

SYNTAGMA FORSCHUNG · TEXTBOOK EDITION

Zoned Ground. Volume I

The Austrian land-use plan as a form of disposition – seven papers

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Nine Orders, One Ground

A legal comparison of Austria's nine provincial zoning regimes

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1. The question

The same meadow is called *Grünland* in Lower Austria, *Freiland* in Tyrol and *Freifläche* in Vorarlberg. That much is a matter of naming. The question of this paper is whether different legal consequences lie beneath those names — and if so, whether the differences follow a recognisable planning direction or are merely different constructions for the same task.

The zoning catalogues of all nine provinces were surveyed: 107 categories, mapped onto 19 functional classes. The mapping follows the permitted use named in the statute, not the label.

Three findings follow. First: the diversity is not a diversity of aims. All nine regimes address the same three tasks — allocating use, mobilising hoarded building land, promulgating the instrument — and solve them with mutually incompatible constructions. Second: where a category has no counterpart in another province, that is a statement about that legal order, not a gap in the survey. Third: what all nine regimes have in common is not their systematics but the separation between the promulgated legal act and the depiction available for inspection.

2. The constitutional starting point

Local spatial planning is a provincial matter in both legislation and execution (Art 15 para 1 B-VG) and at the same time falls within the municipality's own sphere of competence (Art 118 para 3 no 9 B-VG). The zoning plan is a *Verordnung* — a general normative instrument — enacted by the municipal council on the basis of a provincial statute and bound by the principle of legality (Art 18 para 2 B-VG).

From this follows the competence cascade: the federation does not set the frame, the nine provinces each legislate their own, and some 2,000 municipalities enact their own instruments beneath them. There is no Austria-wide zoning systematics because constitutionally there cannot be one. The diversity is therefore not an oversight. The question is what follows from it.

3. Nine legal bases — and one that is not spatial planning law

Province	Basis of the zoning plan
Vienna	Building Code for Vienna , §§ 1–7, § 4
Lower Austria	NÖ ROG 2014, LGBI 3/2015

Province	Basis of the zoning plan
Upper Austria	Oö. ROG 1994, LGBI 114/1993, §§ 22, 30
Salzburg	S-ROG 2009, LGBI 30/2009
Styria	Stmk. ROG 2010, LGBI 49/2010 as amended by 45/2022
Carinthia	K-GplG 1995 for the local level; K-ROG 2021 for the supra-local
Tyrol	TROG 2022, LGBI 43/2022 as amended by 62/2022, 63/2023
Vorarlberg	Vbg. RPG, LGBI 39/1996 as amended
Burgenland	Bgld. Spatial Planning Act 2019, LGBI 50/2019 as amended by 25/2020, 27/2021

Vienna runs zoning not through a spatial planning act but through its building code, and combines zoning plan and development plan into **one** instrument. What in the other eight provinces are two separately challengeable instruments is one in Vienna. Carinthia, conversely, runs two statutes for two levels; their relationship to one another is not conclusively settled and remains an open point.

First adoption is spread over eighteen years: Salzburg 1956, Burgenland and Carinthia 1969, Lower Austria 1968 and 1976, Upper Austria and Tyrol 1972, Vorarlberg 1972/73, Styria 1974. Vienna has worked on the basis of its building code since 1930. This non-simultaneity carries weight for any object biography: the question whether a parcel was zoned at all on a given date has a different answer depending on the province.

4. Method: functional classes instead of names

A comparison by category names fails immediately. *Grünland*, *Freiland* and *Freifläche* denote the same function; *reines* and *allgemeines Wohngebiet* are both called residential and denote different ones. The survey therefore assigns each category a functional class according to the permitted use named in the statute — nineteen classes for 107 categories.

Two rules secure this. **Functionally comparable does not mean legally equivalent:** density, time limits, reversion effects and permitted ancillary uses differ even within one class. And: **an empty cell is not filled.** Where a legal order does not know a category, the cell stays empty and is reported as a finding.

5. The three basic categories and one systematic break

Eight provinces build on the same tripartite division: building land, traffic areas, and green land — *Grünland*, *Freiland* or *Freifläche*. Vorarlberg speaks of *Baufläche* and *Freifläche* rather than *Bauland* and *Grünland* — a naming difference with no systematic consequence.

Tyrol diverges systematically. There, *Freiland* is a **residual category** under § 41 TROG: everything that is not building land, special-purpose area or reserved area. In the other provinces, green land is a positively defined category with its own catalogue of permitted uses. The consequence is a reversed burden of reasoning: where green land is positively defined, one

must justify why a parcel is green land; where *Freiland* is the remainder, one must justify why it is *not*. Same parcel, same use, two different burdens.

For the labelling finding of this work this is the sharpest confirmation: all three terms denote an intensity of use, not a quality of nature. *Grünland* is not a statement about nature but about buildability.

6. Categories without a counterpart

Seventeen categories have no equivalent in the other eight provinces. They are the most informative part of the survey, because they show which problem a provincial legislature considered so particular that it gave it a zoning figure of its own.

Upper Austria, the “+” signature: a building-land parcel surrounded by green land, as a rule under 1,000 m², with one existing residential building as the principal structure; further principal structures are not permitted. A **single parcel as a zoning figure in its own right** — zoning shrinks to the plot and to one building.

Vienna, special-use areas for quarries and pits: designated with a final green-land zoning already fixed. A built-in automatic reversion; the subsequent use is decided before the use begins. No other province knows this construction in this form.

Carinthia, event venues from 500 visitors: a separate special zoning with a purpose to be stated. Further: in tourism priority areas, rezoning from green land to building land is permitted **only** into pure spa zoning — a zoning bar operating through the category.

Tyrol: chalet villages (§ 47a), retirement farmhouses (§ 46), facilities for processing mineral raw materials (§ 50a). The most extensive catalogue of special-purpose areas.

Burgenland: a building zone for subsidisable housing as a category of its own — eligibility for subsidy becomes a zoning attribute.

Lower Austria: traffic-restricted commercial and industrial zones; supplementary stipulations on the number of dwelling units; rear-plot areas in agricultural zones with a prohibition on residential use.

Styria: separation of pure and general residential zones, both as full building land, plus minimum and maximum density values per area character set by **provincial** regulation — density is partly withdrawn from the municipal council.

This list is not a cabinet of curiosities. It shows that in several provinces the zoning category has moved from a type of use to an instrument of control: it no longer regulates what is permitted, but who may build under what conditions.

7. Four mechanisms against the same problem

All nine provinces face the same situation: zoned but unbuilt building land. Austria-wide this amounts to some 67,142 hectares out of 318,238 hectares of net building land, a share of 21.1 per cent, reference year 2022. Burgenland is highest at 33.2 per cent.

Four provinces solve the problem in four ways:

Province	Construction	Legal consequence
Salzburg	ten-year limit, extendable once by up to five years	a successor zoning takes effect — the earlier zoning or another drawn from green land or traffic areas
Tyrol	ten years without a building permit	the building-land zoning ceases to be in force ; the parcel falls into the residual category <i>Freiland</i>
Carinthia	building-land balance, § 3 para 2 K-GplG	new building land only where existing land is insufficient in structure, extent and arrangement — proof of need instead of a deadline
Upper Austria	development levies per square metre	holding costs instead of reversion
Lower Austria	development zones with release conditions	release only upon fulfilment; a lacking suitability of location under § 15 para 3 is not thereby substituted
Vienna	permissive provision under § 4 para 4 of the building code	no statutory standard period

The Salzburg–Tyrol contrast is the most instructive case in legal-technical terms. Both set a ten-year limit, both ensure the parcel does not remain building land — but Salzburg lets a successor zoning **take effect**, while Tyrol lets the zoning **cease to be in force**. Only Salzburg determines positively what applies afterwards. In Tyrol the parcel falls into the remainder.

This is not a matter of indifference. It is the statutory anticipation of the same question that arises when the Constitutional Court annuls a zoning: what applies once the zoning is gone? Salzburg answers it in the statute. Tyrol answers it through the residual category. The other seven provinces do not answer it for the time-limit case at all, because they have no time limit.

Carinthia and Upper Austria leave the time axis altogether. Carinthia requires proof of need before zoning; Upper Austria charges hoarded building land with continuing holding costs. Four provinces, four mechanisms, one problem — and no discernible common direction.

8. Promulgation: two levels that are conflated

At this point an imprecision carried over from an earlier version of this work must be corrected. Two levels are to be distinguished.

Level 1, provincial law gazettes. The legal information system serves the legally binding promulgation of the provisions to be published in the provincial law gazettes: for Carinthia,

Styria, Tyrol and Vienna since 2014, for Burgenland, Lower Austria, Upper Austria, Salzburg and Vorarlberg since 2015. All nine provinces are thus covered.

Level 2, municipal instruments — the zoning plans themselves. Here the picture is uneven. The legal information system runs a separate application for municipal law in which instruments from some provinces are promulgated with binding effect. Documents from Carinthia are evidenced; the preliminary survey names Upper Austria and Tyrol from 1 July 2025 and Vorarlberg from 1 July 2023.

The earlier formulation that legally binding promulgation in the legal information system exists in only three provinces conflated the two levels and is withdrawn. What remains to be surveyed, province by province, is whether the municipal code prescribes promulgation there or merely permits it, and from when.

9. What all nine have in common

It is not the systematics. It is a separation.

The digital depiction of the plan in the provincial geoinformation system is legally binding in no province. This is evidenced for three provinces from their own statements: Tyrol notes it expressly at the entry to tiris; Styria describes its geodata pool as not necessarily current; Vienna describes the plan available online as informative and declares the original instrument held at municipal department 21 to be authoritative.

From this the same thing follows for every user, regardless of province: what is visible is not the legal act. Whoever needs the authoritative wording needs access to the file.

This states the information asymmetry A5 of the main work more precisely than the earlier formulation did. The problem is not that nothing is promulgated — it is promulgated. The problem is the **separation between the promulgated legal act and the depiction available for inspection**, and that separation is the only feature uniform across all nine regimes.

10. Assessment

The diversity of the nine regimes produces two things it does not: no discernible diversity of planning aims, and no competition of solutions from which one province might learn from another. The mechanisms stand beside one another, not against one another.

What it does produce is a **burden of translation**, and that burden is not borne by those who create it. A provincial legislature does not bear it; it works within its own system. It is borne by those who act across provincial borders: purchasers, firms, planning offices, oversight bodies, researchers — and by every person who tries to understand what the zoning of their parcel means when they know the term from another province.

This is the same figure the main work describes as the ρ/δ asymmetry: the power of disposition over the category lies with the province, while the consequences of incomparability are borne by third parties. Asymmetries A2 (procedure) and A5 (information) appear here in a form that cannot be held against any municipality or any province. They arise from the allocation of competence itself.

11. Limits of this survey

The survey is a working state. Four gaps must be named.

The **plan-symbol regulations** have not been fully evaluated. They contain the machine-processable category key including signatures and matter more for a load-bearing concordance than the statutory text does.

The **building-land subcategories of Styria and Vorarlberg** have not been fully extracted from the statutory text.

The **time-limit and mobilisation regimes** of Styria, Vorarlberg and Burgenland are open; the four-province comparison in section 7 is therefore not a nine-province comparison.

The **relationship between K-GplG 1995 and K-ROG 2021** in Carinthia is not conclusively settled.

As long as these four remain open, every output of the concordance — including the one in the tool — carries the note that it is a working state. A comparison that conceals its own gaps produces the same false precision this paper holds against the geoportals.

12. Connections

This paper carries the data basis for module M1 of the PLANWACHE tool (category translation) and for module M11 (sector preselection). The question of what happens to a parcel after its zoning is annulled is treated in paper U3; the question of who decides on the categories and who bears the consequences, in paper U6. The mobilisation instruments described in section 7 will be evaluated economically in paper U2, once the price data situation supports it.

Sources and state of evidence

Constitutional law: Art 15 para 1, Art 18 para 2, Art 118 para 3 no 9 B-VG.

Provincial statutes: Building Code for Vienna §§ 1–7; NÖ ROG 2014, LGBI 3/2015; Oö. ROG 1994, LGBI 114/1993, §§ 22, 30; S-ROG 2009, LGBI 30/2009; Stmk. ROG 2010, LGBI 49/2010 as amended by 45/2022; K-GplG 1995 and K-ROG 2021, LGBI 59/2021; TROG 2022, LGBI 43/2022 as amended by 62/2022, 63/2023; Vbg. RPG, LGBI 39/1996 as amended; Bgld. Spatial Planning Act 2019, LGBI 50/2019 as amended by 25/2020, 27/2021.

Figures: ÖROK monitoring of building-land reserves, reference year 2022 — 318,238 ha net building land, of which 67,142 ha unbuilt (21.1 per cent); Burgenland 33.2 per cent.

Provinces' own statements on the binding force of the depiction: tiris (Tyrol), Geodatenpool (Styria), ViennaGIS and municipal department 21 (Vienna).

Citation rule of this work: every statement carries four particulars — statement, source, date, legal status. Particulars without a verified citation are marked as open in working document UL-1 and do not enter this paper as established.

No references to individuals. This paper names no private individuals and makes no statements about individual officeholders, associations or companies.

Appendix S · Syntax card

The card renders the work in Syntagma Syntax 1.0 (specification: syntagma-science.com/syntax/). Levels G0-G5 describe the evidence, T1-T6 the kind of source; every hypothesis names its test, every card its limits.

Element	Level	Statement
F1 Question		Under which institutional conditions do disposition over land (δ) and bearing of its consequences (ρ) come apart, and which instruments close this separation again, at what cost of displacement?
F2 Question		Who can challenge a land-use plan, under which conditions, and what does a successful challenger gain?
G1 Object		The land-use plan as an ordinance of the municipal council based on nine provincial regimes ebene: Verordnung, Gemeinde, Land, Bund · ort: Österreich, neun Länder, rund 2.000 Gemeinden · zeit: geltende Rechtslage, Stand Oktober 2026
G2 Object		The institutional landscape of Austrian spatial planning with about forty bodies ebene: Institutionen · ort: Österreich · zeit: 2026
B1 Term		ρ/δ asymmetry := separation of disposition (δ) and bearing of consequences (ρ) that a legal system stabilises fach: rechtstheorie
B2 Term		Inverted toll form := boundary-drawing with maximal boundary power and negative boundary yield for the drawer; the yield flows to a third party who does not draw the boundary fach: institutionenökonomie · bruecke: verhaltensbiologie=Territorialmarkierung mit billiger Markierung und teurer, verzögerter Verteidigung
B3 Term		Zoning gain := increase in a plot's value through rezoning that accrues to the landowner fach: rechtswissenschaft · bruecke: ökonomie=Positionsrente ohne Produktionsleistung
B4 Term		Final determination := binding of planning norms through goals to be achieved instead of conditional provisions; the zoning categories themselves must be laid down by statute fach: rechtswissenschaft
B5 Term		Non-revival := after a zoning provision is quashed the earlier provision does not apply again; the plot is unzoned until it is replanned fach: rechtswissenschaft
B7 Term		Responsibility buffer := dispersal of knowledge, power and consequences across different bodies so that none unites all three fach: verwaltungswissenschaft
A1 Assumption		A finding counts as sound only when it is evidenced on at least three of the four levels norm, act, figure and effect
S1 Statement	G4	After a zoning provision is quashed the earlier one does not revive; this follows from the silence of Art 139(6) B-VG and is the general rule for ordinances, not a special rule of planning law belege: Q1 Q2
S2 Statement	G4	An individual application against a zoning provision requires, besides directness and subsidiarity, a concrete intention to build for landowners; the direct route is thus tied to an intention that those bearing the consequences typically lack belege: Q2 Q3
S3 Statement	G3	The object of challenge is the land-use plan in its current version, not the amending ordinance that produced it belege: Q4
S4 Statement	G3	The only access to a zoning provision without a triggering case, an application by a provincial ombudsperson under Art 139(1)(6) B-VG, does not exist in all provinces; Vorarlberg used it in case V 129/2021 belege: Q4
S5 Statement	G3	The digital plan display in the provincial geoportal is not legally binding; this is documented from their own statements for Tyrol, Styria and Vienna belege: Q5
S6	G3	About 67,142 ha of 318,238 ha of net building land were zoned but unbuilt in 2022, a share of 21.1 per

Statement		cent; Burgenland was highest at 33.2 per cent belege: Q6
S7 Statement	G3	Since 1 July 2025 the rezoning surcharge under § 30(6a) EStG 1988 skims off part of the zoning gain, but at federal level, without earmarking and only on sale belege: Q7
S8 Statement	G3	Since 2024 Art 15(5) B-VG allows the provincial legislator to make a private-law contract one precondition of the municipality's sovereign action; the tie to the public interests of spatial planning remains belege: Q8
S9 Statement	G2	None of the mapped spatial-planning bodies unites knowledge of the overall situation, power to decide and bearing of the consequences belege: Q10
S10 Statement	W	The direction of revival rules follows the distribution of benefit; what decides is rather the level of norm (Art 140(6) versus Art 139(6) B-VG) belege: Q2
Q1 Source	T1	Consistent case law on non-revival nachweis: VfSlg 9690/1983; 10.703/1985; 12.560/1990; 13.742/1994; 15.851/2000; 18.410/2008; 19.975/2015; 20.146/2017
Q2 Source	T1	Federal Constitutional Act, Art 139 and Art 140 nachweis: B-VG Art 139 Abs 1 und 6, Art 140 Abs 6
Q3 Source	T1	Case law on concrete intention to build nachweis: VfSlg 15.144/1998, 15.234/1998, 15.947/2000, 19.075/2010
Q4 Source	T1	Constitutional Court ruling Ludesch nachweis: VfGH 22.09.2022, V 129/2021
Q5 Source	T1	The provinces' own statements on their geoportals nachweis: tiris (Tirol); GIS Steiermark, Metadatensatz Flächenwidmungspläne; Stadt Wien, MA 21 Plandokument
Q6 Source	T1	ÖROK monitoring of building land reserves nachweis: ÖROK, Baulandreserven Stichjahr 2022, Datengrundlage Umweltbundesamt
Q7 Source	T1	Budget Accompanying Act 2025 nachweis: BGBl I Nr. 25/2025, § 30 Abs 6a EStG 1988
Q8 Source	T1	Constitutional amendment on contractual spatial planning nachweis: BGBl I 89/2024; 2701 d.B. XXVII. GP
Q10 Source	T5	Mapping of bodies by knowledge, power and consequences nachweis: Paper U6 des Werks
H2 Hypothesis	G1	Zoning is an inverted toll form: maximal M, boundary yield of the drawer less than or equal to zero pruefung: P2
P2 Test		Fails if municipalities on average cover at least their servicing and follow-up costs through servicing contributions, development levies and contracts
H3 Hypothesis	G1	The architecture of legal protection reinforces the asymmetry instead of correcting it pruefung: P3
P3 Test		Fails if third-party challenges against zoning succeed at a rate comparable to other areas of administrative law
H6 Hypothesis	G1	The information asymmetry between the binding plan and its digital display is systematic, not anecdotal pruefung: P6
P6 Test		Fails if digital displays are kept legally binding and up to date in the majority of provinces
M1 Method		Three methods: doctrinal analysis of norms and case law, institutional attribution of disposition, yield and consequence, quantitative indicators; comparison of provinces by function classes instead of category names
X1 Measure		Asymmetry quotient A: privately accruing value gain divided by the net burden remaining with the municipality, with sensitivity band einheit: dimensionslos · misst: G1