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Plan and Date

Legal act, depiction and information in Austrian zoning law

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“gewidmeter-boden”, paper U5 · version 0.1 · 12 October 2026 · CC BY 4.0

Summary

A zoning plan exists three times over: as a promulgated legal act, as a depiction in a provincial geoportal, and as information that someone obtained on a particular day. These three diverge in time. The paper shows that Austrian zoning law orders only one of these time axes — validity — and leaves the other two to the accidents of administrative practice. The result is a particular form of information asymmetry: the state provides a depiction, declares it non-binding, and thereby shifts the risk of reliance onto the user. The paper proposes a minimum rule: every depiction carries the date of the legal state it shows.

1. The question

“What is zoned here?” is an incomplete question. In full it reads: what was zoned on which day, what could be seen on that day, and what was established on that day? For most everyday purposes the three answers coincide. For a land purchase, a building procedure, a lawsuit or an object biography they diverge — and then the gap between them decides.

Three time axes of a zoning

What applied, what could be seen, and what was established diverge in time

VALIDITY — the legal act



VISIBILITY — the depiction



ESTABLISHMENT — the information



Schema of the work "gewidmeter-boden", paper U5. Examples from the corpus; not a depiction of an individual case.

Figure 1 · Three time axes of a zoning

2. First axis: validity

The zoning plan is a *Verordnung* of the municipal council. It applies from its promulgation. This is the only one of the three axes that the law orders completely: decision, supervisory approval, promulgation, entry into force. A defect in promulgation renders the act unlawful; the work treats it as a load-bearing check.

Two features of the validity axis matter for the question of time:

- **The object of challenge is the version in force.** The Constitutional Court clarified in 2022 that an application must be directed against the zoning plan in its current version, identified by parcel — not against the amending instrument that caused the grievance (VfGH 22.09.2022, V 129/2021). Anyone wishing to act in time must therefore know not only what applies but in which version.
- **Nothing revives after annulment.** If the Constitutional Court annuls a zoning, the earlier zoning does not apply again; the parcel becomes unzoned until the same municipality plans anew. A gap opens on the validity axis that neither of the other axes shows.

3. Second axis: visibility

What one can see of a zoning is a different question from what applies.

The promulgated text. Provincial law gazettes are electronically authentic in all nine provinces — in Carinthia, Styria, Tyrol and Vienna since 2014, in the other five since 2015. For the municipal instruments themselves, that is, the zoning plans, the picture is uneven. Some provinces promulgate them with binding effect in the legal information system; in others the official notice board remains the place of promulgation, and the authoritative wording can be

obtained only through access to the file. Which province prescribes which form, and from when, is not yet fully surveyed in the work.

The depiction. All provinces offer zoning plans in their geoportals. None of these depictions is legally binding. For three provinces this is documented from their own statements: Tyrol notes it at the entry to tiris; Styria describes its geodata pool as not necessarily current; Vienna declares the plan available online to be informative and the original instrument held at municipal department 21 to be authoritative.

Finding. The depiction has a date — the day it was last updated — but that date is not the date of the legal state, and it is not consistently shown. A depiction without a stated legal date is worthless for the question of time, even if its content is correct.

4. Third axis: establishment

The third axis is the information: what someone learnt on a particular day, from which register, with what content. It is decisive for contracts, expert opinions and liability — and it is the least secured.

Registers can disappear. On 1 January 2025 the register of suspected contaminated sites was abolished. Information obtained in 2024 can no longer be reproduced in that form. Anyone who wants to check in 2026 what a buyer could have known in 2024 will no longer find the source.

Statistics change method. ÖROK monitoring changed method in 2022. Land take fell from 10.9 hectares per day (2019–2022, older method) to 6.5 (2022–2025, new method); ÖROK itself notes that the new method shows building-land reserves in the provincial capitals somewhat higher. Vienna is the only province whose reserve rose between 2014 and 2022 (+0.5 percentage points). An establishment over time is therefore always also an establishment about the method used for counting.

5. The asymmetry behind the three axes

The three axes are not distributed neutrally. The validity axis is ordered by the norm-giver, who determines what applies and from when. The visibility axis is ordered by the provincial administration, which provides what can be seen and declares it non-binding. The establishment axis is carried by the person who relies on information.

This is information asymmetry A5 of the work in temporal form. The power of disposition over what applies and over what is visible lies with the public authorities. The risk that the two diverge lies with the user. The disclaimer on the depiction is not a flaw but the mechanism: it turns public information into private risk.

Case law has laid out a counter-movement. According to the Supreme Court, a municipality is liable where its organs ought to have noticed a discrepancy between development plan and zoning plan in the building-permit procedure; municipal organs are held to the expert standard of § 1299 ABGB (OGH 31.03.2016, 1 Ob 247/15b). That liability, however, attaches to the procedure, not to the depiction. For the gap between portal and legal act there is no comparable line.

6. A proposal: the date of the legal state

The work proposes a single minimum rule that needs no new authority and no new register:

Every public depiction of a zoning plan carries the date of the legal state it shows and the citation of the most recent instrument taken into account.

The rule does not change the non-binding nature of the depiction. It changes that the user knows from what the depiction non-bindingly deviates. It moves part of the risk from the establishment axis back to the visibility axis — to the body responsible for the depiction.

For research the same rule applies in the form of the work's citation rule: every statement carries four particulars — statement, source, date and legal status. A particular without a date is useless for any statement about time.

7. Practical consequences

Who	What to do
Purchaser, applicant	ask the municipality for the legal state with date; keep portal printouts with retrieval date
Expert, planning office	state legal date, retrieval date and register in every opinion
Municipality	confirm the legal state with date and citation on request
Province	show legal date and citation in the portal depiction
Research	apply the citation rule; mark breaks in method in every time series

The PLANWACHE tool implements the question of time in module M9: for a given date it shows whether a zoning plan already existed in the province, whether the provincial law gazette was electronically authentic, whether the suspected-sites register was available, whether a right of access to information existed, and whether the rezoning surcharge applied.

8. Limits

Three points are open. First, it has not been surveyed for all nine provinces from when the municipal code prescribes promulgation in the legal information system. Second, it has not been systematically checked which portals show an update or legal date; the statement in section 3 rests on the three documented provinces. Third, the liability situation for errors in the depiction itself has not been analysed. These three points are carried as open checks in the work.

This paper names no private individuals and makes no statements about individual municipalities, officeholders or companies.

Sources

Federal Constitutional Act Art 18 para 2, Art 139 · VfGH 22.09.2022, V 129/2021 · OGH 31.03.2016, 1 Ob 247/15b · General Civil Code § 1299 · Provinces' own statements on the binding force of the depiction: tiris (Tyrol), Geodatenpool (Styria), ViennaGIS and municipal department 21 (Vienna) · ALSAG amendment BGBl I 30/2024 (abolition of the suspected-sites register from 1 Jan 2025) · ÖROK-Atlas building-land reserves, ÖROK monitoring 2022 · BMLUK (2025): Land take 2025 · Work "gewidmeter-boden", sections 03, 14, 18, 19 and working document UL-1.