established by technical inspection.

Technical inspection includes control of compliance of work carried out with building design, and compliance with regulations, standards, technical and quality norms for certain types of work or material, equipment and installations.

Technical inspection of a building or a part of a building may be performed, i.e. a use may be allowed only if the building, i.e. part of a building has been constructed in line with building permit and revised building design.

The competent inspector shall be present at technical inspection of a building.

Before initiation of technical inspection, the inspector submits to the competent body for issuing occupancy permit a report if the building has been constructed in line with the building permit , revised building design i.e. finished building design.

Investor shall bear the costs of technical inspection.

## **Authorization for performing technical inspection**

### **Article 120**

Technical inspection may be performed by a company (hereinafter: technical inspection performer) meeting requirements for elaborating technical documentation, i.e. building construction specified by this Law.

Technical inspection performer shall be determined by the competent body in for issuing occupancy permit.

Persons employed in the company that has produced technical documentation or has been a contractor, a person employed by the investor, persons who have performed expert supervision, and persons performing inspection supervision may not participate in technical inspection.

Technical inspection performer is obliged to submit a report on technical inspection to the body competent body for issuing occupancy permit and to investor within a deadline of seven days from the day of termination of technical inspection.

The way of technical inspection performing is specified by the Ministry.

## **Report on technical inspection of a building**

### **Article 121**

In the report on performed technical inspection a technical inspection performer is obliged to propose: use of building, removal of determined lacks or prohibition of the use of building.

## **Acting upon report**

### **Article 122**

The body competent body for issuing occupancy permits after receipt of the report on technical inspection:

- 1) shall issue occupancy permit;
- 2) shall order to investor to remove determined lacks within the defined deadline;
- 3) shall allow trial period;
- 4) shall prohibit use of building.

## **Repeated technical inspection**

### **Article 123**

If the competent body for issuing occupancy permits orders to investor to remove determined lacks within the defined deadline, the investor is obliged to request a repeated technical inspection after their removal.

During repeated technical inspection, only the work that had to be repaired or redone is controlled.

The competent body for issuing occupancy permit passes on the basis of a report on repeated technical inspection the appropriate ordinance

## **Parallel technical inspection**

### **Article 124**

Technical inspection for the buildings from Article 88 Paragraphs 1 and 4 of this Law may be also performed in parallel to construction of the building.

In the case of Paragraph 1 of this Law, technical inspection performer shall be determined by the building permit.

Technical inspection from Paragraph 1 of this Article may be also performed by a commission, i.e. a legal entity, which fulfills requirements from Articles 81, 82, 103 and 104 of this Law.

Technical inspection in parallel to construction of a building may be also performed upon the request of the investor.

For the technical inspection performed in parallel to construction of a building, provisions from Articles 119 - 122 of this Law are applied accordingly.

## **Investor's special obligations**

### **Article 125**

An occupancy permit contains obligations for an investor to perform, within a specified period and depending on characteristics of soil and building, surveying of land and building and its environmental impact, and to notify the authorized inspector of survey results and measures taken.

An occupancy permit also contains a warranty period for a building and certain types of work, which is specified by special regulation or a contract between an investor and a contractor.

### **Delivering Occupancy Permit**

#### **Article 126**

An ordinance on issuing an occupancy permit passed by the body of local self-government is delivered to the competent inspector.

An ordinance on issuing occupancy permit passed by the administration body is delivered to the body of local self-government and inspector for construction.

### **Handing-over constructed building**

#### **Article 127**

An investor and a contractor, who have constructed a building or carried out certain work on it, must perform, within a period of 60 days from the receipt of occupancy permit, preliminary hand-over of the building and final calculation of work carried out, unless stated otherwise in the contract.

Final hand-over of the building shall be performed by an investor and a contractor within a period of 30 days from the expiry of warranty period, unless stated otherwise in the contract.

### **Site**

#### **Article 128**

Administration body, i.e. body of local self-government shall establish a site for all administrative and other acts issued during the procedure of building construction.

## **IV LICENCE**

### **Licensing**

#### **Article 129**

Licence is an act which defines fulfilment of requirements for performing activities from Articles 37, 38, 81, 82, 103, 104, of this Law.

Administration body shall issue a license by an ordinance.

Licence for company shall be issued for the period of five years.

A holder of licence is obligated to notify the administration body of any changes within the company, affecting the meeting of requirements for obtaining a licence.

Administration body keeps register on licences for companies and natural persons from Articles 37, 38, 81, 82, 103, 104, and 120 of this Law, as well as for all foreign companies from Articles 39 and 71 of this Law.

A representation to the Ministry may be made against the ordinance from Paragraph 2 of this Article.

## **Revoking licence**

### **Article 130**

Administration body shall revoke the licence if:

- 1) it is determined that the licence has been issued based on false data;
- 2) the holder of licence ceases to meet requirements from articles 37, 38, 81, 82, 103 and 104 of this Law;
- 3) the holder of licence performs works contrary to provisions of this Law referring to works for which the license has been issued.

The licence shall be revoked in the way and as in the procedure of issuing.

Administration body informs the competent inspection body on revoking licence.

Procedure for revoking licence is carried out as a matter of urgency.

## **Bylaw**

### **Article 131**

The way and procedure of issuing and revoking licence, as well as the way of keeping register of licences shall be defined by a regulation of the Ministry.

## **Publishing licence**

### **Article 132**

The ordinance from Articles 129 and 130 of this Law shall be published on the administration body's site.

## **V CHAMBER IN THE FIELD OF BUILDING CONSTRUCTION**

### **Article 133**

In the aim of providing professionalism and protection of public interest in the field of building construction as well as protection of interest of the members and third persons, graduated engineers working in the field of building construction take membership in the Chamber in the field of building construction (hereinafter Chamber).

The Chamber is a legal entity with rights and responsibilities provided by the Law and the Chamber's Statute.

The Chamber's defines in a more detailed manner tasks and organization of the Chamber, way of their selection and their authorization, way of decision making and realization of the decisions brought and other issues important for the work of the Chamber.

### **The Chamber's competencies**

#### **Article 134**

The Chamber performs following activities:

- 1) keeps register on the members of the Chamber;
- 2) keeps register on foreign natural persons from Articles 39 and 71 of this Law;
- 3) organizes and carries out professional exams in line with provisions of this Law
- 4) takes care of improvement and providing of professionalism of the members of the Chamber and adopts a program related to that;
- 5) adopts ethical codex and takes care of its implementation;
- 6) carries out disciplinary procedures against its members and pronounces measures;
- 7) determines minimal prices for elaboration of technical documentation for residential and residential-commercial buildings;
- 8) determines the amount of membership fee and registration fee for its members and
- 9) performs other activities based on the law and the statute of the Chamber.

The Chamber performs the activities from Paragraph 1 Points 1, 2, 3 and 7 of this article as public authorization.

The ministry performs supervision over activities from Paragraph 2 of this article.

### **Way of financing**

#### **Article 135**

The Chamber's activity is financed by:

- 1) membership fee;
- 2) registration fee, calculated by the Chamber for entry of engineers, as well as for keeping and maintenance of register on members of the Chamber;
- 3) fee, related to costs for activities from Article 134, Paragraph 1 Points 1, 2, and 3 of this Law;
- 4) fines for disciplinary offences and
- 5) other sources in line with law.

## **VI REMOVAL OF BUILDINGS**

## **Removal of deteriorated buildings**

### **Article 136**

Administration body, i.e. body of local self-government shall order i.e. allow, by an ordinance in line with official duty or upon a request of an interested person, removal of building for which it determines that due to its deterioration or larger damages its stability has been jeopardized so it represents direct danger for life and health of people, for neighboring buildings and traffic security.

The competent inspection body shall pass the ordinance on removal of a building, in the sense of Paragraph 1 of this Article.

Administration body, i.e. body of local self-government defines and provides conditions and measures which have to be carried out and provided during removal of a building.

## **Removal of a building upon request of the owner**

### **Article 137**

Administration body, i.e. body of local self-government may also allow removal of a building by an ordinance upon request of the owner.

In the case from Paragraph 1 of this Article the owner submits a proof on ownership over the building and project for removal of the building.

The project of removal of the building is subject to revision, in line with provisions of this Law, if the way of removal has influence on jeopardizing the life and health of people, neighboring facilities and traffic security.

## **VII SUPERVISION**

### **Performing supervision**

#### **Article 138**

Supervision over the implementation of this Law and other regulations in the field of spatial development and building construction shall be performed by the Ministry and the body of local government, i.e. local self-government.

### **Inspection supervision**

#### **Article 139**

Inspection supervision tasks in the field of spatial development and building construction, within defined competences, shall be performed by the Ministry and local administration, in line with law.

Inspection supervision tasks in the field of building construction shall be also performed by technical inspections in line with special regulations.

## **1. Inspection supervision in the field of spatial development**

### **Competence**

#### **Article 140**

The Ministry shall perform inspection supervision in the field of spatial development, through inspector for urbanism and inspector for spatial protection.

### **Authorization of the inspector for urbanism**

#### **Article 141**

The inspector for urbanism performs inspection supervision in relation to all planning documents, buildings from Articles 88 Paragraphs 1 and 4 and 112 of this Law.

The inspector for urbanism is obliged to inspect, specifically:

- 1) Whether the planning document is elaborated in line with this Law;
- 2) Whether the planning document has been adopted in line with this Law;
- 3) Whether the company i.e. foreign legal entity fulfils requirements for elaboration of planning document defined by this Law;
- 4) Whether the land parcelling has been transferred to terrain by the administration body in charge of the cadastral affairs in line with existing planning document;
- 5) Whether the building permit has been issued in line with planning document i.e. provided urban-technical requirements;
- 6) whether the building and regulatory lines i.e. the levelling elevation peaks have been transferred to the ground on the basis of the planning document, i.e. urban technical requirements, data from building permit and building design;
- 7) whether the approval and urban technical requirements for placement of a building of temporary character have been adopted in line with the plan of temporary building and defined requirements

### **Administrative measures and actions of the inspector for urbanism**

#### **Article 142**

After determining that the Law or another regulation has been violated, the inspector for urbanism is obliged to:

- 1) warn the body in charge of making decision on elaboration of planning document, if determines that the planning document is being elaborated contrary to this Law, i.e. to start the procedure for evaluation of the validity of that decision;
- 2) prohibit elaboration of the planning document if determines that a company , i.e. foreign legal entity does not fulfil requirements for elaboration of planning documents, defined by this Law;
- 3) propose to administration body revoking license from a company which does not fulfil requirements for elaboration of planning documents defined by this Law;

- 4) warn body in charge of adoption of a planning document that that document is not adopted in line with the Law;
- 5) propose to the Ministry initiation of procedure for evaluation of validity of a planning document, if determines that it has not been adopted in line with the Law;
- 6) propose to the administration body to annul building permit issued contrary to planning document;
- 7) submit request for initiation of delictual procedure against the responsible official and manager in the administration body, if determines that the building permit has been issued contrary to the planning document.
- 8) Order removal of buildings placed contrary to Article 113 of this Law.

### **Authorizations of the inspector for spatial protection**

#### **Article 143**

The inspector for spatial protection checks if for construction of the building from Articles 22, 23 and 24 of this Law a building permit has been issued.

### **Administrative measures and actions of the Inspector for spatial protection**

#### **Article 144**

The inspector for spatial protection is authorized and obliged to order demolition of a building when determines that construction has been performed without a building permit.

## **2. Inspection supervision in the field of building construction**

#### **Article 145**

The Ministry shall perform inspection supervision in the field of building construction over the inspector for construction.

### **Authorizations of the inspector for construction**

#### **Article 146**

The Inspector for construction performs inspection supervision regarding the buildings from Article 88 Paragraphs 1 and 4 of this Law.

The inspector for construction is obliged to check, specifically:

- 1) whether the investor has started preparation works for building construction in line with this Law (article 101);
- 2) whether the investor has notified initiation of building construction in line with the article 102 of this Law

- 3) whether the construction of a building has been started in line with revised building design;
- 4) whether the revised building design has been elaborated in line with preliminary design for which the building permit has been issued;
- 5) whether the requirements for construction of a building, i.e. performing of certain works on the building from Articles 103, 104 and 111 of this Law have been fulfilled;
- 7) whether there is entire documentation on the construction site in line with the Article 108;
- 8) whether the building construction has been carried out in line with regulations for building construction and valid regulations on technical measures, norms and standards in the field of construction;
- 9) whether construction materials and prefabricated elements which are used, are in line with regulations and standards, and whether the contractor and investor have obtained necessary attest for them, i.e. whether they perform defined examination of materials and elements;
- 10) whether the competent body has issued an occupancy permit for constructed building, i.e. performed works;
- 11) whether the existing building, because of physical deterioration or other causes, represents danger for lives of people, traffic security, neighbouring buildings and surrounding.

## **Administrative measures and actions**

### **Article 147**

When determines that the law or another regulation has been violated, the inspector for construction is obliged to:

**1) prohibit building construction and order closure of construction site if the construction of a building is not performed in line with the law and regulations on technical measures, norms and standards in the field of construction.**

Administrative measure from Paragraph 1 Point 1 of this Article is carried out by sealing. Before sealing the inspector shall place on a visible spot a note with following text: „closed by the order of the inspector for construction“.

**2) order demolition, i.e. removal of a building and return of the land into previous state, if:**

- the building construction is performed despite of the prohibition from point 1 of this article;
- determines lacks at construction of a building which represent danger for stability of the building, security of people etc., and which may not be removed.

**3) Prohibit use of a building** for which occupancy permit has not been issued.

- 4) **Order removal of a temporary buildings**, which have not been removed by investor within the deadline of 30 days from the day of termination of works;
- 5) **Order demolition i.e. removal of a building** which represents danger for lives of people, traffic safety, neighbouring buildings and surrounding because of deterioration or other reasons, unless the building has been proclaimed as monument of culture;
- 6) **Propose to the administration body** to annul occupancy permit issued contrary to this Law;
- 7) **Temporary prohibit performance of activities** if the company does not fulfil requirements from Articles 103 and 104 and 111 of this Law;

## VIII PENALTY PROVISIONS

### Offence by investor

#### Article 148

A fine in the amount of 300 minimal incomes in Montenegro shall be imposed to a company, i.e. foreign legal entity being investor for the offence if it:

- 1) does not provide conditions for access and movement of disabled persons in the building (article 69);
- 2) does not nominate a reviser of preliminary and building design (Articles 83 Paragraph 3 and 86);
- 3) does not submit for repeated revision preliminary and building design, if there is a change in technical regulations before the submission of the request for issuing building permit (article 84);
- 4) does not place a note on the construction site with data on issued building permit (article 96);
- 5) does not submit notification to the competent body regarding the works which are not considered to be reconstruction within a defined deadline (article 100);
- 6) performs preparation works without building permit or does not notify initiation of preparation works to the competent inspection body (Article 101 Paragraph 1 and 3);
- 7) does not notify initiation of works and finalization of foundation construction within the defined deadline before initiation of building construction ( Articles 102 Paragraph 2 and 107 Paragraph 1);
- 8) does not provide marking of location, building lines, leveling and construction lines, i.e. placing of note that it is a monument of nature before initiation of construction (Article 105, Paragraphs 1,2 and 3);
- 9) does not remove, without postponing, lacks in technical documentation (Article 107 Paragraph 4);
- 10) does not provide professional supervision during construction (Article 111 Paragraph 1);
- 11) starts to use a building before obtaining occupancy permit (Article 67 Paragraph 1);

- 12) does not submit request for repeated technical inspection after removal of determined lacks ( Article 123);
- 13) does not inform the competent inspector on results of monitoring ground and building behavior and environmental impact and undertaken measures (article 125).

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible person in the company, i.e. foreign legal entity for the offence from Paragraph 1 of this Article.

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to an investor being natural person for the offence from Paragraph 1 Point 3,5, and 10 of this Article.

### **Offence by the person elaborating technical documentation**

#### **Article 149**

A fine in the amount of 300 minimal incomes in Montenegro shall be imposed to a company, i.e. foreign legal entity elaborating technical documentation, if:

- 1) elaborates technical documentation contrary to the Articles 72 and 74 Paragraph 2 and 3 of this Law or contrary to the principles of building construction;
- 2) does not fulfil requirements from Articles 71 and 81 of this Law;
- 3) technical documentation and its accompanying parts, i.e. projects are not signed by chief designer and responsible designer (Article 82 Paragraph 5);
- 4) does not remove, without postponing, lacks in the building design (Article 107 Paragraph 4).

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible person in the company, i.e. foreign legal entity for the offence from Paragraph 1 of this Article.

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to chief designer and responsible designer for the offence from Paragraph 1 Point 3 and 4 of this Article.

### **Offence by chief designer and responsible designer**

#### **Article 150**

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a chief designer and responsible designer for offence if he/she manages elaboration of technical documentation, but does not fulfil requirements from Article 82 Paragraph 6 of this Law.

### **Offence by contractor**

#### **Article 151**

A fine in the amount of 300 minimal incomes in Montenegro shall be imposed to a contractor being a company, i.e. foreign legal entity that constructs a building i.e. performs certain works at building construction, for offence if it:

- 1) constructs a building, i.e. performs works contrary to standards, technical norms and norms of quality valid for certain types of works, installations and equipment or contrary to the principles of building construction, i.e. uses construction material, products, devices, plants and equipment which do not fulfil specified requirements (Articles 68 and 72);

- 2) does not fulfil requirements for construction, i.e. performing of certain works from Article 103 of this Law;
- 3) does not specify chief engineer for managing building construction (Article 104 Point 2);
- 4) does not organize construction site in a way which enables access to location, undisturbed traffic and environmental protection during the period of construction (Article 106 Paragraph 1 Point 2);
- 5) does not provide security of a building, persons on the construction site and surrounding (Article 106 Paragraph 1 Point 3));
- 6) does not provide a proof on quality of performed works, i.e. used material, installations and equipment issued by authorized organization (Article 106 Paragraph 1 Point4);
- 7) does not keep building log, building record and inspection record (Article 106 Paragraph 1 Point 6);
- 8) does not provide security of building and surrounding in case of discontinuance of works (Article 106 Paragraph 1 Point 8);
- 9) does not inform the competent body on initiation of works as well as on finalization of foundation construction within specified deadline (Article 107 Paragraph 1)
- 10) does not warn in written an investor or a company that elaborated the project on lacks in technical documentation (Article 107 Paragraph 3);
- 11) continues works before obtaining certificate on regularity of foundation (Article 107);
- 12) does not stop immediately works in the case from Article 107 Paragraph 5) of this Law;
- 13) does not inform in written the competent body in case of finding archaeological findings, fossils, active landslides, underground waters and similar (Article 107 Paragraph 6);
- 14) does not have building documentation on the construction site (Article 108).

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible person in a company i.e. foreign legal entity that constructs a building, i.e. performs works, for offence from Paragraph 1 of this Article.

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a chief engineer in a company, i.e. foreign legal entity, who manages building construction, i.e. performs works for offence from Paragraph 1 Points 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of this Article.

A fine in the amount of one half up to 20 minimal incomes in Montenegro shall be imposed to a natural person for offence from Paragraph 1 Points 3,4,8,10,12 and 13 of this Article.

### **Offence by reviser**

#### **Article 152**

A fine in the amount of 300 minimal incomes in Montenegro shall be imposed to a company, i.e. a foreign legal entity that carries out revision of preliminary and building design if it:

- 1) does not fulfil specified requirements ( Article 85);
- 2) Does not verify Report on revision and preliminary and building design in a specified manner(Article 87);
- 3) provides false and untrue statements in the report on performed revision and confirms its harmonization contrary to Articles 83,84, 86 and 87 Paragraph 2 of this Law.

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible person in a company, i.e. foreign legal entity, who performs revision of building design with details on execution of work, for offence form Paragraph 1 of this Article.

### **Offence by natural person who performs revision**

### **Article 153**

A fine in the amount of 20 minimal incomes shall be imposed for offence to a natural person who performs revision but does not fulfil requirements from Article 82 Paragraph 6 of this Law.

### **Offence by expert supervisor**

#### **Article 154**

A fine in the amount of 300 minimal incomes in Montenegro shall be imposed for offence to a company performing expert supervision during building construction if it:

- 1) Does not fulfill requirements defined by Article 111 Paragraph 2 of this Law;
- 2) Does not inform investor without postponing on lacks in technical documentation, building construction which is contrary to technical documentation, regulations, standards, norms of quality (Article 111 Paragraph 5).

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible person in a company who performs expert supervision during building construction for offence from Paragraph 1 of this Article.

A fine in the amount of one half up to 20 minimal incomes in Montenegro shall be imposed to a natural person for offence from Paragraph 1 of this Article.

### **Offence by technical inspection performer**

#### **Article 155**

A fine in the amount of 300 minimal incomes in Montenegro shall be imposed for offence to a company, i.e. foreign legal entity that performs technical check of a building if it:

- 1) proposes in the report on performed technical check the use of building which has not been constructed in line with building permit and building design and does not fulfil requirements defined by this Law, regulations, standards, technical norms and norms of quality for certain types of work, material and equipment (Article 119);
- 2) does not fulfil requirements defined by the Article 120 Paragraph 1 of this Law;
- 3) does not submit report on technical check to the competent body within defined deadline (Article 120 Paragraph 4);
- 4) does not make the report on performed technical check in line with the Article 121 of this Law.

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible person in a company, i.e. foreign legal entity that performs technical check of a building for offence from Paragraph 1 of this Article.

A fine in the amount of one half up to 20 minimal incomes in Montenegro shall be imposed to a natural person for offence from Paragraph 1 of this Article.

### **Offence by responsible official and manager**

#### **Article 156**

A fine in the amount of 20 minimal incomes in Montenegro shall be imposed to a responsible official and manager if he/she:

- 1) Does not provide keeping of documentation basis on space from Article 14 Paragraph 1 of this Law;
- 2) Does not submit data from the records from Articles 14 Paragraph 4 and 40 of this Law;

- 3) Does not submit report on spatial development condition, i.e. decision on elaboration of planning document with terms of reference (Article 15 Paragraph 3 and 33 Paragraph 5);
- 4) Does not publish decision on elaboration of a planning document in a way from Article 34 of this Law;
- 5) does not enable insight in the report on public hearing and performed expert assessment of a planning document to interested persons (Article 45);
- 6) has issued urban technical requirements contrary to the provisions of this Law (Article 60),
- 7) has issued building permit contrary to the provisions of this Law (Articles 90 and 91);
- 8) verifies technical documentation which has been elaborated contrary to urban-technical requirements (Article 90 Paragraph 4);
- 9) does not publish building license and request for issuing occupancy permit and other administrative and other acts on the site (Articles 91 Paragraph 5, 117 Paragraph 5 and 128);
- 10) has issued occupancy permit contrary to the provisions of this Law (Articles 118 and 122);
- 11) does not adapt buildings for public and general use in line with the Article 69 Paragraph 1 of this Law within a deadline defined by the Article 175 of this Law.

## **IX TRANSITIONAL AND FINAL PROVISIONS**

### **Elaboration and adoption of already initiated planning document**

#### **Article 157**

Elaboration and adoption of a planning document that commenced prior to the coming into effect of this Law shall be continued in conformity with the regulations in force at the time of rendering the decision on the elaboration of a planning document.

Elaboration of the report on state of spatial development and program of spatial development commenced prior to the coming into effect of this Law shall continue in conformity with the provisions of this Law.

### **Harmonization of local planning documents**

#### **Article 158**

Competent bodies of local self-government is obliged to harmonize local planning documents adopted before coming into effect of this Law, with this Law, Spatial Plan of Montenegro and state planning documents adopted on the basis of this Law, within a deadline of three years from the day of coming into effect of this Law.

### **Deadline for adoption of a local planning document**

#### **Article 159**

Competent bodies of local self-government is obliged to adopt local planning documents which adoption is mandatory according to this Law and which have not been adopted till the day of coming into effect of this Law, within a deadline of three years from the day of coming into effect of this Law.

**Submission of local planning documents****Article 160**

A body of local self-government shall be obliged to submit local planning documents with urban-technical requirements for buildings from Article 88 Paragraph 1 and 4 of this Law, to the administration body within a deadline of three months from the day of coming into effect of this Law.

**Deadline for harmonizing business activities****Article 161**

A company performing activity, for which special conditions are defined by this Law, is obliged to harmonize its business activities with provisions of this Law within a deadline of six months from the day of coming into effect of this Law.

**Site for urban-technical requirements****Article 162**

Administration body, i.e. body of local government is obliged to establish, within a deadline of six months from the day of coming into effect of this Law, a site on which urban-technical requirements from planning documents adopted in line with this Law will be available to interested persons.

**Adaptation of a building for access and moving of disabled people****Article 163**

Buildings for public use must be adapted to requirements from article 69 paragraph 1 of this Law within a deadline of five years from the day of coming into effect of this Law.

**Obtaining occupancy permit****Article 164**

Investor, i.e. owner of a building constructed on the basis of a building permit, but which has no occupancy permit, is obliged to obtain an occupancy permit within a period of one year from the day of coming into effect of this Law.

**Acquired rights****Article 165**

Persons who have been authorized to work on elaboration of planning documents, i.e. building construction shall be considered to meet the requirements for performing that work according to provisions of this Law, as well.

Persons who have passed professional exam and thereby had their expertise for performing the work specified by this Law checked in accordance with regulations in force at the time of testing, shall be considered to meet the requirements for performing that work according to provisions of this Law, as well

### **Deadline for adoption of regulations**

#### **Article 166**

Regulations based on authorizations from this Law shall be passed within a deadline of 6 months from the day of coming into effect of this Law.

Until regulations from Paragraph 1 of this Article are passed, regulations in force prior to coming into effect of this Law shall be implemented.

### **Initiated procedures**

#### **Article 167**

Procedures initiated prior to coming into effect of this Law in which no valid ordinance has been made shall be finished in accordance with provisions of the law in force at the time of initiating procedures.

Provision in Paragraph 1 of this Article also refers to procedures of issuing licenses and authorizations.

### **Organization and work of the Chamber**

#### **Article 168**

Organization and work of the Chamber shall be harmonized with provisions of this Law within a deadline of three months from coming into effect of this Law.

### **Suspending of earlier laws**

#### **Article 169**

On the day of coming into effect of this Law The Law on Spatial Planning and Development ("Official Gazette of the RMN", No. 28/05), The Law on Construction Land ("Official gazette of the RMN", No. 55/00), The Law on Building Construction ("Official Gazette of the RMN, No. 55/00) and The Law on Urban and Construction Inspection ("Official Gazette of the RMN", No. 56/92) shall be suspended.

**Coming into effect****Article 170**

This Law shall come into effect on the eight day from the day of publishing in the „Official Gazette of Montenegro“.