

Summary

ÖROK-SERIES NO. 214 – REGULATION OF SECOND HOMES IN AUSTRIA

The regulation of second homes has been a central topic in spatial planning in the last decades, which has increasingly become subject of public discourse in recent years. Due to dynamic developments, which particularly affect regions characterised by tourism, it was recognised that further development of regulatory policies is necessary. The regulation of second homes also aims to pursue the sustainable use of resources such as areas for permanent living and commercial rent. However, the narrow legal framework and high expenditures for controlling and sanctioning pose considerable challenges for enforcement. This was seen as a reason to take up the issue in the work of ÖROK.

The instruments for the control of second homes are developed to different extents in the federal states. The following expert recommendations therefore serve as a collection of measures which can be used to expand the existing regulatory approaches. In discussions among experts, it became evident that in order to achieve the desired results, it is beneficial to select and implement the proposed measures in a way that is adapted to the different local conditions. The expert recommendations are based on expertise from research as well as practical experience, especially from the planning systems of the federal states, which already have a differentiated set of instruments.

The study addresses the status quo of existing regulatory approaches and outlines current challenges. The measures described serve to complement the expert recommendations and provide important insights that can be used in their implementation.

The following 16 technical recommendations were adopted by the ÖROK „Commission of Deputies“ in November 2022 and are available to all ÖROK partners - federal, state and municipal authorities - for implementation in their areas of activity:

1. Restriction of second homes as a spatial planning objective

The public interest in the regulation and restriction of second homes is to be extended in the objectives of spatial planning laws to the effect that the areas required to cover the demand for primary residences and for tourist accommodation may not be used for second homes.

2. Second homes as a regional planning matter

State level planning should limit the development of second homes - depending on local conditions - through regional guidelines.

- Upper limits through second home quotas
- Reserve municipalities and restriction zones
- Regulations for second homes in regional spatial plans

3. Strategic approaches to second homes in municipal development concepts

Depending on the specific municipal challenges, municipal development concepts should entail restrictive measures for the strategic handling of second homes, which are to serve as planning and site-specific guidelines for the corresponding (special) zoning.

4. Control of second homes through zoning

The construction and authorisation of second homes should require specific land use zoning, to enable spatial control and restrictions by the municipalities.

5. Restrictive zoning criteria

The legislative criteria for the approval of second homes (or respective dedicated areas) should be specified and should represent practice-relevant guidelines for municipal planning decisions.

6. Differentiated special zoning

Due to the different spatial effects and impacts of settlement structures, it should be possible to differentiate between apartment buildings, vacation villages and other second homes in terms of zoning regulations.

7. Limitation of exemption criteria

Legal exemptions for the admissibility of second homes should be kept as coherent as possible and generally low, while avoiding subsequent declarations or legalisations of second homes.

8. Development plans for second home projects

For future second home projects, the possibilities of development planning are to be used more extensively in order to define the structural design in a locally specific manner.

9. Keeping a register of second homes

Municipalities should keep a register of second homes - following corresponding surveys of second homes - in which the existing second homes (differentiated depending on their legal basis) are documented.

10. Obligation usage declaration in conformity with the zoning regulations

The use of properties in municipalities that are under particular pressure to provide affordable housing or tourist accommodation (especially in reserved municipalities) in conformity with the zoning ordinance is to be ensured by obligatory declarations of the respective owners.

11. Guarantees through planning contracts

Planning contracts should be established to ensure usage in conformity with zoning regulations in the event of changes to development plans, in order to prevent non-compliant use of residential buildings as second homes under civil law.

12. Existing second homes

Restrictive regulations on existing buildings should be used to prevent excessive expansion of current second homes.

13. Adequate fees on second homes

The municipalities should be authorised to charge fees on second homes, the amount of which and any differentiation must be objectively justified.

14. Restriction of mobile homes on campsites

In order to avoid second homes on campsites, clear legal regulations should be introduced for the installation of mobile homes, which prevent their permanent stationary use.

15. Inspection and Sanctions

Spatial planning laws should contain inspection options as well as penalty clauses to provide means of legal action against the nonconforming use of residential properties.

16. Restriction of commercial accommodation, especially in condominium buildings

In privately owned residential properties, commercial accommodation (both free and regulated enterprises) should be restricted or tied to specific zoning regulations in accordance with the respective zoning laws.