



# Rural Development Procedure



Rural Development in Bavaria



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Bavaria's high quality of life and strong competitiveness have traditionally benefited from the fruitful coexistence of urban areas and the countryside, the high-tech world and unspoiled nature, and of biodiversity alongside sustainable land use. Rural areas, with their water, soil and other resources that comprise the basis for life itself, have a special role to play in this balance. Their significance becomes even greater in an era in which decisions on where to locate businesses now depend less on distances than on so-called soft factors such as the housing situation or leisure-time opportunities.

The Bavarian Rural Development Service defines itself as a service provider for rural areas. It helps the agricultural and forestry sectors, promotes the efforts of local authorities in rural areas to achieve sustainable development as defined under AGENDA 21. It supports public projects and contributes to the protection and preservation of the natural resources that comprise the basis for life.

The main approaches available for performing these tasks are land reorganisation and village renewal. Because many tasks can no longer be handled at the level of individual municipalities, projects are increasingly being prepared and coordinated by regional rural development bodies. The mission of rural development is not limited to these three main areas, and also extends to other themes such as the reallocation of construction land. The core task, however, remains the implementation of land reorganisation and village renewal through procedures defined in the Land Consolidation Act (referred to below as 'the Act'). This is because land readjustment is often the only effective planning instrument. By transferring important tasks to the local body of participants, we boost the autonomy of individuals at the local level and ensure higher

acceptance levels for the measures taken. There are various types of procedures tailored to the different tasks.

The Rural Development Directorates work with a number of government offices, particularly with the Agricultural Offices. They use state-of-the-art surveying and computer technologies. The decisive factor for the success of such projects, however, is the involvement of property owners and citizens.

Consequently, this brochure is intended to perform three tasks:

- to provide an overview of the spheres of activity of rural development
- to inform you, the reader, on the general steps involved in processes based on the Land Consolidation Act
- to answer your specific questions (as far as this short presentation permits)

Kind regards

Max Geierhos

Head of the Rural Development Department in the Bavarian Ministry for Agriculture and Forestry



The Rural Development Service makes important contributions towards sustainable development of the countryside – economically, ecologically and socially. It works for and with the inhabitants of rural areas. The planning process always includes the active involvement of the citizenry.

In pursuing its aims, it applies an approach oriented towards the conditions facing society as a whole, such as increasing globalisation, the trend towards a new civic and social culture, and specific regional features such as the major structural transformation in agriculture, the growth in traffic flows, flood protection concerns and the preservation of the countryside and the ecological diversity of the cultural landscape.

### Land Consolidation Act

The decisive legal basis for land reorganisation and village renewal is the Land Consolidation Act (FlurbG).

Section 1 of the Act states: "Under the provisions of this Act, agricultural land holdings may be re-arranged with a view to improving the productive and working conditions in agriculture and forestry as well as promoting the general use and development of land."

This is the basis for taking action to promote the overall development of rural areas, including village renewal and also regional land development for projects involving more than one municipality.



*The defining characteristic of rural development: Active involvement of the general public*



Rural development is a task that can only be performed with the involvement of all concerned parties.

Consequently, the following groups should play a formative role in the efforts to make changes in their home regions:

## Farmers

Today's farms are operated like businesses. The purpose of land reallocation is to enable farmers to work more easily and profitably on larger parcels of productive land, optimally shaped to meet their intended purpose and provided with good infrastructure links.

Another method of creating larger parcels of workable land that can be farmed more efficiently, apart from the reallocation of land ownership, is lease restructuring.

Part-time farmers also benefit from land reallocation. It enables them to farm their land more quickly and easily themselves, or helps them obtain more favourable terms when arranging for work to be done on their land.



## Land owners

A sensible reallocation of property ownership linked to a well-planned infrastructure opens up new opportunities and alternatives for all participants. Legal certainty for all land owners is ensured through the demarcation and surveying of the parcels of land, the regulation of titles and the drafting of new land register documents.

## The general public

Whether people live in the countryside or only go there as visitors, they are all looking for and expecting the same thing: a well-preserved natural landscape, a healthy, unspoiled environment and villages that look the way they should and have the infrastructure they need. In short: a Bavaria worth loving and living in!

## Municipalities

Whether a project calls for the construction of a new bypass road to relieve traffic pressure on the centre of a village, the development of a new village square, leisure facilities or other necessary municipal amenities, decisions can often be implemented only through a procedure for reorganisation or village renewal. This procedure results in projects involving many participants that benefit all of them while avoiding individual disadvantages.

# 8 Procedures under the Land Consolidation Act



For different types of problems, the Land Consolidation Act offers different procedural approaches:

- voluntary land exchange
- accelerated land consolidation procedure
- simplified procedure
- large-scale projects in the public interest (large-scale project procedure)
- standard procedure

As a rule, the fewer measures that are necessary, the faster and more simply the procedure will run.

Conversely, however, complex problems can usually not be solved with fast and simple procedural approaches.

## Voluntary land exchange

The voluntary exchange of land is a suitable approach for overcoming fragmentation of property among a few land owners by exchanging parcels of land. It can be used when no construction work is needed and only a minimal amount of surveying work is required (Section 103a-i, FlurbG).

## Accelerated land consolidation

The accelerated land consolidation procedure is suitable when the new layout of the land can be implemented with very few construction measures, without developing a new road network and, as far as possible, through the exchange of entire parcels of land.

Under this procedure, the reallocation of property ownership should be regulated as far as possible by mutual agreement (Section 91 ff, FlurbG).



*Through a voluntary land exchange, entire parcels of land in a hamlet ....*



*... are combined to form areas that can be profitably farmed.*



## The simplified procedure

Section 86 Par. 1 of the Act specifies four criteria for applying simplified procedures. These criteria can also be combined:

- enabling or implementing rural development measures for such purposes as improving agricultural structures, village renewal or for the protection of nature and conservation of the countryside
- elimination of disadvantages to agriculture and the countryside subsequent to major public works
- resolution of land use conflicts such as those between agricultural uses and the protection of nature
- restructuring of land ownership in smaller procedural areas or in municipalities where land consolidation has already taken place (follow-up procedures)



*A simplified procedure resulted in this semi-natural road connection for agricultural land*

## Large-scale project procedures

When major public-sector construction projects break up agricultural land, resulting in additional space requirements, then the project procedure helps to avoid undue hardships, preserve farms and reduce detrimental effects on nature and the countryside.

This is achieved by purchasing sufficient replacement property at an early stage, compensating for project-related disadvantages (e.g. adjusting property boundaries and road networks) and – if required – distributing the loss of land over a larger group of landowners (Section 87, FlurbG).



*Reallocated fields after a major infrastructure project*



## The standard procedure

The standard procedure is the most comprehensive approach to the improvement of living and working conditions in rural areas. This goal is achieved primarily through a comprehensive reallocation of property ownership, transportation links, water management measures and measures for protecting soil and nature and preserving the countryside (Sections 1, 4 and 37, FlurbG).

The standard procedure serves as a model for describing the procedural steps in this brochure.



*The improvement of infrastructure links is a vital task under the standard procedure*



The Bavarian Village Development Programme is intended for villages with up to 2,000 inhabitants. Village renewal aims to produce sustainable improvements in living and working conditions in rural areas. The goals are to:

- improve local conditions for agriculture
- boost the economic strength of rural areas
- promote cooperation in villages and municipalities when solving their common problems
- enhance the surroundings of the local population
- create a greater awareness of village culture
- maintain the individual character of rural localities and cultural landscapes

and, in doing so, to prepare villages and rural localities for future developments.

Village renewal usually involves the initiation of a procedure defined under the Land Consolidation Act unless land reallocation is already in progress.

If the list of tasks is relatively short and, in particular, if no land reallocation is required, then it is also possible to implement a "simplified village renewal" without a formal procedure under the Land Consolidation Act.



*Residents plan and design their surroundings, both in public areas ...*

*... and where they live*





## Other tasks for rural development

Rural development performs other tasks apart from the procedures defined in the Land Consolidation Act:

- regional land development
- construction of roads outside the framework of land reorganisation procedures
- exchange of property and leased land
- reallocation of building land and boundary regulation

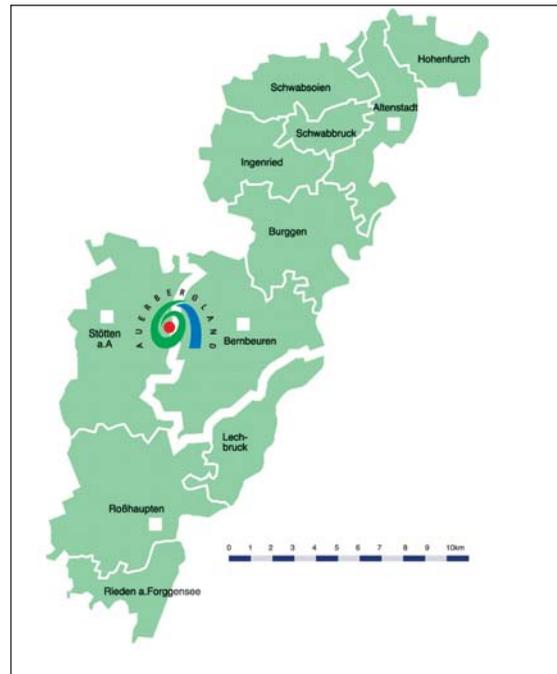
### Regional land development

For numerous problems in rural areas, it is no longer enough to seek solutions at the level of individual municipalities. An obvious approach to overcoming this obstacle is more intensive cooperation between neighbouring municipalities. Regional land development supports projects of this kind. It fosters the targeted and coordinated implementation of village renewal and land reallocation and the coordination of development activities of villages or municipalities within an area. Depending on the local priorities, the thrust of these efforts can be limited to the establishment of a comprehensive inter-municipal development concept, or can be directed towards a strategic alliance of several municipalities to solve common problems or implement common projects.

This permits faster and cheaper realisation of such diverse projects as flood prevention measures, shared facilities such as commercial estates, building yards or other infrastructure projects or – in cooperation with the agricultural

authorities – regional marketing efforts combined with the supply of local markets or tourism.

The Rural Development Directorates support and accompany these projects. They help with the development of strategies and concepts, project management and the initiation and organisation of citizen involvement. Primarily through space management and land allocation, they make it possible to implement plans with a significant impact on the use of space while protecting the interests of property owners.



*Regional land development in Auerbergland*



## Construction of roads outside land reallocation procedures

It is possible to plan and build roads that serve exclusively to provide access to mountain pastures and other high-elevation areas, isolated farms or hamlets without initiating procedures under the Land Consolidation Act. However, this applies only to areas designated as "mountain areas" or "disadvantaged agricultural areas", and does not apply to roads through fields built purely for farming operations.

A public developer must submit an application for funding to the Rural Development Directorate; responsibility for construction is determined on a case-to-case basis.

## Exchange of leased land

Complementing the procedures defined under the Land Consolidation Act, the exchange of leased land is another way of improving agricultural structures by combining leased parcels of land to create larger units.

The Rural Development Directorates support participants in the preparatory phase when formulating the terms of the exchange and documenting the detailed arrangements. Property owners interested in exchanging land in this way can contact the Rural Development Directorate themselves or through other bodies (local administration, farming associations, farm machine cooperatives).

## Reallocation of building land and boundary regulation

For many local governments, it is an important priority to provide affordable building land. However, the implementation of a building plan usually involves numerous land ownership problems that can be resolved only by reallocating building land under the terms of the Building Act. In relatively simple cases, the instrument of boundary regulation is often sufficient for achieving the intended effects. The municipality can delegate its authority to reallocate building land and regulate boundaries to the Rural Development Directorate.

Both procedures provide a faster means of creating land ready for building.



*Reallocation of building land and boundary regulation*



### The village community

The quality of life in our immediate surroundings concerns all of us. For this reason, local working groups at the level of individual villages, or, if necessary, involving several villages or an entire region, give residents the opportunity to contribute their ideas to the restructuring of the procedural area: in other words, their home. These working groups have an important role to play in land reallocation and village renewal, particularly in the preparatory phase.

### The body of participants

The body of participants is made up of all land owners and persons who hold a hereditary building right in the procedural area. It functions as the responsible entity for the procedure. For village renewal procedures, this role is performed jointly by the local authorities and the body of participants.

- **Body corporate**

When the Directorate issues its decision on the procedure, the body of participants acquires the status of a body under public law. This means that it has a task defined under the law which it performs under state supervision. The Rural Development Directorate takes on the supervisory role.

The body of participants, which is represented by a board, attends to the common concerns of all participants. On the basis of the results of the preparatory phase, it plans the common facilities and then builds them.

It takes on responsibility for the participants' contributions as specified by the state, and, if required, bills the property owners for their share of the costs. It also performs the important task of restructuring the properties and summarising all results of the procedure in a legally binding form in the Land Consolidation Plan.

- **The board of the body of participants**

The body of participants has a board which conducts its business and is responsible for performing its tasks.

- **Election of the board members**

A meeting of participants is held to elect the board members, with the exception of the chairman, and one deputy for each of them. The Rural Development Directorate determines the number of board members according to the requirements. It is also possible to specify the composition of the board on a group basis (e.g. representatives of the individual villages within the procedural area). For village renewal projects, the municipality is given a seat on the board.



The candidates for the board are nominated at a citizens' meeting or in another suitable form.

As a rule, the board is elected by secret ballot. Every participant and person who holds hereditary building rights to the land has one vote; joint owners count as a single participant. Voting is also possible by proxy. The board is re-elected every six years. Board members may stand for election again.

The Land Consolidation Act states that the Directorate must appoint a senior official in the Technical Administration Service for Rural Development as chairman of the board. This ensures that the board has at its disposal the necessary legal and technical knowledge to implement the procedure.



*The involvement of women in the process is a priority*

#### • The Board's responsibilities

The board has extensive tasks to perform on behalf of the body of participants and is instrumental in determining the course of the procedure. Consequently, it is important to attract committed and competent individuals as candidates for the board.

The board can entrust specific tasks to individual members and their deputies. This is the case, for instance, for the roles performed by the local appointee (the primary local point of contact), the road construction engineer (local organiser of construction work) and the local organiser of planting operations.

The chairman implements the resolutions passed by the board and represents the body of participants in all dealings. The chairman acts jointly with the board to keep the residents informed on the course of the procedure.

This can take place at participants' meetings, open house days or citizens' assemblies.

The public events are supplemented by materials such as circular letters from the board, public notices in community gazettes or reports in local newspapers. The participants also have the right to inspect any board resolutions that affect them.



- **Board resolutions**

When convened by its chairman or the consolidation authority, the board shall form a quorum if at least half the number of the members or their deputies are present. Board decisions shall be taken by a majority of votes of the members present. The chairman casts the tie-breaking vote if necessary. The meetings are public unless they are concerned with the affairs of individual participants.

## The municipality

The municipality acts as a partner of the body of participants. The local council and the board coordinate and harmonise their respective projects. After the body of participants completes the common facilities (e. g. roads, interconnected biotope systems, etc.), the municipality often acquires ownership and assumes the burden of maintaining them. Particularly in village renewal procedures it acts jointly with the body of participants as the developer of the overall project.

## The Rural Development Directorate

There are seven Rural Development Directorates in Bavaria.

Each of them heads the procedures pursuant to the Act within their service district, supervises the bodies of participants and the rural development association and implements other rural development projects.

The Directorates report directly to the Bavarian Ministry for Agriculture and Forestry.

Two authorities are primarily responsible for the procedure. They are easily distinguished on the basis of their tasks:

- The body of participants has the task of restructuring the procedural area.
- The Directorate begins and ends the procedure and exercises supervisory, investigative and approval authority.

### Ländliche Entwicklung in Bayern



Sehr geehrte Bürgerinnen  
und Bürger von Moosach, München, im Oktober 2001

die Direktion für Ländliche Entwicklung München hält gemeinsam mit der  
Gemeinde Moosach und den Arbeitskreisen zur Dorferneuerung

**am Dienstag, den 23. Oktober 2001 um 19.30 Uhr**

im **Gasthof Neuwirt** in Moosach eine Informationsversammlung zur  
Dorferneuerung ab, zu der **alle** interessierten Bürger von Moosach und  
vor allem die Grundstückseigentümer herzlich eingeladen sind.

Die Startphase zur Dorferneuerung Moosach ist in den Jahren 1997 bis  
1999 in Moosach mit positiven Ergebnissen verlaufen. In dieser Zeit hat-  
ten die Bürger von Moosach unter Betreuung durch das Planungsbüro  
Straßer und Partner die Aufgabe, Inhalte einer Dorferneuerung für Ihr  
Dorf zu klären. Diese Arbeit wurde vor allem in vier Arbeitskreisen geleis-  
tet, die viele Vorschläge zur Entwicklung von Moosach gemacht haben.

Ein Teil dieser Vorschläge zur Zukunftsgestaltung von Moosach kann mit  
Hilfe der amtlich geleiteten Dorferneuerung umgesetzt werden.

Somit sind aus Sicht der Direktion für Ländliche Entwicklung München die  
Voraussetzungen zur Anordnung einer Dorferneuerung als einem Verfah-  
ren nach dem Flurbereinigungs-gesetz gegeben.

In der Versammlung sollen Sie zu folgenden Themen informiert werden:

1. Dorferneuerung aus Sicht der Gemeinde Moosach
2. Zur Einstimmung und als Rückblick auf die Startphase werden die  
Arbeitskreise über Ihre Tätigkeit in dieser Zeit berichten.
3. **Dorferneuerung – ein Verfahren nach dem Flurbereinigungs-gesetz**  
Die Direktion für Ländliche Entwicklung informiert über Sinn, Zweck  
und Ablauf eines Verfahrens nach dem Flurbereinigungs-gesetz,  
mögliche Bau- und Gestaltungsmaßnahmen sowie über die Finanzier-  
ung von Dorferneuerungsprojekten.
4. Allgemeine Aussprache

Mit freundlichen Grüßen  
*Hire*  
Hire  
Bauberrätin

*Eisenschmid*  
Eisenschmid  
1. Bürgermeister

Direktion für Ländliche Entwicklung München

Informationsversammlung zur Dorferneuerung

*Circulars keep citizens up to date*



## The ministry

The Bavarian State Ministry for Agriculture and Forestry functions as the highest state authority in charge of rural development administration and supervises the Directorates and the State Association for Rural Development in Bavaria.

## The Rural Development Association

There are seven Rural Development Associations in Bavaria. Each of them is comprised of all bodies of participants within the service district of a single Directorate.

The association carries out tasks for the bodies of participants that each of them must perform in a similar or identical manner. These include accounting, detailed planning and costing as well as calls to tenders and building site management.

## The Bavarian State Association for Rural Development

The State Association for Rural Development in Bavaria is the amalgamation of the seven Rural Development Associations in Bavaria. It performs functions common to all associations, for instance the management and development of data processing.



*Employees of the Rural Development Association keep the financial records for the participants*



Intensive preparations are necessary before a land consolidation and/or village renewal procedure can formally take effect. This phase identifies the necessary planning activities and measures, evaluates the likely map-making requirements and determines whether or not the property owners and residents are willing to cooperate.

It is also an opportunity to set up working groups to address a wide range of issues such as the situation of farmers and other economic issues, ecological interconnectedness, transportation and ecological technology, social and cultural life, etc. The working groups are intended to foster a new civic and social culture. The analysis should document the existing situation, existing

deficiencies and ongoing developments. These investigations comprise the basis for formulating goals. All results produced by the working groups flow into a catalogue of goals and measures.

In addition to the Directorates, three schools – in Klosterlangheim in Upper Franconia, Plankstetten in the Upper Palatinate Region and Thierhaupten in Swabia – support this process by offering seminars and organising excursions for village residents. These events let participants exchange experiences, gain specialised knowledge on a wide range of subject areas, and take part in working groups to develop methodological approaches.



*Seminar participants symbolically depict their common concerns*



## Project description

The project description is based on the catalogue of goals and measures. The Directorate produces the project description in consultation with all participants and the participating public bodies before formally ordering the procedure. The body of participants uses it as a framework for action. It includes:

- a description of the initial situation with the associated problems and weaknesses, but also the strengths and opportunities,
- the project's goals in terms of future development,
- the scope of the project, type of procedure, the geographical boundaries, planning requirements, land reallocation principles and the land survey area,
- a preliminary concept, including the key measures for achieving the goals of the procedure,

- a financing overview, including the maximum amount of funding,
- a timetable for the procedure with deadlines for key milestones and
- a sustainability audit, outlining how the procedure ensures sustainable development.

The preparatory phase concludes with the official information meeting required by law (Section 5, FlurbG) at which the expected participants are informed of the available results.

## Procedural type and area

The Directorate analyses the project description, local surveys and the results of the working groups to pinpoint problem areas and the resulting tasks, and to identify the opportunities for development. It subsequently decides on the type of procedure and specifies appropriate physical boundaries.



*Bringing together ideas for a common cause*



The Directorate formally initiates a land reallocation and/or village renewal procedure by issuing an official decision ordering the procedure and making a public announcement. As soon as the decision is issued, the body of participants acquires official status as a body corporate (Section 16, FlurbG) and is required to meet its legal obligations.

All decisions made on the basis of the Land Consolidation Act by the Directorate or the body of participants with a direct outward legal impact take the form of so-called administrative decisions. They must include information on appeal procedures and must be made public.

The most important administrative steps are:

- the decision ordering the procedure (Section 4, FlurbG),
- the announcement of the valuation results (Section 32, FlurbG; Article 9, AGFlurbG\*),
- the Provisional Transfer of Possession (Section 65, FlurbG),
- The Land Consolidation Plan (Section 58, FlurbG, Article 15, AGFlurbG),
- the (Preliminary) Implementation Order (Sections 61 and 63, FlurbG),
- the Concluding Statement (Section 149, FlurbG).

### Legal remedies

All participants can appeal against administrative decisions that directly affect them.

Appeals must be filed in writing and, in the interests of the person(s) filing them, should include reasons.

The board of the body of participants makes an initial ruling on appeals against administrative decisions. If the board believes that the appeal is well-founded, then it must provide a remedy. Otherwise it is submitted to the appeals committee of the Directorate for a ruling.

There is an appeals committee associated with each Directorate. It rules on appeals against valuations or against the land consolidation plan as specified in Section 58 of the Act. The committee is made up of the president and legal advisor of the Directorate and two farmers appointed by the Bavarian Ministry for Agriculture and Forests on the basis of a list of nominations put forward by the Bavarian Farmers' Association.

If the appeals committee rejects an appeal, then the party who filed it must bear the costs on the basis of the direct expenses incurred through the appeal process. A fee can also be set.

Appeals against rulings by the appeals committee or the Directorate can be filed with the Bavarian Administrative Court (Land Consolidation Court) in Munich.

\* AGFlurbG = Implementation ordinance for the Land Consolidation Act



### Property transactions and changes in land use

Property transactions such as the sale, leasing, subdividing or mortgaging of land is not restricted by ongoing procedures under the Land Consolidation Act. There are no restrictions on changes in land use that are covered by regular farm operations.

Changes that go beyond regular farming operations, e.g. the construction of buildings or for-estation, require the approval of the Directorate in view of the common interests involved. This regulation applies from the time when the decision ordering the procedure is announced until the implementation order is issued (Section 34 Par. 1 (1), FlurbG)

The construction, establishment, major alteration or removal of buildings, wells, ditches, fences, terraced slopes and similar facilities are also subject to the consent of the Directorate (Section 34 Par. 1 (2), FlurbG).

#### Removal of trees and hedges

The removal of fruit trees, berried shrubs, vines, hop plants, isolated trees, hedges and shrub-bery should be avoided in order to preserve the scenery. In the interests of the conservation of nature and the landscape, anyone who wishes to remove them needs the approval of the Directo-  
rate (Section 34 Par. 1 (3), FlurbG).



*Hedges should be preserved to protect nature and preserve the landscape. Any removal of hedges requires the approval of the Directorate.*

#### Right of access to property

Persons acting on behalf of the Directorate, the body of participants and the Rural Development Association are permitted to access properties to carry out necessary work associated with the preparation and implementation of procedures (Section 35, FlurbG; Article 11, AGFlurbG).



## Plan for common and public facilities

The plan for common and public facilities – referred to simply as the “plan” – comprises the basis under public law for restructuring the procedural area and creating common facilities. The board of the body of participants develops the plan on the basis of the project description, discusses it with the responsible authorities, informs the public and attempts to eliminate uncertainties and discrepancies in advance. Participants who are directly affected are closely involved right from the planning stage.

A separate landscape plan investigates the environmental impact of the planned measures at an early stage, and plans are prepared for the development and use of the landscape. For this purpose, the body of participants procures the support of specialists.

The plan comprises various measures, depending on the task defined for the procedure. They may include:

- development measures for villages and farmland
- hydrological engineering projects on lakes and rivers
- measures to protect and improve the soil
- landscape design measures
- village renewal

After the plan is approved and finalised and the Directorate has provided the required funds, the body of participants can begin with the implementation.



*The board at work: an onsite inspection for the road network ...*



*... and planning activities in the village*



### Responsible entity

The body of participants is responsible for the construction of ways and other shared facilities unless the municipality or another body takes on this task or performs certain measures, or the work is done jointly, as in the case of village renewal.



The trees and shrubs alongside ways and bodies of water should be planted, if possible, immediately after the work is completed. This ensures that they will enhance the scenery as soon as possible.

### Advance land procurement

The planned measures should benefit the participants as soon as possible. As a result, it is often necessary to use land for construction work before the new layout is completed. If a property owner does not consent to this land use, then

the body of participants has the right to issue an order. The order must be made known to the participants affected by it (Preliminary Order, Section 36, FlurbG).

The body of participants can issue a decision to compensate affected parties for hardships.

### Implementation of measures

Alongside the Directorate, the Rural Development Association helps bodies of participants to carry out measures, for instance:

- detailed plans on the construction of ways
- cost analysis
- surveying and staking out land
- issuing calls for tenders
- monitoring construction companies
- final inspection of construction work
- planting operations.

For the planning of landscaping work and water management measures or facilities, engineering firms are often consulted. Construction work is in principle always contracted out to construction companies. Simple tasks can be performed by the participants. They receive compensation for this work, which permits them to contribute a portion of their share of the costs (the so-called 'own contribution') in the form of work ('self-organised work').



## Survey markers secure property rights

The completed ways and other facilities, notable landscaping structures and the boundaries of the procedural area are marked with boundary markers and surveyed.

These markings have preliminary status and are legally binding only when the Land Consolidation Plan is issued. Until that time, the boundary markers serve to stake out boundaries. They may not be removed, damaged or destroyed. Any violations are subject to fines (Article 23, AGFlurbG). This is in the interests of all participants and taxpayers.



*Satellite-assisted surveying*



*Participants helping to stake out properties*



### Many hands make light work!

The Free State of Bavaria bears the personnel costs and other material expenses of the Directorate. The body of participants, as the responsible entity for the procedure, must cover the costs of implementing the procedure and the associated measures. For this purpose, it receives funding from the European Union, the Federal Republic of Germany and above all from the Free State of Bavaria. The amount and source of the funding depend on the local situation, the task at hand and the measures to be taken. For measures that serve the public interest (public facilities), the body of participants also receives contributions from the municipalities, rural districts, etc.

The remaining costs of land reallocation are covered by the participants, i.e. the landowners ('own contribution'). As a rule, village renewal measures are financed by subsidies and a municipal contribution. For certain projects the municipality can transfer its costs to residents, for instance under municipal development by-laws for the improvement of local roads.

In case of large-scale project procedures, the public-sector developer bears the costs for the necessary measures.

### Funding can be provided for the following measures:

- preparations, studies, planning work, consultations and information activities
- common facilities and measures
  - construction of roads and ways for access to villages and agricultural lands
  - hydrological engineering projects on lakes and rivers
  - surveying, staking out and valuation of parcels of land
- maintaining and improving the new parcels of land
  - soil protection measures
  - measures to improve soil structure and water management
- environmental protection and landscape conservation
  - planting, replanting and rehabilitation of hedges, shrubs and trees
  - setting aside land to establish semi-natural spaces
  - ecological landscaping
- reallocation of special crops
- minor measures for leisure and recreation purposes, primarily for local residents



- common and public village renewal measures;
  - facilities to foster village life and culture
  - construction, alterations or renovations of buildings with municipal functions or for purposes related to village life
  - improvement of traffic conditions in the interests of improved living conditions within villages
  - measures to preserve historical buildings
  - rehabilitation and naturalisation of bodies of water, including the development of semi-natural village ponds and the reduction of flooding risks in the vicinity of villages
  - village squares, playgrounds, playing fields and leisure facilities suited to village life, including school gardens and instructional gardens
  - small-scale facilities for ecologically sound utilities and waste management (e.g. machine washing yards, composting facilities)
    - village ecology facilities
    - measures to improve the appearance of the village
    - acquisition and utilisation of buildings
    - land reallocation for village renewal
- private village renewal measures:
  - renovations, extensions and expansion of existing residential buildings in villages and rural areas appropriate to the village environment
  - construction design (e.g. facades) in keeping with the goals of village renewal, farm-yard and entrance area design appropriate to the village environment
  - construction work on the commercial elements of farms, craftsman's establishments or other service enterprises in the village in keeping with the goals of village renewal.

*A village store sponsored by village renewal funds ensures that basic needs are met locally*





## Participants' share in the costs of land reallocation procedures

As a rule, participants' contributions are calculated on the basis of the agricultural index and the type and amount of the costs. Participants can cover some of their share of the costs by contributing their own work and using their own equipment, for instance in construction or planting work or in surveying.

For parcels of land with long-term leases, the owners can obtain subsidies to cover up to 50% of their share of the costs under some circumstances.



## Advance payments before final assessment

The percentage and amount to be paid by landowners involved in a land reallocation procedure are based on the value of their new parcels (Section 19, FlurbG).

However, the participants' final contribution ratio is not known when the measures begin. It can only be fixed after the property is reallocated.

Consequently, the board of the body of participants fixes a preliminary ratio, usually based on the extent of the holdings of each participant within the procedural area.

The board keeps accounts for all participants, showing all claims, payments and credited amounts. Account statements are issued to all participants, usually once a year or as required. The statements show the amounts of contributions or advance payments owing.

*Property owners can take part in planting work to contribute a portion of their share of the implementation costs*



### Land exchanges are based on property values

The standard of comparison when exchanging parcels of land under land reallocation procedures is not the size of the parcels, but rather the exchange value of the parcels. To ensure equal compensation, the values of each existing parcel must be assessed in relation to all other parcels (Section 27, FlurbG).

### Valuation by the board of the body of participants

The board of the body of participants assesses the parcels of land in cooperation with neutral, experienced experts who are neither residents of the locality nor involved in the procedure. They are selected from a list of experts assembled in

cooperation with the Bavarian Farmers' Association and appointed by the Directorate (Article 8, AGFlurbG).

The knowledge of the local board members has proven to be highly beneficial. They are familiar with the local situation and usually share the local awareness of the advantages and disadvantages associated with a given parcel of land. Board members are not permitted to take part in the assessment of their own property or that of close relatives.

Land assessments by the tax authorities, with their assessment parameters for ploughed fields and meadows, serve as a basis for land reallocation procedures. However, they cannot usually be applied directly, since the exchange framework has undergone major changes through technological and managerial advances in agriculture. As a result, new value parameters are usually determined for land reallocation.



*The board makes an onsite valuation inspection with the support of experienced experts*



## Land assessment

The Land Consolidation Act stipulates that value parameters for purposes of land reallocation must be based on the yields gained by owners through proper farming with standard methods. The distance from the village or the farmstead plays no role in the assessment (Section 28, FlurbG). However, it is taken into account in the new layout of the parcels.

If a single parcel of land has differing soil qualities, then each subsection with uniform soil quality is assigned its own soil parameter.

Special features that influence the exchange value of parcels of land (e.g. a slope location, the water balance, microclimate, location adjacent to forest land) are taken into account in the form of discounts or premiums. The values of trees and other essential land features are assessed separately.

## Value equivalence

If parcels with differing soil quality are exchanged, then the value difference is offset in the form of larger or smaller land areas. The formula for offsetting soil quality against total area is based on the land reallocation parameters. They serve as a uniform assessment standard for all participants.

Example:

Mr. Huber owns a parcel of land with an area of 1 hectare and a value parameter of 20. He places this parcel at the disposal of the land reallocation procedure and wishes to procure a parcel with a value parameter of 25 in exchange for it,

in other words a parcel with better quality. What is the area of the new parcel allocated to Mr. Huber?

The result is obtained by dividing the parameter of the contributed parcel (20) by the parameter of the new parcel (25) and multiplying by the area of the contributed parameter (x 1 ha). This results in an area of 0.8 ha for the new parcel.

Mr. Huber receives a 0.8 hectare parcel of land.

## Special regulation for building land

The assessment of building land, building sites and structures is based on the market value (Section 29, FlurbG). Land organisation in a village is not possible until the right exchange ratios are determined for these properties. These exchanges are always carried out by mutual agreement.

## Information on valuation

A meeting is held to explain the principles of land assessment, the assessment map, the official record of land parcels and the resolutions passed by the board. After this meeting, the information is available for inspection, usually at the municipal administration offices.

This enables all parties involved in the procedure to obtain exact information. The board members of the body of participants and the Directorate staff provide help in case of questions or unclear points.





The new layout of land ownership is a very important procedural step for all land owners. The first step is the so-called "request hearing". The board of the body of participants meets with individual landowners to discuss how their holdings can be usefully rearranged.

In principle, each landowner is entitled to exchange their land for land of equal value. A financial settlement is also possible with the participant's consent.

The request hearing does not result in a decision; it is held only for consultation purposes.

### Discussions without commitments or final decisions

The new layout of the land is not simply planned at the conference table. The goal is to take into account all requests to produce a good compromise to the satisfaction of all participants.

The process aims to produce a mutually beneficial solution that is acceptable to everyone. But that also means making concessions and respecting and understanding the opinions of others. This means that participants should not come to their request hearing with just one proposal. They should also be ready to present alternatives to which they could agree.

Thus, the request hearings serve as an initial round of discussions for gathering information and applications. Decisions are made later, when all participants' applications have been received. This permits fair consideration of the advantages and disadvantages for all concerned parties.

Landowners are urged to attend their request hearing. They are advised to take their spouse, the person designated to take over the farm and any tenants using the land. For a property owner, this may be the most important phase of the land reallocation procedure.

Consequently, it is advisable to be prepared for the discussion at the request hearing. Land owners should consider in advance:

- the future development of the farm,
- clearly defined requests with alternative proposals and
- the question of exchanging land for cash or vice versa.



*The chairman meets with landowners to discuss new ways of dividing up properties*

For projects only involving village renewal, there is usually no request hearing. Any necessary or requested land organisation measures are discussed in the planning phase or, at the latest, when the construction work is staked out.



## Terminology – in everyday language

Especially when attending request hearings it is useful to know the key terms that frequently come up.

### Proportional value parameter

The proportional value parameter expresses the value of a parcel of land as a single number. The proportional value parameter is calculated by multiplying the area of the parcel in hectares by the associated value parameter and then by 1,000.

Example:

A property with an area of 1 hectare and a value parameter of 20 has a proportional value parameter of 20,000.

### Value of total holdings

This refers to the total of all proportional value parameters of all parcels of land entered in the procedure by a given landowner.

### Property deduction

Section 47, FlurbG stipulates that all landowners must contribute a portion of the value of their total holdings for common and public facilities. The surface area calculated for this purpose is referred to as the property deduction.

After the reallocation of property, many field roads crossing private property are no longer needed. The marginal areas along property boundaries, which are usually poorly used, also decrease as a result of the procedure. As a result, the total area of agricultural land that is actually usable is not noticeably less after the land reallocation than beforehand.

Large-scale project procedures may require a deduction for construction work. In this case, the developer must provide compensation in cash.

### Entitlement

Each participant in a procedure has an "entitlement". It is calculated on the basis of the value of a landowner's total holdings less the value of the property deduction. It is expressed in terms of proportional value parameters.

### Land compensation

All participants must receive "compensation" in the form of land equivalent to the value of their entitlement. The new area may be larger or smaller, however, depending on the soil quality of the new parcels.

### Gains and losses

It may sometimes be necessary in the interests of an appropriate reallocation of properties to deviate slightly from entitlements when allocating the new parcels. Compensation for the unavoidable gains and losses is made in cash. (Section 44 Par. 3, FlurbG)

### Land section

This term refers to a part of the procedural area in which new parcels are allocated. A land section is surrounded by prominent landscape features such as forest boundaries, bodies of water, embankments or ways.



## Planning the layout of the new land holdings

Prior to the request hearing, all participants in the land reallocation procedure, and in particular every farmer, can enter into detailed discussions with the Department of Agriculture on the development of their farming operations. This enables them to plan their economic situation after the land reallocation process.

The reallocation of land is subject to statutory requirements:

"The lots allocated to the participants in compensation for their old parcels shall be as large as possible." (Section 44 Par. 3 (1), FlurbG)

"In regard to their use, condition, soil quality and distance from the farmstead or the village, the new units allocated to a participant shall be equivalent to the participant's old parcels, in so far as that is compatible with a comprehensive consolidation scheme drawn up in accordance with modern managerial knowledge." (Section 44 Par. 4, FlurbG)

This means that it is not possible to preserve old holdings divided up into numerous small parcels or to retain ownership of parcels spread across every conceivable location within an area. In the interests of all participants, individuals cannot as a rule expect to be allocated properties in specific locations.

Participants' long-term interests are best served when parcels are combined to form large areas that do not impede the future development of their farms. Restrictions are in any case inevitable, for instance as a result of:

- landforms,
- locations on the outskirts of villages,
- scenery,
- nature and water conservation areas,
- surface mining areas,
- areas with widely varying soil quality and
- specification of subsidised areas under EU regulations

The following considerations may be useful at the request hearing:

- the position of the farmed areas in relation to the farmstead,
- a useful redefinition and – if possible – enlargement of the farmstead,
- the ratio of cropland to meadows,
- pooling at a single location of parcels held for part-time farming to maximise the benefits of machine cooperatives and similar activities,
- allocation of long-term leasehold land directly adjacent to the tenant's own property,
- allocation of parcels suitable for organic farming,
- allocation of closed pastures,
- for participants interested in forestation of their land, compensation in land sections designated for forestation and
- compensation in building land in exchange for agricultural land or vice versa.



With the landowner's consent, compensation can be made fully or partly in the form of money. This may be an interesting solution for owners who are no longer farming their land.

The rural development specialists can provide landowners with expert advice. Their experience will help landowners to make the right decision on the layout of their properties.



## The reallocation of property

The outcome of the request hearing comprises the basis for reallocating the landowner's property. The technical implementation of the reallocation is carried out under the guidance of the chairman of the body of participants and the Directorate staff.

This process takes the requests of all participants into account within the regulatory framework, provided that there are no conflicting interests among participants. If the final reallocation of property deviates substantially from the contents of the discussions at the request hearing, then the board of the body of participants discusses the changes with the participants concerned.

After the board has held detailed consultations on the results, the draft version of the reallocation is submitted to the Directorate for examination: The Directorate considers the following points:

- Does the draft comply with the requirements specified for the procedure by the Directorate (project description, etc.)?
- Were the board members compensated on the same basis as the other participants in the land reallocation procedure?

After this review, the board gives final approval to the reallocation and the Directorate approves it. The new parcels can then be staked out.

*Land reallocation within the village can greatly benefit farming operations.*



So that participants can benefit from the land reallocation as soon as possible, they usually gain possession and use of the new parcels before the official transfer of ownership. This takes effect as soon as the provisional transfer is approved (Section 65, FlurbG).

The following prerequisites must be met:

- the property boundaries have been staked out,
- final records of the area and value of the new parcels are complete and
- for each participant, a listing of the old and new properties is available.

After the provisional transfer, the participants can only farm their new parcels.

### Leases

Land reallocation does not lead to the termination of leases. The lease is transferred to the new property.



*Reallocated farmland: a gain for agriculture and the cultural landscape*



The Land Consolidation Plan contains all reallocation measures related to the body of participants. The incremental results of the procedure are summarised in a map section and a text section.

The plan has the following components:

- a map section (including a map showing the new land allocation),
- a text section (including the resolutions passed by the board) and
- the land consolidation records in the form of listings and records, i.e. the cadastral land register and compensation records.

The Land Consolidation Plan is generally made public in its entirety, and is published in sections only in exceptional cases.

Before the Land Consolidation Plan is passed, approved and announced, extensive technical and legal tasks must be performed. The most important of these tasks are:

### Setting the final ratio

Participants must share in the costs of the land reallocation measures if these costs are not financed by state subsidies or contributions of third parties. The ratio is fixed by the board of the body of participants in the Land Consolidation Plan.

To avoid hardships, individual participants may be fully or partly exempted from contributing their share at the expense of the remaining participants.

Where the construction of special facilities imposes unusually high demands in certain sections of the procedural area, participants' contributions can be raised to meet the increased expenses (Section 19, FlurbG).

### Regulating legal relationships

Legal relationships are regulated on the basis of the plan for common and public facilities and the reallocation of the properties. The following aspects must be regulated:

- ownership and maintenance obligations as well as utilisation rights and admissible uses of roads, ways, bodies of water, landscape conservation areas and other common and public facilities,
- the transfer of the land charges entered in the land register from the old parcels of land to the new parcels held by the same owners (e.g. mortgages, usufruct, etc.) and
- the transfer of local rights to the new properties, e.g. rights to install services.

In addition, the Land Consolidation Plan arranges a compensation if necessary for owners of trees, shrubs and soil elements.

### Information on the Land Consolidation Plan and public announcements

Each participant receives an excerpt from the Land Consolidation Plan, a record of compensation and a record of land charges.



The compensation record contains:

- listings of the surface area and value of the old and new holdings. It also includes an explanation of the gains and losses and, where applicable, any decisions on financial compensation and
- a listing of the new parcels of land, stating their surface area and value, and the arrangements for the distribution of costs.

The record of land charges regulates the land charges applied to the parcels of land.

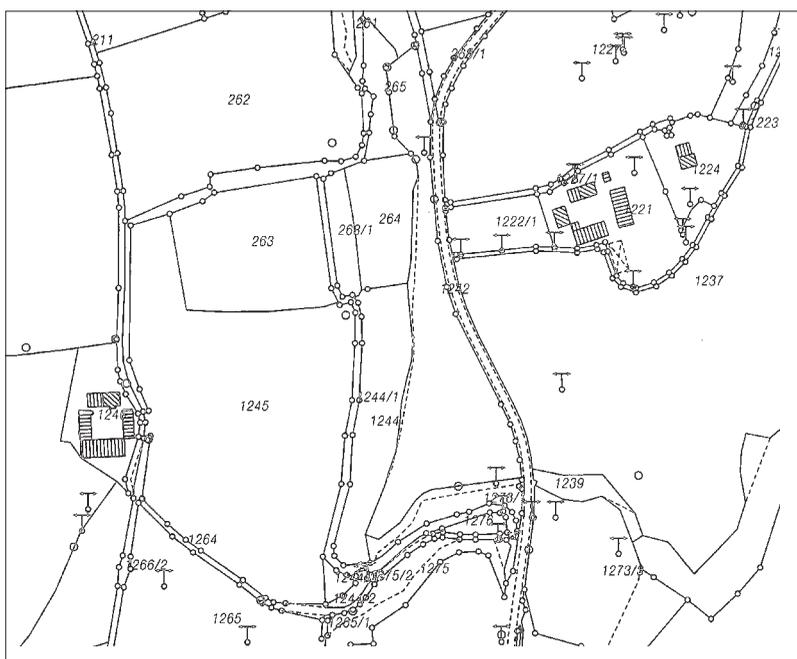
The Land Consolidation Plan is publicly announced. When it is announced, the parties concerned are invited to a hearing where they can obtain information on the Land Consolidation Plan (Section 59, FlurbG). As a rule, the plan can be inspected by authorised parties in the principal municipality involved in the procedure.

As a participant in the procedure, you will be sent an excerpt of the Land Consolidation Plan as soon as it is made public. Please examine it carefully and decide whether or not the statements in the plan are understandable.

Make use of the opportunity to discuss any matters that are unclear to you. The chairman of the body of participants or his/her staff will be pleased to answer any questions you may have.

Appeals against the Land Consolidation Plan can be filed to the Directorate within two weeks of the the hearing (Section 59 FlurbG, Art. 15, AGFlurbG).

Appeals must be filed in writing, stating reasons. If the Land Consolidation Plan is announced in sections, then a hearing is held for each announced section with a two-week appeal deadline.



*Map excerpt showing  
reallocation of property  
– new cadastral map.*



The time at which the new legal state of affairs comes into effect is specified in a separate administrative procedure referred to as the implementation order. At that time, the participants in the procedure officially acquire ownership of their new parcels of land. Before that, they "only" have possession of the land.

The Directorate can issue the implementation order when the land consolidation plan can no longer be contested, i.e. when no more appeals can be filed or after final rulings on all appeals (Section 61, FlurbG).

The Directorate can also order the implementation of the Land Consolidation Plan before it becomes incontestable. However, this is possible only if the appeals have already been submitted to the appeals committee and a long delay in the transfer of ownership would likely cause considerable disadvantages for the other participants in the procedure (Section 63, FlurbG).

After the new legal status takes effect, the Directorate requests the entry of the new ownership of the properties in the land register and the cadastral land register.





## Concluding Statement

When the results of the procedure are entered in the land register and the cadastral land register and the financing is completed, the procedure can be concluded.

The body of participants passes a resolution stating that it has fulfilled its tasks.

The Directorate issues the concluding statement in which the tasks of the body of participants are usually declared to be completed. The body of participants then ceases to exist.

## The body of participants can continue

The body of participants remains in existence after termination of the procedure if it has further tasks to perform, for instance:

- repayment of loans
- management of properties held by the body of participants,
- maintaining common facilities such as farm roads and
- landscape conservation in the procedural area.

At the request of the body of participants, the representation of its interests and management of its affairs can be transferred to the municipality, provided that the municipality consents. In this case, the supervisory function is transferred from the Directorate to the District Administration.

*Celebrating the completion of a land allocation or village renewal procedure - a fitting end to a successful process*





## Additional sources of information on rural development

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### Information in person

Naturally, this brochure can provide only a general overview. It is not a substitute for personal discussions. That is the function of the Rural Development Directorate, which serves as your point of contact for all individual matters that arise.

### Information material

Special information brochures and leaflets are available (in German) on a wide range of topics:

- Village renewal in Bavaria
- Simple reallocation procedures for the agricultural sector
- Part-time farming
- Issues related to sheep farming, fishing and hunting in connection with rural development
- Valuation in procedures under the Land Consolidation Act

These publications are available free of charge from your Rural Development Directorate.

The following publications from the series "Handbooks and Regulations for Rural Development in Bavaria" are available for a nominal fee:

- Vol. 1: Rural Development in Bavaria
- Vol. 3: The Body of Participants

### Internet

For further information on rural development in Bavaria, you can also check our website at: [www.landentwicklung-bayern.de](http://www.landentwicklung-bayern.de)



- **The top-level state authority**

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This index provides an overview of key terminology for rural development. The references to the text make it easy to find the terms in context.

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