



Documentation Regional development instruments

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Interreg III B

General Data

Name of instrument:	Rezoning of residential area to agriculture land in land use plan
Country / region:	AT
Spatial level:	local
Type:	Spatial planning instrument
Subtype:	Formal planning instrument
Description:	<p>In many cases, the size of zoned potential residential or commercial areas in (sometimes very outdated) land use plans does not correspond to current needs of sustainable municipal development, as these zones are too oversized and dispersely situated to be economically and ecologically developed. In case these areas have not been substantially developed by property owners over a certain period, municipalities have the option to rezone these areas back to agriculture land. The instrument of rezoning needs to be differentiated in two categories:</p> <ul style="list-style-type: none">- compensable rezoning, where land owners need to be compensated for the loss in value of the respective plot- not-compensable rezoning, where land owners do not need to be compensated for the change of category their land is subject to.
General objectives:	Mobilisation of zoned building land. Inner-urban densification. Combatting land speculation.
General Objectives keywords:	Mobilisation of builing land ; Inner-urban densification ;
Responsible:	Local authority/Municipal council
Stakeholder Involved:	Planners
Stakeholder Involved:	Private individuals
Stakeholder Involved:	Ombudsman
Stakeholder Involved:	Lawyers
Stakeholder Involved:	Judicial branch
Reference:	<p>. Diplomarbeit am Geographischen Institut der Universität Zürich. Online unter http://www.wsl.ch/wald/abteilungen/oekonomie/downloads/rueckzonungen.pdf (upload 30.01.2007)</p> <p>http://www.alpenallianz.org/Datenbank/beispieldetail.asp?n_ExampleDetailID=79&n_LanguageID=2 (upload 30.01.2007)</p>

General assessment of strength and weakness:	<p>Obsolete assumptions and commitments regarding land demand for residential and commercial areas can be adjusted to current demand with this instrument. However, as rezoning of land from residential to agriculture land results in considerable financial "losses" for the respective land owners, this instruments involves legal conflicts and potential compensation payments from the municipal budget. Therefore, rezoning should be considered as an end-of-pipe-approach and as a last resort to remedy planning mistakes from the past. In the end, a cautious policy of zoning building land results in considerably less administrative and legal efforts.</p>
Metadata:	<p>Date of entry: 30.01.2007 Contact: Ifuplan, Schleißheimer Str. 156, 80797 München</p>
Implementation	
Legal status:	not-mandatory
Extension:	rarely (< 25%)
Comment:	<p>Differentiation between compensable and non-compensable rezoning. The latter should be preferred by municipal authorities. Liability of compensation payments in case of rezoning is one of the obstacles that excessive formal zoning of building land creates.</p> <p>Very rarely implemented, the municipality of Zwischenwasser received various prices for rezoning residential areas to agriculture land. Monitoring of unused potential of residential land according to land use plans exists in Germany on national level.</p>
Type of monitoring:	none
Preconditions for implementation:	<p>Compensation can be avoided if rezoning does not constitute an expropriation (by law in many states (DE, CH, etc.), limitations to the use of property need to be entirely compensated by the state).</p> <p>Property owners should not have invested substantially in these areas (road infrastructure or buildings should not already exist, as this will increase compensation payments considerably). § 39 (compensation) and § 42 (7-year-period) BauGB (German Building Law) should be revised to easier facilitate rezoning without compensation.</p>
Best practise example (1):	Municipality of Zwischenwasser (AT), Rezoning of residential area to agriculture land
Example Abstract (1):	In a long process, involving 32 land owners and a legal conflict, 8 ha of building land have been rezoned to agriculture land. Decisive was the fact that the respective land has not been developed within a period of 13 years.
Assessment	
Relevance	
Status:	very strong direct relevance
Ranking:	5
Remark:	-
Acceptance	
Status:	environmental NGOs, superordinate administrations
Ranking:	2
Implementation	
Ranking:	2
Feasibility	

Status:	Legislation, political will, know-how, participation/support
Ranking:	2
Remark:	-
Effectiveness	
Status:	Direction of effect, type of effect, perpetuity
Ranking:	3
Remark:	Perpetuity of the effect depends on the further development of the municipal land use plan. Rezoned areas could easily be zoned again as areas for construction.