

# **Land Use Planning**

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**Master Course “Urban Agglomerations”**

**Winter Term 2022/23**



*It's all about*

*People*

*Places*

*Politics*

# Spatial Planning in Germany

## Comprehensive Spatial Planning

- European Level
- Federal Level
- State Level
- Regional Level
- Municipal Level

- City Development Concept
- Preparatory Land-use planning
- Legally-binding Land-use planning
- Building plan

## Sectoral Spatial Planning

- Technical sectoral planning
- Plans for Protection Areas (Land Use Restriction)
- Large scale or special Plans

- e.g. Agricultural plans, Landscape Plans, Traffic Plans, Energy Plans.
- e.g. Water Protection, Nature Protection, Military Use, Flooding protection.
- e.g. for motor ways, Airports, waterstreets, Land fill sites.

**Voluntary planning and instruments (e.g., City Development Concepts, "Masterplans")**

# Germany knows two forms of „land use planning“

1. **Integrated** or comprehensive Spatial and Local Land Use Planning and its hierarchical system

2. **Sectoral** Plans with impact on land and land use like settlement, road construction, water resource or flooding protection, energy, mining, nature protection, landscape plans etc

The demand: the sectoral plans should first follow the directives of spatial planning and after weighing up, they should even become integrated in the spatial planning system.

## **Land use planning – What are we talking about?**

“Land use planning presents a development approach that contributes to the prevention of land use conflicts, the adaptation of land uses to physical and ecological conditions, the lasting protection of land as a natural resource, the lasting productive use of land and a balanced use that fulfills all social, ecological and economic requirements.”

(GIZ 2011, 13)

### **There is no unified approach:**

“Land use planning can simply mean introducing a spatial dimension and a more land use oriented way of thinking into existing planning systems (e.g. village, municipal or regional development planning). Land use planning can also occur in the form of local agreements on the access to and (temporary) use of certain areas – often common properties. Finally, land use planning can mean the introduction of an entire planning procedure. In all cases, it needs to be integrated into existing institutions, linked to budgeting and result in its implementation. It generally requires capacity development.”

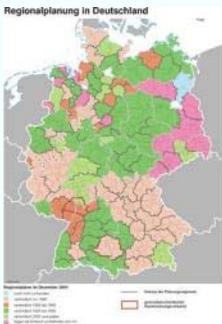
(GIZ 2011, 193 f.)



Federal Republic of Germany



16 Federal States

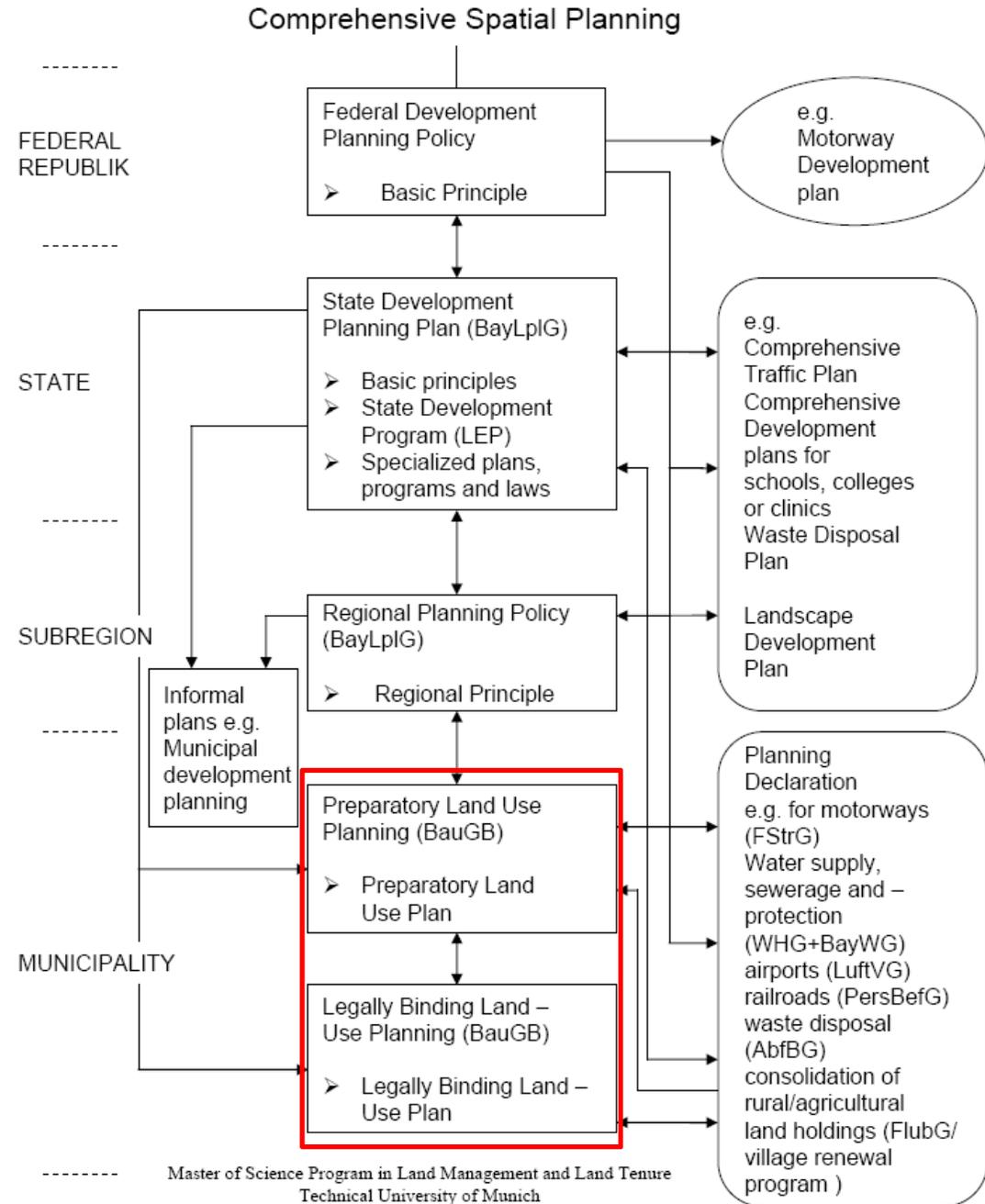


115 Regions

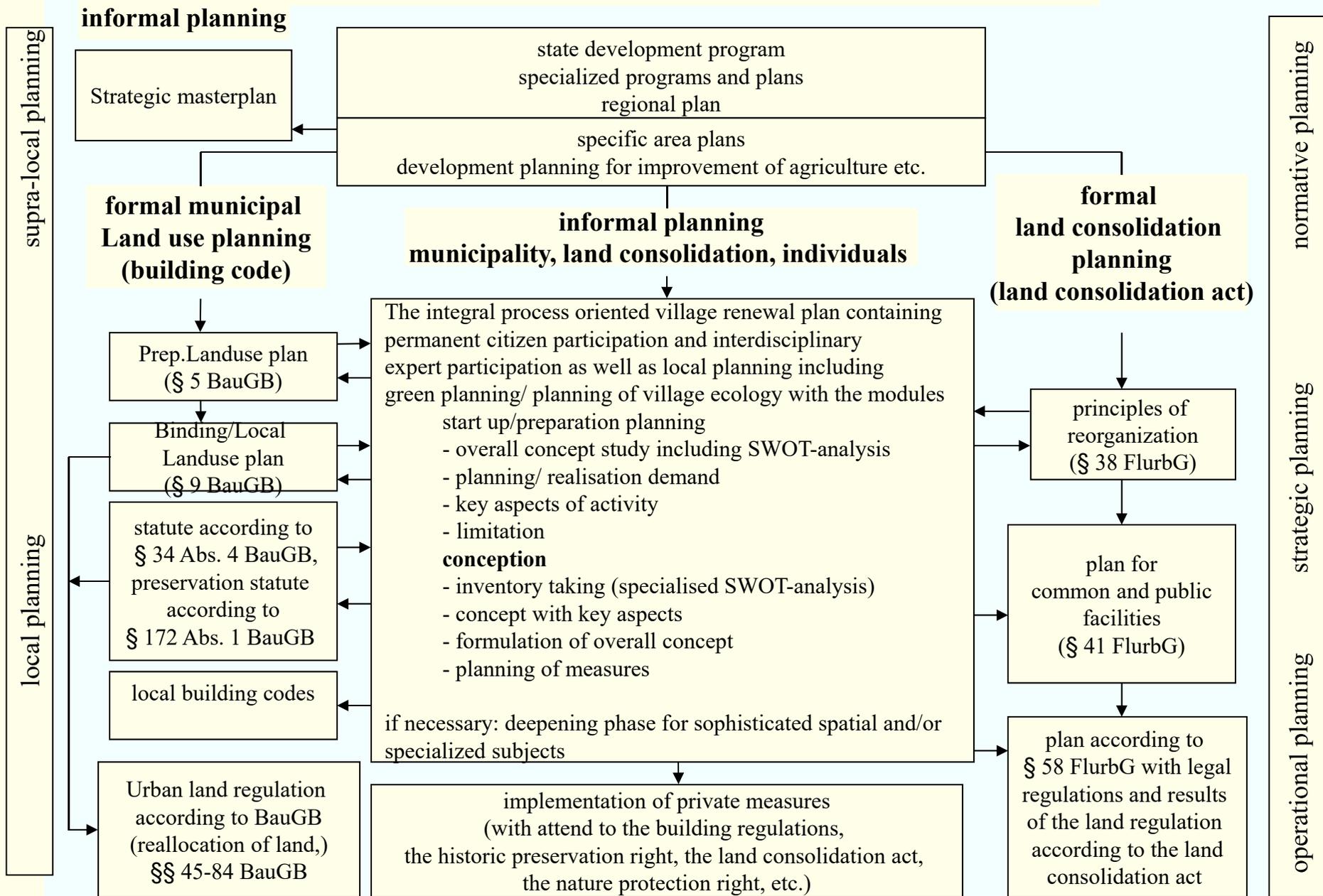


13.422 Municipalities

# Comprehensive Spatial Planning – the case of Germany



# Planning System (overview)



## Forms of land use (spatial) plans

<b>Planning level</b>	<b>Spatial planning</b>	<b>Scale</b>
State (Province)	State Development Plan	1: 1.000 000 to 1: 300 000
Region	Regional Plan	1: 100 000 to 1: 50 000
Municipality	Preparatory land use plan	1:10 000 to 1: 5 000
Part of a Municipality	Legally binding land use plan	1: 2500 to 1: 500

# Planning Flow in Germany

Planning levels

Overall Planning

Framework and Sectoral Planning

EU

European Spatial Development Perspective (EUREK)  
Territorial Agenda



Trans-European Network

Federal  
(National)

“Concepts and Strategies for Spatial Development in Germany”



Frameworks for common tasks



Nature Protection Programmes

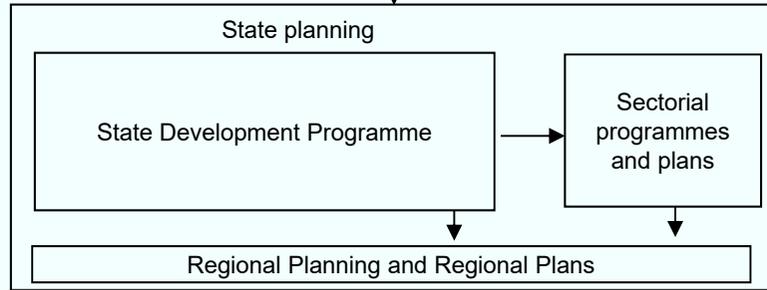


Traffic plans



Other programmes at Federal level

State  
(Province)



Water management planning



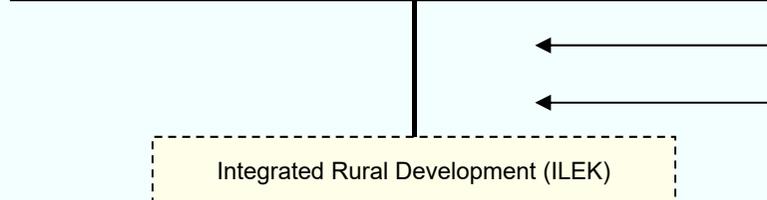
Overall Traffic Plan



Other Framework Development Plans

Region

Intercommunal  
Area

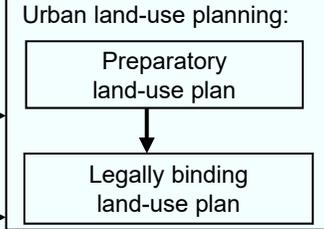
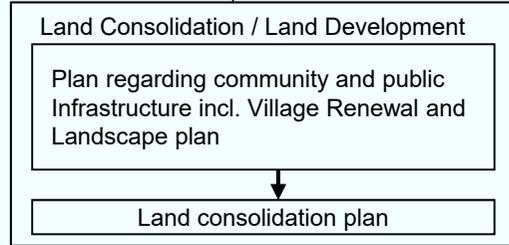


Expertise for partial territories



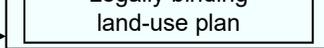
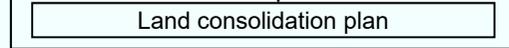
Regional management

Municipality



Municipal Landscape planning  
and Green Structure Plan

Client



Building plan

Normative Planning

Strategic Planning

Operational Planning

Compulsory planning

Voluntary planning

# Christaller's Theory



**The system of central places**

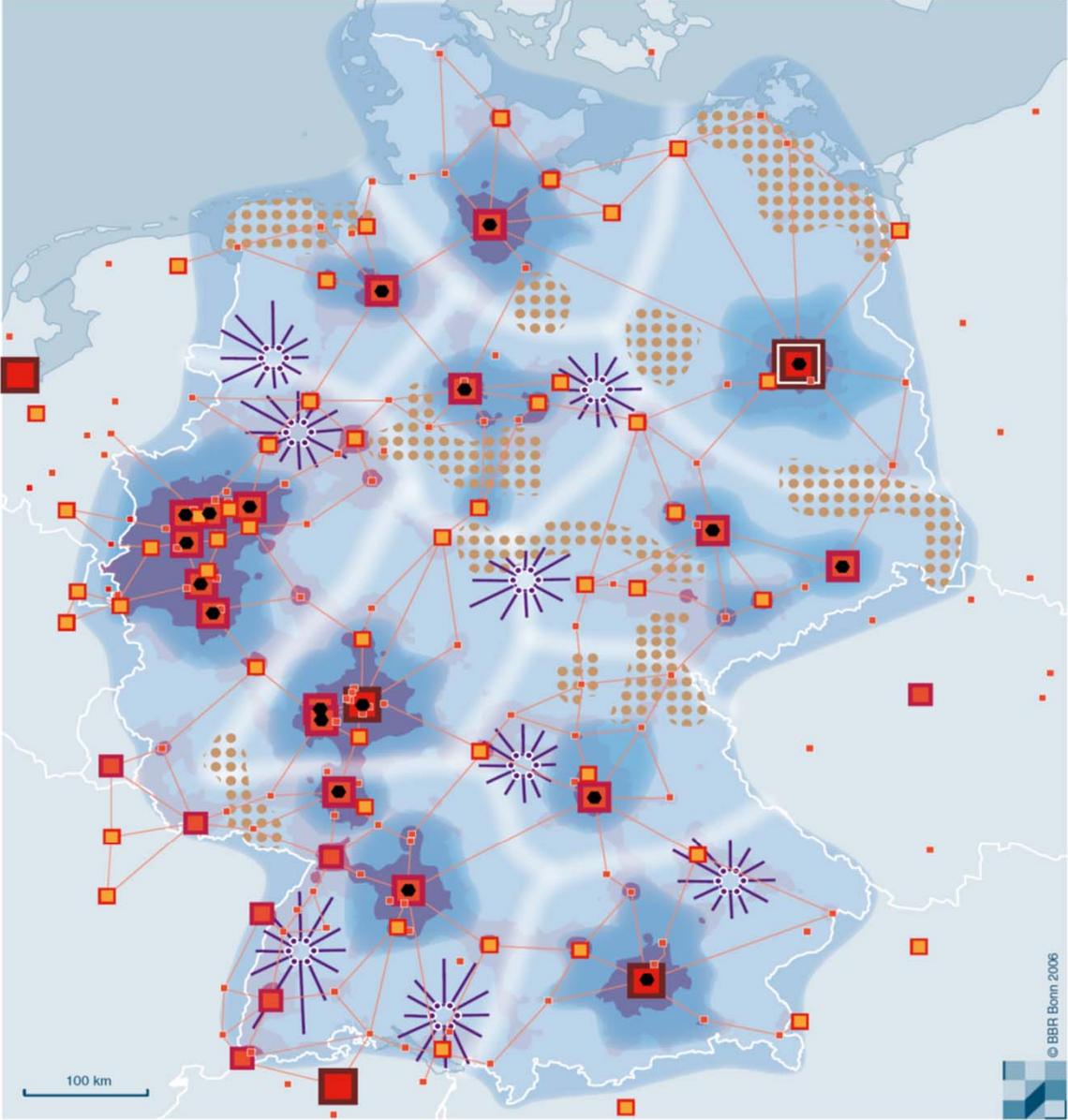
Source: Christaller 1933: Die zentralen Orte in Süddeutschland. Jena.

Dammrosenher Wald 180



Own figure

# Concept: Growth and Innovation



## Metropolitan Region

- Cores of the Capital Region and of existing European Metropolitan Regions
- Other cities with Metropolitan Functions
- Metropolitan Region
- Areas of influence including rural areas
- Transition region between Metropolitan Regions

## Growth regions outside Metropolitan Regions



## Stabilisation areas

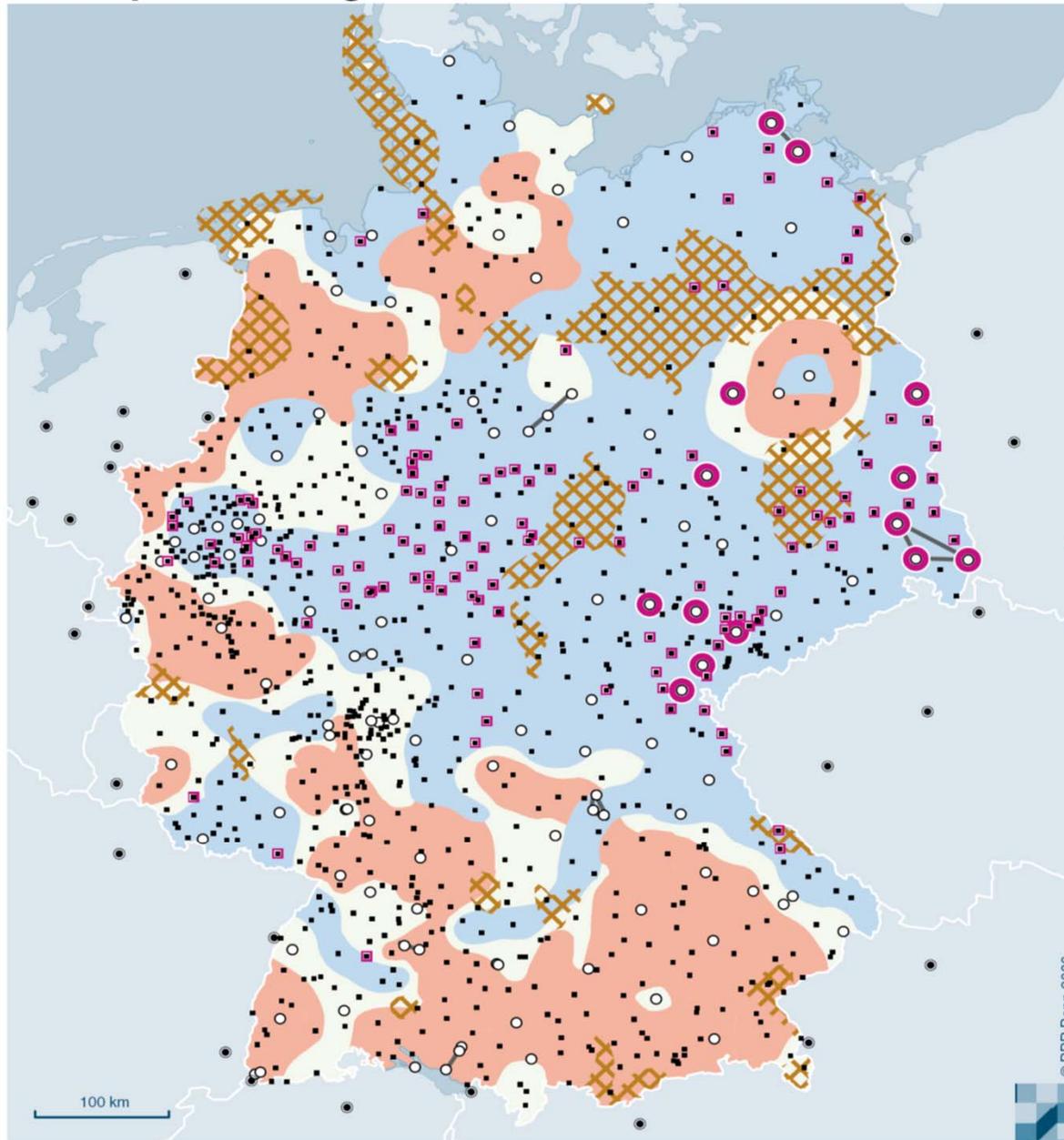


## Spatial structure

- Central area of high density
- Dense intermediate area

The map is illustrating the concept. However, the signatures do not stand for determined planning.

# Concept: Securing Services of Public Interest



## Population development forecast until 2050

- declining
- stable
- increasing

## Enhancing the carrying capacity of existing central places and securing supply quality

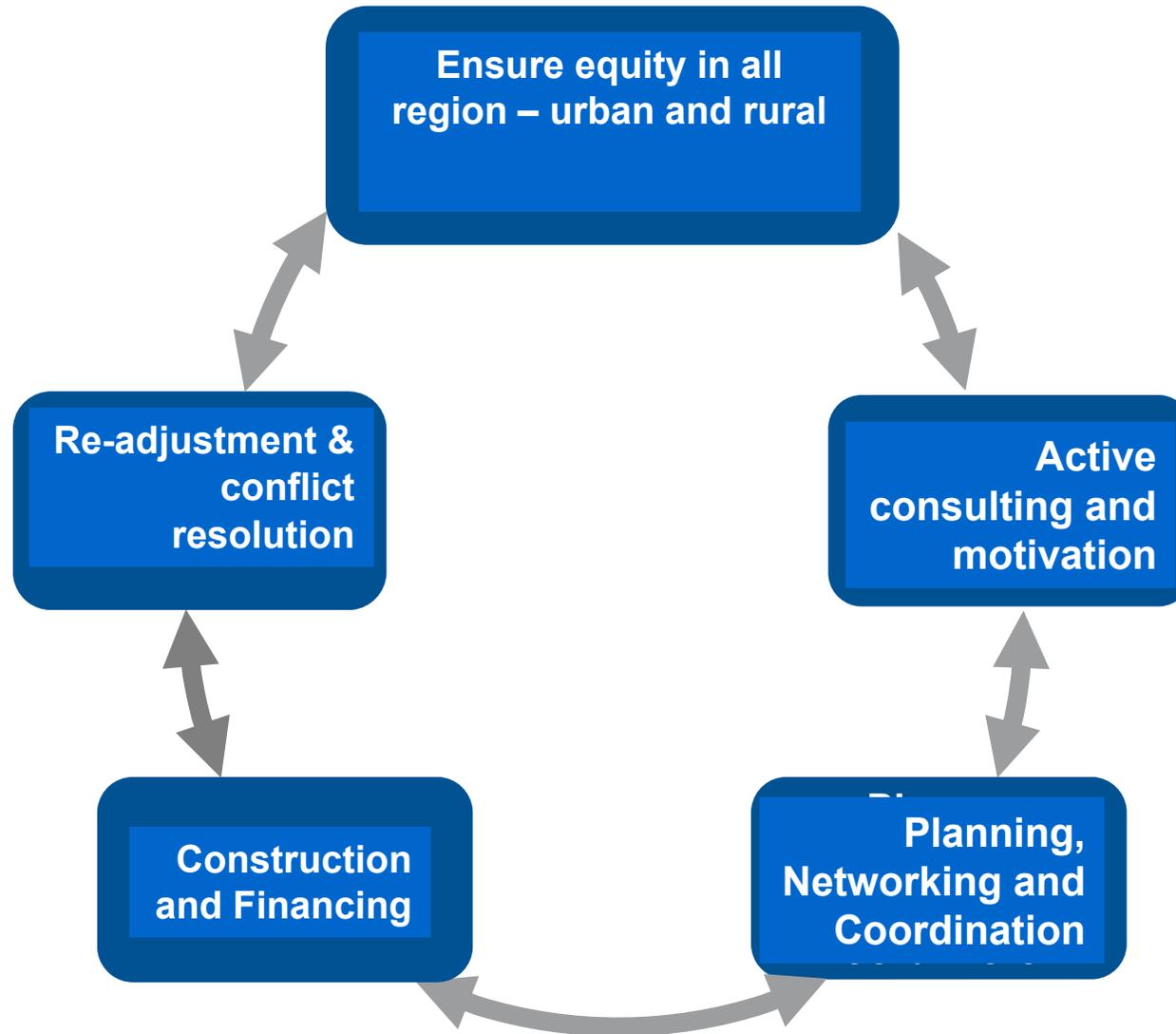
- High-order centre at risk
- Middle-order centre at risk
- Enhancement of accessibility in regions with low high-order infrastructure

## Central Places as of 2005

- High-order centre
- Middle-order centre
- Network of cities with high-order functions
- Cities with high-order function in neighbouring countries

The map is illustrating the concept. However, the signatures do not stand for determined planning.

# PENTAPHONY of Land Management



# Concept: Conservation of Resources, Shaping of Cultural Landscapes



## Conservation of Resources

### Nature

- landscape of special conservational value
- examples for cross-border nature conservation

### Water

- considerable ground water sources

### River landscape

- preventive flood management measures

## Shaping of Cultural Landscapes

### Urban landscapes

- development of centres in core cities
- shaping of suburban and urban areas
- examples for cross-border settlement development

- regional parks and open space areas

### Rural landscapes

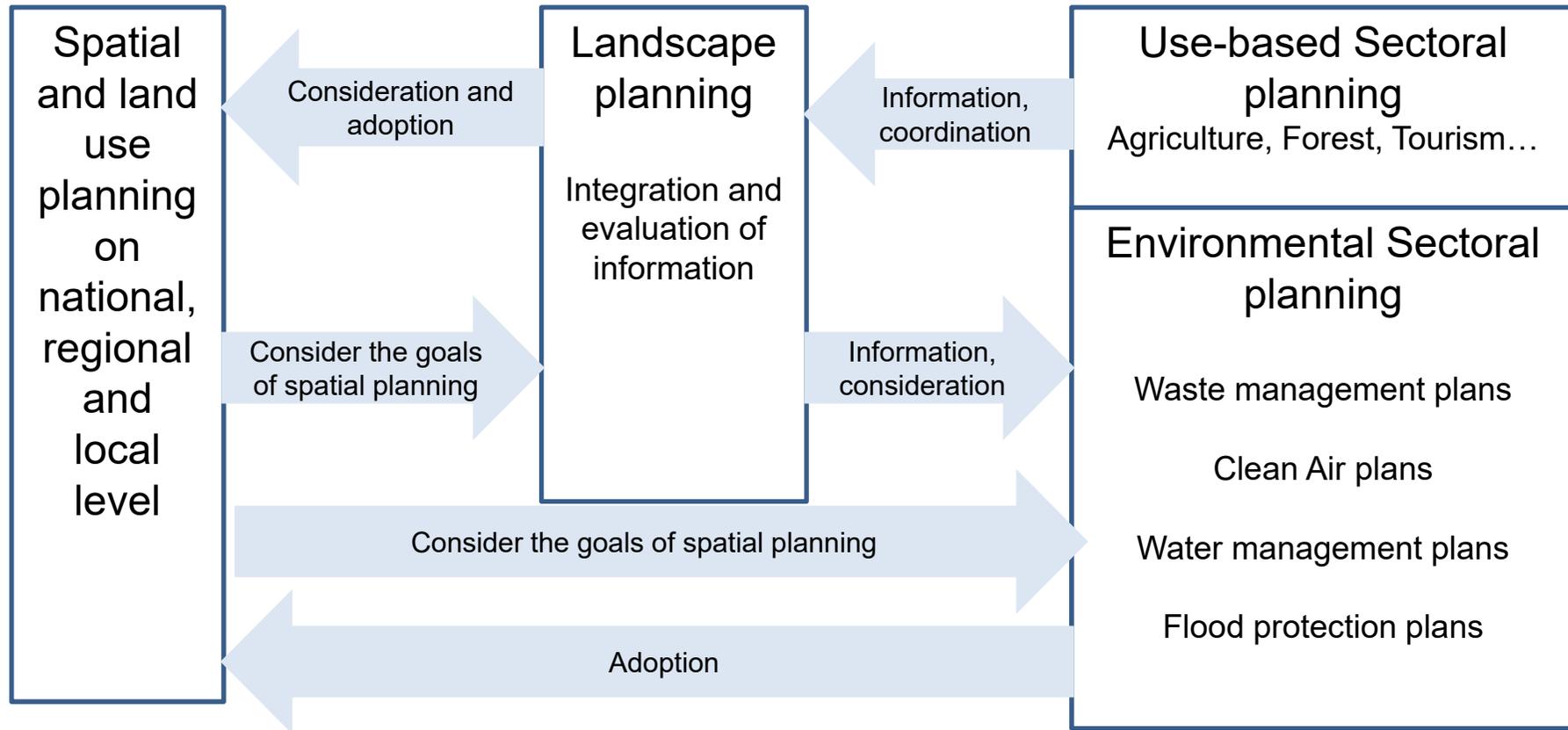
- with high potential for extensive agriculture, forestry and tourism
- with high potential for farming, renewable primary products and use of biomass energy
- examples for cross-border landscape and tourism development
- new seascapes in vegetated strip mining

### Marine landscapes

- spatial planning in the "exclusive economic zone" (eez)
- spatial planning for coasts and coastal seas

The map is illustrating the concept. However, the signatures do not stand for determined planning.

# Environmental sectoral planning and spatial planning



# Sector Plan for Nature Protected Areas

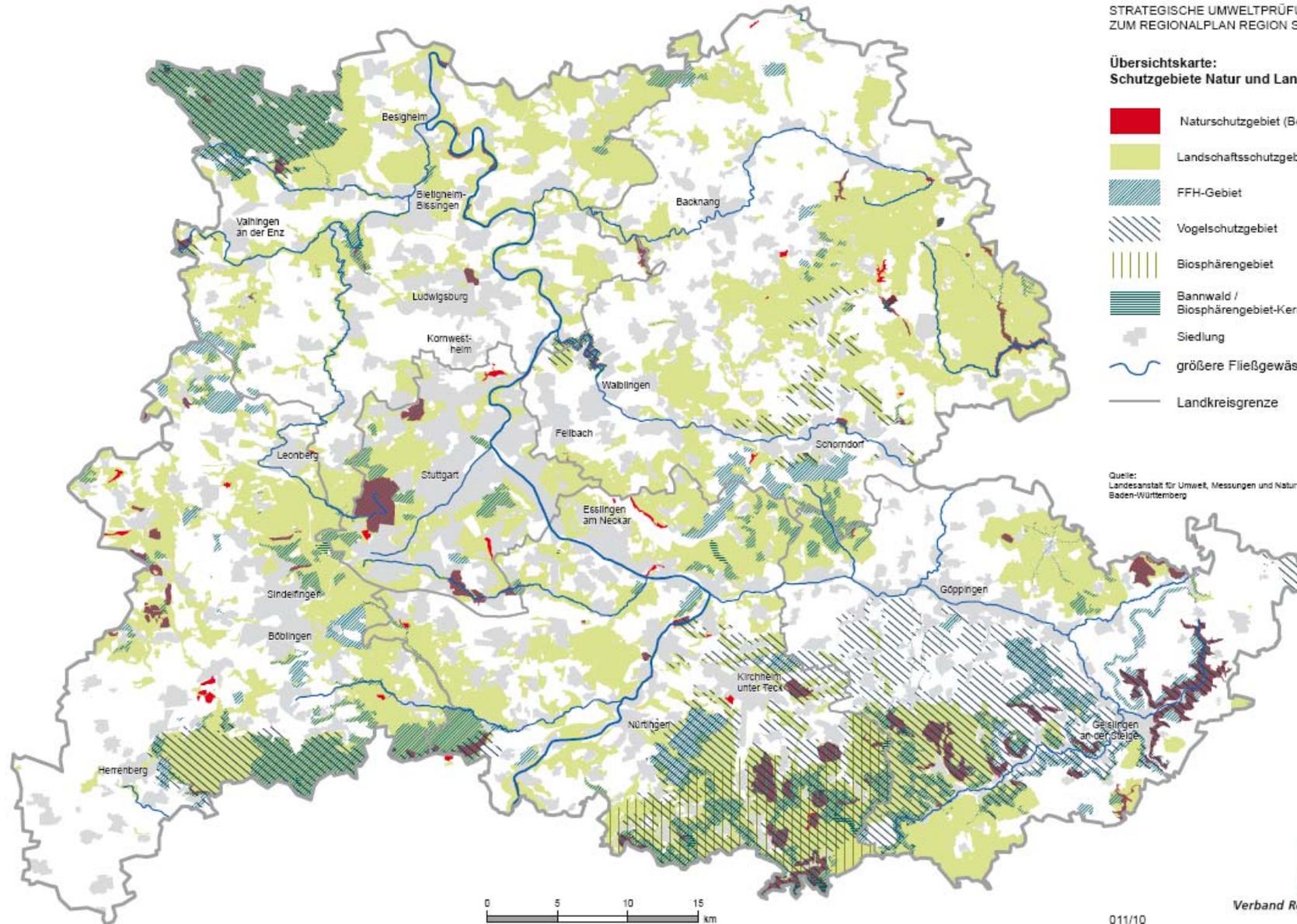
Karte 11

STRATEGISCHE UMWELTPRÜFUNG  
ZUM REGIONALPLAN REGION STUTTGART

## Übersichtskarte: Schutzgebiete Natur und Landschaft

- Naturschutzgebiet (Bestand)
- Landschaftsschutzgebiet (Bestand)
- FFH-Gebiet
- Vogelschutzgebiet
- Biosphärengebiet
- Bannwald / Biosphärengebiet-Kernzone
- Siedlung
- größere Fließgewässer
- Landkreisgrenze

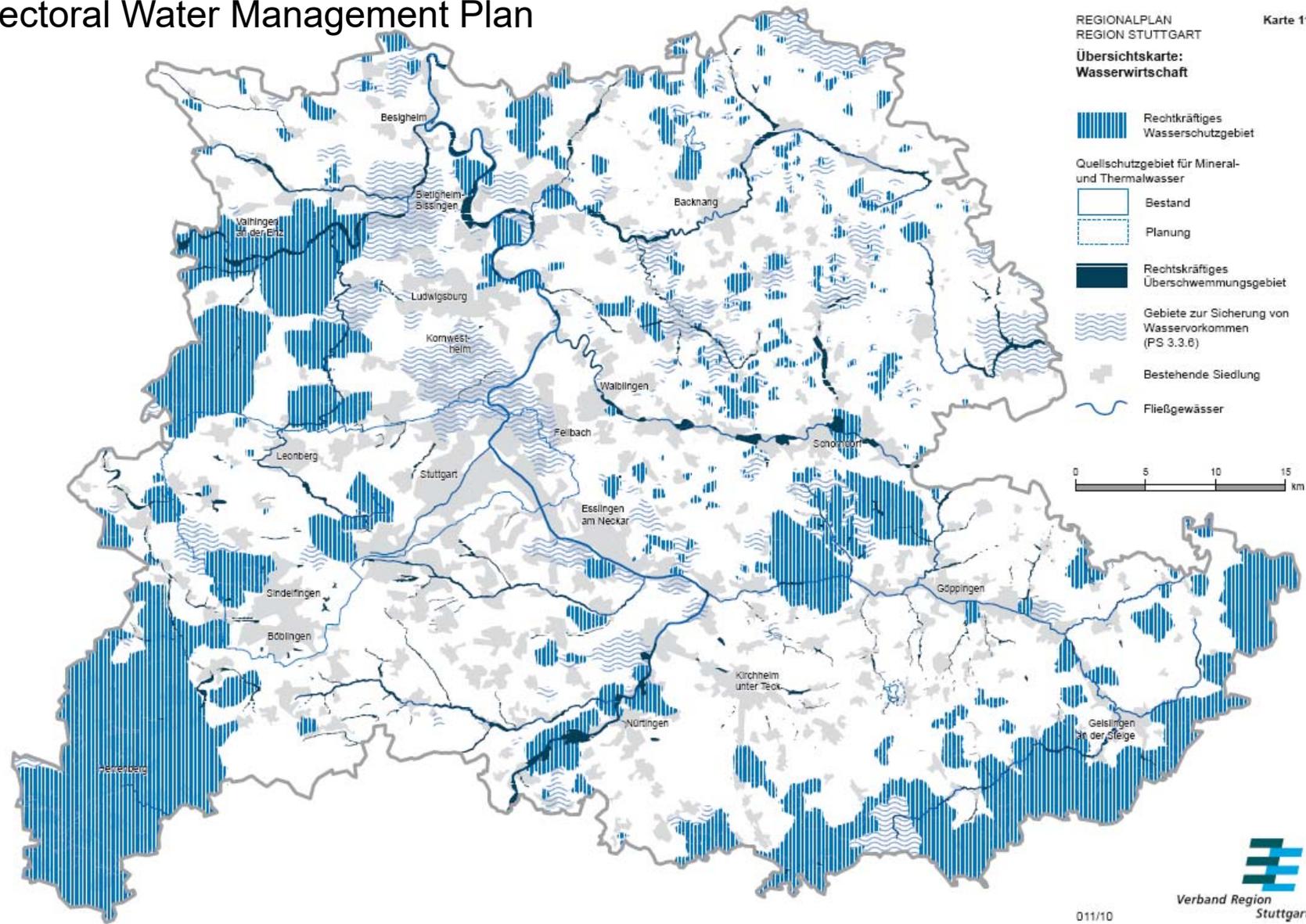
Quelle:  
Landesanstalt für Umwelt, Messungen und Naturschutz  
Baden-Württemberg

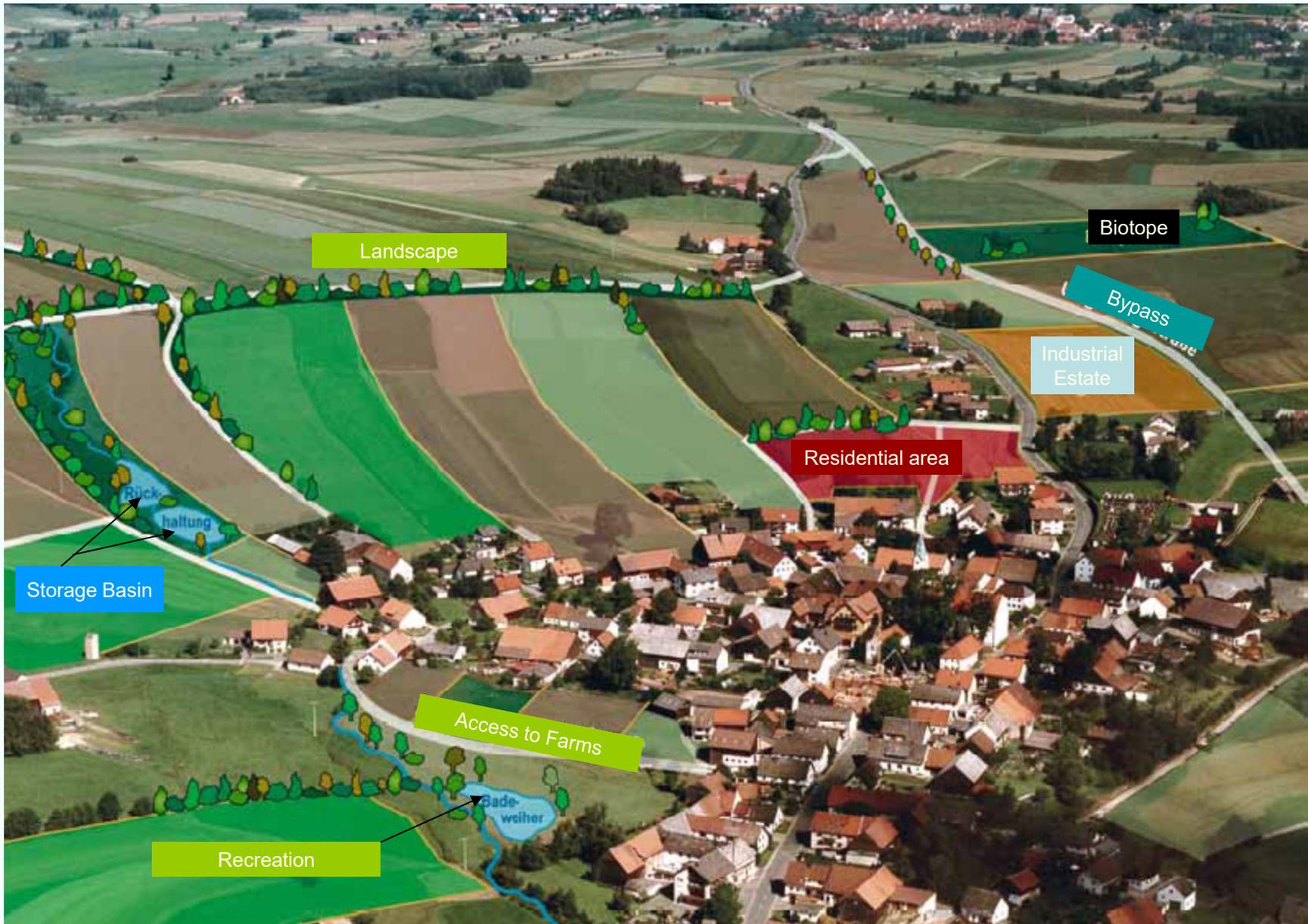


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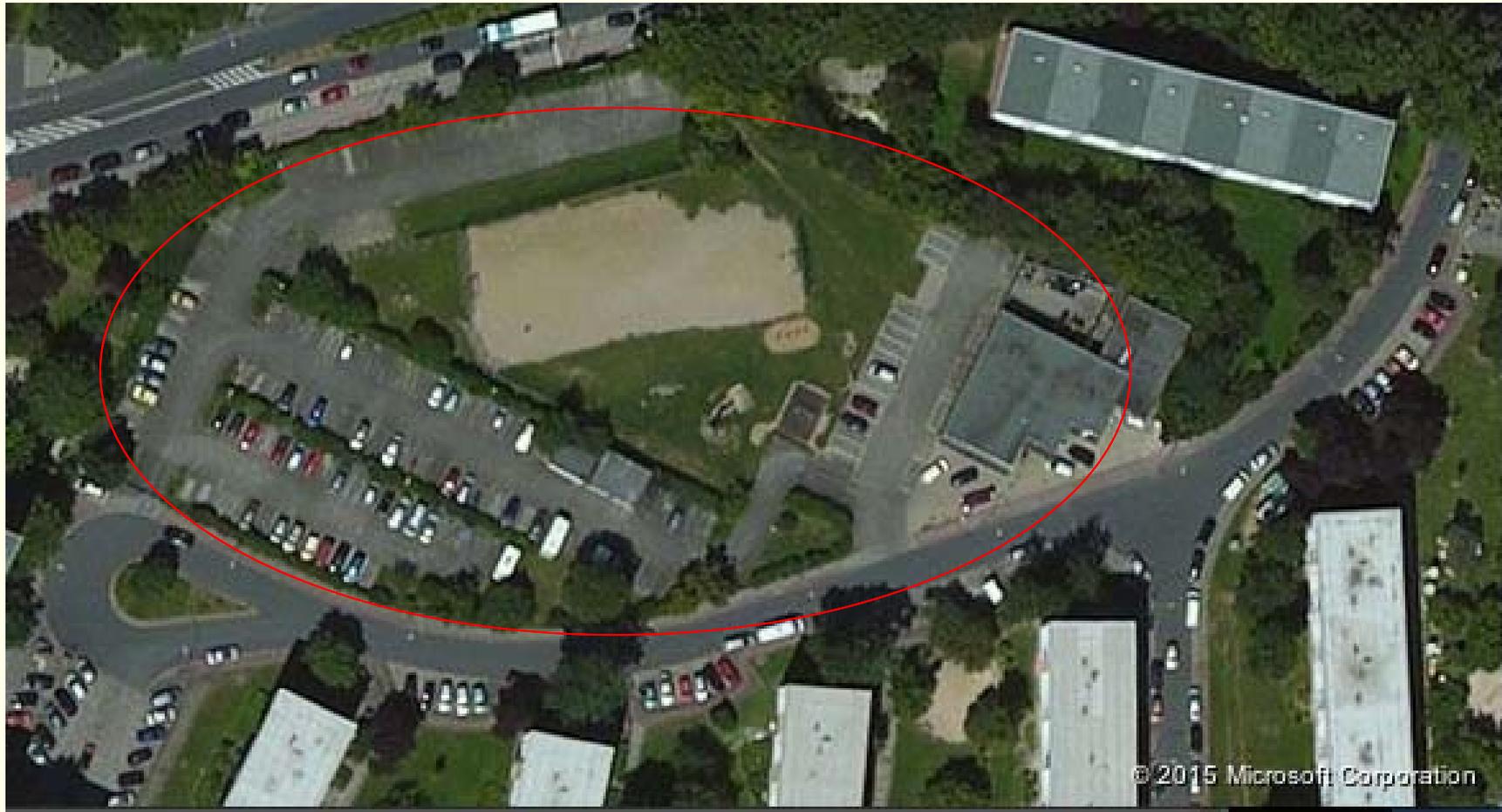
# Sectoral Water Management Plan

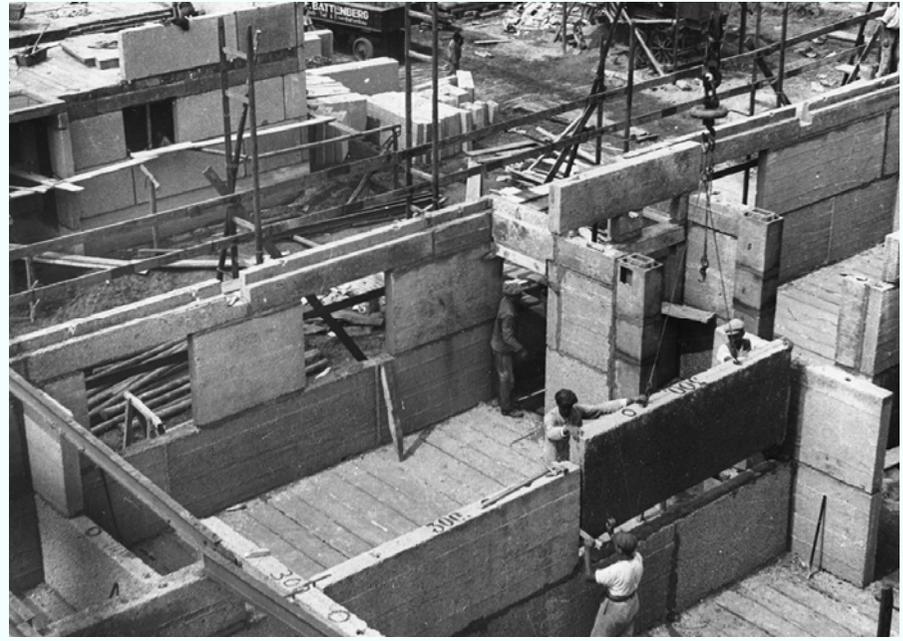
**Übersichtskarte:  
Wasserwirtschaft**





homie: Inner-city development – „finding places“ is the problem!





# Housing at arrival

# 7m<sup>2</sup>/Person



# Installation of the homie on the urban greenfield



Existing housing area

# „Homie“ for Refugees



maurice müller & Partner  
ARCHITEKTEN BDA  
ARCHITEKT KINTZINGER

## Requirement for homies

- Modular concept
- Embedded in a town planning concept
- Common space and floors
- Retreat areas
- Awareness of culture and religion
- Reduced building costs
- Architectural quality
- Energy efficiency standard
- Sustainability (subsequent usage)
- Economic lifetime: 30 years  
with the possibility to recycle parts  
and to re-build at another location





# Article 1 Basic Law

[Human dignity – Human rights – Legally binding force of basic rights]

- (1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.
- (2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.
- (3) The following basic rights shall bind the legislature, the executive and the judiciary as directly applicable law.

# Article 3 Basic Law

## [Equality before the law]

- (1) All persons shall be equal before the law.
- (2) Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.
- (3) No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability.

# Article 14 Basic Law

## [Property – Inheritance – Expropriation]

- (1) Property and the right of inheritance shall be guaranteed. Their content and limits shall be defined by the laws.
  - (2) Property entails obligations. Its use shall also serve the public good.
  - (3) Expropriation shall only be permissible for the public good. It may only be ordered by or pursuant to a law that determines the nature and extent of compensation. Such compensation shall be determined by establishing an equitable balance between the public interest and the interests of those affected. In case of dispute concerning the amount of compensation, recourse may be had to the ordinary courts.
- le 14  
Basic Law

## Article 15 Basic Law

### [Socialisation]

Land, natural resources and means of production may for the purpose of socialisation be transferred to public ownership or other forms of public enterprise by a law that determines the nature and extent of compensation. With respect to such compensation the third and fourth sentences of paragraph (3) of Article 14 shall apply *mutatis mutandis*.

# Article 16a Basic Law

## [Right of asylum]

(1) Persons persecuted on political grounds shall have the right of asylum.

(2) Paragraph (1) of this Article may not be invoked by a person who enters the federal territory from a member state of the European Communities or from another third state in which application of the Convention Relating to the Status of Refugees and of the Convention for the Protection of Human Rights and Fundamental Freedoms is assured. The states outside the European Communities to which the criteria of the first sentence of this paragraph apply shall be specified by a law requiring the consent of the Bundesrat. In the cases specified in the first sentence of this paragraph, measures to terminate an applicant's stay may be implemented without regard to any legal challenge that may have been instituted against them.

(...)

# Article 20 Basic Law

[Constitutional principles – Right of resistance]

- (1) The Federal Republic of Germany is a democratic and social federal state.
- (2) All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies.
- (3) The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice.
- (4) All Germans shall have the right to resist any person seeking to abolish this constitutional order, if no other remedy is available.

# Subsequent „Housing“

Integration



© Leibniz Universität Hannover/ Projekt Prof. Jörg Friedrich

# Subsequent „Housing“

Integration



© Henner Herrmanns

# Subsequent „Housing“



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**Federal Building Code (Baugesetzbuch, BauGB)**  
**Objectives of planning**

**Instruments of land use control**

- Land use planning safeguards (e.g., development freeze, pre-emption law)
- Control of land use for designated purposes
- Compensation of landowners
- Land re-allocation – adjustment of plot boundaries
- Expropriation (taking) of land designated for public purposes
- Development of local public infrastructure (landowners may be charged with up to 90% of the infrastructure costs)
- Special urban planning provisions (urban redevelopment)
- Real estate assessment and appraisal

# Federal Building Code (Baugesetzbuch, BauGB)

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Section 4 Participation by Public Agencies

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##### Subdivision Two The Preparatory Land-Use Plan

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Section 19 Permission to Subdivide Plots

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Section 28 Procedures and Compensation

# Federal Building Code (Baugesetzbuch, BauGB)

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# Federal Building Code (Baugesetzbuch)

## Chapter One **General Urban Planning Legislation**

Part One Urban Land-Use Planning

Subdivision One General Provisions

### Section 1 **The Scope, Definition and Principles of Urban Land-Use Planning**

- (1) The function of urban land-use planning [Bauleitplanung] is to prepare and control the use of land within a municipality, for buildings or for other purposes, in accordance with this Act.
- (2) Urban land-use plans comprise the preparatory land-use plan [Flächennutzungsplan] and the legally binding land-use plan [Bebauungsplan].
- (3) It is the responsibility of municipalities to prepare land-use plans [Bauleitpläne] as soon as and to the extent that these are required for urban development and territorial policy planning.
- (4) **Land-use plans shall be brought into line with the aims of comprehensive territorial planning.**

# Federal Building Code (Baugesetzbuch)

## Section 1

### The Scope, Definition and Principles of Urban Land-Use Planning

- (5) Land-use plans shall safeguard a sustainable urban development which harmonizes social, economic and ecological demands, also in responsibility to future generations, and a socially equitable utilisation of land for the general good of the community.

They shall contribute to securing a humane environment and to protecting and developing the basic conditions for natural life, also in responsibility for climate protection, as well as protect and develop the urbanistic character and scenic natural and built landscapes.

- (6) In the preparation of land-use plans, attention is to be paid in particular to the following:
1. the general requirement for living and working conditions which are conducive to good health, and the safety of the population at home and at work,
  2. the housing requirements of the population – whilst avoiding unbalanced population structures, increasing property ownership among broader sections of the population, especially by supporting low-cost housing, and population development,
  3. the social and cultural needs of the population, in particular those of families, the young and the elderly and those with handicaps, as well as to the requirements of the education system and the need for sports, leisure and recreational facilities,
  4. the preservation, renewal, development, adaptation and redevelopment of existing local centres [Ortsteile],

# Federal Building Code (Baugesetzbuch)

## Section 1

### The Scope, Definition and Principles of Urban Land-Use Planning

8. The requirements of
  - a) the economy, including maintaining the structural role of medium-sized companies, in the interests of local, close-to-the-consumer supply to the population,
  - b) the requirements of agriculture and forestry,
  - c) the maintenance, protection and creation of workplaces,
  - d), of the postal and telecommunications services,
  - e) public utilities – in particular power supply and water,
  - f) the protection of natural resources and raw material deposits,
9. The requirements of public and freight transport and the mobility of the population, including local public transport and not motorized transport with special consideration to an urban development furthering avoidance and reduction of traffic,
10. The requirements of defence and civil defence as well as the civil after-usage of military real estates,
11. **The results of urban development concepts or other urbanistic planning adopted by the community,**
12. The requirements of flood protection.

**(7) In preparing land-use plans, public and private interests are to be duly weighed.**

(8) The provisions of this law on the preparation of land-use plans apply also for their revision, amendment or abrogation.

# Federal Building Code (Baugesetzbuch)

## Section 1a Special Consideration for Environmental Concerns

In the preparation of land use plans

(1)) Land shall be used sparingly and with due consideration; the extent to which it is sealed by development shall be kept to a minimum.

(2) In the course of the weighing process pursuant to Section 1 para. 6, the following matters shall be considered:

1. the content of landscape and other plans, in particular those produced under water, waste and pollution control legislation.
2. the avoidance of, and counterbalances for, the impact expected to be suffered by nature and the landscape (provisions of the Federal Nature Conservation Act on intrusions),
3. **assessment of the calculated and described impact of a development project on the environment corresponding to the respective stage of planning (environmental impact assessment)**, to the extent that the admissibility under building and planning law of specific development projects within the sense of the appendix to Section 3 of the Environmental Impact Assessment Act is to be established by reference to environmental impact assessment, and
4. **the preservation aims and the purpose of protection for areas of Community importance and of European bird sanctuaries within the meaning of the Federal Nature Conservation Act; in cases where** these may be seriously impaired, the provisions of the Federal Nature Conservation Act on the permissibility or execution of such intrusions and the requirement to obtain an opinion from the Commission shall be applied (assessment according to the Flora-Fauna-Habitat Directive).

# Federal Building Code (Baugesetzbuch)

## Section 3 Public Participation

(1) The public is to be informed at the earliest possible stage about the general aims and purposes of planning, about significantly different solutions which are being considered for the redesign or development of an area, and of the probable impact of the scheme; **the public is to be given suitable opportunity for comment and discussion.** Public notification and discussion may be dispensed with in cases where

1. a legally binding land-use plan [Bebauungsplan] is being prepared, modified, or is revoked, where this has only minimal effects on the plan area and adjacent areas, or
2. public notification and discussion have already been effected by some other means.

Notification and discussion is also followed by the procedure as described in para. 2 where discussion results in changes being made to the plan.

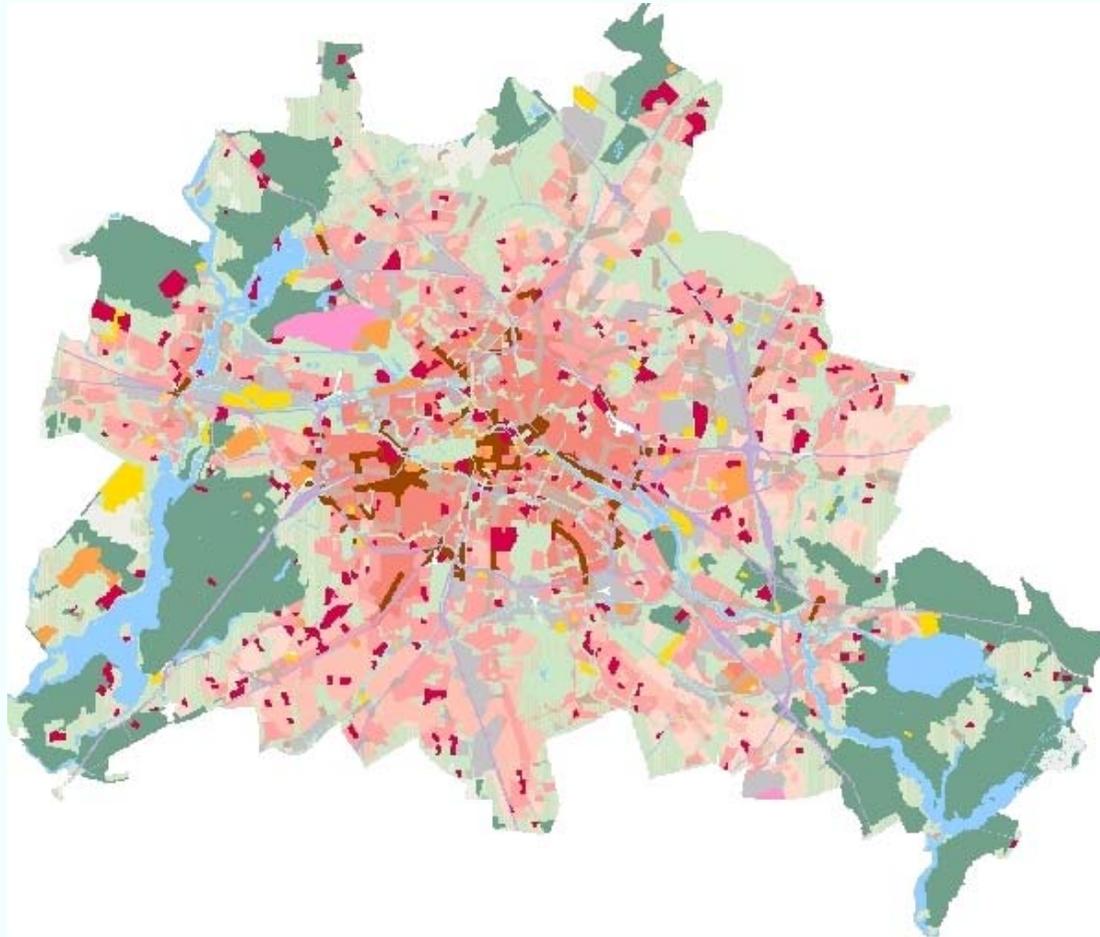
(2) Drafts of land-use plans with the accompanying explanatory report or statement of grounds are to be put on **public display for a period of one month.** The place and times at which plans may be inspected are to be made public at least one week in advance in the manner customary in the municipality with the advice that suggestions may be lodged during the display period.

# Federal Building Code (Baugesetzbuch)

## Section 3 Participation by Public Agencies

- (1) Public authorities and other public agencies whose activities are affected by the planning measure are to be informed according to Section 3 para. 1 and to be asked for comments in relation to the necessary extent and level of detail of the environmental audit according to Section 2 para. 4.**
- (2) The municipality shall obtain comments and opinions from public authorities and other public agencies whose activities are affected by the planning measure at the earliest opportunity. These shall supply their comments and opinions within a period of one month; the municipality may extend this period as appropriate where there is deemed to be good reason to warrant this. Public agencies shall restrict their comments to those matters which lie within their purview; they are also required to supply information, including time-scales, on any planning or other measures either scheduled or already embarked upon which may be of significance for the urban development and the ordering of the territory.
- (3) After the conclusion of the procedure of the preparation of the Land-use plan public authorities have to inform the municipality, if they came to know that the implementation of the land-use plan will have grave, especially unexpected harmful effects on the environment.**

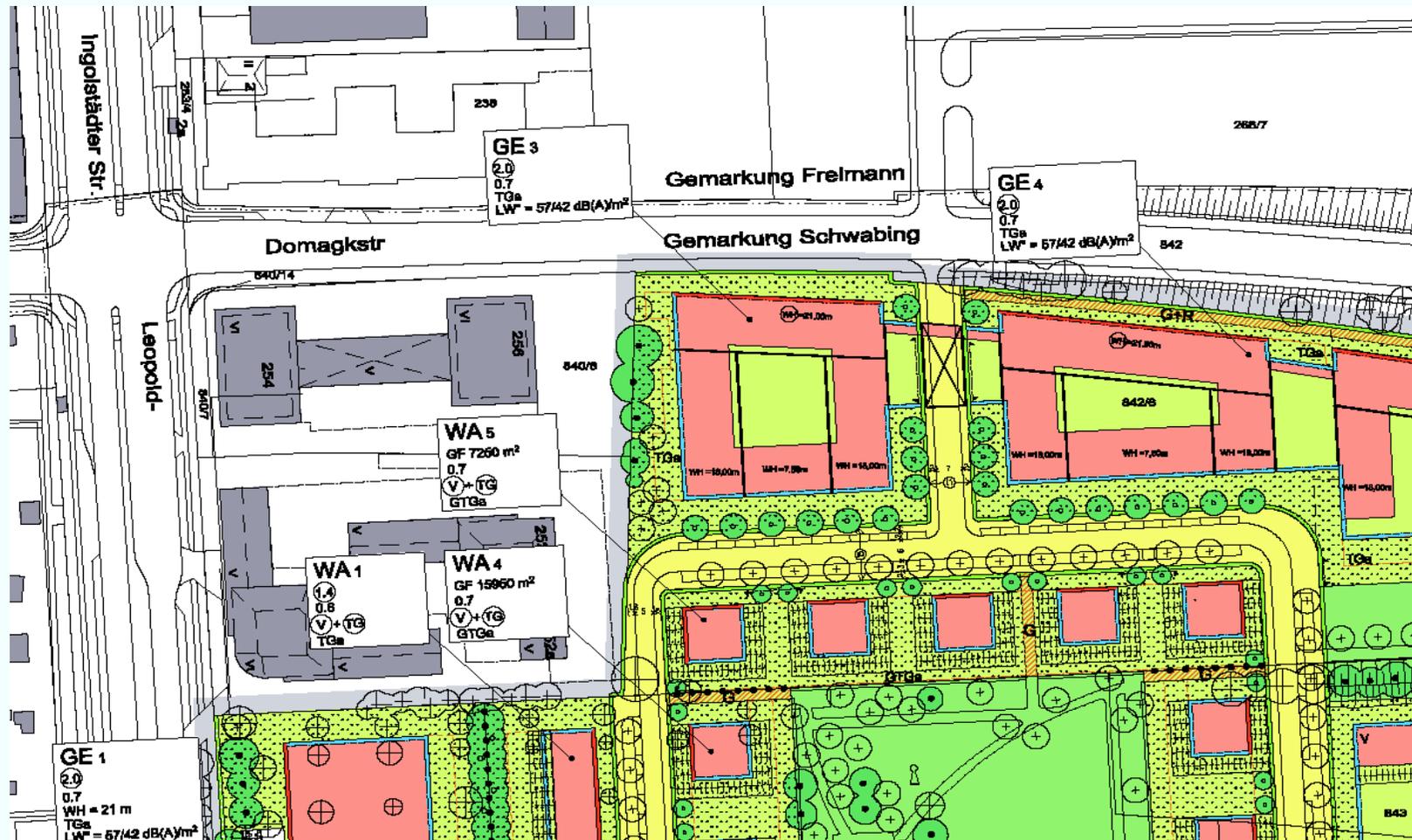
# Preparatory land use plan of Berlin



## Legend

- Residential building land
- Mixed building land
- Commercial/ industrial land
- Retail concentration
- Land for community facilities
- Green areas
- Water
- Wood land
- Agricultural land

# Legally binding land use plan of Munich



# Federal Building Code (Baugesetzbuch)

The Preparatory Land-Use Plan [Flächennutzungsplan]

## Section 5 The Content of the Preparatory Land-Use Plan

- (1) The preparatory land-use plan shall represent in basic form the type of land uses arising for **the entire municipal territory** in accordance with the intended urban development which is proposed to correspond to the anticipated needs of the municipality. The preparatory land-use plan may exclude spaces and representations of other kinds, provided that the basic intention to be represented in accordance with sentence 1 is not affected, and the municipality intends to produce this representation at some later date; the grounds for this exclusion are to be included in the explanatory report.
- (2) The preparatory land-use plan may in particular show:
1. the areas designated for development according to general land-use types (general land-use areas [Building areas]), according to specific land-use types [housing areas] and according to the general level of built development; building land for which no central sewerage provisions have been made should be marked;
  2. the existence within the municipal area of facilities and infrastructure for public and private provision of goods and services, in particular buildings and amenities serving the community and institutions for public needs, and in addition schools and churches and any other buildings or amenities which serve church-related, social, health-care and cultural purposes, and sports areas and playgrounds;
  3. **spaces for supra-local transport and the main local communications routes;**
  4. spaces for public utility use, for waste and sewage disposal, for tipping and for mains water supply and main sewers;
  5. green spaces, such as parks, allotment gardens, sports grounds, playgrounds, campsites and bathing areas, cemeteries;

# **Federal Building Code (Baugesetzbuch)**

The Preparatory Land-Use Plan [Flächennutzungsplan]

Section 5 The Content of the Preparatory Land-Use Plan

6. spaces to which use restrictions apply, or for protective measures against harmful environmental effects within the meaning of the Federal Control of Pollution Act [Bundes-Immissionsschutzgesetz];
7. water bodies, docks and areas of water designated for supply and distribution purposes, and spaces to be kept clear in the interests of flood control and to control drainage;
8. spaces for earth deposits, excavation and for quarrying for stone, earth and other minerals;
9. **a) agricultural land and  
b) woodland;**
10. **spaces for measures for the protection, preservation and development of topsoil, of the natural environment and of the landscape.**

## **Federal Building Code (Baugesetzbuch)**

The Preparatory Land-Use Plan [Flächennutzungsplan]

Section 6 Approval of the Preparatory Land-Use Plan

- (1) The preparatory land-use plan requires the **approval of the higher administrative authority** .
  
- (2) Approval may only be denied where the preparatory land-use plan has not been produced in a proper manner, or where it contravenes this Act or legal provisions issued on the basis of this Act, or any other relevant legal ordinances.

## **Federal Building Code (Baugesetzbuch)**

The Preparatory Land-Use Plan [Flächennutzungsplan]

### Section 7 Adaptation to the Preparatory Land-Use Plan

**Public bodies charged with planning tasks and involved under Section 4 and Section 13 must adapt their planning proposals to the preparatory land-use plan to the extent that they have not objected to this plan. Any objection must be lodged prior to adoption by the municipality.**

## Federal Building Code (Baugesetzbuch)

### The Legally Binding Land-Use Plan [Bebauungsplan]

#### Section 8 The Purpose of the Legally Binding Land-Use Plan

- (1) The binding land-use plan contains the legally-binding designations for urban development. It forms the basis for further measures required for the implementation of this Act.
  
- (2) Binding land-use plans are to be developed out of the preparatory land-use plan. A preparatory land-use plan is not required in cases where a binding land-use plan is sufficient to organise urban development.**

# Federal Building Code (Baugesetzbuch)

The Legally Binding Land-Use Plan [Bebauungsplan]

Section 9 The Content of the Legally Binding Land-Use Plan

(1) The legally binding land-use plan may for urban-planning reasons make designations regarding:

11. public thoroughfares including public thoroughfares for specific purposes, such as pedestrian areas, parking spaces for motor vehicles, and links from other spaces to the public thoroughfares;
12. **spaces for local public infrastructure;**
13. the location and course of public infrastructure installations and transmission routes;
14. spaces for waste disposal and drainage, including rainwater retention and seepage, and for tipping;
15. public and private green spaces, such as parks, allotment gardens, sports grounds and playgrounds, camping sites and bathing areas, cemeteries;
16. water bodies and spaces for water supply and distribution, for installations for flood control and for the control of drainage;
17. spaces for earth deposits, excavation and for quarrying for stone, earth and other minerals;
18. a) agricultural land and  
b) woodland;
19. spaces for the construction of facilities for keeping small domestic animals and for exhibiting and breeding, kennels, paddocks, etc.;

# Federal Building Code (Baugesetzbuch)

The Legally Binding Land-Use Plan [Bebauungsplan]

## Section 9 The Content of the Legally Binding Land-Use Plan

(1) The legally binding land-use plan may for urban-planning reasons make designations regarding:

20. measures for the protection, conservation and development of topsoil, of the natural environment and of the landscape, where these arrangements cannot be made in pursuance of other regulations, and spaces for measures for the protection, conservation and development of the natural environment and the landscape;
21. spaces to be encumbered with walking and driving rights and rights of passage in favour of the general public, an agency charged with the provision of public infrastructure or a limited group of persons;
22. spaces for community amenities to serve specific spatial areas, such as children's playgrounds, leisure facilities, parking spaces and garages;
23. areas in which, in order to provide protection against harmful environmental impact within the meaning of the Federal Control of Pollution Act, certain materials which give rise to air pollution may not be used, or used only within defined limits;
24. protected areas to be kept free from development with their uses, spaces for specific installations and measures to provide protection against harmful environmental impact within the meaning of the Federal Control of Pollution Act, and the provisions to be made, including building and other technical measures, to provide protection against such impact or to prevent or reduce such impact;
25. in respect of individual spaces or of areas covered by a binding land-use plan or parts thereof, and of parts of physical structures, excluding spaces given over to agricultural use or for woodland
  - a) planting of trees, shrubs and greenery of any other kind,
  - b) obligations relating to planting and to the preservation of trees, shrubs and greenery of any other kind and of water bodies;
26. spaces for mounds, cuttings and retaining walls, where these are required for road construction.

## **Federal Building Code (Baugesetzbuch)**

The Legally Binding Land-Use Plan [Bebauungsplan]

Section 9 The Content of the Legally Binding Land-Use Plan

(7) The binding land-use plan defines the limits of its territorial validity.

(8) The binding land-use plan shall be accompanied by a statement of reasons for its adoption. This shall set out the aims, purposes and most significant effects of the binding land-use plan.

# **Federal Building Code (Baugesetzbuch)**

Part Two Safeguarding Land-Use Planning

Subdivision One

Prohibitions on Development and the Postponement of Building Applications

## **Section 14 Development Freezes**

(1) Once the decision has been taken to prepare a binding land-use plan, the municipality may opt to add a development freeze in order to safeguard the planning for the area to be covered by the proposed plan. This development freeze may stipulate that

1. development projects within the meaning of Section 29 may not be implemented, or that physical structures may not be removed;
2. no major or fundamental changes of a kind which would result in an increase in value may be made to such plots and physical structures in respect of which changes do not require approval, permission or notification.

## **Federal Building Code (Baugesetzbuch)**

Part Two Safeguarding Land-Use Planning

Subdivision One

Prohibitions on Development and the Postponement of Building Applications

### **Section 15 Postponement of Building Applications**

- (1) Where a development freeze in accordance with Section 14 has not been adopted, although the conditions required are met, or in cases where a development freeze has been adopted but has not yet come into force, the building permit authority must at the request of the municipality defer its decisions on the legitimacy of individual planning proposals for a period of up to twelve months, if there is reason to fear that going ahead with the development would prohibit or seriously impede the implementation of the land-use plan.

# Federal Building Code (Baugesetzbuch)

## Part Two Safeguarding Land-Use Planning

### Subdivision Three The Municipality's Statutory Pre-Emption Rights

#### Section 24 **General Right of Pre-Emption**

- (1) The municipality is entitled to exercise a pre-emption right in respect of the purchase of property
1. within the area designated by the legally binding land-use plan to the extent that the spaces concerned are spaces which have been designated in the binding land-use plan for public use or as spaces or measures for counterbalancing or replacement purposes pursuant to Section 1a para. 3,
  2. in a land reallocation area,
  3. in a formally designated redevelopment area and an formal urban development zone,
  4. within the territory for which a preservation statute is valid,
  5. within the areas covered by a preparatory land-use plan to the extent that the land concerned is not developed and is situated in outlying areas not covered by a binding land-use plan and has been earmarked in the preparatory land-use plan for use as housing land or as a residential area,
  6. in areas which under Sections 30, 33 or 34 para. 2 may be used predominantly for housing construction, where these plots have not already been developed.
- (3) The pre-emption right may only be exercised where this is justified by being to the general good. In exercising the pre-emption right the municipality shall indicate the use proposed for the site.

# Federal Building Code (Baugesetzbuch)

The Legally Binding Land-Use Plan [Bebauungsplan]

## Section 35 **Building in the Undesignated Outlying Area**

- (1) A development project in the undesignated outlying area is only permissible where there are no conflicting public interests, ample public infrastructure provision can be guaranteed **and** where
1. it serves agricultural or forestry activities and occupies only a minor proportion of the total plot,
  2. it is for market-gardening purposes,
  3. it is for the purposes of the public supply of electricity, gas, telecommunications services, heat and water or for sewerage, or it serves a commercial operation which is only possible at this location,
  4. it is only to be carried out in the outlying area because of the specific demands it makes on its surroundings, its harmful effect on its surroundings or because of its special function,
  5. it is intended for research, development or use of wind or water-powered energy sources, or
  6. it serves the energetic use of bio mass within an enterprise according to Nr. 1, 2 or 4, if the latter is keeping animals and the connection is serving public supply, or
  7. it is intended for research and development into, or the use of, nuclear energy for peaceful purposes or for the treatment of radioactive waste.
- (2) Other development projects may be permitted as exceptional cases provided that their execution and use do not conflict with any public interests and public infrastructure provision can be guaranteed.

## Federal Building Code (Baugesetzbuch)

The Legally Binding Land-Use Plan [Bebauungsplan]

Section 35 Building in the Undesignated Outlying Area

(3) **A conflict with public interests exists** in particular where the development project

1. contravenes the representations in the preparatory land-use plan,
2. contravenes the representations of a landscape plan or of some other sectoral plan based in particular on water, waste or pollution-control law,
3. may give rise to or is exposed to harmful environmental impact,
4. requires an inappropriate level of expenditure for roads and other traffic requirements, public utilities installations, including waste treatment, for the safeguarding of health and for any other requirements,
5. is in conflict with the interests of nature conservation, the preservation of the countryside, the protection of top-soil and of sites of historic interest, or detracts from the natural character of the landscape or from its function as an area for recreation, or mars the overall appearance of the locality or of the landscape
6. hampers measures to improve agricultural structure or represents a danger to water supply and distribution,
7. provides reason to suppose that it may lead to the creation, consolidation or expansion of a splinter settlement.

## 6 Guidelines for land use planning

- 1.Regulation about coordination of agricultural interests and needs and building activities aiming at protecting valuable arable agricultural land;
- 2.Decentralization and delegation to local level should be guided by formulation of and providing with appropriate, affordable and implementable land use regulations and minimum standards for land and housing development;
- 3.Implementation of "proactive" land development tools in urban and rural areas which encourage cooperation between the public and private sectors through e.g. joint ventures and infrastructure-led strategies;

## 6 Guidelines for land use planning

4. Adoption of planning strategies, regulations and standards which consider the administrative, political and economical framework and capability of (local/district) governments;
5. Recognition of self-help housing and understanding of other issues characterizing low-income areas including squatter settlements;
6. Promotion of “protective” land use on “hot spots” including methods which aim at limiting land speculation and provide access to land for all income groups.

## Summary

- Land use planning results in a **legally binding** land use plan
- Land use planning is **integrated into state institutions** having the official mandate for inter-sector planning
- Land use planning is a **dialogue** that promotes **civil engagement**
- Land use planning follows the idea of **subsidiarity**
- Land use planning integrates **bottom-up aspects with top-down aspects („vertical integration“)**
- Land use planning is based on inter-disciplinary cooperation and requires sector coordination (**„horizontal integration“)**
- Land use planning is **future-oriented**
- Land use planning is **implementation oriented**
- Land use planning **relates to spaces and places**