

**DECISION**  
**No. 1096, dated 28/12/2015**  
**ON APPROVING THE RULES, CONDITIONS AND PROCEDURES FOR THE USE**  
**AND MANAGEMENT OF PUBLIC SPACE**

Pursuant to Article 100 of the Constitution and Article 4/1 of Law no. 107/2014, “On territorial planning and development”, as amended, upon the proposal of the Minister of Urban Development, the Council of Ministers

**DECIDED:**

To approve the rules, conditions and procedures for the use and management of public space, according to the text attached to this decision.

This Decision shall enter into force after its publication in the Official Journal.

PRIME MINISTER  
**Edi Rama**

**RULES, CONDITIONS AND PROCEDURES FOR THE USE AND MANAGEMENT OF**  
**PUBLIC SPACE**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**  
**Purpose**

This decision shall set out the rules, conditions and procedures for the use and management of public space.

**Article 2**

**Object**

This decision shall regulate existing public spaces as well as those created pursuant to planning documents.

**Article 3**  
**Definitions**

1. In this act, the following terms shall have the following meanings:

a) DLP Agreement, means the agreement concluded between the private parties and the local planning authority, on the approval of a Detailed Local Plan (DLP), aiming at defining the property development rights of the respective structural unit; fair distribution of liabilities and benefits of the parties involved and the conditions for the creation of infrastructure and public space; the DLP agreement shall necessarily contain, at least, the provisions set out in the model attached to this decision as Annex A.

b) Urban furnishing, means the process of designing, constructing and/or placing in the public space of mobile objects or constructions, aiming at improving its functional and aesthetic quality, enhancing public safety and, where appropriate, mitigating the traffic. Urban furnishing include vegetation, public space layers, benches, fountains, art installations, sculptures, street name boards

or billboards, telephone booths, waste bins, lighting, traffic lights, beams and parking fences or vehicle deceleration means, mailboxes, etc.

c) Building, means a building or group of buildings for residential use and which may have service and commercial premises consisting of at least 5 units, as per the definition of the term "unit" set out in the legislation on administration of co-ownership in residential buildings.

ç) Permitted services, means the services that the local authority allows to be performed in public spaces, according to the permitted categories of land use, and which are compatible with the construction around the space where they are created, based on the law and planning documents.

d) Approved urban planning studies, means the detailed planning documents on a specific area (such as DLP, partial urban planning studies), approved prior to the entry into force of Law no. 107/2014, "On territorial planning and development", as amended.

dh) Special Assessment District, means an area in which a program of new/upgrading investments in public infrastructure is implemented, which affects the increase of the immovable property value. By implementing this program, the public authority shall charge at least part of the public investment costs on the owners of the area. The request to classify the area as a special assessment district may be submitted to the local public authority by the owners and/or residents of the area.

2. Other terms used in this decision shall have the same meaning as those defined in Law no. 107/2014, "On territorial planning and development", as amended, and its by-laws.

## CHAPTER II EXISTING PUBLIC SPACES

### Article 4

#### **Existing public spaces regime**

1. Existing public spaces, such as sidewalks, roads, squares, gardens, parks, promenades, pathways and other areas of public use, are inviolable and may not change their destination for public use except through planning documents, set out in the law.

2. The part of the plot or plots built outside the building footprint is a public space and is used as such by the inhabitants' community. This space is not fenced unless otherwise provided for in the building permit. The municipality covers its maintenance costs.

3. In cases where the space, under item 2 above, serves the co-owners' community, in accordance with the law on occupancy, the co-owners' assembly shall carry out maintenance and upgrades, according to the rules set by the municipality, and shall cover relevant expenses. Otherwise, maintenance and upgrades shall be mandatorily carried out by the local authority, and intervention costs shall be charged to the co-owners assembly.

### Article 5

#### **Public spaces under DLPs**

1. The public spaces foreseen in a detailed local plan, developed and approved by law, shall be transferred to the public authority ownership, under the DLP agreement, developed and maintained as per the template attached as Annex A.

2. Public spaces foreseen in approved urban planning studies, where they have been addressed for development rights to the properties included in the study, shall be maintained and improved by the public authority at its own expenses.

## CHAPTER III

## DEVELOPMENT OF PUBLIC SPACE

### Article 6

#### **Instruments for the creation of infrastructure and public space**

1. The instruments that the local planning authority can use to create and finance infrastructure and public space, based on the legislation in force, are as follows:
  - a) conditioned construction intensity;
  - b) transfer of development right among plots;
  - c) Business Improvement District (BID);
  - ç) payment by the owners of the beneficiary area of the share of the benefit derived from the increased land value;
  - d) reorganization of plots;
  - dh) Special Assessment Districts, through which private entities shall fund the infrastructural upgrades of a particular area of interest;
  - e) other instruments, under the law.
2. The application of the above instruments in order to create public space shall be preceded by the drafting and implementation of relevant programs.
3. Private operators and the public authority may, in agreement between them, apply one or more of the above instruments within a public-private partnership.
4. The created public spaces shall be, in any case, freely accessible to the public.
5. Construction permits for buildings, where the General Local Plan does not specify the obligation to develop a detailed local plan, shall foresee the conditions for the creation of public space on the part of the plot that remains outside the construction footprint. The rules for the administration and transfer of public space and infrastructure to public ownership shall be set out in the agreement entered into between the developer and the public authority approving the construction permit.

### Article 7

#### **Public space creation program**

1. Public space creation program by the instruments referred to in Article 6(1), shall be implemented by the local planning authority, through DLPs or construction permits as appropriate. Where the General Local Plan determines that the development of the area shall be preceded by the development of a detailed local plan, the program may be implemented through DLPs.
2. The program may contain the following as appropriate:
  - a) the purpose and strategy of public communication;
  - b) the instruments to be used for the creation of public space, according to Article 6 above;
  - c) the distribution of liabilities and benefits between the private parties as well as between the private and public parties, including, where appropriate, the share of the local authority benefiting from the increased land value resulting from the creation of public infrastructures by the public authority itself, or from improved changes in the development conditions;
  - ç) a feasibility study on the program implementation;
  - d) the budget, execution deadline and the mode and/or structure of program administration.

### Article 8

#### **Content of the DLP for the purpose of creating public spaces**

Where the program is implemented through a DLP, the latter shall definitely contain:

- a) steps for creating public spaces for the DLP-treated area, including the designation of public and private contribution to the construction of infrastructure and public space, as per Article 9 below;
- b) identification of private plots, or parts thereof, that are transferred to the municipality, without compensation, for the purpose and destination of creating roads, services, public infrastructure and public space in general;
- c) project implementation stages;
- ç) applicable sanctions, in case of breach of obligations set out in the DLP, pursuant to the applicable laws;
- d) the DLP agreement on the fair sharing of the liabilities and benefits of the involved parties, pursuant to Article 9, as follows.

#### Article 9

##### **Content of the DLP agreement**

1. The DLP agreement between private operators and public authorities under Articles 5 and 8 above shall necessarily contain at least:
  - a) the obligation to finance and carry out infrastructure and public space works by the involved operators;
  - b) the mode of financing and the respective terms of the involved operators in the agreement (such as through the provision of in-kind contributions, forms of taxation, mutual funds, bonds, in accordance with the law);
  - c) free transfer of ownership to the municipality, in the territory in which the development will take place, of the properties or parts thereof where infrastructure and public spaces will be created in accordance with the agreement;
  - ç) deadlines for the implementation, as appropriate, of the DLP or public space creation program and the issuance of development, construction and use permits by the municipality, including the relevant stages;
  - d) financial guarantees, provided by developers for the implementation, as appropriate, of the DLP, public space creation program and/or construction permit;
  - dh) sanctions for cases of non-compliance with the obligations undertaken by the developer under the agreement.
2. The signing of the agreement, as above, is a condition for approval of the respective DLP.

#### CHAPTER IV

#### RULES FOR USE OF PUBLIC SPACE

#### Article 10

##### **Permitted activities**

In public spaces, only activities that are consistent with the purpose of their creation shall be permitted to be performed, respecting the function, conditions of use and permitted services, as designated by the planning authority.

#### Article 11

##### **Occupying public space**

1. Occupation, even temporarily, by any object, of public space and spaces above or below it, without the permission or authorization of the municipality or authority responsible for their maintenance and management shall be prohibited.
2. The following cases shall be excluded from the above rule:
  - a) stationing of vehicles, public or private, in designated places;
  - b) stationing of vehicles on roads and squares, for the time strictly necessary for loading/unloading operations;
  - c) placing of window cleaning ladders outside shops according to the schedules determined by the local governmental unit for performing this activity.
3. In any case, the granting of authorization to occupy parks or playgrounds by any object by private persons, including removable elements, such as tables and chairs, shall be prohibited unless planning documents with clearly specified criteria so permit. Until the drafting of the planning documents for the municipal administrative territories, the granting of authorizations for the temporary occupation of park spaces for the provision of services to citizens (bar, coffee shop, restaurant) shall be permitted, which shall not exceed, in total, the amount of 0, 5% of the park area.

#### Article 12

##### **Waste disposal**

It is forbidden to place, abandon or dispose of waste and any other solid or liquid material in public spaces.

#### Article 13

##### **Protection of monuments, buildings, parks and public gardens**

It is prohibited to demolish, damage or daub, even by posters, monuments, public and private buildings, walls, public spaces, parks and gardens, archaeological discoveries, enclosures, fountains, urban furnishings, businesses windows and shutters and other objects displayed in public spaces.

#### Article 14

##### **Sanctions**

Violation of the above obligations where it does not constitute a criminal offence or an administrative offence under specific laws shall be punishable based on the municipal council acts within the specified territorial jurisdiction.

#### Article 15

##### **Additional rules**

Responsible local authorities may adopt additional rules for the use of public space accordingly.

### CHAPTER V

### PUBLIC SPACE MANAGEMENT

#### Article 16

##### **Public space in private property**

1. Public spaces created under Chapter III of this Decision, which are privately owned, may be administered by the owners themselves, in accordance with the decision-making of the responsible public authority under the provisions of this Decision, or by the responsible local authority, under the following Article 17. In each case, the owners shall benefit from the revenues generated from

the public spaces administration, in accordance with public service tariffs, if so determined by the local planning authority.

2. The public space administrator shall be responsible for defining and implementing the modes of administration, in accordance with the function, terms of use, and permitted services determined by the planning authority.

3. The Administrator shall be responsible for the public space maintenance, which includes, but is not limited to, the maintenance of urban furnishing elements, greenery, waste disposal, lighting and other necessary duties.

#### Article 17

### **Public space in public property**

1. Public space in public property shall be administered by the responsible public authority, either directly or through the administration of a private entity, under a public-private partnership agreement. 2. The entity administering the public space is responsible for its maintenance and, based on the terms of the agreement, may also be responsible for the development, promotion, organization of social activities and voluntary fund-raising by the general public for maintenance and upgrading purposes.

#### CHAPTER VI

### **TRANSITIONAL AND FINAL PROVISIONS**

#### Article 18

### **Entry into force**

These rules shall enter into force after their publication in the Official Journal.

#### ANNEX A

### **TEMPLATE**

### **AGREEMENT ON APPROVAL OF DETAILED LOCAL PLAN BY PRIVATE INITIATIVE**

Pursuant to the Law 107/2014, dated 31/07/2014 “On territorial planning and development”, the Decision of the Council of Ministers no.408, dated 13/05/2015, “On the approval of the regulation on territorial development” and the Decision of the Council of Ministers, No. 671, dated 29/07/2015, "On the approval of the regulation on territorial planning".

Today, on \_\_\_\_/\_\_\_\_/\_\_\_\_, in front of the Notary ....., a member of the .....Notary Chamber, seated at ....., NUIS ....., personally appeared:

Mr. ...., born in .... on ....., in his capacity as a representative of the municipality by decision ....., hereinafter referred to as "the municipality" and

Messrs ....., in the capacity of the rightful owners of the immovable property identified below within the structural unit providing for the drafting of the DLP, hereinafter collectively referred to as the "Implementing Entity".

WHEREAS:

- areas/properties in municipalities included within structural unit no. ....., are identified by the IPRO as follows:

- property no. ...., page .... surface area.... owner/s ....., (in case of companies) seated at ..... NUIS ...
- property no. ...., page .... surface area.... owner/s ....., (in case of companies) seated at ..... NUIS ...
- for the concerned areas/structural unit, the municipal General Local Plan provides for the use/function .....
- the legal provisions and the municipal General Local Plan, approved on \_\_\_/\_\_\_/\_\_\_, condition the construction in this structural unit by the drafting and approval of a detailed local plan, based on the criteria set out in the planning regulation;
- Mr./Ms. .... born in .... on .... and resident in .... (or) the company ....., seated at ....., NUIS ....., in the capacity of representative of the immovable property owners of the structural unit ....., representing ...% of the area for DLP, for a total area of .... m2, has submitted to the municipality a request for approval of the Detailed Local Plan on their private initiative for this structural unit;
- the application for DLP approval was filed with the municipality on ....., and registered by protocol no..... and cartographic material of the project signed by the architect was attached thereto....;
- on .... the head of the planning office at the municipality verified that the submitted documentation was complete and accurate and submitted the request and relevant documentation for review to the Mayor, together with the relevant technical report;
- on ....., the Detailed Local Plan was displayed at the premises of the Municipality, in the *on-line* portal of the Municipality and was also displayed at the premises of the structural unit under study, leaving to the interested parties a 30-day term to become acquainted with and submit their remarks;
- no remarks or objections were submitted during the 30-day term; **or** remarks and/or objections were submitted during the 30-day term, which were considered by the Mayor/were not considered due to reasons made public;
- on ....., project changes were submitted, based on comments/remarks ...;
- The Mayor, taking into account the technical report prepared by the Planning Directorate, and after considering the remarks and comments of the stakeholders, approved the DLP for structural unit no. .... by decision no. ...., dated .....

### **GIVEN THESE EXISTING PREREQUISITES**

The Parties agree to sign this Agreement on the following terms:

#### **Article 1**

##### **Prerequisites**

Prerequisites are an integral and essential part of this agreement.

#### **Article 2**

##### **The object of the agreement**

The purpose of this agreement is to determine property development rights in the structural unit no. .... the equitable distribution of the liabilities and benefits of the involved parties as well as the conditions for the construction and transfer to state ownership, without compensation, of the infrastructure and public space by the implementing entity, pursuant to the Detailed Local Plan for the concerned structural unit.

#### **Article 3**

##### **DLP Content**

The DLP consists of the following documents:

- The text
- Cartographic material
- ..... (specify where appropriate).

#### Article 4

##### **Implementation and maintenance of infrastructure works**

4.1. Infrastructure and public space works are defined and regulated in the blueprints attached to this contract.

4.2. Infrastructure and public space works consist of:

- a) road, sidewalks and pedestrian or bicycle lanes;
- b) public parking;
- c) space for waste collection containers;
- ç) sewage and sanitary water discharge network;
- d) rainwater discharge network;
- dh) public lighting;
- e) water (and gas) supply network;
- ë) power supply network;
- f) telephone network;
- g) links to existing public networks and those to be built in the future;
- gj) public greenery and gardens and/or furnishing of public space.
- h) other (to be specified, as appropriate).

4.3. The implementing entity undertakes for itself and for the persons who acquire rights thereof:  
- to cover at its own expense all infrastructure and public spaces works, as defined in item 4.2 above, in accordance with the attached blueprints:

- a) coloured areas ... with total area .... m2, designated as "roads";
- b) coloured areas .... with total area .... m2, designated as "sidewalks";
- c) coloured areas .... with total surface area .... m2, designated as "biking and pedestrian lanes";
- ç) coloured areas .... with total surface area .... m2, designated as "green spaces";
- d) coloured areas ..... with total surface area .... m2, designated as "public parking/halt station"
- dh) ..... (others to specify, as appropriate).

- to cover, as appropriate, the costs associated with carrying out the following infrastructure works outside the intervention area as follows:

- a) \_\_\_\_\_
- b) \_\_\_\_\_

Public parking must be completed with all necessary installations, according to the approved project.

4.4. The implementing entity undertakes, even on behalf of potential construction entities, to implement works in accordance with the best technical and professional EU standards.

#### Article 5

##### **Construction permits to carry out territorial interventions**

5.1. Signing of this agreement is a prerequisite and one of the necessary documents for the approval of construction permits for the interventions foreseen in the relevant Detailed Local Plan.



5.2. The beginning of works for the buildings foreseen in the Detailed Local Plan shall be preceded by the realization of the main and secondary infrastructure works, according to Article 45 of the Law no.107/2014, dated 31/07/2014 "On territorial planning and development", as amended.

#### Article 6

##### **Time-frames for works execution and testing**

6.1. Infrastructure and public works shall be completed and tested no later than .... months from the date of signature of this Agreement. The municipality, after evaluating the public interest and where there is no contradiction with the applicable legal provisions, has the right to extend the deadline set above. In any case, the deadline for completion of infrastructure and public space works, including the possibility of their postponing, may not exceed .... years from the signing of this Agreement.

6.2. The test conductor shall be appointed by the municipality within .... days of the announcement of the beginning of works by the implementing entity and shall perform the test of the completed works within ..... days from the official request of the implementing entity, which shall be submitted no later than 3 months after the completion of the works.

#### Article 7

##### **Transfer of infrastructure and public space to municipal ownership**

7.1. Upon signing of this agreement, the implementing entity shall transfer, without compensation, to the municipality (or co-owners, in the case of fenced and self-administered neighbourhoods), pursuant to Article 706 of the Civil Code, the ownership of the land and all public infrastructure and spaces. to be built upon it at the moment when the latter have been tested, as provided for in the attached blueprint, and in particular:

- a) road about .... m2;
  - b) public parking for about .... m2, for a total of no. .... halt station posts;
  - c) public green spaces for parks and gardens and/or urban design as directed by the identified technical conditions (to be specified on a case-by-case basis);
  - ç) sites for placing urban solid waste collection containers about .... m2;
- others to be specified, as appropriate).

7.2. The implementing entity shall ensure that areas and/or facilities transferred to the municipality, in accordance with item 7.1. above, are free from any encumbrance, restrictions, liens, real rights in its own favour or any third parties favour. At the time of transfer of ownership, which coincides with the act of testing of the completed works, these assets shall be categorized as immovable property of the state, in use/ownership of the respective municipality.

7.3. Within 30 days from the signing of this Agreement, the implementing entity shall register with the respective Local IPRO a copy of this Agreement in order to carry out the relevant registrations.

#### Article 8

##### **Warranties**

8.1. In order to ensure the timely and accurate implementation of all infrastructure and public space works and the observance of all legal provisions and terms of this Agreement, the implementing entity shall, prior to the signature of this Agreement, submit a warranty as a bank guarantee/insurance, valid until the take over of the works by the municipality, at the completion

of inspection, amounting to ..... (....) ALL, determined by total cost of works plus ....% VAT. The guarantee shall expressly state that the municipality has the right to withdraw the guarantee immediately, within 15 days of the written request of the municipality, should the developer violate the terms of the agreement.

8.2. In the event of a breach of the obligations assumed by this agreement, the municipality has the right to withdraw the amounts guaranteed by the implementing entity in accordance with item 8.1. above, proportionate to the non-compliance.

8.3. The guarantee can be terminated at the request of the guaranteed party (municipality), after the latter has taken over the completed works.

#### Article 9

##### **Mandatory implementation**

9.1. The municipality reserves the right to implement or complete the infrastructure and public space works, instead of the implementing entity and at the latter's expense, if the latter fails to fulfil its obligations. Therefore, by signing this agreement and pursuant thereof, the implementing entity shall authorize the municipality that, in the event of a breach of the terms of this agreement, the latter shall have access to areas where infrastructure works are carried out with the relevant construction entities.

9.2. Implementation of infrastructure and public spaces works and their testing or, in cases where the municipality executes them on its own, payment of the costs necessary to implement such works, including their maintenance under Article 8 of the agreement, is a prerequisite for obtaining a use permit for all works performed under the relevant DLP.

#### Article 10

##### **Duration of agreement**

10.1. This agreement is valid for a .... year term from the date of its signing, for the completion of all DLP interventions/works. For justified reasons an extension of duration may be granted for an additional ... year period.

#### Article 11

##### **Settlement of disputes and the applicable law**

11.1. The Parties shall make every effort to resolve any disputes that may arise from the implementation of this Agreement with mutual understanding.

11.2. In case of their failure to reach an amicable settlement of the dispute, the parties shall submit the dispute to the competent court.

11.3. Unless otherwise provided for in this Agreement, the applicable legal provisions shall apply.

**Municipality.....**

**Implementing Entity**

**NOTARY**