

MODEL BUILDING CODE

– MBO –

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* Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

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First Part
General provisions

§ 1
Scope of application

(1) ¹This act applies to structural facilities and building products. ²It also applies to plots and to other works and installations on which demands are made in this Act or in provisions based on this Act.

(2) ¹This law does not apply to:

1. Public transport installations, including accessories, ancillary installations and operations, other than buildings,

2. installations where these are the responsibility of the mine inspection service, with the exception of buildings,
3. (pipe)lines which supply the public with water, gas, electricity or heat, or which are used in public waste water disposal or telecommunications,
4. pipelines used for the long-distance transport of substances,
5. cranes and gantries,
6. displays at fairs and exhibitions,
7. shelves and shelving systems in buildings, insofar as they are not part of the building construction or do not have a function of development.
8. Wind turbines and parts of wind turbines for which conformity with the requirements of Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery and amending Directive 95/16/EC, OJ L 157, p. 24, as last amended by Regulation (EU) No 1243/2019 of 20 June 2019, OJ L 198, p. 241, as corrected by OJ L 076, p. 35 – Machinery Directive is demonstrated by a certificate of conformity and a CE mark.

²By way of derogation from sentence 1 number 8, §§ 6, 57 to 64, 67 to 75, 77, 79, 82 and 84 shall apply accordingly to the wind turbines mentioned therein.

§ 2 Terms

(1) ¹Structural facilities are ground-linked systems made of construction products; a connection to the ground also exists if the system rests on the ground by its own gravity or is limited to mobile use on fixed tracks, or if the system is intended to be predominantly used on fixed sites according to its intended use. ²Structural facilities are also

1. (back)fills and dug ditches,
2. storage areas, storerooms and exhibition areas,
3. sports and play areas,
4. camp and caravan sites and weekend areas,
5. leisure and amusement parks,
6. parking spaces for motor vehicles and bicycle parking spaces,
7. scaffolding,
8. accessory instruments for the structural safeguarding of building constructions in progress.

³Installations are structural systems and other works and installations within the meaning of § 1(1) sentence 2.

(2) Buildings are independently usable, covered structures that can be entered by people and are suitable or intended to protect people, animals or property.

(3) ¹Buildings are divided into the following building classes:

1. Building class 1:

a) free-standing buildings up to 7 m tall containing no more than two functional units totalling no more than 400 m² in area, and

b) free-standing buildings that are used in forestry or agriculture,

2. Building class 2:

buildings up to 7 m tall containing no more than two functional units totalling no more than 400 m² in area,

3. Building class 3:

other buildings with a height of up to 7 m,

4. Building class 4:

buildings up to 13 m tall and containing functional units not exceeding 400 m² in area for each unit,

5. Building class 5:

other buildings, including underground structures.

²Height within the meaning of sentence 1 is the dimension of the upper edge of the floor of the highest storey, in which a lounge is possible, above the ground surface on average. ³The floor areas of the usage units within the meaning of this act are the gross floor areas; in the calculation of the gross floor areas according to the first sentence, basement areas are not considered.

(4) Special structures are installations and areas of a particular type or for a particular use which satisfy one of the following conditions:

1. High-rise buildings (buildings in excess of 22 m high as per paragraph 3 sentence 2);

2. structures with a height of more than 30 m, excluding structures falling within the scope of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328, 21.12.2018, p. 82), as amended,

3. buildings with a floor area of more than 1 600 m² on the largest floor, excluding residential buildings and garages and rooms and buildings for bicycle parking,
4. sales outlets where the total surface area of the sales space and the pedestrianised shopping streets exceeds 800 m²,
5. buildings with spaces that are used for office or administrative use and have a single floor area of more than 400 m²,
6. buildings with individual rooms intended to be used by more than 100 persons,
7. Meeting places
 - a) with rooms which can accommodate more than 200 visitors in total, provided these rooms have shared fire escapes,
 - b) outdoors with performance areas and outdoor sports facilities, each with grandstands that are not temporary structures and can accommodate more than 1000 visitors in total,
8. public bars and eating establishments with space for more than 40 visitors when located in buildings, or space for more than 1 000 visitors when located outdoors, hotel and catering establishments with more than 12 beds, and amusement centres in excess of 150 m² in area,
9. buildings with functional units for the purposes of caring for or looking after individuals in need of care or who have a disability, whose ability to rescue themselves is limited, if these functional units
 - a) are intended individually for more than 6 people or
 - b) are intended for persons in need of round the clock care; or
 - c) share a common fire escape and are not intended for more than 12 persons in total,
10. hospitals,
11. homes,
12. facilities for the accommodation of people and day-care centres for children, people with disabilities and the elderly, excluding day-care centres including day-care¹ for no more than ten children,
13. Schools, universities and similar institutions,
14. prisons and structural works for implementing disciplinary judgements,
15. caravan sites and weekend areas,

¹ Where applicable, under state law.

16. leisure and amusement parks,
17. temporary structures, insofar as they require an implementation permit,
18. shelf storage where the height to the upper edge of the stored product exceeds 7.50 m,
19. structural works used in connection with the handling or storage of materials where there is a risk of explosion or an increased fire risk,
20. installations and areas not included under numbers 1 to 19, the nature or use of which entails similar risks.

(5) Accommodation areas are areas designed or suitable for housing persons on more than just a temporary basis.

(6) ¹Floors are above ground floors when their ceiling top edges on average protrude more than 1.40 m beyond the terrain surface; otherwise they're basement floors. ²Voids between the topmost ceiling and the roof covering which cannot be used for accommodation purposes are not regarded as floors.

(7) ¹Parking spaces are areas where vehicles can be parked off public traffic areas. ²Garages are buildings or parts of buildings for parking motor vehicles. ³Showrooms, along with sales, production and storage areas for vehicles, are not regarded as parking spaces or garages.

(8) Furnaces are fixed works or installations that are used in or around buildings and which are designed to generate heat by means of combustion.

(9) Structural works are designated as being barrier-free if they can be accessed and used by people with disabilities in the normal manner, without particular difficulty and, in principle, without any help from third parties.

(10) Construction products are

1. Products, building materials, components and installations and kits referred to in Article 2 number 2 of Regulation (EU) 305/2011, which are manufactured to be permanently installed in construction installations;
2. installations prefabricated from products, building materials and components, as well as kits in accordance with Article 2 number 2 of Regulation (EU) 305/2011, that are manufactured to be fixed to the ground;

and the use of which may affect the requirements under § 3 sentence 1.

(11) Construction is the joining of construction products to structural works or to parts thereof.

§ 3

General requirements

¹Installations must be arranged, erected, modified and maintained in such a way that public safety and order, in particular, human life, health and natural resources, are not endangered. the basic requirements for structures according to Annex I of Regulation (EU) 305/2011 must be taken into account. ²This also applies to the removal of installations and their change of use.

Second Part

The plot and its development

§ 4

Development of plots with buildings

(1) Buildings may only be erected if the plot is situated on a passable public traffic area and is suitably wide, or if it has safe vehicular access under public law to such a passable public traffic area.

(2) A building on several plots of land is only permitted if it is ensured under public law that no circumstances can arise that contradict the provisions of this Act or are based on this Act.

§ 5

Entrances and approach roads to plots

(1) ¹A straight access or passage to the rear buildings must be created from public traffic areas, in particular for the fire brigade, access to other buildings can be created if the second escape route from these buildings leads via rescue equipment from the fire brigade. ²To buildings where the upper edge of the parapet of windows or points intended for access by ladder is more than 8 m above the surface of the ground, an approach road or thoroughfare for use by vehicles, instead of by pedestrians, must be established in the instances under sentence 1. ³If the fire crew need to use turntable ladders for rescue purposes, provision must be made for the areas required to enable these to be set up and moved. ⁴In the case of buildings that are more than 50 m away from a public traffic area, in whole or in part, access roads or thoroughfares in accordance with sentence 2 to the parts of the property and movement areas in front of and behind the buildings must be created if they are required for reasons of fire brigade deployment.

(2) ¹Access roads and passages, installation areas and movement areas must be sufficiently fastened and load-bearing for fire-fighting vehicles; they shall be marked as such and shall be kept permanently free; the marking of access roads must be visible from the public transport area. ²Vehicles may not be parked on the areas in accordance with sentence 1.

§ 6

Distance spaces, gaps

(1) ¹In front of the outer walls of buildings, distance spaces of above-ground buildings must be kept free. ²Sentence 1 shall apply accordingly to other installations that produce effects such as buildings, compared to buildings and land boundaries.

³Sentence 2 shall not apply to outdoor antennas, including masts with a maximum width of 1.50 m and a total height of not more than 50 m compared to other outdoor plots. ⁴A clearance is not required in front of external walls

1. erected at plot boundaries if, in accordance with planning-law regulations, a structure must be constructed at the boundary or is permitted to be constructed there, or
2. if, in keeping with the surrounding development, different gaps between buildings are permitted within the meaning of § 34(1) sentence 1 of the BauGB (Building Code).

(2) ¹Distance spaces and gaps pursuant to § 30(2) number 1 and § 32(2) must be located on the plot itself. ²They may also be located on public transport, green and water areas, but only up to their middle. ³Distance areas and distances within the meaning of sentence 1 may extend in whole or in part to other properties if it is guaranteed under public law that they will not be built over; Distance areas may not be included in the distance areas required on these properties.

(3) The distance areas shall not be covered; this does not apply to

1. external walls joined at an angle in excess of 75°,
2. external walls to a garden courtyard hidden from view in residential buildings of building classes 1 and 2,
3. buildings and other structural works that are permitted in the distance spaces.

(4) ¹The depth of the distance area is measured according to the wall height; it is measured perpendicular to the wall. ²Wall height is the measure from the terrain surface to the intersection of the wall with the roofing or to the upper end of the wall. ³In the case of roofs with an incline of less than 70 degrees, one-third of their height is added to the height of the wall. ⁴Otherwise, the roof height is added in full. ⁵Sentences 1 to 4 apply accordingly to roof superstructures. ⁶The resulting measurement is H.

(5) ¹The depth of the distance spaces is 0.4 H, at least 3 m.²In commercial and industrial areas, a depth of 0.2 H (at least 3 m) suffices.³A distance space depth of 3 m is sufficient in front of the external walls of residential buildings in building classes 1 and 2 which do not have more than three storeys above ground.⁴If external walls are permitted or prescribed by a town planning regulation, or a regulation in accordance with § 86, in front of which distance spaces of a greater or lesser depth than those under sentences 1 to 3 should be situated, sentences 1 to 3 shall not apply unless the regulation stipulates the validity of these provisions.

(6) When measuring the distance areas, there is no consideration

1. for components protruding in front of the outer wall, such as cornices and roof overhangs,
2. balconies, if
 - a) they do not take up more than a third of the width of the respective outer

wall,

- b) they do not protrude more than 1.50 m in front of this external wall, and
 - c) they are situated at least 2 m from the adjacent boundary,
3. for buildings on the property line, the side walls of porches and roof superstructures, even if they are not erected on the property line.

(7) ¹When calculating the distance spaces, measures associated with energy conservation and solar installations in existing buildings shall not be taken into consideration, irrespective of whether these measures satisfy the requirements laid down in paragraphs 2 to 6, if they

1. are not more than 0.25 m thick and
2. remain at least 2.50 m from the adjacent boundary.

²§ 67 Paragraph 1 sentence 1 shall remain unaffected.

(8) ¹Distance areas are allowed even in the case of free-standing structures that are associated to the main house, such as

1. garages and structures not containing accommodation areas and furnaces with a mean wall height of up to 3 m and a total length of 9 m for each plot boundary,
2. free-standing solar installations up to 3 m high and 9 m long for each plot boundary,
3. retaining walls and closed enclosures in commercial and industrial areas, outside these building areas with a height of up to 2 m.

²The length of the development as per points 1 and 2 which does not observe the distance space depth in relation to the plot boundaries may not exceed 15 m in total on a particular plot.

§ 7 Division of plots

(1) The dividing up of a plot that has been developed or approved for development may not create conditions which contradict the provisions of this Act or regulations based thereon.

(2) If, in the case of a division pursuant to paragraph 1, there are deviations from the provisions of this Act or on the basis of this Act, § 67 shall apply accordingly.

§ 8 Areas of the developed plots that are not built over; children's playgrounds

(1) ¹The areas of the developed plots that have not had buildings or similar

structural works erected on them must

1. be water absorbent to be left or manufactured; and
2. be grassed over or things planted,

provided this does not contravene the requirements in terms of the areas being put to an alternative, permissible use. ²Sentence 1 shall not apply to the extent that development plans or other statutes make determinations on the non-surfaced areas.

(2) ¹When erecting buildings containing more than three dwellings, a sufficiently large playground for small children must be established on the building plot or on another suitable plot situated in the immediate vicinity, the permanent use of which to this end must be ensured under public law. ²This does not apply if, in the immediate vicinity, a communal installation or an alternative playground which can be used by children is established, or already exists, or a playground of this type is not required given the nature and position of the dwelling. ³As regards existing structures pursuant to sentence 1, the establishment of playgrounds for small children can be stipulated if the health and protection of the children necessitate this.

Third Part Structural facilities

Section One Design

§ 9 Design

¹Structural installations shall be designed according to shape, scale, ratio of the construction masses and components to each other, material and colour in such a way that they are not disfigured. ²Structural works may not spoil the streetscape or urban and rural landscape.

§ 10 Outdoor advertising equipment, vending machines

(1) ¹Outside advertising boards (advertising facilities) are all fixed installations which serve as an advertisement or recommendation or which give notice of a trade or occupation and which can be seen from the public highway. ²This includes in particular signs, inscriptions, paintings, illuminated advertising, display cases as well as pillars, panels and surfaces intended for notices and sheet advertisements or illuminated advertising.

(2) ¹As regards advertising facilities that are structural works, the requirements pertaining to structural works as laid down in this Act apply. ²Advertising installations that are not structural installations may not disfigure structural installations or the street, local and landscape image or endanger the safety and ease of traffic. ³The disruptive accumulation of advertising is not permitted.

(3) ¹Advertising facilities are not permitted outside the parts of the locality that have

been developed in this connection. ²The exceptions to this are as follows, unless otherwise provided for in other regulations:

1. Advertising facilities at the site of the service,
2. individual (road) signs situated next to highways and road junctions which indicate enterprises located off main thoroughfares, or places that are off the beaten track, for the benefit of traffic,
3. signs indicating the owner and nature of commercial enterprises (information signs) if they are combined on a board before main thoroughfares,
4. Advertising facilities on and at aerodromes, sports facilities and meeting venues, insofar as they do not affect the free landscape,
5. advertising facilities at exhibition sites and centres.

(4) ¹In small settlement areas, village areas, pure and general residential areas, advertising systems are only permitted at the place of performance and systems for official notifications and for informing the population about church, cultural, political, sporting and similar events; the free space of these installations may also be used for other advertising purposes. ²In purely residential areas, advertising may only be carried out with information signs at the place of performance.

(5) Paragraphs 1 to 3 apply accordingly to vending machines.

(6) The provisions of this Act shall not apply to

1. placards and electric-sign advertising on pillars, notice boards and surfaces approved for this purpose,
2. advertising material at newspaper and magazine outlets,
3. displays and decorations in windows and display cases,
4. election advertising for the duration of an election campaign.

Section Two

General requirements pertaining to the execution of construction work

§ 11

Construction site

(1) Construction sites shall be set up in such a way that construction facilities can be properly constructed, modified or eliminated and that hazards or avoidable nuisances do not arise.

(2) ¹As regards construction work where persons not involved can be exposed to danger, the danger zone must be marked off or indicated by warning signs. ²If necessary, sites must be marked off by means of a site fence, provided with safety devices to protect against falling objects, and lit.

(3) When carrying out construction projects that do not require a specific procedure, the client must permanently attach a sign on the construction site, which must contain the designation of the construction project and the names and addresses of the architect, the site manager and the contractor for the shell construction, and be visible from the public traffic area.

(4) Trees, hedges and other shrubbery that is to be preserved on the basis of other legal provisions must be protected while the building work is in progress.

§ 12 Stability

(1) ¹Each structural work must be stable as a whole and in terms of its individual parts. ²The stability of other structural works and the bearing capacity of the subsoil of adjacent plots may not be jeopardised.

(2) The use of shared building components for several structural works is permitted if it can be ensured under public law that those shared building components will remain in place in the event that one of the structural works is removed.

§ 13 Protection against detrimental influences

¹Structural works must be arranged in such a way, be in such condition and be fit for their purpose such that no dangers or unreasonable irritations ensue as a result of water, moisture, vegetable and animal parasites or as a result of other chemical, physical or biological influences. ²Building plots must be suitable for structural installations.

§ 14 Fire protection

Structural works must be arranged, erected, modified and maintained in such a way that prevents fire starting as well as the spreading of fire and smoke (fire spread) and which, in the event of a fire, facilitate the rescuing of people and animals and effective fire-fighting operations.

§ 15 Thermal, sound, vibration protection

(1) Buildings must have heat insulation in keeping with their use and climatic conditions.

(2) ¹Buildings must have noise insulation appropriate to their use. ²Noises emanating from fixed installations in structural works or which are situated on building plots must be curbed in such a way that no dangers or unreasonable irritations ensue.

(3) Vibrations or judders emanating from fixed installations in structural works or which are situated on building plots must be curbed in such a way that no dangers or unreasonable irritations ensue.

§ 16

Road safety

- (1) Structural facilities and the non-built-up areas of built-up land that are used for traffic must be safe for traffic.
- (2) The safety and ease of movement of public transport may not be jeopardised by structural works or through the use thereof.

§ 16a

Construction types

(1) Designs may only be used if, in respect of their use, structural works, when maintained properly, satisfy the requirements laid down in this Act, or which are based on this Act, for an appropriate period of time which is in keeping with their purpose and are fit for their purpose.

(2) ¹Designs which deviate significantly from the Technical Building Regulations as per § 85a(2) number 2 or 3 letter a, or in respect of which the generally recognised codes of practice do not apply (non-regulated designs) may only be used in the erection, modification and maintenance of structural works if

1. a general type-approval certificate issued by the Deutsches Institut für Bautechnik or
2. a project-specific type-approval certificate issued by the supreme building supervisory authority

has been issued in relation to them. ²§ 18 Paragraphs 2 to 7 apply accordingly.

(3) ¹Instead of a general design approval, a general building supervisory test certificate for designs is sufficient, if the design can be assessed by generally recognised testing procedures. ²In the administrative regulations under § 85a, these designs are notified with a statement of the relevant technical rules. § 19 Paragraph 2 shall apply accordingly.

(4) If no risks pursuant to § 3 sentence 1 are to be anticipated, in a particular case, or for clearly defined cases, the supreme building supervisory authority can generally stipulate that design approval in a particular case is not required.

(5) Types of construction require confirmation of their compliance with the Technical Building Regulations according to § 85a (2), the general type approvals, the general building inspection certificates for types of construction or the project-related type approvals; a deviation that is not significant is also deemed to be a match. § 21 Paragraph 2 shall apply accordingly to the user of the design.

(6) ¹In the case of designs, the use of which is dependent on an exceptional level of expertise and experience on the part of the persons entrusted with the task or on specialised equipment, it can be stipulated in the design approval or by means of a statutory instrument from the supreme building supervisory authority, that the user has such expertise and equipment at his or her disposal and shall furnish proof of this to an

inspection body in accordance with § 24 sentence 1 number 6. ²The statutory instrument can stipulate minimum requirements in relation to training, qualifications (to be established in the form of a test) and the training centres, including the preconditions for approval.

(7) For designs that require an exceptional level of expertise and experience, the design approval or statutory instrument from the supreme building supervisory authority may require supervision of these activities by a supervisory body in accordance with § 24 sentence 1 number 5.

Section Three Construction products

§ 16b General requirements for the use of construction products

(1) Construction products may only be used if, in respect of their use, structural works, when maintained properly, satisfy the requirements laid down in this Act, or which are based on this Act, for an appropriate period of time which is in keeping with their purpose and are fit for their purpose.

(2) Construction products which satisfy the technical requirements specified in the regulations of other Signatory States to the Agreement of 2 May 1992 on the European Economic Area may be used provided that the required level of protection in terms of human health and safety in accordance with § 3 sentence 1 is achieved in an equally permanent manner.

§ 16c Requirements for the use of CE-marked construction products

¹A construction product bearing the CE marking may be used if the declared services comply with the requirements laid down in this Act or under this Act for such use.
²§§ 17 to 25(1) do not apply to construction products which carry the CE mark on the basis of Regulation (EU) 305/2011.

§ 17 Usability certificates

(1) A usability certificate (§§ 18 to 20) is required for a construction product if

1. there is no technical construction provision and no generally acknowledged rule of technology applies,
2. the construction product deviates significantly from a technical construction provision (§ 85a(2) number 3) or
3. a regulation in accordance with § 85(4a) provides this.

(2) A usability certificate is not required for a construction product,

1. that deviates from a generally acknowledged rule of technology or
 2. that is insignificant for the fulfilment of the requirements of this Act or on the basis of this Act.
- (3) § 85a of the Technical Building Regulations contains a non-exhaustive list of construction products that do not require usability certificates under paragraph 1.

§ 18

General building supervisory approval

(1) The Deutsche Institut für Bautechnik (German Institute for Building Technology) issues a general building supervisory approval for construction products under the preconditions of § 17(1) if their usability in terms of § 16b(1) has been proved.

(2) ¹The documents necessary for substantiating the application must be enclosed. ²If necessary, test pieces are to be made available by the applicant or are to be taken of by experts who can be appointed by the Deutsches Institut für Bautechnik, or test designs are to be produced under the supervision of the experts. ³§ 69 Paragraph 2 shall apply accordingly.

(3) As regards performing the test, the German Institute for Building Technology can specify the expert body and, as regards the samples, the office responsible for taking them and the execution time.

(4) ¹The general building supervisory approval is revocable and is issued for a certain period, generally five years. ²Approval can be granted with conditions. ³It can usually be extended by five years upon request in text form; § 73 Paragraph 2 sentence 2 shall apply accordingly.

(5) Approval is granted irrespective of the private rights of third parties.

(6) The German Institute for Building Technology publishes the general building supervisory approvals issued by it according to subject and principal content.

(7) General building authority approvals under the law of other countries also apply in the country ...

§ 19

General building inspection test certificate (Allgemeines bauaufsichtliches Prüfzeugnis)

(1) ¹Construction products that are assessed according to generally recognised test methods only require a general building test certificate instead of a general building supervisory approval. ²This is announced with the specification of the relevant technical rules in the technical building regulations according to § 85a.

(2) ¹A general building supervisory test certificate will be issued by an inspection body in accordance with § 24 sentence 1 number 1 for construction products as defined

in paragraph 1, if their usability in the sense of § 16b(1) is proved. ²§ 18 Paragraph 2, paragraphs 4 to 7 shall apply accordingly. ³The recognition authority for bodies referred to in § 24 sentence 1 number 1, § 85(4) number 2 may withdraw or revoke general building inspection certificates; §§ 48 and 49 VwVfG¹ apply.

§ 20

Proof of the usability of construction products in individual cases

¹With the approval of the highest building authority, construction products may be used in individual cases under the conditions of § 17(1) if their usability within the meaning of § 16b(1) has been demonstrated. ²If no risks pursuant to § 3 sentence 1 are to be anticipated, in a particular case, the supreme building supervisory authority can stipulate that their approval in a particular case is not required.

§ 21

Confirmation of Conformity

(1) Construction products require confirmation of their conformity with the technical building regulations according to § 85a (2), the general building authority approvals, the general building authority test certificates or the approvals in individual cases; a deviation that is not significant is also deemed to be a match.

(2) The validation of compliance is given by the manufacturer's declaration of conformity (§ 22).

(3) The manufacturer shall provide the declaration of conformity by marking the construction products with the 'Ü-Zeichen' conformity mark, with reference to their designated use.

(4) The Ü-mark must be affixed to the construction product itself, to an instruction leaflet or to its packaging or, if this causes problems, to the delivery note or an attachment thereto.

(5) Ü-marks from other federal states, countries also apply in the country... .

§ 22

Manufacturer's declaration of conformity (Übereinstimmungserklärung des Herstellers)

(1) The manufacturer may only issue a declaration of compliance if an in-house quality control inspection has guaranteed that the construction product manufactured by him or her satisfies the authoritative technical rules, the general building supervisory approval or test certificate, or the approval in a particular case.

(2) ¹In all of the following – the Technical Building Regulations in accordance with § 85a, the general building supervisory approvals, the general building supervisory test certificates or the approvals in a particular case – a test to be conducted on the construction products by an inspection body before the declaration of compliance is issued, can be stipulated if this is necessary for guaranteeing manufacture in

¹ Under state law.

accordance with regulations. ²In these cases, the inspection body shall then inspect the construction product to verify whether it satisfies the authoritative technical rules, the general building supervisory approval, the general building supervisory test certificate, or the approval in a particular case.

(3) ¹In the technical building regulations according to § 85a, in the general building authority approvals or in the approvals in individual cases, certification can be prescribed before the declaration of conformity is issued if this is necessary to prove that a construction product has been manufactured properly. ²In individual cases, the supreme building supervisory authority can permit the use of construction products without certification, if it is proven that these construction products correspond to the technical rules, approvals, test certificates or agreements under paragraph 1.

(4) Construction products that are not mass-produced only require the statement of conformity in accordance with paragraph 1, unless otherwise stated.

23 Certification

(1) A certificate of conformity shall be issued to the manufacturer by a certification body in accordance with § 24 if the construction product

1. conforms with the Technical Building Regulations in accordance with § 85a(2), the general building supervisory approval, the general building supervisory test certificate, or the approval in a particular case and
2. has been subjected to an in-house quality control inspection and an independent quality control inspection in accordance with paragraph 2.

(2) ¹The independent quality control inspection shall be conducted by monitoring bodies as per § 24. ²The inspection shall verify on a regular basis whether the construction product satisfies Technical Building Regulations in accordance with § 85a(2), the general building supervisory approval, the general building supervisory test certificate, or the approval in a particular case.

§ 24 Inspection, certification and monitoring bodies

¹The supreme building supervisory authority can recognise a natural or legal person as

1. an inspection body for issuing general building supervisory test certificates (§ 19(2)),
2. an inspection body for examining construction products prior to validation of compliance (§ 22(2)),
3. certification body (§ 23(1)),
4. monitoring body for external surveillance (§ 23(2)),
5. monitoring body for monitoring pursuant to § 16a(7) and § 25(2) or

6. inspection body for inspection pursuant to § 16a(6) and § 25(1)

if they or their employees, according to their level of training, expertise, personal reliability, impartiality and workmanship, can guarantee that these tasks are carried out in accordance with regulations under public law and if they have the necessary facilities at their disposal. ²Sentence 1 shall apply accordingly to local authorities if they are sufficiently manned with suitably trained staff and are equipped with the requisite facilities. ³The approval of inspection, certification and monitoring bodies located in other countries also applies in the country...

§ 25

Special requirements for expertise and care

(1) ¹In the case of construction products, the manufacture of which is dependent on the expertise and experience of the persons entrusted with the task or on specialised equipment, it can be stipulated in the general building supervisory approval, in the approval in a particular case, or by means of a statutory instrument from the supreme building supervisory authority, that the manufacturer has such expertise and equipment at his or her disposal and shall furnish proof of this to an inspection body in accordance with § 24 sentence 1 number 6. ²The statutory instrument can stipulate minimum requirements in relation to training, qualifications (to be established in the form of a test) and the training centres, including the preconditions for approval.

(2) In the case of construction products which, on account of their special properties or their particular designated use, require extra special care when being installed, transported, maintained or cleaned, it can be stipulated in the general building supervisory approval, in the approval in a particular case, or by means of a statutory instrument from the supreme building supervisory authority, that these activities be supervised by a monitoring body as per § 24 sentence 1 number 5, if these activities are not already covered by Regulation (EU) 305/2011.

Section Four

Fire behaviour of building materials and building components; Walls, ceilings, roofs

§ 26

General requirements pertaining to the behaviour of building materials and components in fire

(1) ¹Depending on their fire behaviour requirements, building materials are classified as being

1. non-combustible,
2. of low flammability, or
3. normally flammable.

²Construction materials that are not considered at least normally flammable (lightly flammable building materials) shall not be used; this does not apply if they are not easily flammable in connection with other building materials.

(2) ¹Depending on their fire resistivity requirements, building components are

classified as being

1. fireproof,
2. highly fire-retardant,
3. fire-retardant.

As regards load-bearing and supporting building components, fire resistivity relates to their stability in the event of a fire; as regards building components for sealing off areas, fire resistivity relates to their ability to resist fire spread. ²Components are also differentiated according to the fire behaviour of their building materials

1. into components made of non-combustible building materials,
2. building components whose load-bearing and supporting parts consist of non-combustible building materials and which, in the case of components for sealing off areas, also have a layer of non-combustible building materials running through them,
3. building components whose load-bearing and supporting parts consist of combustible building materials and which have an effective all-over fireproof cladding made up of non-combustible building materials (fire protection cladding), together with insulating material composed of non-combustible building materials, and
4. components made of flammable building materials.

³Unless otherwise provided for in this Act or in provisions based on this Act,

1. building components which have to be fireproof must at least satisfy the requirements under sentence 2 number 2, and
2. components which must be highly fire-retardant, must at least satisfy the requirements of sentence 2 number 3

. ⁴In deviation from paragraph 2, sentence 3, other components made of flammable building materials, which must be fire-resistant or highly fire-retardant, are permissible, provided that they comply with the technical building regulations in accordance with § 85a. ⁵The fourth sentence does not apply to walls pursuant to § 30(3) sentence 1 and walls pursuant to § 35(4) sentence 1 number 1.

§ 27 Load-bearing walls, supports

(1) ¹Load-bearing and stiffening walls and supports must be stable for a sufficient length of time in the event of a fire. ²They must be

1. fireproof in building class 5 structures,
2. highly fire-retardant in building class 4 structures, and

3. fire-retardant in building class 2 and 3 structures.

³Sentence 2 applies

1. for floors in the attic only if there are still common rooms available; § 29 Paragraph 4 shall remain in effect,
 2. does not apply to balconies, with the exception of open passageways that serve as essential corridors.
- (2) In the basement storey, load-bearing and supporting walls and supports
1. must be fire resistant in building class 3 to 5 structures, and
 2. fire-retardant in building class 1 and 2 structures.

§ 28 Outer walls

(1) External walls and parts thereof, such as parapets and aprons, must be designed in such a way that fire spread to and in these building components is restricted for a sufficiently long period of time.

(2) ¹Non-load-bearing exterior walls and non-load-bearing parts of load-bearing exterior walls must be made of non-combustible building materials; they are permitted from combustible building materials if they are fire-retardant as space-enclosing components. ²Sentence 1 does not apply to

1. doors and windows,
2. joint seals, and
3. combustible insulation materials in non-combustible closed profiles of external wall structures and
4. small parts that do not contribute to the spread of fire.

(3) ¹External wall surfaces and external wall cladding must be fire retardant, including the insulating materials and substructures; Substructures made of normal flammable building materials shall be permitted if the requirements set out in paragraph 1 are met. ²Balcony cladding which extends above the required height of the protector and solar installations next to external walls which straddle more than two storeys must be of low flammability. ³Building materials which must be of low flammability may not fall off or drip down when alight in building components as per sentence 1 clause 1 and sentence 2.

(4) ¹In the case of external wall constructions with hollows or air spaces, such as cladding for external walls ventilated at the rear, which extend over several floors, special precautions must be taken against fire spread. ²Sentence 1 applies accordingly to double façades.

(5) Paragraphs 2, 3 and 4 sentence 1 shall not apply to buildings in building classes

1 to 3; Paragraph 4 sentence 2 shall not apply to buildings in building classes 1 and 2.
²Deviating from paragraph 3, rear-ventilated exterior wall claddings that comply with the technical building regulations according to § 85a, with the exception of the insulating materials, made of normally flammable building materials are permitted.

§ 29 Partition walls

(1) As building components for sealing off areas or functional units within storeys, dividing walls as per paragraph 2 must be resistant to fire spread for an adequate period of time.

(2) Partition walls are required

1. between functional units and between functional units and areas used for other purposes, with the exception of essential corridors,
2. to seal off areas where there is a risk of explosion or an increased fire risk,
3. between common areas and other rooms on the basement floor.

(3) ¹Partition walls referred to in paragraph 2 numbers 1 and 3 shall have the fire resistance of the load-bearing and stiffening components of the projectile but shall be at least fire-retardant. ²Partition walls as per paragraph 2 number 2 must be fireproof.

(4) The partitions referred to in paragraph 2 shall be carried up to the ceiling, in the attic room up to the roofing; if dividing walls in attic rooms only extend to the raw ceiling, this ceiling must be made fire-retardant as a room-enclosing component, including the components that support and reinforce it.

(5) Openings in partition walls referred to in paragraph 2 shall be permitted only if they are limited to the number and size required for use; they must have fire-retardant, tight and self-closing closures.

(6) Paragraphs 1 to 5 do not apply to residential buildings in building classes 1 and 2.

§ 30 Firewalls

(1) As building components for sealing off areas, firewalls which seal buildings (key wall) or which subdivide buildings into fire lobbies (internal firewall) must prevent fire spread to other buildings or fire lobbies for an adequate period of time.

(2) Fire walls are required

1. as outer walls, except in buildings not containing accommodation areas or furnaces whose total volume does not exceed 50 m³, provided these surround walls are erected at the plot boundary or with a gap of less than 2.50 m thereto, unless a gap of at least 5 m to existing buildings, or buildings permitted in future in accordance with building regulations, is guaranteed,

2. as an internal firewall for subdividing buildings that have been extended at intervals not exceeding 40 m,
3. as an internal fire wall for dividing agricultural buildings into fire compartments with a gross volume of no more than 10,000 m³,
4. as a key wall between residential buildings and buildings used for agricultural purposes that have been added, and as an internal firewall between the residential part of a building and that part used for agricultural purposes.

(3) ¹Under additional mechanical stresses, firewalls must also be fireproof and composed of non-combustible building materials. ²The following are permitted in place of firewalls in the instances under paragraph 2(1) to (3):

1. For structures in building class 4, walls that are highly fire-retardant, including under additional mechanical stresses,
2. for structures in building classes 1 to 3, highly fire-retardant walls, and
3. for buildings of classes 1 to 3 outer walls, each having the fire resistance of the load-bearing and stiffening parts of the building, but at least fire-retardant components from the inside, and from the outside to the inside, the fire resistance of fire-resistant components.

³In the instances under Paragraph 2(4), fireproof walls are permitted in place of firewalls if the total volume of the building used for agricultural purposes, or a part thereof, does not exceed 2,000 m³.

(4) ¹Firewalls must run right through up to the roof covering and be arranged one on top of the other on all floors. ²Deviating from this, walls may be arranged in a staggered way instead of inner fire walls if

1. the walls, moreover, correspond to paragraph 3 sentence 1,
2. the ceilings, where they are joined to these walls, are fireproof, composed of non-combustible building materials and do not have any openings,
3. the building components supporting these walls and ceilings are fireproof and made up of non-combustible building materials,
4. the outer walls in the width of the offset on the floor above or below the offset are fire resistant, and
5. openings in the external walls in the area of the offset are arranged in such a way, or other precautions are taken, such that there is no danger of the fire spreading to other fire lobbies.

(5) ¹Fire walls are to be led 0.30 m above the roofing or closed at the level of the roofing with a fire-resistant panel made of non-combustible building materials that projects 0.50 m on both sides; in addition, combustible parts of the roof must not be placed over it. ²In buildings of building classes 1 to 3, fire walls shall be placed at least

up to the roofing. ³Sentence 2 also applies to...*)¹ legally existing buildings, which become a building class 4 by means of loft conversions to create a living space. ⁴Any remaining voids must be completely filled in with non-combustible building materials.

(6) If buildings or parts of buildings that meet at a corner have to be separated by a fire wall, the distance between this wall and the inner corner must be at least 5 m; This does not apply if the angle of the inner corner is more than 120 degrees or at least one outer wall with a length of 5 m is designed as an opening-free, fire-resistant wall made of non-combustible building materials, in buildings of building classes 1 to 4 as an opening-free, highly fire-resistant wall.

(7) ¹Building components with combustible building materials must not be placed over fire walls. ²In the case of external wall constructions, such as cladding for external walls ventilated at rear or double façades, which can promote a spreading of the fire sideways, special precautions must be taken against fire spread in the area of the firewalls. ³External wall cladding for key walls must be non-combustible, including their insulating materials and substructures. ⁴Building components may intervene in fire walls only to the extent that their fire resistance is not compromised; this applies accordingly to cables, cable slots and chimneys.

(8) ¹Openings in firewalls are not permitted. ²They are only permitted in internal fire walls if they are limited to the number and size required for use; the openings must have fire-resistant, tight and self-closing closures.

(9) Fire resistant treatment is only permitted in internal firewalls if limited to the number and size required for use.

(10) Paragraph 2 number 1 does not apply to side walls of porches within the meaning of § 6(6) if they maintain a distance from the neighbouring building or the neighbouring boundary that corresponds to their own overhang, but is at least 1 m. Paragraphs 4 to 10 also apply accordingly to walls that are permitted in place of firewalls in accordance with paragraph 3 sentences 2 and 3.

§ 31 Ceilings

(1) ¹In the event of a fire, ceilings, as load-bearing components and components between storeys for sealing off areas, must be stable as well as resistant to fire spread for an adequate period of time. ²They must be

1. fireproof in building class 5 structures,
2. highly fire-retardant in building class 4 structures, and
3. fire-retardant in building class 2 and 3 structures.

³Sentence 2 applies

1. for floors in the attic only if it is possible to use common areas; § 29 Paragraph 4 shall remain in effect,

¹ Under state law.

2. does not apply to balconies, with the exception of open passageways that serve as essential corridors.

(2) ¹In the basement, ceilings

1. must be fire resistant in building class 3 to 5 structures, and
2. fire-retardant in building class 1 and 2 structures.

²Ceilings must be fireproof

1. above and below areas where there is a risk of explosion or an increased fire risk, except in residential buildings in building classes 1 and 2,
2. between the agricultural part and the residential part of a building.

(3) Ceilings must be joined to the external wall in such a way that satisfies the requirements of paragraph 1 sentence 1.

(4) Openings in ceilings for which a fire resistivity is stipulated are only permitted

1. in building class 1 and 2 structures,
2. within the same functional unit with a total surface area not exceeding 400 m² across no more than two floors,
3. if otherwise restricted to the number and size necessary for their purpose and if they have seals with the fire resistivity of the ceiling.

§ 32 Roofs

(1) Roof coverings must be resistant for an adequate period of time against an external fire load as a result of flying sparks and radiating heat (hard roof covering).

(2) ¹Roofing that does not meet the requirements of paragraph 1 is permitted for buildings in building classes 1 to 3 if the buildings have

1. a distance from the land boundary of at least 12 m,
2. these structures are situated at least 15 m away from buildings on the same plot which possess hard roof coverings,
3. there is at least a 24 m gap between these structures and buildings on the same plot which have roof coverings that do not satisfy the requirements under paragraph 1, and
4. there is at least a 5 m gap between these structures and buildings on the same plot which do not contain accommodation areas or furnaces and whose total volume does not exceed 50 m³

. ²Where structures have to maintain a gap as per sentence 1, in the case of residential buildings in building classes 1 and 2,

1. a gap of at least 6 m suffices in the instances under point 1,
2. a gap of at least 9 m suffices in the instances under point 2,
3. a gap of at least 12 m suffices in the instances under point 3.

(3) Paragraphs 1 and 2 do not apply to

1. buildings without common areas and without fireplaces of not more than 50 m³ gross volume,
2. translucent roofing of non-combustible building materials; combustible joint seals and combustible insulating materials in non-combustible profiles are permitted,
3. roof windows and skylights in residential buildings,
4. entrance canopies and canopies made of non-combustible building materials,
5. porch overhangs made from combustible materials where the entrances only lead to dwellings.

(4) By way of deviation from paragraphs 1 and 2,

1. translucent sections of combustible building materials in roofing as referred to in paragraph 1; and
2. grassed roof coverings are

permissible if there is no risk of a fire breaking out in the event of external fire exposure to flying sparks and radiating heat, or if precautions are taken to prevent this.

(5) ¹Roof overhangs, roof cornices and roof structures, translucent roofing, different types of skylights and solar systems must be arranged and manufactured in such a way that fire cannot spread to other parts of the building or to neighbouring properties. ²The following distances must be observed from firewalls and from walls that are permitted instead of firewalls:

1. without gaps
 - a) Roof windows, skylights and apertures in the roofing, if the walls are at least 30 cm over the roofing according to clause 1,

b) Solar systems, dormer windows and similar roof structures made of combustible building materials if they are protected against fire spread by the walls according to clause 1.

2. at least 0.50 m

Solar systems installed at a height of up to 30 cm above the rooftop or integrated in the roof if they do not fall under number 1 letter b.

3. at least 1.25 m

a) roof windows, skylights and openings not covered by number 1 letter a,

b) roof dormers and similar roof structures, if they are not covered by number 1 letter b,

c) Solar systems not covered by numbers 1 (letter b) and 2.

(6) ¹In their role as building components for sealing off areas, roofs of structures built adjacent to one another with eaves on the side must be fire-retardant with respect to a fire load which starts inside and spreads outwards. This also applies to their load-bearing and supporting building components. ²Openings in these roof areas must be measured horizontally at least 2 m away from the fire wall or the wall that is permissible in place of the fire wall.

(7) ¹In their role as building components for sealing off areas with respect to a fire load which starts inside and spreads outwards, roofs of extensions which adjoin external walls that have openings or which are not designed to be resistant to fire must have the fire resistivity of the ceilings of the part of the building to which they are annexed for a distance of 5 m from these walls. This also applies to their load-bearing and supporting building components. ²This does not apply to extensions to residential buildings in building classes 1 to 3.

(8) In the case of work to be carried out from the roof, devices must be attached that can be used safely.

Section Five **Fire escapes, openings, protectors**

§ 33 **Primary and secondary fire escapes**

(1) ¹For use units such as apartments, medical practices and independent business premises, there must be at least two independent escape routes to the outside on each floor with common rooms; however, both escape routes may lead within the floor over the same necessary hallway. ²A second escape route is not necessary for single-story, ground-level units if, in the event of a fire, rescue is possible via a direct exit to the outside.

(2) ¹In the case of functional units as per paragraph 1 that are not located on the ground floor, the first fire escape must lead via an essential staircase. ²The second fire escape can take the form of another essential staircase or a point within the functional

unit that can be reached by the fire brigade's emergency equipment. ³A second fire escape is not necessary if rescue is possible via a stairway that can be accessed safely and which cannot be penetrated by fire and smoke (safety stairway).

(3) ¹Buildings whose second rescue route leads through rescue equipment by the fire brigade and where the upper edge of the parapet of windows or places designated to lead is more than 8 m above the ground surface may only be installed if the fire brigade has the necessary rescue equipment such as lifting rescue vehicles. ²In the case of special structures, the second fire escape may only run via the fire brigade's emergency equipment if there are no life saving-related objections.

§ 34 Stairs

(1) ¹Every storey not located at ground level and the usable attic space of a building must be accessible via at least one staircase (essential staircase). ²Instead of the necessary stairs, ramps with a gentle incline are permitted.

(2) ¹Retractable steps and escalators are not permitted as essential staircases. ²In structures in building classes 1 and 2, retractable steps and (step) ladders are permitted as a means of access to a attic space which does not contain an accommodation area.

(3) ¹Essential stairs shall be led in one turn to all connected floors; they must be directly connected to the stairs to the attic space. ²This does not apply to stairs

1. in structures in building classes 1 to 3,
2. according to § 35 (1) sentence 3 number 2.

(4) ¹The load-bearing parts of necessary stairs must be

1. fire-retardant in building class 5 structures and consist of non-combustible building materials,
2. made up of non-combustible building materials in building class 4 structures, and
3. be made of non-combustible or fire retardant building materials in buildings classified as class 3. ²The load-bearing parts of flights of outside steps as per § 35(1) sentence 3 number 3 must consist of non-combustible building materials for structures in building classes 3 to 5.

(5) The effective width of the flights (of stairs) and the landings of essential staircases must be sufficient for the largest anticipated flow of people.

(6) ¹Flights of steps must have a fixed and secure handrail. ²Handrails on both sides and intermediate handrails are to be provided for stairs, insofar as traffic safety requires this.

(7) A staircase may not begin immediately behind a door that opens towards the staircase; there must be a sufficient space between the stairs and the door.

§ 35 Essential stairwells, exits

(1) ¹For the purpose of guaranteeing fire escapes to the outside from the different floors, every essential staircase must be situated in its own continuous stairway (essential stairway). ²Essential stairwells must be arranged and designed in such a way that the necessary stairways can be used for a sufficient length of time in the event of a fire. ³Essential staircases which do not have their own stairway are permitted

1. in building class 1 and 2 structures,
2. when connecting up to two floors within the same functional unit of not more than 200 m² in area if an alternative fire escape can be reached on each floor,
3. as an external staircase if its use is sufficiently safe and cannot be endangered in the event of a fire.

(2) ¹At least one exit leading to an essential stairway or outside must be reachable after no more than 35 m from every point of an accommodation area or basement storey. ²Basement storeys situated on top of one another must each have at least two exits to essential stairways or to the outside. ³If several essential stairwells are required, they must be distributed in such a way that they are as opposing as possible and that the rescue routes are as short as possible.

(3) ¹Every essential stairway must have direct outside access. ²If the exit from an essential stairway does not lead directly outside, the area between the essential stairway and the outside exit must

1. be at least as wide as the corresponding stairways,
2. have walls which satisfy the requirements pertaining to the walls of the stairway,
3. have smoke-tight and self-closing seals to essential corridors and
4. without openings to other rooms, except for necessary corridors.

(4) ¹In their role as building components for sealing off areas, the walls of essential stairways must

1. be designed as firewalls in building class 5 structures,
2. be highly fire-retardant in buildings of building class 4, even under additional mechanical stress, and
3. fire-retardant in buildings of building class 3

. ²This is not necessary for external walls of stairways made up of non-combustible building materials and which cannot be endangered by other building parts adjoining these external walls in the event of a fire. ³The upper end of necessary stair rooms as a room-closing component shall have the fire resistance of the ceilings of the building;

this does not apply if the upper end is the roof and the stairwell walls reach under the roofing.

- (5) In essential stairways and areas as per paragraph 3 sentence 2,
1. claddings, plastering, insulating materials, suspended ceilings and fittings must be made up of non-combustible building materials,
 2. walls and ceilings consisting of combustible building materials must have a cladding of non-combustible materials which is sufficiently thick,
 3. flooring, with the exception of non-slip sections, must be made up of at least low flammability building materials.

(6) ¹In essential stairways, openings

1. to basement floors, to non-developed attic rooms, workshops, shops, storage and similar premises and other spaces and units of use with an area exceeding 200 m², excluding apartments, at least fire-retardant, smoke-proof and self-closing finishes,
2. to essential corridors must have smoke-tight and self-closing seals, and
3. to other areas and functional units must at least have seals which close tightly and automatically.

²The fire protection and smoke protection closures may contain translucent side parts and skylights if the closure is not wider than 2.50 m overall.

(7) ¹Essential stairways must be lit. ²Essential stairways which do not have any windows in buildings more than 13 m tall as per § 2 (3) sentence 2 must have emergency lighting.

(8) ¹Essential stairwells must be ventilated and can be emptied of smoke to support effective extinguishing work. ²They must

1. have windows with a clear cross-section of at least 0.50 m² which lead directly outside, and which can be opened, on every storey above ground, or
2. have an opening for dissipating smoke at the top-most point.

³In the cases covered by sentence 2 number 1, an opening for smoke extraction is required in buildings of building class 5 at the topmost point; in the cases of sentence 2 number 2, special precautions are to be taken in buildings of building classes 4 and 5, insofar as this is necessary to fulfil the requirements according to sentence 1. ⁴In every stairway, openings for dissipating smoke as per sentences 2 and 3 must have a clear cross-section of at least 1 m² and devices for opening their seals which can be operated from both the ground floor and the uppermost landing.

§ 36

Essential corridors, open passageways

(1) ¹Corridors via which rescue routes lead from common rooms or from usage units with recreation rooms to exits into necessary stairwells or to the outside (necessary corridors) must be arranged and designed in such a way that they can be used for a sufficiently long time in the event of a fire. ²Essential corridors are not required

1. in residential buildings of building classes 1 and 2,
2. in other buildings of classes 1 and 2, except in basement floors,
3. inside functional units not more than 200 m² in area and inside dwellings, or
4. within functional units that serve office or administrative use, with no more than 400 m²; this also applies to parts of larger usage units if these parts are not larger than 400 m², have partitions according to § 29 (2) number 1, and each part has escape routes according to § 33 (1) independently of other parts.

(2) ¹Essential corridors must be sufficiently wide for the largest anticipated flow of people. ²A sequence of less than three steps is inadmissible in the corridors.

(3) ¹Essential corridors must be subdivided into smoke lobbies by means of non-lockable, smoke-tight and self-closing seals. ²The smoke lobbies should not be more than 30 m long. ³The closures are to be led up to the ceiling; they may be routed to the suspended ceiling of the corridors if the suspended ceiling is fire-retardant. ⁴Essential corridors having only one direction of escape which lead to a safety stairway may not be more than 15 m long. ⁵Sentences 1 to 4 do not apply to open passageways as per paragraph 5.

(4) ¹As building components for sealing off areas, the walls of essential corridors must be fire-retardant; in basement storeys where the load-bearing and supporting building components must be fireproof, the walls, too, must be fireproof. ²The walls are to be led up to the ceiling; ³They may be led up to the lower ceiling of the corridors if the lower ceiling is fire-retardant and a room closure comparable to that according to sentence 1 is ensured. ⁴Doors in these walls must close tightly; openings to storage areas in the basement must have fire-retardant, tight and self-closing closures.

(5) ¹For regards walls and parapets of essential corridors having only one direction of escape that are arranged as open passageways in front of external walls, paragraph 4 applies accordingly. ²Windows are permitted in these external walls from a parapet height of 0.90 m upwards.

(6) In essential corridors and open passageways as per paragraph 5,

1. cladding, plaster, suspended ceilings and insulating materials are made of non-combustible building materials,
2. walls and ceilings consisting of combustible building materials must have a cladding of non-combustible materials which is sufficiently thick.

§ 37

Windows, doors, other openings

(1) In the event that window areas cannot be safely cleaned from the ground floor, from inside the building or from loggias or balconies, equipment such as lifts, holding devices or rails must be installed which facilitate cleaning from the outside.

(2) ¹Glass doors and other glass surfaces that reach down to the floor of generally accessible traffic areas must be marked in such a way that they can be easily identified. ²Provision is made for additional protective measures for larger glass areas if road safety so requires.

(3) The front doors of dwellings which have to be reachable via lifts must have a clear width of at least 0.90 m.

(4) ¹Every basement without windows must have at least one opening to the outside to enable smoke extraction. ²Shared light shafts for cellars are not permitted with regard to basement storeys situated one on top of the other.

(5) ¹Windows which serve as fire escapes pursuant to § 33(2) sentence 2 must be at least 0.9 x 1.2 m, measured in the clear, and be arranged not higher than 1.2 m above the upper edge of the floor. ²If these windows are located in roof slopes or roof structures, their bottom edge, or an outlet situated in front, measured horizontally, may not be more than 1 m from the edge of the eaves.

§ 38

Protectors

(1) In, on and around physical structures, the following must be fenced off or provided with parapets:

1. Areas that are generally intended to be walked on and are directly adjacent to areas that are more than 1 m lower; this does not apply if the enclosure contradicts the purpose of the areas,
2. skylights and glass tops that cannot be walked on in areas which are generally meant to be walked on, if the former do not protrude more than 0.50 m from these areas,
3. roofs or roof parts intended for the temporary stay of people,
4. openings in accessible ceilings and in roofs or parts of roofs according to number 3 if they are not securely covered,
5. glass areas in ceilings and in roofs or roof parts as per point 3 that cannot be walked on,
6. the free sides of flights (of stairs), landings and stair openings (stairwells),
7. light shafts for cellars and service shafts adjoining traffic areas if they are not covered over so as to be safe for traffic.

(2) ¹Cellar light shafts and service shafts in traffic areas must be covered in a traffic-safe manner at the height of the traffic area. ²(Manhole) covers situated in and around traffic areas must be secured against unauthorised removal. ³Windows situated directly by staircases, and where their parapets are below the required height of the protector, must be secured.

(3) ¹Window parapets on areas with a drop of up to 12 m must be at least 0.80 m high, on areas with a drop of more than 12 m at least 0.90 m high. ²Lower parapet heights are permitted if, by means of other fixtures such as banisters, the minimum heights stipulated pursuant to paragraph 4 are observed.

(4) Other necessary protectors must have the following minimum heights:

1. Protectors for safeguarding openings in ceilings and roofs that can be walked on and protectors of areas where the distance to the ground is 1–12 m, 0.90 m,
2. Protectors of areas with a fall height of more than 12 m, 1.10 m.

Section Six Technical fittings for buildings

§ 39 Lifts

(1) ¹Lifts within buildings must have their own lift wells to prevent fire spread to other floors for a sufficient period of time. ²Up to three lifts may be located in a lift well. ³Lifts without their own lift wells are permitted

1. inside an essential stairway, except in high-rise buildings,
2. within areas which connect different floors,
3. for the connection of floors that may be openly connected with each other,
4. in building class 1 and 2 structures. They must be securely encased.

(2) ¹Lift well walls must be space-enclosing components

1. in building class 5 structures they must be fireproof and consist of non-combustible building materials,
2. highly fire-retardant in building class 4 structures, and
3. fire-retardant in buildings of building class 3

; Lift well walls made of combustible materials must have a sufficiently thick cladding made of non-combustible materials on the shaft side. ²Lift well doors and other openings in lift well walls with the requisite fire resistivity must be established in a way that does not interfere with the requirements as per paragraph 1(1).

(3) ¹Lift wells must be ventilated and have an opening for dissipating smoke with a

clear cross section of at least 2.5 % of the surface area of the lift well (but at least 0.10 m²). ²This opening may have a seal which opens automatically in the event of a fire and which can be operated from at least one suitable spot. ³The location of the smoke outlet openings must be chosen so that the smoke outlet is not affected by the wind.

(4) ¹Buildings with a height of more than 13 m according to § 2 (3) sentence 2 must have a sufficient number of elevators; this does not apply to subsequent extensions and changes in use of the top floor or when adding up to two floors. ²Of these lifts, at least one must stop at all floors and be able to accommodate prams, wheelchairs, stretchers and loads. ³This lift must be continuously accessible from the public transport area and from all units of use in the building. ⁴Stops on the top floor, on the ground floor and in the basement are not required if they can only be produced with particular difficulty.

(5) ¹Lifts for accommodating a stretcher must have a usable floor space of at least 1.10 m x 2.10 m, for accommodating a wheelchair at least 1.10 m x 1.40 m; Doors must have a clear passage width of at least 0.90 m. ²In a lift for wheelchairs and stretchers, the part of the car floor area not required for wheelchairs may be blocked off by a lockable door. ³Before the lift area, there must be a sufficient area of movement.

§ 40

Conduits, service shafts and ducts

(1) Conduits may only be routed through room-enclosing components for which fire resistance is specified if there is no risk of the fire spreading for a sufficiently long period of time or precautions have been taken to prevent this; This shall not apply

1. to building class 1 and 2 structures,
2. within dwellings,
3. within the same functional unit with a total surface area not exceeding 400 m² over no more than two floors.

(2) Conduits are only permitted in essential stairways, in areas as per § 35(3) sentence 2 and in essential corridors if these areas can be used as fire escapes for an adequate period of time in the event of a fire.

(3) Paragraph 1 and § 41 (2) sentence 1 and paragraph 3 apply accordingly to installation shafts and ducts.

§ 41

Ventilation systems

(1) Ventilation systems must be safe and fireproof; they must not impair the proper operation of firing systems.

(2) ¹Ventilation ducts and their cladding and insulating materials must be made of non-combustible materials; combustible materials may be used if there is no danger of the ventilation ducts starting a fire or causing a fire to spread further. ²Ventilation ducts may only bridge room-enclosing components for which fire resistance is specified if there is no risk of the fire spreading for a sufficiently long period of time or if precautions

have been taken to prevent this.

(3) Ventilating machinery must be manufactured in such a way that it does not transmit odours and dust to other areas.

(4) ¹Ventilation systems must not be introduced into exhaust systems; the joint use of ventilation ducts for ventilation and for the discharge of exhaust gases from fireplaces is permitted if there are no concerns about operational safety and fire protection. ²The exhaust air is to be routed outside. ³Installations that are not part of the ventilating machinery are not permitted in ventilation ducts.

(5) Paragraphs 2 and 3 do not apply

1. to building class 1 and 2 structures,

2. within dwellings,

3. within the same usage unit with no more than 400 m² on no more than two floors.

(6) As regards ventilation and air-conditioning installations and hot-air heating systems, paragraphs 1 to 5 apply accordingly.

§ 42

Combustion systems, other heat generation and energy supply systems

(1) Furnaces and flue gas installations (firing installations) must be operationally reliable and fireproof.

(2) Fireplaces may only be set up in rooms if there are no hazards due to the type of fireplace and the location, size, structural condition and use of the rooms.

(3) ¹Flue gases from furnaces must be dissipated through exhaust pipes, chimneys and connecting pieces (flue gas installations) in such a way that does not lead to dangers or unreasonable irritations. ²The requisite number of flue gas installations must be constructed and positioned in such a way that the furnaces in the building can be connected in accordance with regulations. ³They need to be easily cleaned. ⁴Sentences 1 to 3 do not apply to combustion systems that can be operated according to the state of the art without a device for discharging exhaust gases.

(4) ¹Vessels and pipelines for combustible gases and liquids must be operationally reliable and fireproof. ²These vessels and solid fuels must be installed or stored in such a way that no dangers or unreasonable irritations ensue.

(5) Paragraphs 1 to 3 apply accordingly to stationary combustion engines, combined heat and power plants, fuel cells, compressors and hydrogen electrolyzers as well as the discharge of their process gases.

§ 43

Sanitary facilities, water meters

(1) Windowless bathrooms and toilets are only allowed if effective ventilation is ensured.

(2) ¹Each dwelling must have its own water meter. ²This does not apply in the event of changes in use if the requirement as per sentence 1 can only be fulfilled with a disproportionate level of additional expense.

§ 44

Septic tanks, pits

¹Septic tanks and pits must be sufficiently large and watertight. ²They must have a tight and secure cover and openings for cleaning and emptying. ³These openings may only be accessible from the outside. ⁴The installations must be ventilated such that injuries to health or unreasonable irritations do not result. ⁵The supply lines to sewage disposal systems must be closed, leak-proof and, if necessary, set up for cleaning.

§ 45

Storage of solid waste material

Solid waste material may be stored inside buildings on a temporary basis but, in the case of structures in building classes 3 to 5, only if the designated areas

1. have dividing walls and ceilings as building components for sealing off areas with the fire resistivity of the load-bearing walls,
2. have openings to the area of installation from inside the building with fire-retardant seals which close tightly and automatically,
3. can be drained directly from outside and
4. have permanent, effective ventilation.

§ 46

Lightning protection installations

Structural systems, in which lightning strike can occur easily or lead to severe consequences according to the location, type or use, shall be provided with permanently effective lightning protection systems.

Section Seven

Requirements according to use

§ 47

Common rooms

(1) ¹Accommodation areas must have a clearance of at least 2.40 m. ²Common rooms in the attic must have a clear room height of at least 2.20 m over at least half of their net room area; Parts of a room with a clear room height of up to 1.50 m are not considered. ³Sentences 1 and 2 do not apply to common rooms in residential buildings

in building classes 1 and 2.

(2) ¹Accommodation areas must be capable of being sufficiently ventilated and illuminated with daylight. ²They must have windows where the openings in terms of the shell of the window measure at least one-eighth of the net area of the room, including the net area of the glazed projections and loggias.

(3) Accommodation areas whose use precludes natural lighting, as well as salesrooms, public bars and eating establishments, doctors' consulting rooms, sports halls, playrooms, work rooms and the like, are allowed to not have windows.

§ 48 Apartments

(1) ¹Each dwelling must have a kitchen or kitchenette. ²Windowless kitchens or kitchenettes are allowed if effective ventilation is ensured.

(2) In residential buildings in building classes 3 to 5, easily accessible and barrier-free storage rooms for prams, mobility aids and bicycles as well as a sufficiently large storage room for each apartment must be provided.

(3) Each dwelling must have a bathroom equipped with a bath or shower and a toilet.

(4) ¹In apartments, bedrooms and children's rooms as well as corridors that lead to common rooms must each have at least one smoke alarm. ²The smoke alarm devices must be installed or attached and operated in such a way that fire smoke is detected and reported at an early stage.

(5) If use units with common rooms in legally existing buildings are converted into living spaces, §§ 6, 27, 28, 30, 31 and 32 do not apply to existing buildings and components.

§ 49 Parking areas, garages and storage spaces for bicycles

(1) ¹The necessary parking spaces and garages as well as parking spaces, rooms and buildings for parking spaces for bicycles (§ 86 (1) number 4) are to be created on the building plot or at a reasonable distance from it on a suitable plot of land, the use of which for this purpose is secured under public law. ²The obligation according to sentence 1 no longer applies if an apartment in a building that legally exists on ...*)¹ is divided or living space is created through a change of use, by adding another floor to the building or by expanding the attic space.

(2) The municipality has to use the amount of money for the replacement of parking spaces and parking spaces for bicycles

1. to establish additional parking facilities or maintain, overhaul or modernise existing ones, and

¹ Under state law.

2. for other measures for relieving roads of stationary vehicles, including investment in suburban traffic.

§ 50 Obstacle-free building

(1) ¹In buildings with more than two apartments, the apartments on each floor must be accessible without barriers; this obligation can also be fulfilled by accessible apartments on several floors. ²In these apartments, the lounges, a toilet, a bathroom, the kitchen or the kitchenette and, where available, a terrace must be barrier-free. ³§ 39 Paragraph 4 shall remain in effect. ⁴The sentences 1 and 2 do not apply if additional apartments are created by the subsequent extension of the attic, by an increase of up to two floors or by the division of apartments.

(2) ¹Building facilities that are open to the public must be barrier-free in the parts used for general visitor and user traffic. ²This especially applies to

1. cultural, education and educational institutions,
2. sports and leisure venues,
3. public health service institutions,
4. office, administrative and court buildings
5. sales points, restaurants and accommodation establishments, and
6. parking spaces, garages and toilet facilities.

³It is sufficient for the rooms and facilities used for the intended purpose if they are barrier-free to the required extent. ⁴The requisite number of toilets and essential parking areas for visitors and users must be free from barriers.

(3) Paragraph 2 sentences 3 and 4 shall apply accordingly to structures that are mainly used by people with disabilities or people who are impaired due to age or illness, or that serve to care for them.

(4) Deviations according to § 67 from paragraphs 1 to 3 can also be permitted if the requirements can only be met with disproportionate additional effort, in particular

1. due to difficult terrain conditions,
2. due to the installation of an otherwise unnecessary lift,
3. due to unfavourable existing buildings, or
4. with regard to the safety of people with disabilities.

§ 51 Special structures

¹In a particular case, special requirements can be laid down in relation to special

structures for the purpose of fulfilling the general requirements as per § 3 (1).²Facilitations can be permitted where compliance with the regulations is not needed on account of the particular nature or use of structural works or areas or because of particular requirements. ³The requirements and facilitations as per sentences 1 and 2 can particularly apply to

1. the arrangement of the structural works on the plot,
2. the distances between neighbouring borders, other construction facilities on the property and public transport areas and the size of the land to be kept free,
3. the entrances to public traffic areas and adjacent plots,
4. the lay-out of drives and exits,
5. the creation of green strips, tree plantings and other plantings as well as the greening or removal of heaps and pits,
6. the design and arrangement of all the main building components relating to stability, road safety, fire protection, heat and sound insulation or health protection, and the use of building materials,
7. fire protection systems, installations and precautions
8. the extinguishing water retention,
9. the arrangement and establishment of lifts, staircases, stairways, corridors, exits and other fire escapes,
10. lighting and power supply,
11. ventilation and smoke extraction,
12. firing installations and boiler rooms,
13. the water supply,
14. the storage and disposal of waste water and solid waste materials,
15. parking areas and garages,
16. barrier-free usability,
17. the permissible number of users, arrangement and number of seats and standing places at meeting places, grandstands and temporary structures,
18. the number of toilets for visitors,
19. the scope, content and number of specific building particulars and plans, in particular, of a fire protection plan,

20. further certificates to be provided,
21. the appointment and qualifications of the project supervisor and specialist project supervisors,
22. operation and utilisation, including the appointment and qualifications of a person charged with fire protection,
23. Initial, repeat and follow-up tests and the certificates that have to be provided.

Fourth Part **Parties involved in the construction process**

§ 52 **Basic obligations**

As regards the erection, modification, change in use and the removal of installations, the client and, within the framework of their sphere of activity, the other parties involved in the construction process, are responsible for ensuring that public-law regulations are observed.

§ 53 **Building owner**

(1) ¹For the preparation, monitoring and execution of a construction project that does not require a procedure and for the removal of installations, the building owner must appoint suitable participants in accordance with §§ 54 to 56, insofar as he is not himself suitable for fulfilling the obligations under these regulations. ²The client is also responsible for the applications, notifications and proofs necessary in accordance with public-law regulations. ³He must keep available the proofs and documentation required to fulfil the requirements of this Act and based on this Act on the construction products and designs used. ⁴If construction products are used that carry the CE mark in accordance with Regulation (EU) 305/2011, the performance statement must be kept available. ⁵Before the start of construction, the building owner must immediately inform the building supervisory authority in text form of the name of the construction manager and of any change in this person during construction. ⁶When the building owner changes, the new builder must immediately notify the building authority in text form.

(2) ¹Where several individuals act as a client in connection with a building project, the building supervisory authority can demand that a single representative be appointed in relation to it who shall ensure that the obligations incumbent on the client in accordance with public-law regulations are fulfilled. ²Apart from that, § 18 (1) sentences 2 and 3 as well as paragraph 2 of the Administrative Procedures Act¹ apply with the provision that a declaration in text form is sufficient.

§ 54 **Architect**

(1) ¹The architect must possess the requisite expertise and experience in terms of preparing the respective building project. ²He/she is responsible for the draft being complete and usable. ³The architect must ensure that the individual drawings, individual

¹ Under state law.

calculations and instructions required for the execution comply with the public law regulations.

(2) ¹Should the architect not possess the necessary expertise and experience in particular specialist fields, suitable technical planners must be consulted. ²They are responsible for the documents they produce. ³The architect remains responsible for the proper interlocking of all technical plans.

§ 55 Contractor

(1) ¹Each contractor is responsible for the execution of the work he takes on in accordance with the requirements under public law and, in this respect, for the proper equipping and safe operation of the building site. ²He must provide the evidence and documents required to meet the requirements of this law or on the basis of this law on the construction products used and the types of construction used and have them available on the construction site. ³For construction products that carry the CE mark in accordance with Regulation (EU) 305/2011, the performance statement must be kept available.

(2) Each contractor shall, at the request of the building supervisory authority, demonstrate that the safety of the installation is exceptionally dependent on the operator's particular expertise and experience or on the equipment of the undertaking with special devices, that he or she is suitable for such works and has the necessary equipment.

§ 56 Project supervisor

(1) ¹The project supervisor shall see to it that the building measure is carried out in accordance with public-law requirements and that the instructions necessary to this end are issued. ²As part of this task, the project supervisor shall pay attention to the safe technical operation of the building site, in particular, that all of the contractors' work is coordinated in a safe manner. ³The responsibility of the entrepreneur remains unaffected.

(2) ¹The project supervisor must possess the expertise and experience required to carry out his/her task. ²Should he/she not possess the necessary expertise in particular fields, suitable specialist project supervisors must be consulted. ³These take the place of the project supervisor. ⁴The project supervisor shall coordinate his/her work with that of the specialist project supervisors.

Fifth Part Building supervisory authorities, procedures

Section One Building supervisory authorities

§ 57 Make-up and competence of the building supervisory authorities

(1) ¹The building supervisory authorities are as follows:

1. the lower administrative authority as the lower building supervisory authority,
2. the higher administrative authority as higher building supervisory authority¹,
3. the Ministry ...² assumes the role of the supreme building supervisory authority.

²As regards the implementation of this Act and other public-law regulations in terms of the erection, modification, change in use and removal of installations, as well as the use and maintenance thereof, the lower building supervisory authority has competence, unless otherwise stipulated.

(2) The supreme building supervisory authority can revocably transfer the tasks of the lower building supervisory authority to district municipalities (offices³) in whole or in part.

(3) ¹To carry out their tasks, the building supervisory authorities must have suitably trained staff and the necessary equipment. ²The following, in particular, must be members of the building supervisory authorities: officials qualified at the higher grade of the building administrative service and who have the necessary knowledge of structural engineering, building design and public building law, and officials who are qualified to hold judicial office or who belong to the executive administrative service. ³The highest building supervisory authority may allow exceptions.

§ 58

Tasks and powers of the building supervisory authorities

(1) Inspecting buildings is the job of the State⁴.

(2) ¹As regards the erection, modification, change in use, removal, utilisation and maintenance of installations, the building supervisory authorities shall see to it that public-law regulations are observed, unless other local authorities have competence in this area. ²You can take the necessary measures in the performance of these tasks.

(3) Building supervisory approvals and other measures also apply to and against legal successors.

(4) ¹The persons entrusted with implementing this Act are entitled to enter plots and installations, including dwellings, in execution of the functions of their office. ²The basic right of the inviolability of the dwelling (Article 13 of the Basic Law, Article/§ of the constitution of the state of ...) is restricted in this respect.

¹ Under state law.

² Under state law.

³ Under state law.

⁴ Under state law.

Section Two

Approval obligation, exemption from approval

§ 59

Principle

(1) The erection, modification and change in use of installations require a building permit, unless otherwise stipulated in §§ 60 to 62, 76 and 77.

(2) The exemption from approval as per paragraph 1, §§ 60 to 62, 76 and 77(1) sentence 3, as well as the restriction placed on the building supervisory examination in accordance with §§ 63, 64, 66(4) and 77(3), do not release the relevant party from the obligation concerning compliance with the requirements that are placed on installations by means of public-law regulations and do not affect the powers of the building supervisory authorities to intervene.

§ 60

Priority of other approval procedures

¹No building permit, deviation, permit exemption, consent and construction supervision under this law are required for

1. installations which require authorisation in accordance with other legal provisions that are situated in or around surface waters, and those which assist in the development, maintenance or utilisation of a body of water or which are regarded as such, with the exception of buildings that are classified as special structures,
2. installations which require authorisation in accordance with other legal provisions for supplying the public with electricity, gas, heat, water and for the public recovery or disposal of waste water, with the exception of buildings that are classified as special structures,
3. advertising facilities, where these require a certificate of exemption under road traffic law or an approval under public streets and roads law,
4. Installations requiring authorisation under the Recycling and Waste Management Act,
5. Installations which require authorisation or authorisation under the Product Safety Act or the Act on systems requiring monitoring;
6. installations which require a building permit under the Atomic Energy Act,
7. ... ¹

²For installations for which another approval procedure includes the building permit, the deviation or the consent or which do not require a building permit or consent pursuant to sentence 1, the authority responsible for the enforcement of the relevant legal provisions shall assume the tasks and powers of the building supervisory authority.

¹ Under state law.

§ 61

Process-free construction projects, removal of installations

- (1) The following structures
 1. are process-free:
 - a) Single-storey buildings with a total surface area up to 10 m², except on the outskirts,
 - b) garages including covered parking spaces and covered parking spaces for bicycles with an average wall height of up to 3 m and a gross floor area of up to 50 m², except outdoors,
 - c) structures not containing firing installations with a wall height on the eaves side of up to 5 m which serve an agricultural or forestry enterprise within the meaning of § 35(1) number 1 and 2 and § 201 of the Building Code (BauGB), with a total surface area not exceeding 100 m² and which are only designed to store objects or to protect animals on a temporary basis,
 - d) greenhouses with a ridge height of up to 5 m, which serve an agricultural holding within the meaning of § 35(1) numbers 1 and 2, § 201 of the Building Code and have a maximum of 100 m² gross floor area;
 - e) shelters for passengers which serve public passenger services or school transports,
 - f) shelter huts for hikers that are open to everyone and which do not have any accommodation areas,
 - g) Terrace roofs with an area of up to 30 m² and a depth of up to 3 m,
 - h) arbours in allotments within the meaning of § 1(1) of the Federal Law on Small Gardens,
 - i) weekend houses in holiday areas;
 2. technical fittings to be installed in buildings, with the exception of free-standing flue gas installations more than 10 m high;
 3. the following systems for the use of renewable energies:
 - a) solar installations in, on and around roof and external wall areas, except in the case of high-rise buildings and the change in use or in the external appearance of the structure which is associated with this,
 - b) free-standing solar installations up to 3 m high and 9 m long overall,
 - c) solar installations within the scope of an urban planning or a statute pursuant to § 86, which contains provisions on the admissibility, location, and size of the installation, if it does not contradict the stipulations of the

statute,

- d) wind power plants up to 10 m tall, measured from the surface of the ground up to the highest point of the area swept by the rotor, and with a rotor diameter of up to 3 m, except in purely residential areas;
 - e) Hydrogen production systems, provided that the hydrogen produced therein is used for internal consumption in the structures for which they are built;
 - f) Systems for the production and use of hydrogen and the associated gas storage units, in which the process steps of production and use are combined in a factory-made device and the storage quantity does not exceed 20 kg;
4. the following systems for supply and disposal:
- a) wells,
 - b) telecommunications installations or installations that are used to supply the public with electricity, gas, oil or heat, up to 5 m high and with a total surface area up to 10 m²;
5. the following masts, antennas and similar equipment:
- a) without prejudice to number 4 letter b antennas including the masts with a height of up to 15 m, measured on buildings from the intersection of the system with the roof skin, free-standing outdoors with a height of up to 20 m and associated supply units with a gross volume up to 10 m³ and, insofar as they are erected in, on or at an existing structure, the associated change in use or the external shape of the system; in the case of masts with a height of more than 10 m, the stability of the measure must be assessed by a qualified structural engineer within the meaning of § 66(2) before the start of construction and must be proven to the extent necessary;
 - b) masts and supports for telephone lines, electricity supply lines, aerial cableways and lines for other means of transport, as well as for sirens and banners,
 - c) masts built for reasons of custom,
 - d) land survey signalling superstructures,
 - e) floodlight masts up to 10 m in height;
 - f) mobile antenna systems set up for a maximum of 24 months; in the case of masts with a height of more than 10 m, the stability of the measure must be assessed by a qualified structural engineer within the meaning of § 66(2) before the start of construction and must be proven to the extent necessary;

6. the following containers:
 - a) fixed vessels for liquid gases with a capacity of less than 3 t and for non-liquefied gases with a total volume of up to 6 m³,
 - b) fixed vessels for combustible or water-endangering liquids with a total volume of up to 10 m³,
 - c) other fixed vessels with a gross capacity of up to 50 m³ and a height not exceeding 3 m;
 - d) silage containers up to 6 m high and waste pits,
 - e) ground silos, compost facilities and similar,
 - f) water basins with a tank content up to 100 m³;
7. the following walls and enclosures:
 - a) walls, including retaining walls and enclosures, up to 2 m high, except on the outskirts,
 - b) open enclosures that are not mounted in relation to plots which serve an agricultural or forestry enterprise within the meaning of § 35(1) numbers 1 and 2, 201 BauGB serve;
8. private transportation facilities, including bridges and passageways, up to 5 m wide and tunnelling up to 3 m in diameter;
9. (back)fills and dug ditches up to 2 m tall or deep and covering an area up to 30 m²; on the outskirts, up to 300 m²;
10. the following systems intended for gardens and leisure activities:
 - a) swimming pools with a volume of up to 100 m³ including its air transported roofing, except on the outskirts,
 - b) ski-jumps, diving platforms and slides up to 10 m high,
 - c) systems that serve the purpose of setting up playgrounds, adventure playgrounds, football pitches and sports fields, riding and hiking trails, trimming and educational trails, with the exception of buildings and grandstands,
 - d) caravans, tents and structural works which are not buildings that are situated on camp and caravan sites and weekend areas,
 - e) installations for use in the garden, which assist in horticultural landscaping or the appropriate establishment of gardens, with the exception of buildings and enclosures;

11. the following load-bearing and non-supporting components:
- a) non-load-bearing and non-supporting building components in structural works,
 - b) the modification of load-bearing or supporting building components in residential buildings in building classes 1 and 2,
 - c) windows and doors, as well as the openings for them,
 - d) exterior wall coverings, including thermal insulation measures, except in the case of high-rise buildings, veneering and plastering of structural installations;
 - e) roof coverings, including heat insulation measures, except in the case of high-rise buildings;

12. the following advertising facilities:

- a) Advertising facilities with a view area up to 1 m²,
- b) vending machines,
- c) advertising facilities which, according to their discernible purpose, are only put up on a temporary basis for up to two months, except on the outskirts,
- d) signs indicating the owner and nature of commercial enterprises (information signs) if they are combined on a single board before main thoroughfares,
- e) advertising facilities in commercial, industrial and similar special areas at the place of work that are up to 10 m high, as stipulated by the development plan, and

if they are erected in, on or around an existing structural work, the associated change in use or external appearance of the installation;

13. the following installations that are erected, or which can only be used, on a temporary basis:

- a) Construction site facilities including warehouses, shelters and accommodations;
- b) scaffolding,
- c) toilet cubicles,
- d) temporary structures used by the national defence or disaster control services or which serve as first-aid stations,

- e) structural facilities that are erected for a maximum of three months on approved trade fair and exhibition grounds, with the exception of temporary structures,
 - f) sales kiosks and other structural works for street carnivals, fairs and markets, with the exception of temporary structures;
14. the following areas:
- a) unpaved storage and parking spaces that serve an agricultural or forestry business within the meaning of §§ 35 (1) numbers 1 and 2, § 201 BauGB,
 - b) uncovered parking spaces and facilities for bicycles with an area of up to 100 m² and their access routes,
 - c) children's playgrounds within the meaning of § 8(2) sentence 1;
15. the following other types of installation:
- a) Petrol pumps and automatic filling stations of approved petrol stations in addition to electromobility charging stations and the associated change in use,
 - b) shelves with a height to the upper edge of the stored product of up to 7.50 m,
 - c) gravestones in cemeteries, headstones, monuments and other works of art, each up to 4 m in height,
 - d) other insignificant installations or insignificant parts of installations such as house entrance canopies, awnings, roller shutters, terraces, machinery foundations, road vehicle scales, pergolas, hunter stands, animal feeding locations, bee clearances, pigeon houses, courtyard entrances and frames for beating carpets.
- (2) A change in the use of installations is not subject to approval if
1. for the new use, no other public law requirements according to § 64 in conjunction with § 66 than for the previous use come into consideration,
 2. the erection or modification of the installations under paragraph 1 would not be subject to approval.
- (3) ¹The removal of the following installations is not subject to approval:
1. installations as per paragraph 1,
 2. free-standing buildings of building classes 1 and 3;

3. other installations that are not classified as buildings and which are up to 10 m tall.

²The building supervisory authority must otherwise be notified at least one month in advance as regards the intended removal of installations. ³In the case of non-free-standing buildings, the stability of the building or buildings to which the building is to be removed must be assessed by a qualified structural engineer within the meaning of § 66(2) and proven to the extent necessary; the removal is to be monitored by the qualified structural engineer as far as necessary. ⁴Sentence 3 does not apply where structures that are not subject to approval are added to. ⁵§ 72 Paragraph 6 number 3, paragraph 8 shall apply accordingly.

- (4) Maintenance work is not subject to approval.

§ 62

Exemption from approval

- (1) ¹No approval is required
 1. under the conditions laid down in paragraph 2, for construction, modification and use of structural installations,
 2. under the conditions laid down in paragraph 2(3) and (4) within the scope of § 34 of the Building Code, the modification and change of use of attic floors for residential purposes, including the construction of dormers in buildings, and the construction and alteration of solar systems within the scope of § 35(1)(8)(b) of the Building Code, and
 3. the modernisation and replacement of systems for the generation of electricity from renewable energies (Repowering).

²Sentence 1 numbers 1 and 2 do not apply if the structures are or will be special buildings or for construction, modification or change of use

1. one or more buildings if this creates residential units with a total gross floor area of more than 5,000 m², and
2. structures that are open to the public if this enables more than 100 additional visitors to use them at the same time,

which are within the appropriate safety distance of an operating area within the meaning of § 3(5a) of the Federal Immission Protection Act (BImSchG) as amended on 17 May 2013 (BGBl. I p. 1274) as amended; if the appropriate safety distance is not known, the decisive factor is whether the project is within the safety distance of the operating area.

- (2) According to paragraph 1, a building project does not require a permit if
 1. it is covered by a development plan within the meaning of § 30(1) or §§ 12 or 30(2) of the Building Code,
 2. it does not contradict the stipulations of the development plan,

3. the provision of local public infrastructure within the meaning of the Building Code is secured, and
4. the municipal authority does not declare within the time period stipulated in paragraph 3 sentence 2 that the simplified building approval procedure is to be carried out or a temporary ban applied for in accordance with § 15(1) sentence 2 BauGB.

(3) ¹The building owner must submit the required documents to the municipality; If the documents are not submitted electronically and the municipality is not itself the building control authority, the municipality shall immediately submit a production of the documents to the lower building control authority. ²The construction project may begin one month after receipt of the required documents by the municipality. ³If the municipality informs the building owner before the expiry of the period that no approval procedure should be carried out and that it will not apply for a prohibition pursuant to § 15 (1) sentence 2 of the BauGB, the building owner may start the execution of the construction project; the municipality must inform the building supervisory authority of the notification pursuant to clause 1. ⁴The right to carry out the construction project in accordance with the documents submitted expires if, within three years of the fulfilment of the conditions laid down in sentences 2 and 3, the execution of the construction project has not commenced or the construction has been interrupted for more than three years.

(4) ¹The declaration by the municipal authority pursuant to paragraph 2(4), first option, can therefore follow in particular because it considers a review of the other prerequisites stipulated in paragraph 2 or an inspection of the building project necessary for other reasons. ²No legal claim exists regarding the fact that the municipal authority does not make use of its option to give a declaration. ³Should the municipal authority declare that the simplified building approval procedure is to be carried out, it shall hand the submitted documentation back to the building owner. ⁴If the building owner has specified when submitting the documents that they are to be treated as a building application in the case of the declaration in accordance with paragraph 2 number 4, the documents are forwarded to the building supervisory authority at the same time as the declaration. ⁵If documents are submitted electronically to the building authority at the same time, the municipality shall inform the building supervisory authority of the first alternative of the declaration referred to in paragraph 2 number 4 and, where appropriate, of the declaration by the building owner that the submission of the documents is to be treated as a building application.

(5) ¹§ 66 remains unaffected. ²§§ 68 Paragraph 2 sentence 1, paragraph 4 sentences 1 and 2, 69 paragraph 3, 72 paragraph 6 number 2, paragraphs 7 and 8 are to be applied accordingly.

Section Three Approval procedure

§ 63 Simplified building approval procedure

(1) ¹Except for special buildings, the building supervisory authority examines

1. compliance with the provisions concerning the admissibility of structural works in accordance with to § 29 to 38 of the Building Code,
2. the proposed deviations within the meaning of § 67(1) and (2) sentence 2, and
3. other requirements under public law if, on account of the building permit, a decision taken in accordance with other public-law regulations no longer applies or is superseded.

²§ 66 remains unaffected.

(2) ¹In the case of installations falling within the scope of Directive (EU) 2018/2001, as amended, a decision on the building application shall be taken within one year of the application documents being complete; The building supervisory authority can extend this deadline for the applicant by up to one year for important reasons. The application is deemed to have been approved if a decision has not been made within the deadline set in sentence 2.

§ 64 Building Approval Procedures

¹In the case of structural works not covered by § 63 which require official approval, the building supervisory authority shall examine

1. compliance with the provisions concerning the admissibility of structural works in accordance with to § 29 to 38 of the Building Code,
2. requirements in accordance with the provisions of this Act and those provisions based on this Act,
3. other requirements under public law if, on account of the building permit, a decision taken in accordance with other public-law regulations no longer applies or is superseded.

²§ 66 remains unaffected.

§ 65 Authorisation to present building particulars and plans

(1) ¹Building plans for the non-procedure-free construction and modification of buildings must be drawn up by an architects who is authorised to draw up building plans. ²This does not apply to

4. Building plans usually drawn up by professionals with training courses other than those referred to in paragraph 2; and
5. minor building projects or those that are technically straightforward.

(2) A person who is authorised to submit building documents

1. may call himself/herself an 'architect',

2. is entered in the list of persons authorised to submit building documents kept by the Chamber of Engineers¹ (Ingenieurkammer) or, without such an entry in the list, is authorised to submit documents in accordance with § 65d.
- (3) Other persons authorised to submit building documents are:
1. professionals who have the domestic or foreign university degrees mentioned in § 65a for the projects mentioned in paragraph 1 sentence 2 and:
 - a) free-standing or only one-sided attached or attachable residential buildings of building classes 1 to 3,
 - b) one-storey commercial buildings that are not special buildings,
 - c) agricultural and forestry buildings other than special buildings,
 2. professionals who are allowed to use the professional title 'interior designer', for the structural changes to buildings associated with the professional task of interior designer, as well as
 3. professionals who can provide evidence of a university degree qualifying for a profession in the field of civil engineering in accordance with the guidelines set out in Annex 1 or in the field of architecture, after which they worked in the field of design planning of buildings for at least two years and are employees of a legal entity under public law, for official work.
- (4) Those authorised to submit building submissions pursuant to Paragraph 3 number 1 are to be entered in a directory to be maintained by the body responsible under state law.

§ 65a

Requirement for entry in the list referred to in § 65 (2) number 2

- (1) In the list of those authorised to submit building documents, upon application by the Chamber of Engineers of the Federal State....^{*)} persons who can be entered are
1. persons who can provide evidence of a university degree qualifying for a profession in the field of civil engineering in accordance with the guidelines set out in Annex 1 at a German university and
 2. then worked for at least two years in the field of design planning of buildings.
- (2) Upon application, anyone who has a foreign university degree that is equivalent to the requirements specified in paragraph 1, number 1 and who fulfils the requirement of paragraph 1, number 2 must be entered in the list of those authorised to submit building documents.
- (3) ¹An applicant shall also be entered in the list referred to in paragraph 1 if:

¹ Under state law.

^{*)} Under state law.

1. they can provide evidence of formal qualifications in accordance with Article 11 of Directive 2005/36/EC with regard to the study requirements, in so far as they are necessary in a Member State of the European Union or a State treated as such by the Agreement in order to obtain authorisation to take up and pursue that profession in its territory,
2. the evidence of formal qualifications meets the requirements laid down in Article 13(2) sentence 2 of Directive 2005/36/EC, and
3. the professional practice is comparable to the requirements laid down in § 65a(1) number 2.

²Sentence 1 also applies to an applicant who demonstrates that he/she

1. has worked full-time for one year or worked part-time for a corresponding total duration during the previous ten years in member states of the European Union or an equivalent state, provided that the profession is not regulated in the member state,
 2. holds a certificate of competence or training which meets the requirements laid down in Article 13(2) sentence 2 of Directive 2005/36/EC, and
 3. there are no significant differences as defined in paragraph 1 sentence 1 number 1.
- (4) An entry according to paragraph 1 or paragraph 2 is not required if the applicant is entitled to submit building documents on the basis of a regulation in another state.
- (5) The comparable regulation in state law § 17 BQFG applies accordingly.

§ 65b

Registration procedure for applicants pursuant to § 65a (3)

(1) Comparable regulations in state law §§ 12 and 13 BQFG apply to the form of the application for registration, the documents to be submitted and the relevant procedure.

(2) ¹Applicants shall submit documents referred to in Article 50(1) of Directive 2005/36/EC in conjunction with Annex VII number 1 letter a and b sentence 1 of this Directive and, on request, in accordance with Annex VII number 1 letter b sentence 2 of this Directive. ²If the applicant is unable to do so, the Chamber of Engineers in the Federal State of... ^{*)} shall contact the contact person, the competent authority or a training centre to obtain the required documents. ³In the case of training certificates in accordance with Article 50(3) of Directive 2005/36/EC, the Chamber of Engineers in the federal state of... ^{*)} can, in the event of justified doubts, ask the competent authority of the issuing state to check the criteria in accordance with Article 50(3) letters a to c of Directive 2005/36/EC. ⁴If the applicant has already worked in another member state of the European Union or in a country with equivalent status, the Chamber of Engineers in the federal state of ...^{*)} can, in the event of justified doubts, request confirmation from the competent authority in the country of origin that the applicant has not been

^{*)} Under state law.

prohibited from exercising this profession due to serious professional conduct or a conviction for criminal offences. ⁵In addition, the provisions of Article 50(1) of Directive 2005/36/EC in conjunction with Annex VII number 1 letters d,e, f, and g to Directive 2005/36/EC shall apply. ⁶The documents and certificates provided on request may not be older than three months upon submission. ⁷The exchange of information takes place via the Internal Market Information System (IMI).

(3) ¹A certificate shall be issued concerning the entry in the list referred to in § 65a(1). ²The list contains the following information:

1. Date of entry
2. Surname, birth name and first names
3. Date of birth, place of birth and gender
4. Academic degrees and titles
5. Contact address

³The list also contains information on the nationality of the applicant and the country in which he obtained his professional qualification. ⁴The applicant shall notify the Chamber of Engineers in the federal state of...^{*)} without delay of any changes in relation to the situation certified in accordance with sentence 2. ⁵The regulations applicable to deletion from lists by the Chamber of Engineers in the federal state of...^{*)} also apply to this list.

(4) Cannot be entered in the list because the applicant does not fulfil the conditions laid down in § 65a(3); this must be established by decision within the meaning of the legislation comparable to §10 BQFG under state law.

§ 65c Compensatory measures

(1) ¹Applicants who cannot be entered in the list referred to in § 65a(2) because they do not have an equivalent professional qualification due to material differences and who have a certificate of formal qualifications corresponding to the professional qualification level referred to in Article 11 letters b to e of Directive 2005/36/EC may complete an adaptation course of no more than three years or take an aptitude test. ²If a holder of a professional qualification in accordance with Article 11 letter a applies for the recognition of their professional qualifications and if the required professional qualification is classified under Article 11 letter d, the Chamber of Engineers in the federal state of...^{*)} may require both an adaptation course and an aptitude test.

(2) The details of the implementation of compensatory measures are laid down by statutes of the Chamber of Engineers in the federal state of ...^{*)}.

(3) ¹The Chamber of Engineers in the federal state of ...^{*)} may conclude agreements between federal states with other competent authorities within the Federal Republic of Germany for the implementation of compensatory measures. ²The agreement requires the approval of the Ministry...^{*)}.

^{*)} Under state law.

§ 65d

Temporary and occasional provision of services by engineers entitled to present the required documentation, notification procedures

(1) A service provider is entitled to create temporary and occasional building templates if it is entered in a corresponding directory with the Chamber of Engineers in the federal state of ...^{*)}.

(2) ¹A service provider referred to in paragraph 1 shall display the first provision of services to the Chamber of Engineers in the federal state of ...^{*)} in text form. ²A notification according to sentence 1 is not required if the service provider is already authorised to provide services due to a regulation in another country. ³Together with the notification, the following documents must be provided:

1. proof of identity
2. a certificate stating that they are legally established in a member state of the European Union or in a state equivalent to it by agreement to carry out the activity in question and that they are not prohibited from carrying out this activity, even temporarily, at the time the certificate is submitted,
3. proof of professional qualifications,
4. in the cases referred to in § 65a(3) sentence 2, proof in any form that the service provider has pursued the activity in question for at least one year during the preceding ten years, provided that the profession is not regulated in the member state of establishment,
5. proof of insurance coverage.^{*)}

⁴The regulations comparable in state law §§ 12 and 13 BQFG shall apply accordingly.

(3) ¹The submission of the notification according to paragraph 2 entitles the service provider to create building templates. ²The Chamber of Engineers in the federal state of...^{*)} shall be free to verify the documents referred to in paragraph 2 sentence 3. ³The service provider must be prohibited from preparing building plans if the service provider is not legally established in a member state to exercise the same profession, is prohibited from exercising this activity after notification, or does not meet the requirements of § 65a (3) sentence 2. ⁴In this case, the service provider must be given the opportunity to acquire missing knowledge, skills and competences through an adaptation course or to prove it through an aptitude test. ⁵If the service provider is legally established in a member state to practice the same profession or if they meet the requirements of § 65a (3) sentence 2, the creation of building plans may not be restricted on the basis of their professional qualifications. ⁶For the determination of the same profession within the meaning of this paragraph, the graded system of § 65 applies.

(4) ¹The right to maintain the professional title in the state of establishment according to Article 7(3) of Directive 2005/36/EC remains unaffected. ²The job title shall then be used in such a way that no confusion with a domestic job title is possible

^{*)} Under state law.

(5) ¹External engineers authorised to submit building documents must observe their professional duties. ²They are treated as members of the Chamber of Engineers in the federal state of^{*)}. ³The Chamber of Engineers in the federal state of^{*)} issues a certificate of five years, which may be renewed upon request, by entering into the list referred to in paragraph 1 sentence 1.

(6) The comparable regulation in state law § 17 BQFG applies accordingly.

§ 66 Building proofs

(1) ¹Compliance with the requirements for stability, fire, noise and vibration protection must be verified in accordance with the detailed provisions of the ordinance based on § 85 (3) (structural verification); this does not apply to process-free construction projects, including the removal of systems, unless otherwise specified in this law or in the statutory ordinance based on § 85 (3). ²The authorisation to submit building documents according to § 65 (2) numbers 1, 2 and (3) includes the authorisation to prepare structural engineering verifications, unless otherwise specified below.

(2) ¹In the case of

1. structures in building classes 1 to 3,
2. other structural works that are not buildings,

the proof of stability must be prepared by a person with a university degree qualifying for a profession in the field of architecture, structural engineering or civil engineering with at least three years of professional experience in structural planning, who, in compliance with § 65 (3) sentences 2 to 7, must be entered in one of the... lists; Entries from other federal states also apply in the state of ²In the case of other building projects, too, the proof of stability may be drawn up by a structural engineer as per sentence 1. ³As regards building class 4 projects, except for special structures and medium-sized and large garages within the meaning of the ordinance pursuant to § 85(1) number 3, the proof relating to fire protection must be drawn up by

1. a person authorised to submit building documents for the construction project who has demonstrated the necessary knowledge of fire protection,
2. a) a member of the architecture, building construction, civil engineering professions who has completed a course with a focus on fire protection and a degree at a German university or an equivalent degree at a foreign university, or

b) has completed a minimum of an apprenticeship as a senior fire-fighter,

who has worked for at least two years after completion of the training in the field of fire protection planning and execution of buildings or their testing and has demonstrated the necessary knowledge of fire protection, or

3. a [test engineer/test expert]¹ for fire protection,

which is entered in a list of...² in accordance with § 65(3) sentence 2-7; Entries from other federal states also apply in the state of⁴In the case of other construction projects, the fire protection certificate may also be prepared by a fire safety planner in accordance with sentence 3. ⁵As regards persons who are established in another member state of the European Union, or another state regarded as being equal in accordance with European Community law, for the purpose of drawing up proofs relating to stability or fire protection, § 65(4-6) shall apply accordingly, provided that the notification or the application to issue a written confirmation is to be submitted to the body responsible under sentences 1 or 3.

(3) ¹In the case of

1. building class 4 and 5 structures,

2. where this is necessary in accordance with a list of criteria regulated in the statutory instrument pursuant to § 85(3), in the case of

a) structures in building classes 1 to 3,

b) vessels, bridges, retaining walls, (grand)stands, and

c) other structures that are not buildings with a height of more than 10 m,

d) Foundations for wind turbines with a height of more than 10 m, the further components of which are subject to the scope of Directive 2006/42/EC;

must be the proof of stability [audited by construction supervision/certified by an expert]³; this does not apply to residential buildings in building classes 1 and 2. ²In the case of

1. special structures,

2. medium-sized and large garages within the meaning of the ordinance pursuant to § 85 (1) number 3, and

3. buildings of building class 5,

the proof relating to fire protection must be [verified by the building supervisory authority/certified by an authorised inspector]⁴.

(4) ¹Except in the cases referred to in paragraph 3, structural proofs shall not be tested; § 67 shall remain unaffected. [²If structural engineering is certified by an inspector, the corresponding requirements are not checked even in the cases of § 67.]⁵

¹ Under state law.

² Under state law.

³ Under state law.

⁴ Under state law.

⁵ Under state law.

³Furthermore, a [building inspection/certificate by an inspector]⁶ is not required if there are proofs of stability for the building project that have been generally checked by a testing office for stability (type test); type tests from other federal states also apply in the state of

§ 67 Deviations

(1) ¹The building supervisory authority should permit deviations from the requirements of this Act and regulations issued on the basis of this Act if they are compatible with public interests, in particular the requirements of § 3 sentence 1, taking into account the purpose of the respective requirement and taking into account the neighbouring interests protected under public law. ²This especially applies to

1. Projects intended for the reuse of existing buildings;
2. Projects for energy saving and use of renewable energy; or
3. Projects to test new forms of construction and housing.

³§ 85a (1) sentence 3 remains unaffected; [approval of a deviation is also not required if structural verifications are certified by an inspector].

(2) ¹The approval of deviations according to paragraph 1, of exceptions and exemptions from the stipulations of a development plan or other urban planning statutes or regulations of the building use ordinance (BauNVO) must be applied for separately; the request must be justified. ²Sentence 1 applies accordingly to systems that do not require a permit and to deviations from regulations that are not checked in the permitting process.

(3) ¹In the case of building projects that are not subject to approval, the municipal authority shall make a decision in accordance with paragraphs 1 and 2 in relation to deviations from local building regulations as per paragraph 1 sentence 1 as well as in relation to dispensations and exemptions as per paragraph 2 sentence 1. ²Furthermore, the building supervisory authority allows deviations from local building regulations in agreement with the municipality; § 36 Paragraph 2 sentence 2 BauGB shall apply accordingly.

(4) Approvals of deviations according to paragraph 2 sentence 2 and paragraph 3 are valid for three years; § 73 Paragraph 2 shall apply accordingly.

§ 68 Building application, design documentation

(1) The building application must be submitted to the lower building control authority.

(2) ¹All the documentation (building particulars and plans) necessary for evaluating the building project and revising the building application must be enclosed with the latter. ²Individual building plans may be submitted later.

⁶ Under state law.

(3) In special cases, for the purpose of evaluating the impact of the building project on the surroundings, it can be requested that the project is represented on the building plot in an appropriate manner.

(4) If the client is not the property owner, the property owner's consent to the construction project may be required.

§ 69

Handling of the building application

(1) ¹In relation to the building application, the building supervisory authority shall listen to the municipal authority and those bodies

1. whose participation or presence at the hearing is stipulated by a legal provision in terms of reaching a decision regarding the building application or
2. without whose opinion the viability of the building application cannot be assessed;

The need for parties to participate or attend the hearing is waived if the municipal authority or the respective body has already given its consent to the building application before the building approval procedure is initiated. ²If the granting of the building permit requires the approval or agreement of another body or authority, this is deemed to have been granted if it is not refused one month after receipt of the request; regulations that deviate from the period according to clause 1 remain unaffected. ³Representations not made at the building supervisory authority within one month of their being requested are not taken into consideration unless belated representation is important with regard to the legality of the decision concerning the building application.

(2) ¹If the construction application is incomplete or has other significant defects, the building authority shall ask the building owner to remedy the defects within a reasonable period of time. ²If the defects are not corrected within the timeframe set, the application is regarded as having been withdrawn.

(3) ¹Where the project concerns an installation falling within the scope of Directive (EU) 2018/2001, as amended, the following shall apply in addition:

1. At the client's request, the building supervision procedure as well as all other approval procedures required for the implementation of the project under federal or state law will be handled by a uniform body within the meaning of § 71a (State VwVfG).
2. The single body provides a procedural manual for building owners and also makes this information available on the Internet. It also deals separately with smaller projects and projects for self-sufficiency with electricity. In the information published on the Internet, the single body also indicates which projects it is responsible for and which other single bodies in the state ...¹ are responsible for projects referred to in sentence 1.
3. After receipt of the complete documents, the building supervisory authority

¹ Under state law.

draws up a schedule for the further procedure and, in the cases of number 1, communicates this schedule to the unified body, otherwise to the applicant.

²The uniform body within the meaning of sentence 1 is the body responsible under state law.

§ 70

Participation of neighbours and the public

(1) ¹The building supervisory authority shall notify the owners of neighbouring land (neighbours) prior to the granting of derogations and exemptions by delivery if it is to be expected that neighbouring interests will be affected by public law. ²The participation of the neighbours and the public takes place without naming the name and address of the building owner, the architect and the person authorised to submit building documents, if the purpose of the participation can also be achieved in this way without additional difficulties and if the client submits corresponding building documents. ³Rejections must be submitted in text form or as minutes to the building supervisory authority within one month of receipt of the notification. ⁴The neighbours involved who have been notified by service pursuant to sentence 1 are excluded from all public-law objections that have not been asserted within the period pursuant to sentence 2; this legal consequence must be pointed out in the notification.

(2) ¹There is no notification if the neighbours to be notified have agreed to the construction project. ²If the neighbours have not given their consent to the building project, they shall be served with the building permit.

(3) ¹In the case of construction installations which, due to their nature or operation, are capable of jeopardising, adversely affecting or harassing the general public or the neighbourhood, the building supervisory authority may, at the request of the building owner, make the construction project publicly known in its official publication sheet and, in addition, either on the Internet or in local daily newspapers distributed in the area of the site of the plant. ²Upon construction, modification or change of use,

1. one or more buildings if this creates residential units with a total gross floor area of more than 5,000 m², ,
2. structures that are open to the public if this enables more than 100 additional visitors to use them at the same time, and
3. structures that are special structures according to § 2 (4) numbers 9, 10, 12, 13, 15 or 16 after the construction project has been carried out,

the construction project is to be announced according to sentence 1 if it is within the appropriate safety distance of an operating area within the meaning of § 3 (5a) BImSchG; if the appropriate safety distance is not known, the decisive factor is whether the project is within the safety distance of the operating area. ³Sentence 2 shall not apply if

1. the building supervisory authority concludes that the requirement to maintain the appropriate safety distance is already taken into account in a development plan, or

2. in the case of changes to plans according to sentence 2 number 3, the number of people present at the same time does not increase.

⁴If the building supervisory authority proceeds in accordance with sentence 1 or 2, paragraphs 1 and 2 shall not apply.

(4) ¹The notice pursuant to paragraph 3 sentences 1 and 2 shall provide information about the following:

1. the object of the project,
2. the authority responsible for the permit, where the application and documents are made available for inspection and where and when inspection can be carried out,
3. that persons whose interests are affected and associations that meet the requirements of § 3 (1) or § 2 (2) of the Environmental Appeals Act (affected public) can submit objections to a body specified in the notice for up to two weeks after the expiration of the display period; it should be pointed out that all public law objections are excluded once the deadline has expired and the exclusion of environmental objections only applies to the approval process,
4. that the notification of the decision on the objections can be replaced by public notice.

²The notice pursuant to paragraph 3 sentence 2 must also provide information about the following:

1. where appropriate, the determination of the obligation to carry out an environmental impact assessment of the project pursuant to § 5 of the law on environmental impact assessment (UVPG) and, where necessary, the implementation of a cross-border participation pursuant to §§ 55 and 56 of the UVPG,
2. the nature of possible decisions or, where available, the draft decision,
3. where appropriate, further details of the procedure for informing the public and consulting the public concerned.

(5) ¹After the notice, the application and the building templates as well as the reports and recommendations relevant to the decision that are available to the building supervisory authority at the time of the announcement are to be made available for inspection for one month. ²Building plans that contain business or trade secrets are not to be interpreted; § 10(2) BImSchG shall apply accordingly to them. ³By two weeks after the end of the interpretative period, the public may make written objections to the competent authority; upon expiry of this period, all objections under public law are excluded. ⁴Sentence 3 applies to environmental objections only for the approval process.

(6) ¹If there are more than 20 neighbours to whom the building permit is to be served in accordance with paragraph 2 sentence 2, it may be replaced by a public notice; if public participation was carried out in accordance with paragraph 4, the approval notice must be made public. ²The public announcement is effected by the

operative part of the notice and the information on legal remedies being published in analogous application of paragraph 3 sentence 1; conditions are to be pointed out. ³A copy of the entire notice of approval is to be made available for inspection for two weeks from the day after the announcement. ⁴If public participation has taken place in accordance with paragraph 3 sentence 2, the main factual and legal reasons that prompted the authority to make its decision, the handling of the objections and information on the procedure for public participation are to be included in the justification; § 72 Paragraph 2 shall remain in effect. ⁵The public notice must state where and when the notification and its justification can be viewed and requested in accordance with sentence 7. ⁶At the end of the display period, the notice is also deemed to have been served to third parties who have not raised any objections; this must be mentioned in the notice. ⁷After the public announcement, the decision and its justification can be requested in writing by the persons who have raised objections until the objection period has expired.

§ 71

Replacement of the municipal agreement

(1) If a municipality has unlawfully failed to reach the agreement required under § 14 (2) sentence 2, § 22 (5) sentence 1, § 36 (1) sentences 1 and 2 of BauGB, the missing agreement must be compensated in accordance with paragraphs 2 to 4.

(2) § ... [complaint] of the municipal code does not apply.

(3) ¹At the same time, approval is regarded as substitute performance. ²It must be substantiated in this respect. ³Objections and actions for rescission also have no suspensive effect insofar as the approval is deemed to be a substitute performance.

(4) ¹The municipal authority shall be given a hearing prior to approval being granted. ²This is an opportunity for it to again make a decision regarding municipal authority agreement within a reasonable timeframe.

§ 72

Building permit, commencement of building work

(1) ¹The building permit is to be granted if the building project does not conflict with any public law regulations that are to be verified in the building supervisory approval process. ²The environmental impacts identified, described and assessed by means of an environmental impact assessment must be taken into account in accordance with the provisions applicable to that end.

(1a) ¹If a decision is to be made on a building application in the simplified approval procedure in accordance with § 63, § 42a VwVfG* applies accordingly with the following provisions:

1. The deadline for the decision begins
 - a) three weeks after receipt of the building application, or
 - b) three weeks after receipt of the requested documents if the building supervisory authority has sent a request in accordance with § 69 (2) before the start of the deadline.

2. The certificate in accordance with § 42a (3) VwVfG* must be issued unsolicited and immediately; it must reflect the content of the permit, contain information on legal remedies in accordance with § 58 VwGO and must be delivered to the applicant, the municipality and every neighbour who has not agreed to the building application.

²Sentence 1 does not apply if the applicant has waived the fictitious approval in writing to the building permit authority before the decision deadline has expired. ³In the case of sentence 1, paragraphs 2 and 3 shall not apply.

(2) The building permit shall be in writing; it is only to be justified insofar as deviations from or exemptions from regulations protecting neighbours are permitted and the neighbour has not consented in accordance with § 70 (2).

(3) The building permit can be issued subject to requirements, conditions and the reservation of the subsequent inclusion, change or addition of a condition as well as for a limited period.

(4) The building permit is issued irrespective of the rights of third parties.

(5) If the municipality is not the building supervisory authority, it must be informed of the decision of the building supervisory authority by sending the notification.

(6) Building work, or execution of the respective construction phase, may only begin if

1. the client is in receipt of the building permit, and
2. the certificates referred to in § 66(3), and
3. the construction start notice

are in the hands of the building supervisory authority.

(7) ¹Prior to work starting on a building, the ground plan area must be marked out and its elevation determined. ²Building permits, building plans and structural analysis, insofar as these are not building plans, [as well as certificates from inspectors]¹ must be available at the construction site from the start of construction.

(8) The building owner shall notify the building supervisory authority at least one week in advance in writing of the fact that work on projects requiring approval is starting or of the resumption of building work following a break of more than three months (notification of the start of construction work).

§ 72a MBO Type approval

(1) ¹For structural facilities that are to be erected in the same design at several locations, a type approval is granted upon request by (the authority responsible under

¹ Under state law.

state law) if the structures or parts of structures meet the requirements of this law or regulations issued on the basis of this law, ²A type approval can also be granted for structures that are to be erected in different designs but according to a specific system and from specific components at several locations; the permissible variance is to be specified in the type approval. ³No type approval is granted for temporary structures.

(2) The type approval is valid for five years. The period may be extended for up to five years upon request; § 73 Paragraph 2 sentence 2 shall apply accordingly.

(3) Type approvals from other federal states are also valid in the state of ... (by virtue of legal regulations or based on a decision by administrative act).

(4) ¹A type approval does not exempt one from the obligation to carry out a building supervision procedure. ²The issues decided in the type approval no longer have to be checked by the building supervisory authority.

§ 73

Period of validity of the approval

(1) ¹The building permit and the partial building permit, including the decisions replaced by the building permit pursuant to § 63 sentence 1 number 3, § 64 sentence 1 number 3 and deviations pursuant to § 67 paragraph 2 sentence 2 paragraph 3, shall expire if:

1. the start of the construction project has not taken place within three years after the permission being granted, or
2. if the construction has been interrupted for more than three years.

²The lodging of an appeal suspends the running of the deadlines until the building permit is final.

(2) ¹The period referred to in paragraph 1 number 1 may be extended by three years upon request made in text. ²This period can also be extended retrospectively if the building supervisory authority receives the application before the deadline expires.

§ 74

Partial building permit

¹If a construction application is submitted, the start of the construction work for the excavation pit and for individual components or construction phases may be allowed by written request before the building permit is granted (partial building permit). ²§ 72 applies accordingly.

§ 75

Preliminary notice

¹Before submitting the building application, a preliminary decision must be issued at the request of the building owner on individual issues of the building project that are to be examined in the building permit process. ²This preliminary notice is valid for three years. ³§§ 68 to 71, 72 (1) to (4) and 73 (1) sentence 2, paragraph 2 shall apply accordingly.

§ 76 Temporary structures

(1) ¹Temporary structures are structural works that are suited and designed to be erected and dismantled repeatedly at different locations. ²Building site equipment and scaffolding do not constitute temporary structures.

(2) ¹Temporary structures require an execution permit before being installed and used for the first time. ²This does not apply to

1. tents on the ground with a floor area of up to 75 m²;
2. ground floor sales and display shops with a height of up to 5 m and a floor area of up to 75 m²;
3. enclosed stands and podiums without a roof with a floor area of up to 75 m² and a height of the accessible areas up to 1 m;
4. platforms including canopies and other superstructures with a height of up to 5 m, a floor area of up to 100 m² and a floor height of up to 1.50 m;
5. children's rides with a height of up to 5 m and a speed not exceeding 1 m/s;
6. inflatable play equipment with an entrance height of up to 5 m or with sheltered areas where the distance to the exit does not exceed 3 m (if the sagging of the canopy is prevented by structural means, this distance shall not exceed 10 m);
7. other temporary structures up to 5 m in height that are not designed to be entered by visitors,

(3) ¹The execution permit shall be granted by the lower building authority in whose area the applicant has their main residence or commercial establishment. ²If the applicant has his/her principal domicile or place of business outside the Federal Republic of Germany, the building supervisory authority in whose area the temporary structure is to be erected and put into service for the first time has competence.

(4) The supreme building supervisory authority can stipulate that design approvals for temporary structures may only be drawn up by certain building supervisory authorities.

(5) ¹Authorisation shall be granted for a specified period not exceeding five years; upon application in text form, it can be extended by the authority responsible for issuing the implementation license for up to five years; § 73 Paragraph 2 sentence 2 shall apply accordingly. ²The approvals are entered in an inspection log, to which a copy of the building plans, which are to be provided with an approval note, must be attached. ³Execution permits from other federal states also apply in the state of

(6) ¹The holder of the implementation permit must immediately notify the last responsible authority of any change of residence or commercial establishment or the transfer of a temporary structure to third parties. ²The authority shall record the changes in the inspection log and, if they are associated with a change in competency,

shall inform the authority now responsible.

(7) ¹Temporary structures that require an implementation permit in accordance with paragraph 2 may only be put into use, without prejudice to other regulations, if their installation is submitted to the building supervisory authority at the site in a timely manner including the presentation of the inspection book or including details of the essential data of the temporary structure, in particular information on the type of the temporary structure, the dimensions (floor area, height), the period of validity of the implementation permit and the additional provisions, the planned operating time and the operator, in text form. ²The building supervisory authority can make the commissioning of these temporary structures dependent on a final acceptance. ³The result of the final acceptance or the waiver thereof shall be entered in the inspection book.

(8) ¹The building supervisory authority responsible for granting the approval for use can impose conditions or prohibit the erection or use of temporary structures, insofar as this is required by local conditions or to avoid danger, in particular because operational safety or stability is not or no longer guaranteed or because of a deviation from the execution permit. ²If installation or use is prohibited, this fact must be recorded in the inspection log. ³The issuing authority must be notified, the inspection log confiscated and this passed on to the issuing authority if it is not anticipated that the proper conditions will be established within a reasonable timeframe.

(9) ¹In the case of temporary structures that are accessed by visitors and operated for a longer period of time at an installation site, the building supervisory authority responsible for acceptance for use can carry out subsequent acceptance for safety reasons. ²The results of these follow-up inspections must be recorded in the inspection log.

(10) §§ 68 Paragraphs 1, 2 and 4, 81(1) and (4) shall apply accordingly.

§ 77

Building supervision approval

(1) ¹Building projects that are subject to approval do not require any permit, exemption from approval and building supervision if

1. the management of the design work and the construction supervision has been assigned to a federal or state construction department, and
2. the building department has at least one employee qualified at the higher grade of the building administrative service and is adequately manned with other suitably trained staff.

²However, structural works of this type require the consent of the higher¹ building supervisory authority. ³Approval does not apply if the community does not object and the neighbours agree to the construction project, provided that their public-law interests may be affected by deviations, exceptions and exemptions. ⁴Building measures carried out in or around existing buildings under the prerequisites of sentence 1 do not require any permit, exemption from approval or consent unless they result in the volume of the

¹ Under state law.

building expanding or a change in its use that is subject to approval. The same also applies to the removal of structural works. ⁵Sentence 3 shall not apply to construction installations for which public participation is to be carried out pursuant to § 70(3).

(2) The request for approval must be submitted to the higher¹ building supervisory authority.

(3) ¹The higher² building supervisory authority shall examine

1. compliance with the provisions concerning the admissibility of structural works in accordance with to § 29 to 38 of the Building Code, and
2. other requirements under public law if, on account of the approval, a decision taken in accordance with other public-law regulations no longer applies or is superseded.

²In the case of the systems specified in paragraph 1 sentence 5, it carries out public participation in accordance with § 70 (3-6). ³The higher³ building supervisory authority shall decide on dispensations, exemptions and deviations from the regulations to be examined as per sentence 1 and from other regulations where they serve to protect neighbours and the neighbours have not given their consent. ⁴Otherwise, the admissibility of dispensations, exemptions and deviations does not require any decision to be taken at building supervisory level.

(4) ¹The municipal authority shall be given a hearing prior to approval being granted. ²§ 36 Paragraph 2 sentence 2 clause 1 of the Building Code shall apply accordingly. ³Otherwise, the regulations on the building permit procedure apply accordingly.

(5) ¹By way of derogation from paragraphs 1 to 4 of the ⁴highest building supervisory authority before the start of construction, installations that serve the national defence, official purposes of the Federal Police or civil protection shall be brought to the attention in an appropriate manner; Paragraph 1 sentence 3 clause 1 shall apply accordingly. ²Otherwise, the building supervisory authorities are not involved. ³§ 76 Paragraphs 2 to 10 do not apply to temporary structures used for national defence, official purposes of the federal police or civil protection.

Section Four **Building supervisory measures**

§ 78 **Ban on illegally marked construction products**

If construction products are labelled with the Ü-mark contrary to § 21, the building supervisory authority can prohibit the use of these construction products and have their labels rendered invalid or removed.

¹ Under state law.

² Under state law.

³ Under state law.

⁴ Under state law.

§ 79 Cancellation of work

(1) ¹If installations are erected, modified or removed contrary to public-law regulations, the building supervisory authority can order the cessation of the work. ²This is also the case if

1. the execution of a project was started contrary to the provisions of § 72 (6) and (8), or
2. in the case of the execution
 - a) of a building project requiring approval, the approved building particulars and plans are deviated from, or
 - b) in the case of a building project that is exempt from approval, the submitted documentation is

deviating,
3. construction products are used which, contrary to Regulation (EU) 305/2011, do not carry a CE mark or which, contrary to § 21, do not carry a Ü-mark,
4. construction products that are marked without authorisation with the CE marking or the Ü-mark (§ 21(3)).

(2) If inadmissible work is continued despite a cessation ordered in writing or verbally, the building supervisory authority can seal off the construction site or take the construction products, equipment, machines and construction aids available on the construction site into official custody.

§ 80 Removal of installations, ban on use

¹If installations are erected or modified contrary to public-law regulations, the building supervisory authority can order their partial or complete removal if lawful conditions cannot be established in any other way. ²If installations are used contrary to public-law regulations, their use in this manner can be prohibited.

Section Five Building supervision

§ 81 Building supervision

(1) The building supervisory authority can inspect compliance with regulations and requirements under public law and verify that the obligations incumbent upon those parties involved in the construction process are being fulfilled as per regulations.

(2) ¹[The building supervisor authority/The audit expert]²² monitors the erection of construction facilities in accordance with the provisions of the ordinance pursuant to § 85(2)

1. pursuant to § 66(3) sentence 1 in terms of the proof of stability [inspected/certified]¹,
2. pursuant to § 66(3) sentence 2 in terms of the proof relating to fire protection [inspected/certified]².

²In the case of buildings in building class 4, with the exception of special buildings and medium-sized and large garages within the meaning of the ordinance pursuant to § 85 (1) number 3, the construction work consistent with the fire protection certificate must be provided by the certifier or another person entitled to provide evidence within the meaning of § 66 (2) sentence 3. [³If the building work is certified by an authorised inspector or corroborated according to sentence 2, monitoring by the building supervisory authorities is not conducted in this respect.]³

(3) In the context of building supervision, samples of construction products can be taken for inspection purposes, including from prefabricated parts if need be.

(4) Also in the context of building supervision, the permits, authorisations, test certificates, certificates of compliance, certificates and records relating to the tests carried out on construction products, in the CE marks and performance statements in accordance with Regulation (EU) 305/2011, building journals and other designated records must be open to viewing at any time.

(5) If the building supervisory authority or testing expert in the context of building inspections discover systematic breaches of Regulation (EU) 305/2011, they must be reported to the body responsible for market surveillance.

§ 82

Construction status indicators, recording use

(1) ¹[The building supervisory authority/authorised inspector]²⁶ can insist that [they]⁴ are notified when certain building work starts and ends. ²The building work may only resume if [the building supervisory authority/authorised inspector]⁵ have given their consent.

(2) ¹The building owner must notify the building supervisory authority at least two weeks in advance of the intended start of use of a structural facility that is not free of procedures. ²Must be submitted with the notification according to sentence 1

- [1. in the case of building projects as per § 66(3) sentence 1, a certificate issued by the authorised inspector pertaining to the proper execution of construction work with regard to stability,
2. in the case of building projects as per § 66(3) sentence 2, a certificate issued by the authorised inspector pertaining to the proper execution of construction

¹ Under state law.

² Under state law.

³ Under state law.

⁴ Under state law.

⁵ Under state law.

work with regard to fire protection (§ 81(2) sentence 1)]⁶,

3. in the cases referred to in § 81(2) sentence 2.

³A structural work may only be used provided the work itself, the approach roads, water supply and waste water disposal installations, as well as communal installations, are sufficiently safe to use, but not before the date indicated in sentence 1. ⁴Furnaces may only be put into operation when the authorised district chimney sweep has certified the safe exhaust gas discharge and the suitability of connection to an exhaust system; combustion engines and combined heat and power plants may only be put into operation if he has certified the suitability and safe usability of the lines for discharging combustion gases.

Section Six Obligations to construct and maintain

§ 83 Obligations to construct and maintain/register thereof

(1) ¹By means of a declaration made to the building supervisory authority, land owners can assume obligations under public law regarding an act, toleration of an act or a failure to act in relation to their plots which do not already follow from public-law regulations. ²Irrespective of the rights of third parties, the construction and maintenance obligations take effect with their entry in the appropriate register and are also effective vis-à-vis legal successors.

(2) The notice referred to in paragraph 1 shall be in writing; the signature must be publicly certified or provided or recognised by the building supervisory authority.

(3) ¹The construction load is subject by waiver of the building supervisory authority. ²The waiver shall be declared if a public interest in the construction and maintenance obligation no longer exists. ³Prior to the waiver, the obligated party and the beneficiaries as a result of the obligation to construct and maintain must be granted a hearing. ⁴The waiver becomes effective with the deletion of the construction and maintenance obligation in the register of obligations.

(4) ¹The register of obligations relating to construction and maintenance is kept by the building supervisory authority. ²The following may also be entered in this register:

1. other obligations under building law on the part of the land owner regarding an act, toleration of an act or a failure to act in relation to his/her plot,
2. requirements, conditions, time limits and reservations of revocation.

(5) Anyone who sets out a legitimate interest can access the register of obligations and have an excerpt created.

⁶ Under state law.

Sixth part
Administrative offences, legal provisions,
transitional and concluding provisions

§ 84
Administrative offences

- (1) ¹A breach of the regulations is committed by any person who wilfully or negligently
1. violates an ordinance issued pursuant to § 85 (1) to (3) or a statute issued pursuant to § 86 (1) and (2) if the ordinance or statute refers to this fine provision for a specific offence,
 2. acts in contravention of an enforceable written order from the building supervisory authority which has been issued on the basis of this Act or on the basis of a statutory instrument or statute permitted in accordance with this Act, if the order makes reference to the penalty provision,
 3. without the required building permit (§ 59 (1)), partial building permit (§ 74) or deviation (§ 67) or deviating therefrom, erects, modifies, uses or, contrary to § 61 (3), sentences 2 to 4, removes structures,
 4. begins work on a building project contrary to the provision contained in § 62(3) sentences 2 to 4,
 5. puts temporary structures to use without design approval (§ 76(2)) or without notification and an acceptance inspection (§ 76(7)),
 6. starts construction work contrary to the provision of § 72 (6), contrary to the provision of § 61 (3), sentence 5, with the removal of an installation, continues construction work contrary to the provisions of § 82 (1), or uses structural facilities contrary to the provision of § 82 (2), sentences 1 and 2,
 7. does not provide, or does not provide within the period stipulated, the notice concerning the start of building work (§ 72(8)),
 8. provides construction products with the Ü-mark without the prerequisites for this pursuant to § 21(3) being present,
 9. uses construction products that do not have the Ü-mark, contrary to § 21(3),
 10. uses designs contrary to § 16a, without a design approval or general building supervisory test certificate for designs,
 11. as a building owner, architect, entrepreneur, site manager or as their representative, violates the provisions of § 53 (1) sentences 1-3 and 5-6, § 54 (1) sentence 3, § 55 (1) sentences 1 and 2 or § 56 (1).

²If an administrative offence has been committed in accordance with sentence 1 numbers 8 to 10, objects to which the administrative offence relates may be

confiscated; § 19 of the Code of Administrative Offences (OWiG) shall apply.

(2) A breach of the regulations is also committed by any person who, against their better judgement,

1. provides incorrect information or submits incorrect plans or documents in order to obtain or prevent an administrative act provided for under this Act,
2. [prepares erroneous test reports as a test engineer/issues erroneous certificates regarding compliance with requirements under building regulations law as an authorised inspector]¹.
3. provides incorrect information in the catalogue of criteria pursuant to § 66 (3) sentence 1 number 2.

(3) An administrative offence can be punishable by a fine of up to EUR 500 000.

(4) The administrative authority within the meaning of § 36(1) sentence 1 of the Code of Administrative Offences is, in the instances under paragraph 1 sentence 1 and numbers 8-10, the supreme building supervisory authority. In the other instances, it is the lower building supervisory authority.

§ 85 Legal provisions

(1) In order to implement the requirements specified in § 3 sentence 1, § 16a (1) and § 16b (1), the supreme building supervisory authority is authorised to issue regulations by statutory order regarding

1. the more detailed determination of general requirements of §§ 4 to 48,
2. requirements for combustion systems, other systems for heat generation and energy provision (§ 42),
3. requirements for garages and buildings and rooms for bicycle storage (§ 2(7), § 49),
4. particular requirements or facilitations which follow from the particular nature or use of the structural works with regard to erection, modification, maintenance, operation and use (§ 51) and the application of such requirements to existing structural works of this type,
5. initial and repeat inspections and checks carried out on installations which have to be constantly maintained in a proper condition in order to prevent serious risks or adverse effects, and the extension of this repeat inspection obligation to existing installations,
6. the presence of competent persons in the operation of technically difficult structural systems and facilities such as stage operations and technically difficult temporary structures, including proof of the qualifications of these

¹ Under state law.

persons.

(2) ¹By means of a statutory instrument, the supreme building supervisory authority is empowered to issue regulations regarding

1. the test engineers and offices to which building supervisory examination duties, including building supervision and site visits to inspect the state of construction, are transferred, and
2. Inspectors who check and certify compliance with building code requirements on behalf of the building owner or other persons responsible under building code law.

²The statutory instruments pursuant to sentence 1 regulate, where necessary,

1. the specialist fields and areas in which test engineers, test offices and authorised inspectors are employed,
2. the preconditions for approval and the approval procedure,
3. cessation, withdrawal and revocation of recognition, including the setting of an age limit,
4. the performance of one's duties, and
5. reimbursement.

³The supreme building supervisory authority can also issue a statutory ordinance to

1. assign the position of authorised inspector as per sentence 1(2) to the directors and deputy directors of test offices, as well as to the directors and deputy directors of fire protection departments,
2. to the extent that for certain specialist areas and disciplines, authorised experts according to sentence 1 number 2 are not yet recognised to a sufficient extent, order that the building code requirements to be examined and certified by such authorised experts can be examined by the building authorities,
3. if structural engineers according to § 66 (2) sentence 1 or fire protection planners according to § 66 (2) sentence 3 are not yet registered to a sufficient extent, order that the proof of stability or fire protection be checked by the building authorities and that the construction work be monitored by the building authorities.

(3) ¹By means of a statutory instrument, the supreme building supervisory authority is empowered to issue regulations regarding

1. the scope, content and number of documents required, including plans, with regard to notice of the intended removal of installations pursuant to § 61(3) sentence 2 and with regard to exemption from approval as per § 62,

2. the necessary applications, notices, evidence, certificates and confirmations, including for construction projects without a procedure,
3. the procedure in detail.

²It can prescribe

1. the type of transmission,
2. different requirements and procedures for different types of building projects,
3. and the use of the forms published by the supreme building supervisory

authority.

(4) The supreme building supervisory authority is authorised by ordinance

1. to transfer responsibility for approval of a design in a particular case in accordance with § 16a(2) sentence 1 number 2 and the waiver of this in a particular case in accordance with § 16a(4) as well as the consent and the waiver of consent in a particular case (§ 20)
 - a) to authorities immediately below the supreme building supervisory authority, and
 - b) to transfer such to the lower building supervisory authority in the case of construction products to be used in historical monuments in accordance with the State Monument Protection Act, either in general terms or in relation to specific construction products,

to

2. transfer responsibility for the recognition of inspection, certification and monitoring bodies (§ 25) to other authorities; responsibility can also be transferred to an authority in another state that is subject to the supervision of a supreme building supervisory authority or in whose decision-making process the supreme building supervisory authority is involved,
3. to stipulate the Ü-mark and request additional information relating to this mark,
4. to regulate the recognition procedure according to § 25, the requirements for the recognition, its withdrawal, its revocation and its expiry, in particular to set age limits, and to demand adequate liability insurance.

(4a) By means of a statutory instrument, the supreme building supervisory authority can stipulate that for certain construction products and designs, even those that are subject to different legal requirements, §§ 16a(2, 17-25) applies with respect to these requirements, either in full or in part, if the other legal provisions require or permit it.

(5) ¹The highest building supervisory authority is authorized to determine by legal ordinance that the requirements of the legal ordinances issued based on § 31 of the Act

on Systems Requiring Monitoring (ÜAnIG) of July 27 2021 (BGBl. I p. 3146, 3162) in the currently valid version correspond accordingly apply to systems that serve neither commercial nor economic purposes and in which no workers are employed in the danger zone. ²It can also declare the procedural rules of these orders to be applicable or itself stipulate the procedure as well as regulate the competences and charges. ³In doing so, it can also prescribe that permits to be issued thereafter include the building permit or approval pursuant to § 77 including the associated deviations and that § 27 (5) ÜAnIG applies in this respect.

§ 85a

Technical Building Regulations

(1) ¹The requirements under § 3 may be specified by Technical Building Regulations. ²The Technical Building Regulations must be observed. ³It is possible to deviate from the planning, dimensioning and implementation regulations contained in the Technical Building Regulations if the requirements are met to the same extent with another solution, and a deviation is not excluded in the Technical Building Regulations; § 16a (2), § 17 (1) and § 67 (1) remain unaffected.

(2) The specifications can be made by reference to technical rules and their references or in other ways, in particular with regard to:

1. particular structures and their components,
2. the design, dimensioning and execution of structures and their parts;
3. the performance of construction products in certain construction facilities or their parts, in particular
 - a) planning, dimensioning and execution of structures during fitting of a construction product,
 - b) characteristics of construction products which for a type of usage affect the fulfilment of the requirements under § 3 sentence 1,
 - c) procedure for determining the performance of a construction product with regard to characteristics that affect the fulfilment of the requirements according to § 3 sentence 1 for,
 - d) particular permissible or impermissible types of usage,
 - e) the determination of classes and levels with respect to particular types of usage,
 - f) the performance to be specified or required and to be specified for a specific purpose in relation to a characteristic that affects the fulfilment of the requirements under § 3 sentence 1 for a purpose, if provided for in classes and levels,
4. the types of construction and the building products that only require a general building inspection test certificate according to § 16a (3) or according to § 19

(1),

5. the requirements for submission of the compliance declaration for a construction product according to § 22,
6. the nature, content and form of technical documentation.

(3) The Technical Building Regulations shall be structured in accordance with the basic requirements under Annex I of Regulation (EU) 305/2011.

(4) The Technical Building Regulations contain the list referred to in § 17(3).

(5) ¹After hearing the parties involved, the German Institute for Building Technology (Deutsches Institut für Bautechnik), in agreement with the supreme building supervisory authority for the implementation of this law and the statutory ordinances issued on the basis of this law, publishes the technical building regulations according to paragraph 1 as an administrative regulation. ²The administrative regulation issued under sentence 1 applies as a provincial¹ administrative regulation, unless the supreme building supervisory authority issues an administrative regulation to the contrary.

§ 86 Local building regulations

(1) Municipalities may enact local building codes through statutes including

1. particular requirements pertaining to the external configuration of structural works and advertising facilities and vending machines in terms of the preservation and form of townscapes,
2. the ban on advertising facilities and vending machines for reasons relating to the overall appearance of townscapes,
3. the location, size, make-up, equipping and maintenance of children's playgrounds (§ 8(2)),
4. the number, size and nature of parking areas as well as storage opportunities for bicycles (§ 49(1)) required by installations in consideration of the safety and ease of movement of the traffic, the needs of stationary vehicles and infrastructure provision in the form of short-distance public transport facilities, in respect of which traffic entering and leaving in the form of motor vehicles or bicycles is anticipated (essential parking areas and storage spaces for bicycles), including increased demand in the event of modifications to, and changes in the use of, installations, as well as removal of the manufacturer's obligation and the redemption amounts which can be regulated differently depending on the position of the installation and what it is used for,
5. the design of places for mobile waste containers and the undeveloped areas of built-up land, as well as the need, type, design and height of enclosures; it might be stipulated that front gardens may not be used as work surfaces or

¹ Under state law.

storage areas,

6. dimensions of the depth deviating from § 6, insofar as this is necessary for the design of the townscape or for the implementation of the provisions of an urban planning statute and sufficient lighting and fire protection are guaranteed,

7. the greening of structural works.

(2) ¹Local building regulations can also be enacted by means of a development plan or, if the Building Code makes provision for this, by means of other statutes pursuant to the provisions of the Building Code. ²If the local building regulations are enacted by means of a development plan or by means of another town planning regulation in accordance with the Building Code, then the provisions of the first and third chapters of the first part, of the first chapter of the second part and of §§ 13, 13a, 30, 31, 33, 36, 214 and 215 of the Building Code shall apply accordingly.

(3) ¹Requirements according to paragraphs 1 and 2 can also be laid down within the local building regulation in the form of graphic representations. ²Your announcement may be replaced by the fact that this part of the local building code is made available to the municipality for inspection; this must be pointed out in the local building regulations.

§ 87

Entry into force, Transitional provisions

(1) ¹This Act shall enter into force on ²Contrary to sentence 1, the provisions on the authorisation to issue statutory ordinances come into force on the day after their promulgation.

(2) ¹Procedures initiated prior to the entry into force of an amendment to this Act will be completed in accordance with the current legislation. ²The amended substantive legal provisions shall only be applied to projects for which a procedure was initiated before an amendment to this law came into force if they contain a regulation that is more favourable for the client.

(3) ¹As long as § 20 (1) BauNVO refers to state law for the definition of the entire floor, § 2 (4) of this law in its previous version continues to apply. ²In residential buildings in building classes 1 and 2, storeys which have a level of clearance necessary for accommodation areas in buildings of this type over at least 2/3 of their area are regarded as storeys proper.

(4) ¹The use of the Ü-mark on construction products which carry the CE mark on the basis of Regulation (EU) No 305/2011 is no longer permitted after this Act takes effect. ²If construction products in circulation which carry the CE mark on the basis of Regulation (EU) 305/2011 are marked with the Ü-mark, it ceases to be valid after this Act enters into effect.

(5) Until this Act takes effect, general building supervisory approvals or approvals in particular cases for designs continue to be considered as design approvals.

(6) ¹Existing recognitions as testing, inspection and certification bodies remain effective to the extent laid down by regulation before this Act entered into force. ²Before the entry into force of this Act, applications are considered to be applications under this Act.

(7) The training requirements specified in Annex 1 do not apply to persons who, at the time the Act came into force *) had already begun their studies. For these persons, the training requirements of § 65 apply in the version valid up to the entry into force of the Act ... *).

(8) With effect from January 14 2027, § 1 (2) sentence 1 number 8 and § 66 (3) sentence 1 letter d will be amended as follows:

1. § 1 Paragraph 2, sentence 1 number 8 is replaced by the following: “Wind turbines and parts of wind turbines for which conformity with the requirements of Regulation (EU) 2023/1230 of the European Parliament and of the Council of 14 June 2023 on machinery and repealing Directive 2006/42/EC of the European Parliament and of the Council and Council Directive 73/361/EEC of 14 June 2023, L 165, p. 1 (EU Machine Ordinance) is demonstrated by an EU declaration of conformity and a CE mark.”
2. In § 66(3) sentence 1 letter d, the words “Directive 2006/42/EC” are replaced by the words “Regulation (EU) 2023/1230”.

*)

Annex 1 (§ 65(3) number 3, to § 65a(1) number 1)

Training content guidelines

General

The theoretical and practical content of the course must be geared to the comprehensive professional tasks as well as to the professional skills and activities of civil engineers. The activities of civil engineers essentially include the planning, design, construction, execution, maintenance, operation and dismantling of buildings and structures of all kinds, especially in the areas of structural engineering, transport engineering, civil engineering and hydraulic engineering.

Content requirements for studying civil engineering

Within the framework of a course of study with the designation “civil engineering” or a corresponding course of study with at least three years of study (equivalent to 180 ECTS credit points) that is mainly geared towards civil engineering, at least 135 ECTS points must be acquired in subjects that can be assigned to civil engineering.

These include:

1. Subjects that provide a solid basic knowledge in the thematic-scientific area: in particular higher mathematics, technical mechanics, building physics, building chemistry, and building materials science and technical representation,
2. Subjects that provide general subject-specific fundamentals of civil engineering: in particular structural design / object planning of buildings, structural engineering planning, construction informatics / geoinformatics, digital construction, numerical modelling, geotechnics, soil mechanics and geodesy,
3. Subjects that provide specific knowledge of structural engineering: in particular structural analysis, solid construction (concrete, reinforced concrete and masonry construction), steel and metal construction, timber construction, composite construction, glass construction and plastics, bridge construction,
4. Subjects that provide in-depth knowledge in special areas specific to civil engineering: in particular water management, hydraulic engineering, urban water management, waste management and contaminated sites, transport planning, public transport systems and transport routes (road, rail) road engineering,
5. Subjects that provide in-depth knowledge of construction management: in particular construction project management, construction process management and construction business management, construction planning management,
6. Study content that teaches further general basics: in particular building law (planning law, regulatory law, civil law (contracts, liability), building in existing contexts, ecology, foreign languages (specialist vocabulary) and technical building equipment.

The share of the subjects in numbers 1 to 4 must be at least 110 ECTS credits.