

Legislative developments in land-use planning

November 24 2017 | Contributed by [Pestalozzi Attorneys at Law Ltd](#)

Second part of Spatial Planning Act revision Initiative to stop urban sprawl

This update summarises the latest developments in spatial planning in Switzerland. In particular, it highlights the potential effects of certain planned amendments on legislation, namely the second part of the Spatial Planning Act⁽¹⁾ revision and the initiative to stop uncontrolled urban sprawl.⁽²⁾

Second part of Spatial Planning Act revision

From a spatial planning perspective, more and more Swiss municipalities are reaching their size limit. Because the enlargement of building zones is not allowed, the economical use of land is a key element of spatial planning.

The first part of the Spatial Planning Act revision entered into force in May 2014 and covered the reduction of excessive building zones and the inward development of building zones by increased density of use and concentrated construction. The second part of the revision focuses on construction activities outside building zones.

As a general rule and with the exception of certain strictly regulated cases, construction activities outside building zones are not allowed. The proposed second part of the revision will give the cantons more flexibility with regard to construction activities outside building zones so that they can consider their individual needs more appropriately. For this purpose, the federal government suggests introducing the following key elements:

- The planning and compensation approach will allow the cantons to deviate from certain federal rules of construction outside building zones (eg, for individual environmental planning, promotion of tourism and specific agricultural needs). By doing so, the cantons must compensate the concerned area so that the entire non-building zone does not grow and is not used more intensively or more disruptively.
- Construction permits for new buildings outside building zones will be subject to a removal obligation. Such buildings must be removed if the original use ends and no other use can be approved.
- The existing rules for the creation of special agricultural zones and other special zones will be refined and stated more precisely. This concerns, for example, zones for tourism, sport and recreation, as well as the excavation of materials and creation of landfills.
- With regards to buildings outside building zones, the position of cantonal authorities will be strengthened compared to the position of communal authorities. In particular, cantonal authorities will have the right to enforce the lawful state.

Even though the new planning and compensation approach provides the cantons with more discretion, they must respect the core principle of separating building zones from non-building zones.

The consultation period for the second part of the revision terminated on August 31 2017. The government's dispatch to Parliament for the second revision is expected in 2018.

Initiative to stop urban sprawl

AUTHORS

[Michael Lips](#)



[Andrea Rohrer-Lippuner](#)



In October 2016 an initiative to stop uncontrolled urban sprawl was submitted to the government. The initiative proposes an amendment to the Federal Constitution that obliges the federation, cantons and communities to freeze the present size of building zones for an indefinite period and ensure that the building zones will grow no further.

The initiative pursues the following goals:

- to effectively stop the urban sprawl by compensating new building zones with non-building zones of the same size and with comparable soil quality so that the total volume of building zones remains stable;
- to significantly improve the conditions for urban quarters in order to facilitate inward urban development;
- to allow the moderate increase of use in low-density zones, with the exception of protected buildings;
- to limit construction activities outside building zones, whereby only buildings and installations for the purpose of soil-dependent agriculture or sites of public interest will be allowed;
- to provide no further exceptions for new buildings outside building zones; and
- to protect vested rights in buildings outside building zones and allow minor extensions and changes in the use of such buildings.

The government has acknowledged that the initiative addresses important questions regarding spatial planning. Nevertheless, it does not support the initiative and believes that:

- the initiative does not appropriately consider cantonal and regional differences (especially population and economic development) and would discriminate against those cantons and communities that have already economically used the land;
- the initiative could result in a considerable price increase with related side effects (eg, higher housing and business costs), which may impede the relocation of businesses to Switzerland; and
- the Spatial Planning Act already addresses the concern of a sustainable settlement development.

The government's dispatch to Parliament proposes to reject the initiative without submitting a direct or indirect counterproposal. Once Parliament has issued its recommendation, a popular vote will decide whether the initiative or Parliament's counterproposal (should there be one) will be implemented.

For further information on this topic please contact [Michael Lips](#) or [Andrea Rohrer](#) at Pestalozzi Attorneys at Law by telephone (+41 44 217 91 11) or email (michael.lips@pestalozzilaw.com or andrea.rohrer@pestalozzilaw.com). The Pestalozzi Attorneys at Law website can be accessed at www.pestalozzilaw.com.

Endnotes

(1) The Federal Act on Spatial Planning, SR 700.

(2) The popular initiative *To Stop Urban Sprawl – for a Sustainable Settlement Development (Urban Sprawl Initiative)*.

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).