

## CHAPTER FOUR

### FINDING AND ANALYSIS

#### **A. The Implementation of the Local Regulation of Yogyakarta City Number 2 of 2010 on Spatial Plans of Yogyakarta City Year 2010-2029.**

##### **1. The Local Regulation of Yogyakarta City Number 2 of 2010 on Spatial Plans of Yogyakarta City Year 2010-2029**

Generally, the basic concept of the spatial law implementation is mandated in the Preamble of the fourth paragraph of the 1945 Constitution which states that “shall protect all the people of Indonesia and all the independence and the land that has been struggled for, and to improve public welfare, to educate the life of the people and to participate toward the establishment of a world order”.<sup>43</sup> Furthermore, to optimize the concept of spatial, basic law on spatial is mentioned in Law No. 26 of 2007 on Spatial Planning.<sup>44</sup>

Indonesia, a country which adopted decentralization system or submission of government affairs by the central government to autonomous regions based on the principle of autonomy<sup>45</sup>, gives the authority to the Local Government. It is emphasized through the enactment the Law No.32 of 2004 on Local Governance which has been replaced by the Law No. 23 of 2014 on Local Governance where

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<sup>43</sup> Yunus Wahid, *Op.Cit*, p.28

<sup>44</sup> Juniarso Ridwan dan Achmad Sodik, *Op.Cit*, p. 29

<sup>45</sup> Andi Pangerang Moenta and Syafa'at Anugrah Pradana, 2018, *Pokok-Pokok Hukum Pemerintahan Daerah*, Depok: PT Rajagrafindo Persada, p.28

the local autonomy has been given to each regional to arrange its region.<sup>46</sup>

It has become the obligation of the District Heads to arrange their region through the Local Regulation including the spatial plans, as its product Yogyakarta City has Local Regulation No. 2 of 2010 on Spatial Plans of Yogyakarta City (RTRW/*Rencana Tata Ruang Wilayah*). The implementation of local autonomy itself is needed, among others, to emphasize the principles of democracy, and increase the participation of the community.<sup>47</sup>

To implement the provisions from the Law of Spatial Planning Number 26 of 2007, specifically in concern to the spatial plan of the Province and Regency/City, each Province and Regency/City forms Local Regulation concerning the Local Spatial Planning.<sup>48</sup> Including Yogyakarta as Special Region, it has a spatial plan which has been set in the Local Regulation of Yogyakarta Special Region No. 2 of 2010 on Spatial Plans of Yogyakarta Special Region Province as the Article 5 mentions that Spatial Planning of Province has position and function as the application from spatial plans of the nation.<sup>49</sup>

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<sup>46</sup> Djoko Harmantyo, "Pemekaran Daerah dan Konflik Keruangan Kebijakan Otonomi Daerah dan Implementasinya di Indonesia" *Jurnal Makara Sains*, XI, NO.1, April 2007, pp.16-22

<sup>47</sup> Sirajuddin et al, 2015, *Legislative Drafting*, Jatim: Setara Press, p.113

<sup>48</sup> Arba, 2017, *Hukum Tata Ruang dan Tata Guna Tanah; Prinsip-prinsip Hukum Perencanaan Penataan Ruang dan Penatagunaan Tanah*, Jakarta Timur: Sinar Grafika, pp.15-16

<sup>49</sup> Article 5 Local Regulation of Yogyakarta Special Region No. 2 of 2010 on Spatial Plans of Yogyakarta Special Region Province, "RTRWP DIY has position :

- a. as the elaboration of the National spatial plan;
- b. as a reference for regency/city spatial planning;

Moreover, the Local Regulation No. 2 of 2010 is also regarded as the reference for spatial planning for district and city, which is named as the Local Regulation of Yogyakarta City No. 2 of 2010 on Spatial Plans of Yogyakarta City. This regulation has the same level with Long-Term Development Plan of the Region (*Rencana Pembangunan Jangka Panjang Daerah/RPJPD*) and Mid Term Development Plan of the Region (*Rencana Pembangunan Jangka Menengah Daerah/RPJMD*).<sup>50</sup>

The implementation of spatial planning that is meant in the Local Regulation of Yogyakarta City No. 2 of 2010 on Spatial Plans of Yogyakarta City Article 1 (17) is an effort to achieve the objectives of spatial planning through the implementation of spatial planning, spatial utilization, and control of spatial utilization.

Local Governance is defined as the organization of government to manage local affairs and the Regional House of Representative / DPRD in accordance with the autonomy principle and co-administration with the broadest principle of autonomy in the system and the principle of the Unitary State of the Republic of Indonesia

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c. at the level of the Regional Long-Term Development Plan, both can serve as a reciprocal reference.”

<sup>50</sup> Arif Anindita, 2013, “Konsep Tata Ruang Provinsi Daerah Istimewa Yogyakarta dalam Perspektif Yuridis Peraturan Daerah Istimewa Yogyakarta Nomor 2 Tahun 2010 tentang Rencana Tata Ruang Wilayah”, available at <http://bem.feb.ugm.ac.id/konsep-tata-ruang-provinsi-daerah-istimewa-yogyakarta-dalam-perspektif-yuridis-peraturan-daerah-istimewa-yogyakarta-nomor-2-tahun-2010tentang-rencana-tata-ruang-wilayah/> accessed on November 9<sup>th</sup>, 2017, at 4:15 p.m

(*Negara Kesatuan Republik Indonesia/NKRI*) as referred to the 1945 Constitution of the Republic of Indonesia.<sup>51</sup>

Local Government as the implementer of the Local Regulation itself including the Mayor as the District Head is an organizing element of the Regional Governance who leads the administration of government affairs which became the authority of the autonomous region, the authority of deconcentrating and co-administration.<sup>52</sup> In the administration of local government, the government/district head does not conduct the government alone with its representatives, but there are local apparatus consisting of two, namely the local apparatus of provincial and the local apparatus of district/city.<sup>53</sup>

With reference to Article 1 Paragraph 52 of the Local Regulation of Yogyakarta City Special Region No. 2 of 2010, the Coordination Agency of Region Spatial Planning (BKPRD/*Badan Koordinasi Penataan Ruang Daerah*) has hanged into Coordination Team of Region Spatial Planning (TKPRD/*Tim Koordinasi Penataan Ruang Daerah*) according to *Permendagri*<sup>54</sup> 116 Tahun 2017.

Furthermore, TKPRD is an ad-hoc body established to support the implementation of Law No. 26 of 2007 concerning Spatial Planning at the Provincial level of DIY and has the function of

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<sup>51</sup> Article 1 paragraph 3 Law Number 23 of 2014 on Local Government

<sup>52</sup> Article 2 of Yogyakarta Mayor Regulation Number 130 of 2016 on Coordination Patterns of Local Apparatus

<sup>53</sup> Yusnani Hasyimzoem et al, 2017, *Hukum Pemerintahan Daerah*, Jakarta: PT Raja Grafindo, p.103

<sup>54</sup> *Permendagri* is *Peraturan Menteri dalam Negeri*

assisting the implementation of the Governor's duties in coordinating spatial planning in the regions.

Therefore, according to Article 1 Paragraph 53-54 of the Local Regulation of Yogyakarta City No. 2 of 2010, Local Government Agencies, hereinafter referred to as SKPD/*Satuan Kerja Perangkat Daerah* now named as Government Structure Organization (OPD/*Organisasi Perangkat Daerah*)<sup>55</sup>, is the Office that organizes Regional affairs in the spatial planning field.<sup>56</sup>

Local apparatus is an auxiliary element of the District Head and the DPRD in the administration of Government Affairs which became the regional authority, hereinafter referred to as Local Apparatus of District/City are auxiliary elements of regents/mayor and DPRD of district/city in the administration of Government Affairs which became the authority of Regency/City Region.<sup>57</sup>

The institutions that is specifically responsible for handling spatial has not been established yet. However, in accordance with the 2018 Yogyakarta Regional Development Work Plan (*Rencana Kerja Pemerintah Daerah/RKPD*) (attached), the institution which has the capability in handling spatial is the Official of Land and Spatial.

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<sup>55</sup> OPD/*Organisasi Perangkat Daerah* is an organization or institution in the Regional Government that is responsible to the Regional Head in the framework of the administration of the regional government

<sup>56</sup> Article 1 paragraph 52-54 Local Regulation of Yogyakarta No. 2 of 2010 on Spatial Plans of Yogyakarta City year 2010-2029

<sup>57</sup> Article 1 paragraph 3 Government Regulation No.18 of 2016 on Local Apparatus

This indication of the formulation of priority development programs in the RKPD is guided by the Yogyakarta City Regional Regulation Number 2 of 2010 concerning the Yogyakarta City Spatial Plan for 2010-2029 as one of the planning products. The RKPD is an entity that cannot be separated from planning and other budgeting documents at the regional level.

The local governments issued RKPD which include the RPJPD, RPJMD (Medium Term Development Plan of the Region/*Rencana Jangka Menengah Daerah*), RKPD, Strategic Plan of Local Government Organizations (*Renstra OPD/Rencana strategis Organisasi Perangkat Daerah*) and Work Plan of Local Government Organization (*Renja OPD/Rencana kerja Organisasi Perangkat Daerah*).<sup>58</sup>

The implementation of Local Regulation is also inseparable from the role of the city council / DPRD as the supervisor of the implementation of the Local Regulation and the Local Government Budget (*APBD/Anggaran Pendapatan dan Belanja Daerah*) in district/city. The DPRD equipment, including the Commissions, has the task as follow:

- a. Discussing the bills of Local Regulation and the bills of DPRD decree;

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<sup>58</sup> Bappeda Kota Yogyakarta, RKPD of 2018, available at <http://bappeda.jogjakota.go.id/menu/produk/6> accessed on September 1<sup>st</sup>, 2018 at 12:56 p.m

- b. Carry out supervision of development, governance, and community in accordance with the respective commission fields
- c. Receive, accommodate, and discuss and follow up on people's aspirations;
- d. Focus on the effort to improve people's welfare in the region.<sup>59</sup>

## **2. The Main Task and the Function of the Yogyakarta City Official of Land and Spatial (DPTR/*Dinas Pertanahan dan Tata Ruang*).**

Yogyakarta City Land and Spatial Official (DPTR) is an office that has autonomy tasks to make spatial planning of the city. Among its duties and functions stated in Article 4 of the Regulation of Yogyakarta Mayors No. 52 of 2017 concerning Organizational Structure, Position, Duties, Functions and Work Procedures of the Land and Spatial Official are:

- a. Formulation of land and spatial technical policies
- b. The organization the governance and the public services in land and spatial planning;
- c. Implementation of information disclosure (*keterbukaan informasi*) in the field of land and spatial planning
- d. Guidance and implementation of duties in the field of land and spatial planning;

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<sup>59</sup> Dadang Suwanda, 2016, *Peningkatan Fungsi DPRD dalam Penyusunan Perda yang Responsive*, Bandung: PT Remaja Rosdakarya, p.121

- e. Managing the general planning, staffing, finance, evaluation and reporting; and
- f. Implementation of monitoring and reporting in the field of land and spatial planning.

In addition, the procurement of the Land and Spatial Planning of Yogyakarta City Official was formed by the *Sultan* in 2017. The land and spatial matter were nationally managed by Ministry of Agraria and Space/National Land Agency (ATR/BPN). The differences between these two are that Land and Spatial Plans of Yogyakarta City Official was established to handle the “*serat kekancingan*”<sup>60</sup> of Sultan Ground (*tanah kesultanan*) and *Pakualaman* Ground in Yogyakarta, the arrangement of spatial plans are also can be more specifically arrange<sup>61</sup>, while ATR/BPN in Yogyakarta City held the general land.

Moreover, the duties of each section are explained in the attachments of the Regulation of Yogyakarta Mayor Number 52 of 2017 on Composition of Organizations, Positions, Duties, Functions and Working Procedures for Land and Spatial Official.

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<sup>60</sup> *Serat kekancingan* is a decree concerning the granting of land rights from the Sultanate (*kasultanan*) or Duchy (*kadipaten*) to the community/institution given within a certain period and can be extended/renewed.

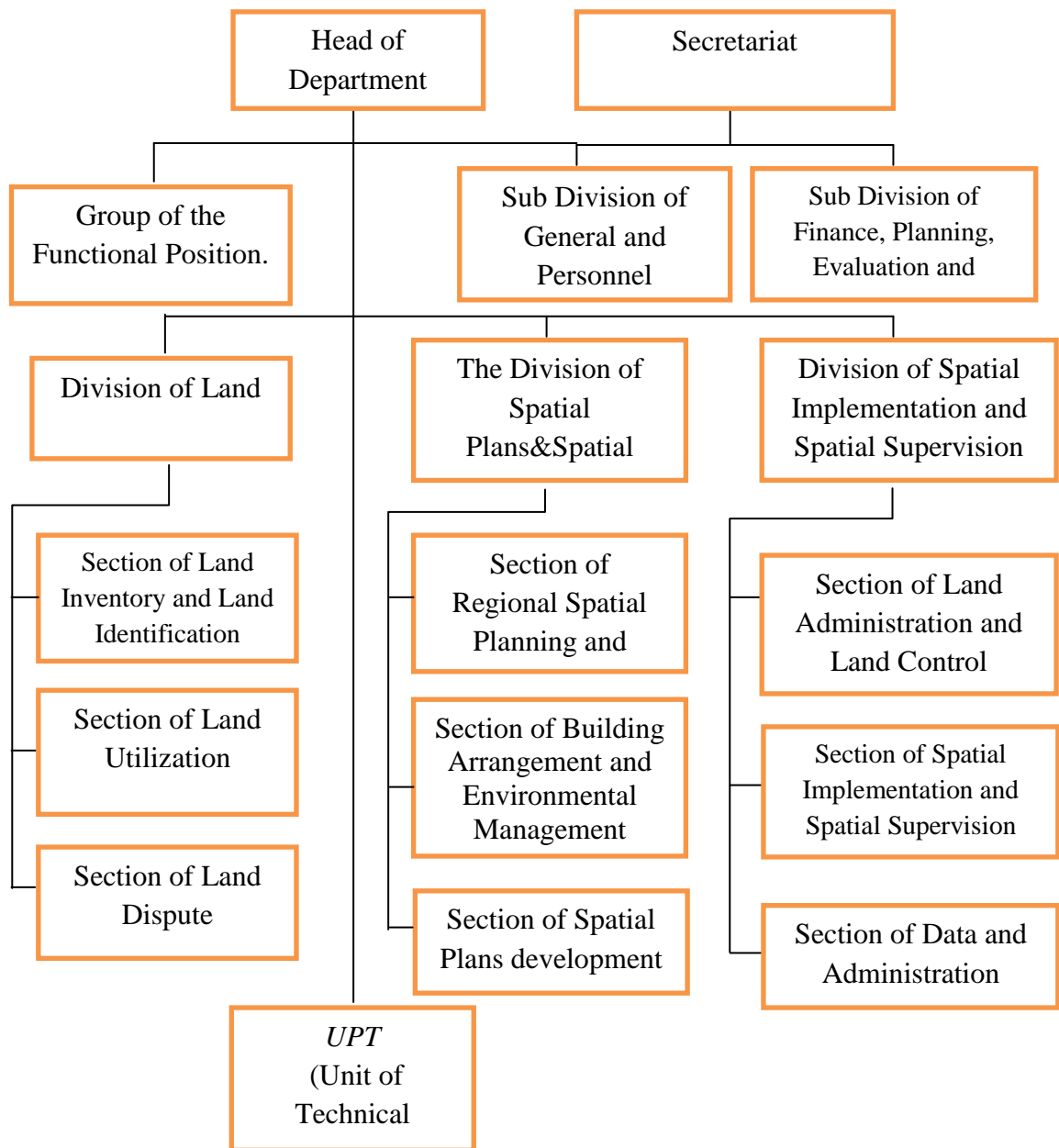
<sup>61</sup> Interview result with Mr. Ariatmawan P. Head Section of Data and Information in Land and Spatial Plans Official of Yogyakarta City



**Table No. 1**

**Chart of the Organizational Structure of the Land and Spatial  
Yogyakarta City Official (Based on Regulation of Yogyakarta Mayor  
Number 52 of 2017 Concerning**

**The Composition of Organizations, Positions, Duties, Functions and Working  
Procedures for Land and Spatial Official)**



Illustrator: Kurnia Maharani Santoso

The Official organization structure consists of:

- a. Head of Department;
- b. Secretariat, consisting of:
  - 1) Sub Division of General and Personnel; and
  - 2) Sub Division of Finance, Planning, Evaluation and Reporting.
- c. Division of Land, consists of:
  - 1) Land Inventory and Identification Section;
  - 2) Land Utilization Section; and
  - 3) Land Dispute Section.
- d. The Division of Spatial Plans and Spatial Development consists of:
  - 1) Section of Regional Spatial Planning and Detailed Spatial Planning;
  - 2) Section of Arrangement of Building and Environmental Management;
  - 3) Section of Spatial Plans development.
- e. Division of Spatial Implementation and Spatial Supervision consists of:
  - 1) Section of Land Administration and Land Control;
  - 2) Section of Spatial Implementation and Spatial Supervision; and
  - 3) Section of Data and Information.
- f. Unit of Technical Implementation (*UPT/Unit Pelaksanaan Teknis*); and
- g. Group of Functional Position.

### **3. DPRD as the Supervisor on the Implementation of Local Regulation of Yogyakarta City No. 2 of 2010 on Spatial Plans of Yogyakarta City**

Based on the Law Number 23 of 2014 Article 1 number 4, the Regional House of Representative (DPRD), is defined as the regional representative body people who are domiciled as elements of the Local Government. Different from the administration of government at the centre which consists of executive, legislative and judicative, the organization of Local Government was carried out by the DPRD and Regional Heads or in other words, the DPRD is the same institution and position as the Local Government.

In this equal position, the DPRD together with the Regional Head conducts the function of Local Government which covers all affairs according to the principle of autonomy and co-administration.<sup>62</sup>

The main function of the representative institution (parliament), first of all, is the supervision of the executive, then the legislative function (lawmaking) and budgeting. There are some forms of supervision by parliament institutions on government performance, among of them are: (1) appoint and dismiss the cabinet; (2) determine and supervise the budget and finance; (3) protect the property rights and wealth of the community; (4) organizing parliamentary debate forums; (5) conduct the hearings of opinion; (6) the right of

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<sup>62</sup> Asmawi, Dewan Perwakilan Rakyat Daerah (DPRD) Dalam Perundang-Undangan Pemerintahan Daerah dan Lembaga Legislatif Daerah, *Jurnal Citra Hukum*, Vol. II No. 1 (June, 2014)

interpellation<sup>63</sup> and right of questions; (7) carry out government functions together; and (8) carry out semi-legislative and semi-judicial functions.<sup>64</sup>

#### **4. The Implementation of the Local Regulation of Yogyakarta City No. 2 of 2010 on Spatial Plans in Yogyakarta City year 2010-2029**

Van Meter and Van Horn define the implementation of public policy as the actions taken by public organizations which are directed to achieve the objectives that have been set the in previous decisions. These actions include efforts to change decisions into operational actions within a certain period of time or in order to continue efforts to achieve large and small changes determined by policy decisions.”<sup>65</sup>

Edward III (1980)<sup>66</sup> stated the effectiveness of the implementation of a policy can be seen from four indicators, namely Communication that the success of policy implementation requires the implementer to know what to do and this can only be achieved if the

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<sup>63</sup> Interpellation is the right of legislative to ask the government for information about the important and strategic's government policies and have a wide impact on the life of the society and state.

<sup>64</sup> Roni Rustandi, “Kajian Teoritis Fungsi Pemerintah Daerah dan Dewan Perwakilan Rakyat Daerah dalam Pembentukan Peraturan Daerah Menurut Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah Sebagaimana Telah Diubah dengan Undang-Undang Nomor 9 Tahun 2015”, *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan*, Vol. 4, No.1, Juli 2017.

<sup>65</sup> Rochyani Naditya, et al, “Implementasi Peraturan Daerah Kota Malang Nomor 10 Tahun 2010 Tentang Pengelolaan Sampah” (Suatu Studi di Dinas Kebersihan dan Pertamanan (DKP) dalam Pelaksanaan Program Bank Sampah Malang (BSM) di Kelurahan Sukun Kota Malang)” *Jurnal Administrasi Publik (JAP)*, Vol. 1, No. 6, pp. 1086-1095

<sup>66</sup> Edward III (13 November 1312 – 21 June 1377) was King of England and Lord of Ireland from January 1327 until his death was the second longest in medieval England and saw vital developments in legislation and government, in particular the evolution of the English parliament.

communication process goes well; Resources are important factors for policy implementation to be effective; Disposition<sup>67</sup> that shows the attitude possessed by the implementer; and Structure Organizations which are in charge of implementing policies have an important role in policy implementation.<sup>68</sup>

The authorities of local government in district/city on the implementation of spatial planning in district/city are:

- a. Planning of spatial of district/city
- b. Utilizing the spatial planning of district/city
- c. Controlling of the utilization of spatial plan of district/city.<sup>69</sup>

Spatial planning is the process of forming and determining the spatial plans; spatial utilization is an effort to realize the spatial structure and space utilization pattern accordance to the spatial plan through the forming and implementation of the program and its financing, and controlling the space utilization in the process of licensing, monitoring, evaluating, and controlling (*penertiban*) the use of space-based on zone regulations.<sup>70</sup>

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<sup>67</sup> Disposition is the nature and characteristics owned by the implementor, such as commitment, honesty, and democratic nature.

<sup>68</sup> Mhd. Taufik dan Isril, "Implementasi Peraturan Daerah Badan Permusyawaratan Daerah", *Jurnal Kebijakan Publik*, Vol. 4 No. 2 (October, 2013).

<sup>69</sup> Arba, *Op.Cit*, p.103

<sup>70</sup> Imam Koeswahyono, 2012, *Hukum Penatagunaan Tanah dan Penataan Ruang di Indonesia*, Malang: Universitas Brawijaya Press, pp.112-113

Nowadays Yogyakarta city is facing various issues relating to the development and management of its region. The issues have connection on how the implementation of Spatial Plans of Yogyakarta City to be conducted as a tool to regulate, construct and supervise any program which is related to the development of structure and pattern of space. The strategic issues of the Yogyakarta City's development among other are as follow;

- a. Integration of development between regions within and outside the Province of DIY
- b. The need for public transportation modes in Yogyakarta City,
- c. Management of water systems for clean water, flood control systems, and fire protection.
- d. The development of residential areas in the city of Yogyakarta needs to be regulated and reviewed especially in some locations where density and height are inconsistent,
- e. The need for open green space (RTH) for the protection of the city's ecosystem.
- f. Preservation of cultural heritage buildings,
- g. Development of tourist areas with the readiness of facilities and infrastructure,
- h. Regulating trade and service zones, as well the informal business spaces,

- i. Development of sources of electrical energy which is alternative and renewable
- j. Need for strengthening information technology networks to support a smart city.<sup>71</sup>

Due to those issues there are some classifications of Spatial Utilization of Yogyakarta City that can be affected by those development issues. They are given in the table 2 below:

**Table No. 2**  
**Classification of Spatial Utilization of Yogyakarta City according to RTRW and RDTR**

No	Space Utilization	Extensive Plan (ha)
1	Residence	1,652.56
2	Trade and Service	839.11
3	Office	87.13
4	Industry	2.48
5	Education Facility	112.88
6	Religious&Health Facility	22.89
7	Sport Facility	12.86
8	Transportation Facility	44.88
9	Tourism	88.24
10	Cultural heritage	51.29
11	RTH	34.45
12	Specific RTH	46.41
13	River border	94.95
14	River	29.50
15	Road	147.23
Total		3,266.85

*Source: Analysis of RDTR Yogyakarta City 2015-2035*

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<sup>71</sup> DPTR, Judicial review of Local Regulation of Yogyakarta City No. 2 of 2010 on Spatial Plans of Yogyakarta City 2009-2029, Yogyakarta: 2018

The implementation of a Local Regulation basically refers to the regulation as a determinant for the direction of regional development, so that various ways of working for regional governments are within the corridor of the direction.

Based on the interview conducted by the writer with Pamungkas<sup>72</sup>, it is revealed that the implementation of Local Regulation on Spatial Plans which are the effort to organize spatial planning through the implementation of spatial planning, has already been made through the Local Regulation of Yogyakarta City No. 2 of 2010. It was made in accordance with the 1945 Constitution and Law No. 26 of 2007 as mandated.

In addition, the Local Regulation of Yogyakarta City No. 1 of 2015 on Detailed Spatial Plans and Zoning Regulations (RDTR/*Rencana Detail Tata Ruang dan Peraturan Zonasi*) which is the more detailed spatial plans than Local Regulation No. 2 of 2010 was made to complete the task of the Mayor in making the regulation on spatial planning. Moreover, the devices below those regulations become a technical guide like the Yogyakarta City Mayor Regulation, etc.<sup>73</sup>

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<sup>72</sup> Pamungkas is the Head Section of Arrangement on Spatial Plans and the Detail Spatial Plans of Yogyakarta City Official of Land and Spatial

<sup>73</sup> Article 4 (3) sub a of Government Regulation No.15 of 2010 on Spatial Planning Administration



However, even the Local Government has already made the regulation as it is mandated, the realization of the Local Regulation on spatial plans does not always work; the spatial plan on the Local Regulation No. 2 of 2010 was made too general to be implemented. Due to this fact, the government made another regulation which is more specific through the Local Regulation Yogyakarta City No. 1 of 2015 on Detailed Spatial Plans and Zoning Regulation of Yogyakarta City (RDTR).

The other problem that occurs in the form of understanding the Local Regulation also came from the human resources. The human resources still have lack of knowledge on Spatial Plans, so it is better if every human resource who works in the field of Spatial Plans knows and understands what is the meaning of spatial and its regulation (spatial plans).

Furthermore, the potential problems can be associated with the used of two Spatial Planning Regulations in Yogyakarta City, like the un-synchronization between RTRW and RDTR. Here is the example of the different content between the Local Regulation of Yogyakarta City No. 2 of 2010 (RTRW) and the Local Regulation of Yogyakarta City No. 1 of 2015 (RDTR).

**Figure No. 1 the difference substation of space utilization directions between RTRW and RDTR Yogyakarta City**



*Source: Analysis judicial review of Local Regulation of Yogyakarta City No. 2 of 2010, 2018*

From the figure above, It can be seen the un-synchronization of the position of spatial utilization between RTRW and RDTR. The utilization on RTRW is planned for habitation but on RDTR it is planned as the commercial place. These differences cause confusion, clash, and miss communication between the local government and the implementer (officer) of the Local Regulation. This condition also has the potential to cause differences in perceptions of spatial regulation as a reference for development operations and at the same time make a

confusion to the relevant government structure organization (OPD), for example, an OPD tends to refer to the RTRW, while other OPD uses RDTR.

Other problems that occurred on the implementation of the Local Regulation of Yogyakarta City No. 2 of 2010 came from the residents who live along the river bank. Actually they should be relocated because the area is included in the category of green open space. However, Dwi Ardianta Kurniawan said to conduct the relocation without preparing replacement land is also not an easy matter. It is necessary to prepare and provide facilities, so it is no need to abolish their life from their home environment. May be this idea is easy to say but difficult to implement.<sup>74</sup>

**Figure No. 2 and 3 the Incompatibility of Implementation on Spatial Planning towards its Local Regulation**

**No.2**



*Public houses along the Sungai Code bank occupy the green and protected areas.*

**No.3**



*The real condition of public houses along the Sungai Code bank*

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<sup>74</sup> Yudha Manggala P Putra, 2017, “Peneliti: Kualitas Tata Ruang Yogyakarta Menurun” available at <https://www.republika.co.id/berita/nasional/daerah/17/02/27/om11eb284-peneliti-kualitas-tata-ruang-yogyakarta-menurun> , accessed on October 18<sup>th</sup>, 2018 at 19:02 p.m

*Source: Analysis judicial review of Local Regulation of Yogyakarta City No. 2 of 2010, 2018*

The ideal conditions should have a depth of RTRW that is at the level of a detailed plan; Improvement of RTRW is needed to resolve the problem called as an Operational Regulation or an Operational Spatial Plans. Within the drafting of the operational RTRW that merge the Local Regulation No.2 of 2010 and Local Regulation No. 1 of 2015, we hope it will help the efforts to utilize and control space to be more effective and efficient.

Pamungkas states that another problem found in the implementation is the deficiency. Since not all plannings through the regulation/policy can accommodate all of the problems occur on the field, so not all dynamic and complex problems can be accommodated or resolved by law or in other words using local regulations. It can be said that the Local Regulation of Yogyakarta City on Spatial Plan still has many weaknesses, and the revisions of the regulation are still ongoing. There must be other policies from the mayor.

Regarding this matter, for the fluency of implementation of spatial regulations the Yogyakarta City Mayor should formulate the technical guidelines for the implementation of Local Regulation of Yogyakarta City No. 1 of 2015. The technical guidelines should be made due to the complaints from the Licensing and Capital Official (*Dinas Perizinan dan Permodalan*) as well as other related Official.

This technical guideline minimizes the problems that are often encountered regarding the understanding and suitability of the regulation that used in giving permission to construct buildings in the Yogyakarta city.

The institutions which are specifically responsible for handling spatial have not been established yet. It can cause the clash between the authorities of local government agencies due to unclear and unsystematic distribution of authority (miscommunication), the implementation's direction (*juklak/petunjuk pelaksanaan*) which has not completed yet also caused the implementation of spatial in Yogyakarta was not maximal.<sup>75</sup>

Furthermore, the writer asked about the increasing number of buildings including malls, hotels and some small industries that build in Yogyakarta City. The crowded condition has bad effect on the rest area such as no parking lot, traffic conjunction, and other problems. Pamungkas said, the factors from the traffic are can't be blamed only by the Spatial Plans, but also from traffic regulation, road conditions that cannot accommodate the condition of the vehicle, an excessive number of vehicles, population density/house, or lack of transportation facilities and infrastructure etc.

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<sup>75</sup> Wasis Susetio, "Disharmoni Peraturan Perundang-Undangan di Bidang Agraria", *Lex Jurnalica*, Volume 10 Nomor 3, Desember 2013, p. 136.

**Figure No. 4 and 5 Traffic Jam Caused by the Volume of Vehicles and Not Enough Parking Lots in Yogyakarta City**

**Figure No.4**



Traffic density in the direction of Jalan Urip Sumoharjo to Jl. Laksda Adisudjipto, a small road segment with an abundance of large vehicle volumes, makes traffic in this area crowded and often triggers traffic jam.

**Figure No.5**



Public parking (Bus) in front of the *Taman Pintar* which is not able to accommodate the increase in the number of tour buses that disrupt traffic

*Source: Analysis Judicial Review of Local Regulation of Yogyakarta City No. 2 of 2010, 2018*

Pamungkas states that the fact is in the Local Regulation No.1 of 2015 prescribes that the establishment of the mall in Yogyakarta City is allowed without the specification; anybody can build it without the limitation on the minimum distance of a building to the highway.

Another fact informed by Anto<sup>76</sup>, is the problem of inharmonic coordination between the implementing institutions that have a responsibility to give permission to build a hotel in Yogyakarta city that the private enterprises may have not built the hotels in the city but they build it at the urban area of Sleman or the outside border of Yogyakarta City. In addition, Anto said if the investors have complete requirements, the citizen can't stop them from building the hotel/mall.

Although the requirements that needed have already completed, sometimes in the field, there are still individuals (*oknum*) who didn't do the construction in accordance with the provisions. For example, the maximum tall of the hotel is 4 floors<sup>77</sup>, but in reality, the hotel is built more than 4 floors. The officers on duty (*petugas tata tertib*) are needed but the financial problems have hindered their appointment.<sup>78</sup>

The consideration of the economic development policy of Yogyakarta city also became the reason to allow building construction, whereas in fact good governance deals with fulfilling not only one but

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<sup>76</sup> Kasubag/Kepala Sub Bagian Perundang-undangan DPRD of Yogyakarta City

<sup>77</sup> Article 102 (2) Local Regulation No. 2 of 2010 stated, "Rencana Jumlah Lantai Bangunan untuk Wilayah Perencanaan KLB berkisar 0,5-4."

<sup>78</sup> Interview results with Suwanto as the member of DPRD of Yogyakarta City from PDIP Party that used to be Specific Committee (*Pansus*) on the making of Local Regulation of Yogyakarta City on Spatial Plans of Yogyakarta City

three basic tasks of government, namely to guarantee the security of a person and society, set an effective framework for effective implementation and responsibility for the public sector, and support the country's economic and social goals as expected by society's expectations.<sup>79</sup>

In the next Spatial Plan, it is submitted that the regulation itself would be made to one-by-one region but it is still as a part of RDTR of Yogyakarta City, for example, the regulation in *Kraton* sub-district will be different from the one in *Umbulharjo* sub-district. If it is needed it will be made by and from the level of the village in order to increase the effectiveness of utilization of spatial.<sup>80</sup>

The researcher observes the space utilization plan with the implementation of utilization space that occurred in Yogyakarta City based on the result from the Judicial Review year 2018 about Local Regulation of Yogyakarta City No. 2 of 2010 on Spatial Plans of Yogyakarta City as follows:

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<sup>79</sup> Eny Kusdarini, "Asas-asas Umum Pemerintahan yang Baik pada Produk Hukum Perizinan Investasi Pemerintah Daerah", *Jurnal Hukum Ius Quia Iustum* No.4, Vol. 24, Oktober 2017, pp. 663-688

<sup>80</sup> Interview results with Suwanto as the member of DPRD of Yogyakarta City from PDIP Party that used to be Specific Committee (*Pansus*) on the making of Local Regulation of Yogyakarta City on Spatial Plans of Yogyakarta City



**Table No. 3 Final Result of Yogyakarta City Space Pattern Suitability**

No	Space Utilization	Extensive Plan		Existing Area		Difference (Plan-existing)	% Difference
		(ha)	%	(ha)	%		
1	Residence	1,652.56	50.32	1,701.36	51.81	-48.80	2.95
2	Trade and Service	839.11	25.55	601.16	18.31	237.950	28.36
3	Office	87.13	2.65	87.92	2.68	-0.80	0.91
4	Industry	2.48	0.08	6.32	0.19	-3.86	155.77
5	Education Facility	112.88	3.44	172.81	5.26	-59.93	53.09
6	Religious&Health Facility	22.89	0.70	51.94	1.58	-29.04	126.87
7	Sport Facility	12.86	0.39	17.17	0.52	-4.31	33.55
8	Transportation Facility	44.88	1.37	40.32	1.23	4.56	10.16
9	Tourism	88.24	2.69	0.56	0.02	87.68	99.36
10	Cultural heritage	51.29	1.56	60.35	1.84	-9.06	17.66
11	<i>RTH</i>	34.45	1.05	43.62	1.33	-9.17	26.62
12	Specific <i>RTH</i>	46.41	1.41	53.58	1.63	-7.17	15.45
13	River border	94.95	2.89	35.02	1.07	59.94	63.12
14	River	29.50	0.90	29.50	0.90	0	0
15	Road	147.23	4.48	147.23	4.48	0	0
16	Empty Land/ Productive			217.98	6.64	-	-
	<b>TOTAL</b>	<b>3,266.85</b>	<b>100%</b>	<b>3,266.85</b>	<b>100%</b>		

*Source: Analysis Judicial Review of Local Regulation of Yogyakarta City No. 2 of 2010, 2018*

From the table above, it can be seen some space utilizations that are not in accordance with the planning, as in the implementation of Green Open Space (RTH) provision which is indeed more than planned that is a total of 97.20 ha or around 2.96% of the total area of Yogyakarta itself. The blue print of the regulation, however, is different from the implemented regulations, RTH is only given a total

of 80.86 ha or around 2.46% of the city area of Yogyakarta which should be the area of the RTH is 30%.

The percentage of the open green space is certainly still far from what is mandated in the law which mandates the proportion of green open space in the city area of at least 30% of the total area of the city. It consists of private RTH with amount 10% and public RTH with amount 20% (Article 29 Paragraph 2 of Law No. 26 of 2007 concerning Spatial Planning).<sup>81</sup>

Further differences happened between the extensive plan and the existing, where the amount of existing area is more than its plan. For example the extension of residence which the amount is 2.95% more than the plan that is 50.32%, and then the office has 0.91% more, industry has 155.77% more, education facility has 53.09% more, religious and health facilities have 126.87% more, sport facility 33.55% more and cultural heritage has 17.66% more than the plan.

Even though, there are many of the implementations of land and space utilization which in practice less than its plan, but the development remains in accordance with the area of Yogyakarta which is equal to 3,266.85 ha.

From the data of Figure No.1, there are some problems that found from the planning that in the process there is still a difference in

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<sup>81</sup> Ni Putu Depi Yulia Peramesti, "Implementasi Kebijakan Rencana Tata Ruang Wilayah dalam Penyediaan Ruang Terbuka Hijau di Kota Administrasi Jakarta Selatan Provinsi DKI Jakarta", *Politikologi*, Vol. 3, No. 1, Oktober 2016, P. 1 – 10.

substance from one Local Regulation to another Local Regulation in regulating the utilization which is quite fatal because its implementation in the field will be very inappropriate and can make the use of the land and space disturbed.

As it has been seen from Table No.3, the researcher took the example of the use of Yogyakarta City in green open space, which should be provided RTH amounting to 30% of the area of the city. But what happened was the utilization of green space was only less than 3% (the total plan is 2.46%) of Yogyakarta City area. This is not only contrary to the Law No. 27 of 2006, but it can also lead to incompatibility with the implementation that based on the principle of sustainability because sustainable urban areas were characterized by balanced interaction and reciprocal relations between humans and nature that coexistence in it.<sup>82</sup>

In addition, an implementation of regulations or policies on spatial plans will be oriented to the regional regulations that are made; it cannot be said as complete if the content of the Local Regulation itself is not suitable enough to be implemented.

Pamungkas explains that, the involvement of all stakeholders is an important requirement in making bills (*raperda*) from public/community consultations, such as community leaders; Community Development Institutions in the Village (LPMK/*Lembaga*

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<sup>82</sup> Fauzan Maulana Shani and Andri Kurniawan, "Kajian Ketersediaan Dan Kebutuhan Ruang Terbuka Hijau Kawasan Perkotaan Di Kota Sukabumi", *Jurnal Bumi Indonesia*, Vol. 4 No. 3 (2015).

*Pembinaan Masyarakat di Kelurahan*), starting from village to sub-district, Non-governmental organization (*LSM/Lembaga Swadaya Masyarakat*), related OPD, private party; the Hotel Association of Republic Indonesia (*PHRI/Persatuan Hotel Republik Indonesia*), observers of spatial planning and academics (spatial experts), ministries related to spatial planning, provincial spatial official, DPRD of City.

One unit of stakeholders consists of lawmaker (legislative), local regulations executors (executive), as well as those who are directly affected by the implementation of local regulations (society) so that their participating role is important in planning the bills of regulation from all interested parties, both from the government and the society. The purpose is that the bills of regulation that will be decided later fulfil the needs and should be evaluated for a better implementation.

After the public hearing, the next step is that the bills will be discussed by specific committee (*pansus/panitia khusus*) of DPRD which after that this committee asked for the approval from the mayor and the council. Requesting the governor's recommendation to synchronize city regulations with the province, then this regulation was given to the ATR/BPN ministry. So it will be in accordance with local regulation, which is not contradicting start from the lowest level of

legislation up to the highest legislation according to Article 7 (1) on Law No. 12 of 2011.<sup>83</sup>

Furthermore, in the term of controlling the utilization of space, the institution/OPD those who are tasked with carrying out the implementation in the form of building permits have to follow the existing rules but in practice not. The order officials who are also in charge cannot supervise fully the constructions so that violations can still occur in the field. Therefore, in the implementation, it is needed the law enforcement and supervision that more powerful.

Meanwhile, according to the theory that told by Edward III (1980), there are four indicators that can affect the implementation of a policy, they are; Communication, Resources, Disposition, and Structure Organization.<sup>84</sup> The communication still having a trouble/missed, the resources in the form of human resources, Yogyakarta City Official and Local Government still has limited human resources who understand spatial.

In addition, the Local Government itself still has problems in the law enforcement to implement the Local Regulation and in the structure organization, that Yogyakarta City still has no specific OPD to implement the Local Regulation.

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<sup>83</sup> Article 7 (1) Law No. 12 of 2011 stated “Types and hierarchies of legislation consist of: (1) 1945 Constitution; (2) People’s Consultative Assembly Decree; (3) Act/Government Regulation in Lieu of Law; (4) Government Regulation; (5) Presidential Regulation; (6) Provincial Regulation; (7) Local regulation.

<sup>84</sup> Mhd. Taufik dan Isril, *Op.Cit*, p.136

**B. The Obstacles in the Implementation of the Local Regulation Number 2 of 2010 of Yogyakarta City on Spatial Plans of Yogyakarta City Year 2010-2029.**

Based on the interview with the DPTR and member of DPRD, the researcher can highlight some obstacles. They are as follows:

**1. The Obstacles of the Implementation of Local Regulation Number 2 of 2010 of Yogyakarta City on Spatial Plans of Yogyakarta City Year 2010-2029**

The Yogyakarta City Land and Spatial Official have some obstacles in the implementation process of the Local Regulation No. 2 of 2010 of Yogyakarta city year 2010-2029. The obstacles are as follow:

- a. There is no synchronized regulation on spatial plans. This condition has the potential to cause differences in perceptions on spatial regulation as the references for development among the relevant Government Structure Organization (OPD), for example, an OPD/*Organisasi Perangkat Daerah* tends to refer to the RTRW/*Rencana Tata Ruang Wilayah*, while other OPD to RDTR/*Rencana Detail Tata Ruang*.
- b. There are no supporting technical instruments to execute the plan like a technical guideline (*juklak*) for implementing the Local Regulation. In practice, there are still no technical instructions on spatial planning in the city of Yogyakarta. It gives the impression

that the local government is not fully prepared to implement the spatial plan. This condition also has the potential to lead to multiple interpretations of the contents of the spatial plan because there are no more operational references in the field that make it difficult to have a common perspective on the Spatial Plan.

- c. Lack of understanding that found in the Office and OPD related to spatial and spatial plans. The lack of understanding usually occurred by the different perspective among officers.
- d. The lack of communication between the Local Government and the citizens. It means that the misunderstanding or the miss communication between the institutions, officers, citizens or any party which are related to the implementation of this Local Regulation still happening.
- e. Lack of public awareness and public knowledge of spatial planning. The task and the obligation of every citizen in the implementation of this Local Regulation on Spatial Plans have already written in Chapter 11 Article 114-116. Furthermore, it is described further in the Local Regulation No.1 of 2015 on *RDTR* of Yogyakarta City Chapter 8 Article 37-42. It has become the obligation of citizens to know spatial and spatial planning at their own region so that its implementation can be done as it is.
- f. The assertiveness of the officers from both the government and related OPD. In other words, there is a lack of law enforcement of

the Local Regulation of Yogyakarta City No. 2 year 2010 and other Local Regulations to Spatial Plans of Yogyakarta City.

- g. The Office of Land and Spatial Planning in following up violations does not have Civil Servant Investigator Officers (*PPNS/Penyidik Pegawai Negeri Sipil*) so that if there are problems/violations either in the office or in the field related to spatial matters, it cannot be completely resolved.
- h. The time needed in the process of reviewing the Local Regulations is very long. The judicial review of RTRW is conducted every 5 years. The time took too long in considering that the implementation of a spatial plan certainly refers to the Local Regulation. The length of time used to review a Local Regulations makes it difficult to fix nowadays problem and the Local Regulations seem to not follow the needs of the community so that the same mistakes often occur.

## **2. The Problem Solution of the Implementation of the Local Regulation No. 2 of 2010 of Yogyakarta City on Spatial Plans of Yogyakarta City Year 2010-2029**

From the obstacles that found in the implementation of the Local Regulation No. 2 of 2010 of Yogyakarta City on Spatial Plans of Yogyakarta City year 2010-2029, there are some solutions for those problems such as:



- a. The government (lawmaker/legislative) provides new innovations, namely the Operational Spatial Plan, which is a merger between the Spatial Plan (RTRW) and the Detailed Spatial Plans (RDTR) so that the guidelines for implementing spatial planning are more effective and efficient.
- b. The Yogyakarta Mayor still on progress in the making of a technical instrument to operate the regulation called implementation (*juklak/petunjuk pelaksanaan*), such as it is mandated in the Article 5 (1) Government Regulation No. 15 of 2010.<sup>85</sup> In addition that the Local Regulation which is made should not be difficult to be understood by all parties and also in accordance with the needs of the society.
- c. Give more understanding to the human resource or executors involved, in understanding spatial and spatial planning. In its implementation, there are 3 things: planning, utilizing and controlling space utilization. So that when a new regulation will be made, the lawmakers understand the discussion about the rules they made.
- d. The lawmaker (legislative) is more thorough/careful in formulating the legislation, so it can be understood by each implementer (officer), since the Local Regulation is a form of social contract

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<sup>85</sup> Article 5 (1) Government Regulation No. 15 of 2010 stated “ In addition to the formulation and stipulation of regulations as referred to in Article 4, the Government, provincial government, and district/city regional governments can stipulate other regulations in the field of spatial planning according to the authority based on the provisions of legislation.”

document between the local government and the local community as the sovereign holder who gives the mandate (trust) to the local government to carry out the policies to develop the region.<sup>86</sup>

- e. Public awareness on spatial planning increased, not only through socialization that held by the Official but also through the applications named JSS (Jogja Smart Service) and Yogyakarta Smart City in order to realize smart city. Those applications were made to facilitate the public in understanding spatial and also in carrying out activities related to land and spatial.
- f. Law enforcement and the consistency carried out by the local government of the Yogyakarta city itself must be increased. The government assertiveness and consistency in carrying out policy by the authority became a unity that cannot be separated from the implementation of this Local Regulation.
- g. Even though until now the Official (*DPTR*) didn't has *PPNS* but the Official is still cooperating with the unit of civil service police (*satpol pp/satuan polisi pamong praja*)<sup>87</sup> along with police investigators in accordance with their task in Article 255 and Article 257 Law No. 23 of 2014. The fact there is no conflict that is too heavy to cause a commotion in Yogyakarta City.

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<sup>86</sup> Dadang suwanda, *Op.Cit*, p. 22

<sup>87</sup> The civil service police unit/*satpol pp* was formed to enforce the Local Regulation (*Perda*) and Regulation of District Head (*Perkada*), to carry out public order and peace also to protect the society.

- h. The implementation of the *RTRW* and *RDTR* still has a lot of problems, so the evaluation review within a period of 5 (five) years should be carried out on time in order to prevent the same obstacles happened again.

From the above interviews, the researcher found the important factor that is still a problem in the implementation as well as affecting the implementation of the Local Regulations, which in the scope of this research discusses the intended implementation is planning, utilization and utilization control. The most influencing factor begins with planning, whether the spatial plans that are made are suitable to meet the needs of the society and the city itself also in accordance with the mandate of the 1945 Constitution as the legislation.

The second is the law enforcement that carried out by the local government of the city of Yogyakarta itself as well as the consistency of the city government in implementing the Local Regulation also has an effect. The government assertiveness and consistency in carrying out policies becomes a unity that cannot be separated from the implementation of this regional regulation.

The third one is the cooperation between local governments and their society, because in this case the role of the community from planning to implementation is also needed. According to Sabatier (1986) on Hybrid Theory which examines that the implementation and

the policy-making are the same processes that must have a guarantee of support from the society.<sup>88</sup>

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<sup>88</sup> Rochyani Naditya, et al, *Op,Cit*, pp. 1086-1095