On ..... the Provincial Parliament of Lower Austria decided the following:

Amendments to the Lower Austrian Building Code 2014 (NÖ BO 2014)

The Lower Austrian Building Code 2014, Provincial Law Gazette (LGBl.) 1/2015, shall be amended as follows:

1. In the table of contents, the entry for Section 15 reads:
   “Projects subject to approval in the simplified procedure”

2. In the table of contents, the entry for Section 17 reads:
   “Projects not subject to approval or notification”

3. In the table of contents, the entry for Section 42 reads:
   “Playground fee”

4. In the table of contents, the following entry is inserted after the entry for Section 42:
   “Section 42a Index adjustment”

5. In the table of contents, the following entry is inserted after the entry for Section 48:
   “Section 48a Simplifications for certain structural operations in existing buildings”

6. In the table of contents, the entry for Section 66 reads:
   “(deleted)”

7. Section 1(3)(4) reads:

“4. Installations for the generation of electrical energy (Section 2(1)(22) of the

Lower Austrian Electricity Act 2005 (NÖ ElWG 2005), LGBl. 7800) in so far as they require approval under electricity law, electrical wiring installations (Section 2 of the Lower Austria High-Voltage Line Act (NÖ SSWG), LGBl. 7810), as well as hydrogen, gas, petroleum and district heating pipes;”

8. Section 1(3)(7) reads:

“7. not subject to approval or notification.”

9. Section 4(3) reads:

“3. **sufficient lighting:** the lighting on the light entry surfaces of main windows that is provided by a free incidence of light of less than 45° (measured from the horizontal) with a lateral deviation (swivel) of no more than 30°;”

10. Section 4(8) reads:

“8. **Setback:** the prescribed minimum distance from the plot boundaries (side and rear setbacks) or to the street exit line (front setback) in which main building may not in principle be built;”

11. Section 4(21) reads:

“21. **Main window:** Windows that contain the light entry areas required for sufficient lighting of recreation rooms; all other windows are secondary windows;”

12. Section 4(28) is deleted.

13. 13. Section 5(2), first sentence reads:

“The building authorities of first instance shall decide on an application for a building permit, provided that the project does not require approval under another law, and on an application pursuant to Section 7(6) **within 3 months**.”

14. Section 5(2a) reads:

“(2a) When an application for a building permit for a **renewable energy generation installation** is submitted, the building authorities of first

instance must confirm that the application is complete within 45 days of receipt or request that the applicant submit a complete application without delay if not all of the information required for processing has been provided. In acceleration areas, deadline for this is 30 days.
If the building authorities allows the aforementioned deadline to elapse without providing confirmation or making a request, the deadline for the decision shall commence upon expiry of the deadline specified in the first subparagraph.
If the project does not require approval under another law, the building authorities of first instance must decide on the application **within 3 months** from the date of confirmation of the completeness of the application. If the project requires approval under another law, the deadline for the decision is **6 months** from the date of confirmation of the completeness of the application.
For **projects pursuant to Section 15(15)(b)(aa)** relating to thermal solar systems and photovoltaic systems with a capacity not exceeding 100 kW, the building authorities must decide on the application **within one month** from the date of confirmation of the completeness of the application. If the decision is not made within this period, the approval shall be deemed to have been granted, provided that the output of the solar energy system does not exceed the existing capacity of the connection to the distribution grid.
Decisions made as part of the approval process must be made publicly available for a period of at least two weeks after they have been issued."

15. Section 5(3), first sentence reads:

"(3) In building approval proceedings and related proceedings pursuant to Section 7(6), appeals to the Regional Administrative Court **shall have no suspensive effect**."

16. Section 6(1), last sentence reads:
"Projects pursuant to Section 15 – with the exception of those pursuant to Section 15(12) and (14) – **do not lead to a status as a contracting**

party for the neighbouring party."

17. Section 6(6) reads:
"**Neighbouring parties** are **not party to the proceedings** within the meaning of paragraphs (1) and (2) in a building permit procedure if they have demonstrably approved a project pursuant to Section 14, Section 15(12) or (14), with express reference to the waiver of party status on the planning documents."

18. Section 11(1)(4) reads:
"4. Has been designated as building land continuously since 1 January 1989 and was developed on 1 January 1989 with a building or part of a building approved by the building authorities, with the exception of those pursuant to Section 15(10), Section 17(8) and Section 23(3), penultimate sentence, or"

19. Section 12(1), first sentence reads:
"The owners **are obliged** to transfer all **areas** of the property affected by the projects according to subparagraph (1) to (4), which lie between the street alignment lines and have not been developed with a main building or part thereof, to the public property of the municipality if **approval** for building land is granted for:
    1. the **modification of property boundaries** (Section 10 and Section V. of the Lower Austrian Spatial Planning Act 2014 (NÖ ROG 2014), LGBl. No 3/2015 as amended),
    2. a new building or extension to a **building**, with the exception of buildings within the meaning of Section 15, temporary existing buildings and buildings for public utilities and disposal facilities with a built-up area of up to 25 m^2 and a building height of up to 3 m,
    3. the manufacture of a **parking facility** for motor vehicles, or
    4. the construction of a structural installation which is directed against public traffic areas as an **enclosure** within a distance of 7 m from the front property boundary.'

20. Section 12(2), second sentence is deleted.

21. Section 12(2a), second sentence reads:

"In any case, the agreement **must contain**:

- the exact designation and description of the land area to be transferred with regard to its location and size, and
- the date of transfer."

22. Section 12a(1), first sentence reads:

"The owners of properties or parts of properties for which the development plan or an ordinance of the municipal council regulation pursuant to Section 67(4) stipulates a **requirement for the mandatory establishment** of the reference level must construct this level across the entire area if a building permit is granted

1. for the construction of a new building (Section 14(1)) or
2. for the construction of a structure (Section 14(2))."

23. Section 13(2) reads:

"(2) On a **building site** that is **not adjacent to** a **public traffic area**, a new construction or extension (Section 14(1)), a modification to the structures (Section 14(3) and Section 15(12)) or a change in the intended use (Section 15(1)) are only permitted if the building site is connected to a

- public traffic area that meets traffic requirements by means of a right of way
- and right of passage in accordance with Section 11(2)(1)(c)

or by means of a private traffic area owned by the building site owner."

24. In Section 14, the introductory sentence reads:

"Insofar as they do not fall under Section 15, the following projects require a **building permit**:"

25. 25. Section 14(3) reads:

"3. modification of structures where the stability of load-bearing structural elements could be impaired;"

26. Section 14(4) reads:

“4. the installation and replacement of:

a) boilers with a rated heat output of at least 400 kW;

b) combustion plants with a rated heat output greater than 400 kW;

c) combined heat and power plants that are not subject to any electricity or commercial licensing requirements, provided that they are used for space heating in buildings that are not commercial facilities;

as well as the modification of:

d) combustion plants referred to in point (b) if this could affect the safety of persons and property or could impair fire protection;

e) medium-sized combustion plants, insofar as it could have an impact on the applicable emission limit values;”

27. Section 14(5) is deleted. In Section 14, the (previous) subparagraphs (6) to (8) are renumbered subparagraphs (5) to (7).

28. Section 14(9) is deleted.

29. Article 15 is worded as follows:

“Section 15

Projects requiring approval under the simplified procedure

The following projects require a **building permit** under the **simplified procedure**:

1. a change in the intended use of structures or parts thereof or an increase in the number of dwellings, if as a result, the following may be affected
   - provisions in the land use plan;
   - provisions of the Lower Austria Spatial Planning Act 2014, LGBl. No 3/2015 as amended,
   - the parking space requirements for motor vehicles or for bicycles;
   - the playground tax;
   - the strength and stability;
   - fire protection;
   - accessibility;
   - exposure;

- dry conditions;
- the sound insulation; or
- thermal protection

;

2. the drainage or seepage of rainwater without structural facilities in local areas;
3. the regular use of a plot of land or part thereof in building land as a parking space for vehicles or trailers, or the creation and alteration of entrances and exits to plots of land in building land;
4. the use of a plot of land as a storage area for materials of all kinds, with the exception of waste in accordance with § 3 Z 1 of the Lower Austrian Waste Management Act 1992 (NÖ AWG 1992), LGBl. 8240, for a period of more than 2 months;
5. the storage of flammable liquids in quantities exceeding a total of 1000 litres outside commercial facilities;
6. the subsequent conditioning or modification of the conditioning of rooms in existing buildings (e.g. heating of previously unheated or only slightly heated rooms);
7. the retrofitting of thermal insulation in buildings;
8. the temporary installation of non-permanent animal shelters with a total covered area of no more than 50 m^2 or mobile poultry houses on the same property;
9. the installation of a photovoltaic system with a peak power of more than 100 kW (except on buildings) in grassland in accordance with the zoning plan;
10. the construction of an independent structure with a built-up area of no more than 10 m^2 and a height of no more than 3 m;
11. the construction of a fence with a height of no more than 3 m or an above-ground structure whose use is similar to that of a building, with a built-up area of no more than 50 m^2 and a height of no more than 3 m;
12. the alteration of a structure if fire protection, lighting or ventilation of recreation rooms, drinking water supply or sewage disposal could be impaired or rights under Section 6 could be infringed or a conflict with the local character (Section 56) could arise;

13. the installation and replacement of a boiler – except those subject to reporting pursuant to Section 16(1)(3) and (3a) – with a nominal heat output of no more than 400 kW, including any automatic fuel feed;
14. the installation of machinery or equipment in structural connection with buildings that are not commercial operating facilities, if the stability of load-bearing components, fire protection or rights under Section 6 could be breached;
15. projects in protected areas and old town areas worthy of preservation, as well as in areas where a building freeze applies for this purpose (Section 30(2) (1) and (2) and Section 35 of the Lower Austrian Spatial Planning Act 2014, LGBl. No 3/2015 as amended):
    a) the demolition of buildings in protection zones if no rights under Section 6 could be breached;
    b) on areas and parts of buildings that are visible from public traffic areas, in each case with regard to the protection of the townscape (Section 56);
    aa) the installation and replacement of thermal solar systems, photovoltaic systems and heat pumps or their installation on buildings;
    bb) the installation of TV satellite antennas and of air conditioning systems;
    cc) dthe installation of trellises
    c) changes in the area of façade design (e.g. replacement of windows, the colour scheme, measures for advertising purposes) or the design of roofs.”

30. Section 15(2) to (7) are deleted.

31. Section 16(1)(1) reads:

“1. the construction, fixed installation, replacement and removal of air conditioning systems and heat pumps, each with a rated output of more than 70 kW, in (structural) connection with buildings, with the exception of those systems that are subject to approval pursuant to Section 15(15)(b);”

32. Section 16(1)(5) reads:

“5. the demolition of buildings, provided that they do not fall under Section 14(7) and Section 15(15)(a);”

33. In Section 17, the heading and the introductory sentence read:

“Projects not requiring approval or notification

Projects that are not **subject to approval** or notification are in any case:”

34. Section 17(2) reads:

“2. the construction of swimming ponds, natural pools and garden ponds with natural edging without altering the surrounding terrain, with a water surface area of no more than 200 m^2, the construction or creation of swimming pools and other water basins and containers (cisterns and similar) with a capacity of no more than 50 m^3, including the necessary technical installations and shafts, swimming pool covers with a height of no more than 1.5 m and fountains;”

35. Section 17(5) to (8) read:

“5. the attachment of the business names required under Section 66 of the Trade Regulation Act 1994, Federal Law Gazette (BGBl.) No 194/1994 as amended by BGBl. I No 150/2024, to the business premises, with the exception of those measures for advertising purposes that are subject to approval under Section 15(15)(c);

6. the manufacture of vertical sun protection devices (external blinds, roller shutters and similar) and horizontal sun protection devices (awnings, sun sails and similar) covering an area of up to 50 m^2, as well as their installation on structures;

7. the installation of heat exchangers for district heating and the installation, replacement and removal of air-conditioning systems and heat pumps with a rated output not exceeding 70 kW in each case, with the exception of those subject to approval under Section 15(15)(b) or those air-conditioning systems which are subject to notification under Section 16(1)(1) and (2);

8. the installation of a garden shed and a greenhouse each with a built-up area of no more than 10 m^2 and a height of no more than 3 m outside protection zones and outside of protected areas and outside the front

setback of residential buildings per dwelling with an allocated garden area, except in special building land areas;”

36. In Section 17, after subparagraph (8), the following subparagraphs (8a) and (8b) are inserted:

“8a. the installation of walk-in foil tunnels and other protection and support devices, in each case for plants on grassland, for agricultural, forestry or horticultural purposes;

8b. the installation of single-storey, unconditioned, mobile containers for storage purposes with a maximum total volume of 260 m^3 in building land operational areas, building land traffic-restricted operational areas, building land industrial areas and building land traffic-restricted industrial areas;”

37. Section 17(9) reads:

“9. the construction and installation of raised platforms, garden barbecues, raised beds, play and sports equipment, trellises outside protected areas and old village areas (Section 15(15)(b)), small religious monuments, gravestones and traditional structures (e.g. maypoles, Christmas trees);”

38. Section 17(12) reads:

“12. the temporary installation of sales stands, storage and sales containers for pyrotechnic goods, if they are subject to trade regulations, as well as show houses in areas approved by the authorities in DIY stores, and the permanent installation of market stalls in areas subject to market regulations within the meaning of Section 293 of the Trade Regulation Act 1994, as amended;”

39. Section 17(14) reads:

“14. the installation of photovoltaic systems or their attachment to buildings, provided that they are not subject to Section 15(9) or (15)(b), the installation of solar thermal systems or their attachment to buildings, as well as TV satellite systems or their attachment to buildings, provided that they are not subject to Section 15(15)(b), and the installation of battery storage systems;”

40. Section 17(17) reads:

“17. the temporary manufacture of weather protection devices in guest gardens, if they are subject to examination in a commercial procedure;”

41. 41. In Section 17(23), the full stop after subparagraph (24) is replaced by a semicolon and the following subparagraphs (24) and (25) are added:

“24. temporary modification of the use of structures in the event of a disaster for the duration of the need;

25. required construction site facilities (storage containers, tool containers, site office, sanitary containers, break rooms and the like) for the necessary construction period.”

42. Section 18(1)(3)(e) reads:

“e) notwithstanding this, for a **construction project** in accordance with **Section 14(5)**, three copies each of a site plan, cross-sections and a description of the subject and scope of the construction project (presentation of the reference level in accordance with Section 4(11a) and the planned terrain change in floor plans and cross-sections, each with sufficiently precise details of the elevation of the terrain).”

43. In Section 18(1)(6), the citation “Section 14(4)(c) and (f)” is replaced by the citation “Section 14(4)(b) and (e)”

44. Section 18(1a) reads:

“(1a) The following applies to **projects in accordance with Section 15**:

1. The obligation to supplement the documents referred to in paragraph 1(2), (3) and (5) no longer applies.
2. The application for a building permit must be accompanied by at least two copies of a **true-to-scale drawing** and **description** of the project that is sufficient for the assessment of the project and, for projects pursuant to Section 15(13), a **type test report** must also be enclosed.
3. If, in the cases referred to in Section 15(6) or (7), the submission of an **energy performance certificate** is required in the cases of Section

15(6) or (7) (Sections 43(3) and 44), enclosed with the application in duplicate, notwithstanding paragraph 1(4). The energy performance certificate must be drawn up in accordance with the content and form specified in the regulation pursuant to Section 43(3).”

45. Section 19(1)(6) reads:

“6. the view of the enclosure subject to approval.”

46. Section 19(1a), first sentence reads:

“In the case of a new building or extension to a building on building land, the building authorities must first determine the exact location of the boundaries of the building plot on the basis of

- the **border cadastre**;

if no boundary cadastre is available,

- **a boundary survey** or a **plan** drawn up by a person authorised under commercial law or under the Civil Engineers Act 2019, BGBl. I No 29/2019, as amended by BGBl. I No 50/2025, authorised person on the basis of the Surveying Ordinance 2016, BGBl. II No 307/2016, as amended by BGBl. II No 235/2018;
- or
- the outcome of non-contentious judicial proceedings (boundary **determination proceedings**),

whereby the accurate representation may be limited to those boundary areas that are essential for the assessment of the building project.”

47. Section 20(1) reads:

“(1) In the case of applications for **building permits, the building authorities** must first **examine** whether the construction project runs counter to:

1. the intended use specified for the building plot in the zoning plan, its designation as a reserved area or development zone, unless the project serves to fulfil a release condition;
2. the development plan;
3. the purpose of a construction barrier;

4. the inadmissibility of the designation of the land in question as building land for construction;
5. a building ban pursuant to Section 13 or Section 53(6) of the Lower Austria Spatial Planning Act 2014, LGBl. No 3/2015 as amended,
6. in the case of high-rise buildings, unless their spatial impact has already been examined in the zoning procedure, the failure to carry out a spatial impact assessment or its negative result, or
7. any other provision

– of this Act, with the exception of Section 18 (4),
– the Lower Austrian Spatial Planning Act 2014, LGBl. No 3/2015 as amended,
– the Lower Austrian Lift Ordinance 2016 (NÖ AO 2016), LGBl. No. 9/2017,
– the Lower Austria Allotment Garden Act (NÖ KGG), LGBl. 8210, the Lower Austrian Sewerage Act (NÖ KG), LGBl. 8230, or
– an implementing regulation for one of these acts."

48. Section 21(1), first sentence reads:
"If the preliminary examination (Section 20) does not result in the rejection of the application, the building authorities must **demonstrably** inform the **parties and neighbours** (Section 6(1) and (3)) **of the planned project** and point out that the building authorities is authorised to **access** the application documents and any expert reports."

49. Section 21(3) reads:
"(3) paragraphs (1) and (2) do **not** apply
1. for the following projects:
   a) Projects whose requirement for approval is based on a possible conflict with the local townscape;
   b) Projects that are more than 10 metres away from the boundary of the building plot, provided that subjective public rights cannot be impaired;
   c) Projects pursuant to Section 15, with the exception of those pursuant to Section 15(12) and (14);

and
2. in the case of all other projects requiring approval, vis-à-vis those

neighbours,

a) whose status as a party to the proceedings within the meaning of Section 6(5) and (6) is excluded,

b) whose property boundary is more than 10 m away from the construction project, provided that subjective public rights cannot be impaired."

50. Section 21(4) reads:

"(4) The decision on the application for a building permit shall be served on the parties and those neighbours who have raised objections in good time. However, service of that decision does not confer the right to be party to the proceedings."

51. In Section 21, the following paragraph 4a is inserted after paragraph 4:

"(4a) If projects pursuant to Section 15 are submitted to the building authorities together with a project pursuant to Section 14, they shall be dealt with jointly in the building permit procedure."

52. Section 22(3) reads:

"(3) Projects pursuant to Section 14(1) to (3b) and Section 15(5) on land within the appropriate safety distance of a legally existing Seveso establishment that are likely to cause a significant increase in the risk or consequences of a major accident within this appropriate safety distance of a Seveso establishment, are only permissible if they are planned and executed in such a way that a significant increase in the risk or consequences of a major accident, in particular with regard to the number of persons affected, can be ruled out or averted by the implementation of other organisational or technical measures."

53. Section 23(1), last sentence reads:

"The building permit includes the **right to construct the building and use it after completion**, provided that the necessary documents are submitted in accordance with Section 30."

54. In Section 23, the following paragraph 2a is inserted after paragraph 2:

“(2a) If projects pursuant to Section 15 are submitted to the building authorities together with a project pursuant to Section 14 (Section 21(4a)), the building authorities shall decide in a single approval notice. The ruling in the decision must be divided into points.”

55. Section 23(3), third sentence reads:
“This does not apply in the case of a building permit for a building in accordance with Section 15, for a temporary building, for a building for a public supply and disposal facility with a built-up area of up to 25 m² and a building height of up to 3 m, or for an extension that does not involve any space-creating measures (e.g. awnings).”

56. Section 24(6) is deleted.

57. Section 25(1), first sentence reads:
“For projects pursuant to Section 14, the developer must entrust the planning and calculation of the construction project, including the preparation of the energy performance certificate, with inspections and the issuance of certificates to experts who are authorised to do so in accordance with the relevant regulations (e.g. under trade law or as civil engineers). These experts must present proof of their authorisation to the building authorities upon request.”

58. In Section 25, the following paragraph 1a is inserted after paragraph 1:
“(1a) If the submission of an **energy performance certificate** is required for a project pursuant to Section 15(6) or (7) (Section 18(1a)(2)), paragraph (1) shall apply to the preparation of the energy performance certificate.”

59. Section 25(2), first sentence reads:
“The work for projects pursuant to Section 14, excluding projects pursuant to subparagraph (4) and modifications to the reference level without its actual establishment pursuant to subparagraph (5), shall be monitored by a **site manager**.”

60. In Section 26, the reference “paragraph 1” is deleted. Section 26(2) is

deleted.

61. Section 29(1)(1) reads:

“1. the relevant building permit (Section 23) is not available, or”

62. Section 29(2) reads:

“(2) In the case of paragraph 1(1), the building authorities shall, regardless of any pending application for a building permit, order the removal of those parts of the building project that were constructed without a building permit and, where applicable, the restoration of the site to its previous condition.”

63. Section 30(1), second sentence is deleted.

64. Section 30(2)(2) reads:

“Information on deviations subject to notification (Section 16),”

65. Section 30(2)(2a) is deleted.

66. In Section 30(2)(3), the words “subparagraph (2a)” are replaced by the words “subparagraph (2)”.

67. Section 30(5) reads:

“(5) In the case of projects pursuant to Section 15, paragraph (2)(1) to (3) and (5) and paragraph (3) do not apply. After completion of a project in accordance with Section 15(13) (boilers), the notification must be accompanied by a certificate confirming professional installation, which in the case of boilers with automatic feeding of solid fuels must cover the entire system (including the fuel transport system), as well as a report on the suitability of the flue gas duct for the connected boiler. These certificates and reports must be issued by authorised experts (Section 25(1)).”

68. Section 33(1) reads:

“(1) The **energy performance certificates** submitted in the course of a year in accordance with Section 18(1)(4) and (1a)(3) and in accordance with the

Energy Performance Certificate Presentation Act 2012, BGBl. I No 27/2012, shall be **checked** by the building authorities **on a random basis** in accordance with Annex II, subparagraph (1) to Directive 2010/31/EU (Section 69(1)(6)).”

69. Section 33a(4) reads:

“(4) The **system data** referred to in paragraph (8) must be entered in the **database** in electronic form by the **authorised experts** responsible for this task within 4 weeks of **completion** of the systems for projects **requiring approval and notification**.”

70. Section 34(1) reads:

“(1) The owner of a structure must ensure that it is constructed and maintained in a condition that complies with the permit (Section 23) and is only used for the purposes approved (e.g. agricultural operation in the case of an agricultural residential building). In the case of changes that do not require approval or notification, maintenance also includes maintaining the conditions for approval (e.g. compliance with the load-bearing capacity of ceilings or roof structures).”

71. Section 34(2), first sentence reads:

“If the owner of a building fails to comply with the obligation under paragraph (1), the building authorities shall, after **inspecting the building**, order the repair of the building defect, granting a reasonable period of time, regardless of any pending application for a building permit.”

72. Section 34(3) reads:

“(3) In the event of justified suspicion, proof must be provided to the building authorities upon request that the changes have no impact on the conditions of the permit.”

73. Section 35(2) reads:

“(2) The building authorities shall order the **demolition** of a building irrespective of a pending application for a building permit if

1. more than **half of the** fully developed enclosed space of a **building** has become unusable due to structural defects and the owner has not complied with an order pursuant to Section 34(2) within the period granted therein or
2. **no building permit** (Section 23) has been issued for the structure. For other projects, subparagraph (2) applies mutatis mutandis."

74. Section 35(3) reads:

"(3) The building authorities shall **prohibit** the **use** of an unauthorised structure and the **use** of a structure for a purpose other than that for which it was approved. (1) and (2) and Section 34(1) and (2) remain unaffected."

75. Section 35(4), first sentence reads:
"The building authorities shall prohibit the owner or authorised representative of mandatory parking facilities for motor vehicles (Section 63(1)) from using them for purposes other than those intended if they are permanently withdrawn from the purpose for which the building was approved, to which the parking facilities were allocated, or if their usability for the users of the building is restricted in terms of time or location."

76. Section 37(1)(2) reads:

"2. carries out or has carried out a construction project subject to approval in a simplified procedure (Section 15) without a legally valid building permit, or uses or has used such a structure or a modified structure,"

77. In Section 38(5), the following subparagraph is inserted:
"If **the building height** specified for a building class **is exceeded** by making use of the exception under Section 53a(1a), the building class coefficient of the next higher building class shall apply."

78. Section 39(3), first sentence reads:
"A **supplementary levy** shall also be imposed if, upon issuance of the final decision by the authority pursuant to Section 2, a **building permit** is **granted** for the new construction or extension of a building – with the exception of buildings within the meaning of Section 15(10) and non-space-

creating measures (e.g. awnings) – or a large-volume facility is granted and,

- in the case of a land division (Section 10(1) of the Lower Austrian Building Regulations, LGBl. No 166/1969, and Lower Austrian Building Regulations 1976 or Lower Austrian Building Regulations 1996, LGBl. 8200) after 1 January 1970, a development levy or, after 1 January 1989, a supplementary levy, or
- in the case of a building site declaration, a development levy, or
- in the case of a building permit, a development contribution, a development levy or a supplementary levy was prescribed and
- no building class coefficient or
- a lower building class coefficient than that corresponding to the maximum permissible building class or building height in the development plan was used in the calculation, or the building height determined by a building class was exceeded by making use of the exception pursuant to Section 53a(1a) and the building class coefficient of the next higher building class (Section 38(5) last sentence) has not yet been applied."

79. Section 41(2) is deleted.

80. 42 reads:

"Section 42
Playground tax

(1) When constructing **new residential buildings with more than 4 dwellings**, with the exception of terraced houses and those which, because of their intended use, are not expected to require a playground, a **tax must be paid to the municipality for the construction of public playgrounds (the playground tax)**. This also applies if the required number of dwellings is only achieved through a modification or extension of the building. If additional dwellings are created as a result of a change or extension to the residential complex, the tax must be paid for these additional dwellings. No playground tax is payable for dwellings approved before 1 March 2026.
(2) The **amount of the playground tax amounts to EUR 500.00 per residential unit**.

(3) The playground tax becomes due when the building permit (Section 23) becomes legally binding and must be prescribed by official notice.
(4) No playground fee is payable for structures approved by the building authorities before 1 February 2015 to which modifications are made in accordance with Section 48a(1).
(5) The stipulation of the playground charge shall be waived if the entity liable enters into **a contract with the municipality** for the construction of a public playground or for sharing the costs of such a public playground.
(6) The amount specified in paragraph (2) shall change annually from 1 January 2027 at the beginning of each calendar year in line with the change in the applicable **consumer price index published by Statistics Austria** in the period from June of the previous year to June of the calendar year preceding the date of valorisation **(index adjustment)**. If the amount changes, it shall be rounded to the nearest 10 pence and announced by the provincial government in the provincial law gazette. The unrounded amount, including two decimal places, shall form the basis for the next valorisation.
(7) The playground tax is an exclusive municipal tax within the meaning of Section 6(1)(5) of the Financial Constitution Law 1948 (F-VG 1948), BGBl. No 45/1948 as amended by BGBl. I No 51/2012.”

81. The following Section 42a is added after Section 42:

“Section 42a
Index adjustment

(1) The municipal council may, in the ordinance issued pursuant to Section 38(6) and Section 41(3) and (5), provide for an automatic increase in the standard rate or the compensation levies on the basis of the currently valid **building cost index published by Statistics Austria (index adjustment)**.
(2) If the municipal council passes a resolution in accordance with paragraph (1), the standard rate or compensation levy shall increase annually at the beginning of each calendar year by the amount resulting from the change in the applicable **building cost index** published by Statistics Austria in the period from June of the previous year to June of the calendar year preceding the date of the revaluation.

(3) The municipal council may also stipulate that an increase in the standard rate or compensation levies shall only take effect once a **threshold value to be determined** by the municipal council has been exceeded. This threshold applies to all future value adjustments until the municipal council passes a new resolution in accordance with this provision. If the municipal council adopts such a resolution, the mayor must periodically review the extent to which the change in the index on the reference date in June, taking into account the specified threshold, leads to a change in the unit rate or the compensation levies.
(4) The adjusted amount shall be rounded to the nearest 10 cents and announced by the mayor on the official notice board. The unrounded amount, including two decimal places, is the starting point for the next valorisation."

82. After Section 48, the following Section 48a is inserted:

"Section 48a
Simplifications for certain structural operations in existing buildings

(1) For **structures** that were approved by the building authorities before 1 February 2015, the following applies to

- vertical extensions (additional storeys) of no more than one additional storey,
- modification of a building (Section 14(3) and Section 15(12)) and
- change of use of a building or part thereof and related increases in the number of dwellings,

the following simplifications apply:

1. Deviations from the **current safety-related requirements** (e.g. mechanical strength, stability, fire protection, exhaust gases from fireplaces, protection against hazardous emissions, ventilation of garages, storage of hazardous substances, safety of use) as in the existing building are permissible if the change in the existing situation does not or does not significantly worsen the original level of requirements of the lawful existing building.
2. Deviations from the **current quality-relevant requirements** (e.g. sanitary facilities, collection and drainage of rainwater, waste, protection against moisture, lighting and illumination, ventilation, room

temperature, level and height of rooms, accessibility and sound insulation) as in the existing building are permissible.

(2) If the project results in a deterioration compared to the current safety-related requirements (paragraph (1)(1)), a **confirmation** must be provided by an independent person authorised under commercial law or under the Civil Engineers Act 2019, BGBl. I No 29/2019, as amended by BGBl. I No 50/2025, that the deterioration is not significant. The authority must adhere to this confirmation in its assessment if no doubts arise as to the accuracy of this confirmation during the proceedings.

(3) Requirements that must be complied with on the basis of **EU legislation (Section 69)** (e.g. energy saving, heat protection, domestic installations for drinking water) are excluded from the simplifications."

83. In Section 49, the following paragraph (6) is added after paragraph (5):

"(6) Irrespective of the building density specified in the development plan, **waste collection rooms** may be constructed in buildings approved by the building authorities before 1 February 2015."

84. Section 51(2) to (6) read:

"(2) Buildings and parts of buildings as well as above-ground structures whose use is similar to that of buildings may be constructed on the **side and rear setbacks** of the building, provided that

1. this is not prohibited by the **development plan**;
2. the built-up area of the buildings and the covered area of the structures **do not exceed a total of 150 m²** and
3. the height of the building fronts or building front parts of these structures (Section 53) located in the setback **does not exceed 3 m**; if the land is sloped, this height may be exceeded downwards in line with the difference in level. Furthermore, this height may be exceeded if a building or part of a building is constructed in the rear setback on building land with the following types of zoning: core area, core area for sustainable development, commercial area, commercial area with restricted traffic, industrial area, industrial area with restricted traffic, agricultural area and special area without protection requirements.

(3) In the case of coupled developments and those open on one side, the side setback must be kept clear of buildings in the case of open developments, except for corner building sites.

(4) Unless prohibited by the development plan, **structures** in the front setback and structures not subject to paragraph (2) are permitted in the side and rear setbacks.

(5) If **main windows** are installed in those parts of a main building that may be located in the setback in accordance with paragraph (2), sufficient lighting for these main windows must be ensured via the owner's own land or via those areas of neighbouring properties which may not be built on in accordance with the provisions of this Act.

(6) All structures within the setback are only permitted if the sufficient **lighting of the main windows** of existing approved buildings on neighbouring properties is not impaired. If a structure in the setback may exceed a height of 3 m (paragraph (2)(3), second and third sentences, paragraph (4)), this is only permissible insofar as it does not impair the sufficient lighting of the main windows of future permissible buildings on neighbouring properties."

85. In Section 53a, the following paragraph 1a is inserted after paragraph 1:

"(1a) Notwithstanding paragraph (1), the building height determined in accordance with Section 53 may exceed the building height specified by a building class by up to 1.5 metres if the roof pitches of the building do not exceed 10°. In such cases, it is not permissible to exceed this height in additional areas (Section 53a (1), last sentence)."

86. Section 53a(5) is deleted.

87. Section 53a(9) reads:

"(9) an application is made for a **new construction** of a building in the form of a refurbishment **within the floor plan area and the building height of an existing building approved by the**

building authorities, it is possible to deviate from the building height specified in the development plan or resulting from it, if the local council so decides in individual cases. A similar deviation from the development plan is to be processed in the next amendment to the development plan (Section 34 of the Regional Planning Act, LGBl. No 3/2015, as amended)."

88. The following paragraph 3a is inserted after Section 54(3):

"(3a) If an application is made for the **new construction** of a building in the form of a renovation **within the floor plan area and the building height of an existing building approved by the building authorities**, the provisions concerning building height (building class) and setback shall not apply, notwithstanding paragraphs (1), (2) and (3).
In this case, a layout on the property that does not correspond to any building type may be retained. If the distance to the property boundary is less than 2 m, the actual condition must not be worsened with regard to fire protection."

89. Section 55(1a) reads:

"(1a) Buildings in green areas must maintain a **minimum distance** from the **boundary of the building plot** that corresponds to the height of the building, but is at least 5 metres. Exceptions include those areas where the zoning boundary is the property boundary and no building setback is required on the adjacent building plot due to the type of development. Buildings may be erected at the minimum distance in accordance with Section 51(2) and (4) if Section 51(5) and (6) is complied with."

90. Section 55(3) reads:

"(3) A **traffic area** may only be built on or covered if this does not impair the safety, ease and flow of traffic. Enclosures facing public traffic areas (Section 14(2) and Section 15(11)) must also not impair the safety, ease and flow of traffic."

91. Section 56(1), first sentence reads:

"Structures, alterations to structures or changes to the elevation of the terrain that require approval must be designed in such a way that they fit in with the existing townscape and landscape, taking into account the types of land use specified therein."

92. In Section 63, the following (1a) and (1b) are inserted after (1):

"(1a) The minimum number of parking spaces for buildings for 'assisted living', 'accessible housing' or 'youth housing' must in principle be half the minimum number of parking spaces for residential buildings. The municipal council may specify a different number (Section 63(2)).

(1b) For **structures**, the following applies

- the extension of an existing, previously undeveloped attic space (Section 4(16)) (attic conversion),
- modification of a building (Section 14(3) and Section 15(12)) and
- the change of use of a building or part thereof and the associated increase in the number of dwellings, the following simplifications apply:

1. The obligation to create additional parking spaces for motor vehicles does not apply if the original building permit for the structure was issued at least 20 years ago.
2. The obligation to create up to two additional parking spaces for motor vehicles does not apply if, due to local demand, the parking spaces are of minor importance and the costs of construction would be disproportionate for the owner."

93. Section 63(7) reads:

"(7) If this proves impossible, **the building permit** for the project must **specify the required number of parking spaces** that cannot be created.

If it is not competent to issue the building permit, the building authorities referred to in paragraph 2(1) shall make that determination in its own

decision. Once the legally determined number of required and unproducible parking spaces has been established, the parking space compensation levy must be prescribed in accordance with Section 41(1).

94. Section 65(4) reads:

"(4) If this proves impossible, **the building permit** for the project must **specify the required number of parking spaces** that cannot be created.

The building authorities pursuant to Section 2(1) must make this determination in a separate notice if it is not responsible for issuing the building permit. Once the legally determined number of required and unproducible parking spaces has been established, the parking space compensation levy must be prescribed in accordance with Section 41(4)."

95. In Section 65, the following (6) is inserted after (5):

"(6) Regardless of the building density specified in the development plan, bicycle parking facilities may be constructed for buildings approved by the building authorities before 1 February 2015."

96. Section 66 is deleted.

97. Section 70(2) reads:

"(2) **Regulations** pursuant to Section 14(4) of the Lower Austrian Building Regulations 1976, LGBl. 8200, or Section 38(6) of the Lower Austrian Building Code 1996, LGBl. 8200, and standard rates for the calculation of development charges and in accordance with Section 86(6) of the Lower Austrian Building Code 1976 and Section 41(3) of the Lower Austrian Building Code 1996, LGBl. 8200, shall be deemed to be regulations under this Act."

98. Section 70(4) reads:

"(4) In accordance with the legal situation applicable prior to the entry into force of the Lower Austrian Building Regulations 1996, LGBl. 8200, the **secondary windows** and ventilation openings in **external** fire walls approved may remain for the duration approved

or previously provided for by law.”

99. Section 70(6), first sentence reads

“If a building originally had a building permit, but deviations from this permit were made and if more than 30 years have passed since the deviation without any objections from the building authorities, and if it cannot be reapproved in accordance with Section 14, this building is considered approved if this is applied for with explicit reference to this provision, the consent of the landowner (the majority of co-owners) is proven to the authority and complete as-built plans are submitted. The building authorities shall issue a notice of determination to this effect.”

100. The following paragraphs (21) to (23) are added to Section 70:

“(21) The table of contents, Section 1(3), Section 4, Section 5(2), (2a) and (3), Section 6(1) and (6), Section 11(1), Section 12(1) and (2a), Section 12a(1), Section 13(2), Section 14, Section 15, Section 16(1), Section 17, Section 18(1) and (1a), Section 19(1) and (1a), Section 20(1), Section 21(1),(3),(4) and (4a), Section 22(3), Section 23(1), (2a) and (3), Section 25(1), (1a) and (2), Section 26, Section 29(1) and (2), Section 30(2) and (5), Section 33(1), Section 33a(4), Section 34(1) to (3), Section 35(2) to (4), Section 37(1), Section 38(5), Section 39(3), Section 42, Section 48a, Section 49(6), Section 51(2) to 6, Section 53a(1a) and (9), Section 54(3a), Section 55(1a) and (3), Section 56(1), Section 63(1a),(1b) and(7), Section 65(4), Section 65(6), Section 70(2), (4) and(6) in the version of the provincial law LGBl. No XX/XXXX shall enter into force on 1 March 2026.

At the same time,

- Section 4(28), Section 12(2), second sentence, Section 14(9), Section 24(6), Section 26(2), Section 30(1), second sentence and paragraph 2(2a), Section 41(2), Section 53a(5), Section 66 and
- points 11.2.2, 11.2.3, 11.2.4, 11.2.5, 11.3, 11.3.1 and 11.3.2 of Annex 3 of the Lower Austrian Building Technology Ordinance 2014 (NÖ BTV 2014), LGBl. No 4/2015, as amended by LGBl. No 41/2025,

are repealed.

(22) Proceedings pending on the date of entry into force of this provincial law in the version published in LGBl. No XX/XXXX shall be concluded in accordance with the previous provisions. If a playground compensation levy is to be imposed based on the proceedings already concluded before this provincial law in the version published in LGBl. No XX/XXXX came into force or one of the aforementioned proceedings, the previous provisions shall also apply to the imposition of such a levy.

(23) Construction projects lawfully notified before 1 March 2026 shall be deemed to have been approved within the meaning of this provincial law in the version published in LGBl. No XX/XXXX.”