



## The Building Code, as amended

### ■ New Building Code

As of January 1, 2007 the new (amended) Building Code, i.e. Act No. 183/2006 Coll., on Urban Planning (Zoning) and Building Code (The Building Code) has been amended and enacted. This is a legal regulation containing a number of changes and new institutes that are contrary to the previous version. The aim of the new Code includes, but is not limited to, the simplification and acceleration of the preparatory work necessary for building, as well as urban planning (zoning) permit proceedings. Like the original Building Code, the new (amended) version of the Building Code also depends on a concept of urban planning (zoning) and building permit proceedings. What is new, however, is that the institute of compulsory purchase (expropriation) has been deleted in the amended Building Code version. This has now become the subject of a separate act, i.e. Act No. 184/2006 Coll., on Ownership Expropriation or Limitation of Title Right to a Land or Structure (The Compulsory Purchase Act).

### ■ Key Changes to Urban Planning (Zoning)

Urban planning (zoning) includes, but is not limited to, the review of a situation in an area, planning the use of such area and any construction therein, while taking into consideration conditions applicable to the respective area. As of January 1, 2007, the procedures and instruments of the urban planning (zoning) have changed, including, but not limited to, the following:

- zoning permit (územní rozhodnutí) and zoning approval (územní souhlas) – a zoning permit issued upon the request of a builder is the fundamental prerequisite for putting down structures or facilities, changing the use of the area, changing structures, dividing or consolidating pieces of lands or deciding on how to use protected zones, which might be substituted by the so-called “zoning approval” as set forth by the amended Building Code, all this under conditions set out in the Act and upon notification of the intent to the competent building authority (stavební úřad);
- simplified zoning permit proceedings – a zoning permit may now be issued in the so-called “simplified zoning permit proceedings” if conditions set forth by the Act are complied with. This means that the subject of the decision is an area capable of being built upon, or an already built-up area, and the application is evidenced through statements made by the relevant bodies and approvals by other participants in the zoning permit proceedings;
- public law agreement – also new is the option to conclude a so-called “public law agreement” with an applicant for the issuance of a zoning permit to substitute the applicable zoning permit, if concerning the placement of a structure, a change in the use of the respective area or a change in influence of the structure to the area’s use. The approval of the relevant bodies is therefore necessary. The advantages of this procedure include, but are not limited to, speed and avoiding the option of other participants to appeal in the zoning permit proceedings;
- building closure – a building closure is no longer subject to a decision in the zoning permit proceedings, but made by a so-called “zoning measure”. Upon such zoning measure, any construction activity within a given area is limited or prohibited. The municipal council issuing such a zoning measure may grant an exception upon request;
- pre-emptive right – under the new amended Building Code, the pre-emptive right to land is held by the region or the State, according to the zoning or regulatory plan, designated for the publicly beneficial structure or measure. Such a pre-emptive right is registered in the real estate cadastre following the urban planning (zoning) or regulatory plan approval.

### ■ Key Changes to Building Rules

The Act in the area of building rules should contribute to simplification and acceleration of the issuance of building permits for structures, avoid unnecessary administrative procedures

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for the building permit proceedings and lead to more intensive control over the realization of constructions. The main changes contrary to the original Building Code version are as follows:

- approval and realization of constructions – one of the primary key changes to the building rules is the increase in the number of objects or works which can be completed without any notification or building permit. The amended Building Code basically distinguishes between three categories of structures in which the content of notification, prerequisites and attached documentation, in particular, differ based on what the structure subject to realization demands;
- building permit proceedings – the amended Building Code explicitly sets out the types of objections the participants in the building permit proceedings may claim. Any objection as to which any dispute exists among the participants shall be subject to a decision made by the building authority (stavební úřad). In case of any objections related to the civil law, the building authority shall come to its own conclusion and make a decision in the case. In addition, the building permit proceedings shall not be dismissed until a decision has been made on issues related to the civil law;
- accelerated building permit proceedings, an authorized inspector – this concerns a new procedure which should make obtaining a building permit easier and faster to the benefit of the builders. The precondition thereof shall be the issuance of a so-called “certificate by an authorized inspector,” by which the authorized inspector shall confirm and verify the project documentation and attached source paperwork, as well as the consenting and binding statements from the relevant bodies and the statements of persons which should otherwise become participants in the building permit proceedings;
- structure occupancy (use) – according to the new Building Code, occupancy (use) of the completed structure is based on the principle that the builder has the legal right to occupy (use) the structure. The structure may be occupied (used) by the builder after its completion without the necessity of any notification or obtaining the approval from the building authority.

#### ■ Summary

The Building Code, as amended, has been prepared primarily to simplify and accelerate construction preparation as well as the zoning permit proceedings. The main defect in the field of urban planning (zoning) in the old version of the Building Code was the insufficient interaction and cooperation of administrative bodies in the area of urban planning (zoning) characterized by complexity and tediousness. The amended Building Code sets forth clear conditions in this respect, e.g. terms which should speed up such procedures or make them simpler. A positive outcome is certainly also the fact that the number of structures not subject to any notification or building permit has been extended, which results in a minimization of administrative acts for the realization of structures. The main problem with the old Building Code was the quantity of different sub-statutory regulations, which caused chaos. The amended Building Code has not relinquished this tendency and still depends on the fact that within the sub-statutory regulations narrower conditions and duties are set forth. Moreover, the amended Building Code still includes to a great degree the option of the so-called “administrative consideration”. Therefore the administrative body is permitted to review in its decision-making activity a certain issue, provided that the limits of its decision-making are set out in a very broad manner. At present, it frequently happens that a decision by the administrative body is impossible to be realized despite the fact that all statutory conditions and terms for its decision have been complied with.

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