**CodeNext Draft 2**

**Chapter 23-2: Administration and Procedures**

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This document contains new comments on CodeNext Draft 2, as well as previously submitted questions or comments that were not addressed in Draft 2 or the city staff response dated 10/11/17.

Comments are organized follows: Major Questions/Recommendations By Topic (Ex Parte Communications, Nonconforming Uses, Neighborhood Plans, BoA Waivers & Exceptions, Additional Authority Granted to Staff, Environmental and Vested Rights Provisions); Additional Line-by-Line Questions and Comments; Typos and Formatting Errors.

For brevity, Draft 1 comments that were addressed in the second draft or fully answered in the staff response have been removed. Many thanks to city staff for their continued consideration.

**Major Questions/Recommendations by Topic**

**Ex Parte Communications**

**Section 23-2I-2050. Recommendation:** Please revise to ensure the prohibition of ex parte communication about appeals applies to the applicant and applicant’s agents, not just the public and interested parties. This proposed provision would prohibit ex parte communications about appeals by city boards and commissions with interested parties or members of the public outside a public meeting - but does not prohibit ex parte communications with the applicant or his/her agents. (Note: the definition of interested parties in the draft does not include the applicant).

**Nonconforming Uses and Structures**

**Section 23-2G-1020(A)(1)(a); (B)(1); and (C)(1).** Staff response partially addressed Draft 1 comments, but raised additional questions:

(1) Approximately how many uses or structures that are lawful under current code are estimated to become nonconforming under CodeNEXT?

(2) If a currently lawful structure becomes nonconforming under CodeNEXT, how does this affect a homeowner’s ability to pull city permits for needed work on the structure, for example, when an HVAC system needs replacing?

(3) Will there be any difference in the permit process for the owner of a conforming structure vs. one that has been made nonconforming under CodeNEXT?

(4) What level of remodel/addition/maintenance will trigger a requirement for a homeowner to bring his or her structure into compliance with CodeNEXT if it was a lawful structure at the time of adopted?

(5) To avoid confusion, should language be added to specifically outline a permit process for structures that were lawful before the adoption of CodeNext?

Background: The 1984 Code revision contained a “safe harbor” provision to ensure the new code did not inadvertently make existing lawful uses and structures nonconforming, thus placing an undue burden on the owner. Staff recommends eliminating this so-called “safe harbor” approach in CodeNEXT “because it adds unneeded complexity to the review process and may have the effect of exempting certain properties from rules limiting the expansion or modification of uses and structures that don’t comply with regulations. Additionally, because CodeNEXT generally allows nonconformities to continue and be maintained, a “safe harbor” provision is not necessary to protect landowner rights.” (Legal & Administrative Overview, October 11, 2017).

Current Code Language:

§ 25-2-941 - NONCONFORMING USE DEFINED.

NONCONFORMING USE means a land use that does not conform to current use regulations, but did conform to the use regulations in effect at the time the use was established. Source: Section 13-2-331; Ord. 990225-70; Ord. 031211-11

§ 25-2-942 - USES CONFORMING ON MARCH 1, 1984.The use of a building, structure, or property that conformed with the zoning regulations in effect on March 1, 1984 is a conforming use notwithstanding the requirements of this chapter. Source: Section 13-2-340; Ord. 990225-70; Ord. 031211-11

**Sections 23-2G-1050(C).** Please reinstate current code language, omitted in the draft,

which allows only one modification to height and setback nonconformances. Absent these provisions, one could continue adding iteratively to nonconformances virtually in perpetuity.

**Section 23-2G-1070(B).** Please reinstate current code language, omitted in the draft, which requires a 12-month window for rebuilding a nonconforming use destroyed by fire or other cause beyond the owner’s control and prohibits expansion of the gross floor area or interior volume.

**Neighborhood Plans**

**Section 23-2E-2030(F)(1)(c)(i).** Please reinstate current code language, inexplicably reversed in the draft, which limits Neighborhood Plan amendment applications to specific month each year for individual property owners unless they have the support of the Contact Team, and allows to file amendments at any time. Note: current code allows the director to provide exemption for individual property owners for hardship or clerical errors, as does the current draft.

For reference, see current Code v. draft language below:

Current code Section 25-1-804(B)(3): “For an application regarding an individual property….an application may be filed only during the month established by the director under Section 25-1-811 unless: (a) the application is submitted by a neighborhood plan contact team for the planning area in which the property is located; or (b) a neighborhood plan contact team for the planning area in which the property is located has given written approval of the application.”

https://library.municode.com/TX/Austin/codes/code\_of\_ordinances?nodeId=TIT25LADE\_CH25-1GEREPR

Draft code: “An application may be filed only during the moth established by the responsible director…if (i) The application is submitted by a neighborhood plan contact team for the planning area in which the property is located.”

**23-1B-4010(E)**. Strengthen city-issued Contact Team bylaws template and remove provision allowing amendments by individual Contact Teams. This section allows Neighborhood Plan Contact Teams to amend their own bylaws, but if bylaws “shall be consistent with the standardized bylaws template” as provided, why allow individual contact teams to change them? The original bylaws template the city provided was generally weak and omitted crucial sections regarding basic functions, such as the authority to place items on the agenda, voting process, quorum, etc., which led to a number of problems cited by the city auditor. The revised template is slightly improved, but could still benefit from additional work.

**23-2M-1030.** Add definition of “Neighborhood Plan,” which is currently missing from General Terms and Phrases. Neighborhood Plans have been the chief planning tool used by the city for roughly two decades, and are referenced in the draft text in various places yet are not defined.

**Board of Adjustment Waivers and Exceptions**

**Division 23-2F-1 and Division 23-4B-4, Additional Board of Adjustment Authority to Grant Waivers to the Code.**

Staff response dated 10/11/17 states that “…23-2F does not significantly change existing procedures established in the Land Development Code.” While technically correct that 23-2F itself does not change procedures, it adds new language stating: “Specific requirements for different categories of variances and special exceptions are established elsewhere throughout this Title.” These other sections *do* significantly change existing procedures.

Generally speaking, what is the justification for these creating the below new draft sections, which significantly broaden the BoA’s authority? See specific questions below.

**23-4B-4030 Special Exception Type 1 by the Board of Adjustment.**

Please providethe rationale for providing this expanded authority for the BoA to waive any part of the Land Development Code when a conditional use permit has been granted.

This special exception gives BoA the authority to grant exceptions to any zoning regulation when a conditional use permit has been granted. The purported purpose is to “facilitate context-sensitive development by providing flexibility” in permitting with approval criteria simply that the exception “will enhance the quality of the proposed use and increase its compatibility with adjoining developments and neighborhoods.”

**23-4B-4040 Special Exception Type 2 by the Board of Adjustment.**

This special exception covers the existing special exception for longstanding (25 years) setback nonconformances under 25-2-276 that the Council enacted in 2011. However, it significantly expands the authority by: creating new exceptions for height and building cover as well as setbacks; creating new exceptions for much more recent structures (10-year-old structures, down from the current 25-year-old threshold); and removing the following limit in current code:

“25-2-476(C) A special exception granted under this section:

(1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land. “

Questions:

1. How many properties will this exception potentially affect?
2. How was it determined that this broader authority to circumvent the code was advisable, particularly with regard to height and building cover?
3. Why was the age of the structure reduced from 25 to 10 years?

**23-4B-4050 Special Exception Type 3 by the Board of Adjustment.**

This special exception gives BoA the authority to grant exceptions to permit an existing use that was approved by the City in error. While the required findings attempt to put constraints against misuse and abuse of this section, there remains the potential for the surrounding developments and neighborhoods to suffer significantly from inappropriate uses that the City is obliged by code to protect them from.

Question: How many ‘errors’ has the City review process made in the past 5 years, and what types of errors have those been?

**Additional Authority Granted to Staff**

Please clarify to the legality of transferring authority to staff in the following draft sections and address underlined comments/questions.

**23-2F-2030 Minor Adjustments**. Please remove proposed language, which would allow administrative approval of a 10% increase in certain entitlements (height, building coverage and setback) if errors are made ‘inadvertently’ in construction. There is a major concern of abuse of this section, allowing construction “errors” to increase entitlements across the city. As with 23-2F-2020, it should be explored whether this is even allowed under state law. Staff response did not address legality under state law, or the size of the proposed percentage. Please note the BoA itself has stated that any proposed adjustment should be limited to 2%, not 10%.

**23-2G-2030 Nonconforming Parking.** Please ensure that nonconforming parking requirements will be phased out if a nonconforming use is terminated.

This section allows the Director to allow for continued nonconformance with parking requirements after the nonconforming use is terminated. The Director’s decision is based upon whether compliance with parking requirements is “feasible.” This is problematic, as it allows a difficult parking situation to continue rather than be phased out like other nonconformances. In addition, this could allow for waivers of large increases in parking requirements, significantly impacting surrounding areas and potentially creating public safety issues.

***23-2G-1050(B)(4) Continuation of Nonconformity, Conversion of Nonconforming Uses in Residential Buildings.*** Please reinstate the current amortization provisions for outdoor uses and update triggering value amounts for structures as appropriate.

This section allows the Director to approve the change from one nonconforming use to another if it is less intense than the existing nonconforming use. While this could be a benefit to nearby properties of a problematic nonconforming use it sets the stage for a longer time that the use remains nonconforming if the original is no longer beneficial to the owner. In addition, the decision of what is a less intense nonconforming use is a subjective decision*.*

Staff response, quoted here, does not fully address the issues raised in Draft 1 comments: “It was suggested recently that CodeNEXT may have eliminated amortization provisions that require terminating nonconforming uses after a specified period of time. However, the only amortization date established in current Code is limited to certain outdoor uses and to structures valued at a lower amount than would likely apply today.”

**Environmental and Vested Rights Provisions**

**Various Sections from 23-2B-1050 through 23-2K-3030**

When will answers to questions submitted about these sections during Draft 1 be publicly available? Several changes to Vested Rights and other sections that impact environmentally sensitive areas have been included in the draft. The rewrite of the Vested Rights code, in particular, was a complex process with several committed stakeholders working through the issues with the staff and Council. This section has potential impacts on the environment and other quality of life issues for residents, but it was not carried over in exact detail from the current code and many questions submitted during the first draft and have not yet been answered. While some of these appear to be small changes, the impacts could be significant.

Specific Comments By Section:

**23-2B-1050.** Please reinstate current code notice requirement (Section 25-1-87). The draft section allows an automatic extension of 1-year expiration period with no notice in a case where staff review is not complete, but omits the notice requirement to the public which is included in the current code (25-1-87), i.e. a requirement for notice in this or any other case of extension. (See also 23-2C-1010(B).)

**23-2F-2040:** Please remove new proposed draft language that would allow flood lighting of facades. The draft Alternative Equivalent Compliance allows for adjustments from design requirements and in particular allows uniform flood lighting of facades. This introduces dark skies concerns.

**23-2L-2: General Development Agreements.** Please specify clear criteria for approval of this mechanism and specify that any Development Agreement that conflicts with SOS regulations for the property requires a ¾ majority vote of the Council for approval. This section creates a new mechanism for Council to modify regulations and create agreements (including for a land use plan) on a piece of property in the ETJ. However, draft language does not specify criteria, instead relying on the vague phrase “whether the terms further the goals of the Comp Plan,” nor does it clearly state special voting requirements applicable to regulations conflicting with SOS.

**23-2K-1040(B).** . Please reinstate original language by removing comma after ‘settlement agreement’ to ensure clarity. Current code language:

“…with a project for which vested rights have been conclusively established by a court order, or by a settlement agreement or project consent agreement approved by the city council“ (25-1-534(B))

Draft code language:

“…with a project for which vested rights have been conclusively established by a court order, settlement agreement, or Project Consent Agreement approved by the Council.”

Addition of comma in draft language may be read as allowing for settlement agreements not approved by the Council.

**23-2K-3020(C)(2).** This section omits the current language: “except that the project expiration period shall be deemed to run from the date of the fair notice application.” Why has this language been dropped?

**23-2K-3030(B)(1)(b).** This section has dropped reference to Section 25-5-2 for exemption from Site Plans. See 3030(B)(2)(b), which does have that reference included as 23-6A-2010. Why was this reference dropped?

**23-2K-3030(B)(2)(b).** This section references 23-6A-2010 (Exemptions from Site Plan Review), which in turn drops many of the current requirements in 25-5-2. Please see 23-6A-2010 entry further on for details.

**23-2K-3030(C)(2)(b).** This refers to “Austin Comprehensive Plan” but General Terms and Phrases uses the term “Comprehensive Plan” as does the existing code. Suggest using Comprehensive Plan throughout for consistency.

**Additional Line-By-Line Questions and Comments**

**23-1A-2030(B).** Limits on Authority section needs to explicitly apply to all city employees whether a “city official” or not (not all city employees are city officials as defined by Section 2-7-71). Recommend replacing current language with: No City employee or official, including all city employees, members of the city council or an appointed board or commission shall have…etc. Note that this language will need to be repeated throughout this subsection.

**23-1A-3020 (A)(2)(a).** Amendment to “text” of the code is a legislative action, mentioned here and elsewhere. Amendments to other items in the code (e.g., heading, caption, figure, illustration, table) should also be addressed legislatively, especially tables which may include regulations that don’t exist elsewhere. Please revise to specify that amendments apply to all headings, captions, figures, tables, illustrations and other code elements that provide regulation.

**23-1A-3020(A)(2)(b).**  Inconsistent language. In (A)(2)(b), the initial zoning under the new code is referred to here as “adopting the City’s official zoning map.” Elsewhere, it’s referred to as the “original” zoning (e.g., Table 23-1B-3020(A) and 23-2A-1030(A)). Given that there have been recent questions about the allowable procedures for initial zonings, please be consistent and intentional with this language.

**23-1B-2010(A).** “This Division establishes the sovereign boards and commissions…” but in fact the City Code section 2-1-3 does this: “Each board described in Article 2 (Boards) is established or continued in existence…”.

Need to align which part of the code “establishes” the boards and commissions. See also 23-1B-2010(B) which references “establishing” the boards.

Suggest replacing with: “This Division applies to the sovereign boards and commissions established under Austin City Code Section 2-1-3 that are required by this Title to take final action on behalf of the City and make recommendations to the City Council.”

**Article 23-2.** Please add valid petition process for rezonings to Article 23-2.While valid petition rights in rezonings are established by state law, it would be helpful to include a provision in this section setting out definitions, applicability, procedures, etc., similar to what the draft provides for Vested Rights Petitions in 23-K-2.

**23-2B-1010 (B).** Please reinstate current code language that clearly requires application requirements to be established by administrative rule. This draft section adds option for director to establish application requirements by a “policy memo” rather requiring this to be established by rule as in current code, but using a policy memo does not allow for public feedback. Draft 2 requires director to post rules or policy memos on city website, but still doesn’t require public feedback before finalizing them.

**23-2C-2020(B).** This section could use some clean up. It defines several criteria that make one an “interested party” but then in 23-2C-3020, identifies how to mail to some of that explicit list (which is, per -2020(B), interested parties) as well as ‘(6) an interested party.’ Is there another way to be an interested party to qualify under 23-2C-30120(6) but not be listed in -2020(B)? Draft 2 has added a phrase to this section, also changed 23-2C-3020 to “Registered Parties.” Staff response is somewhat helpful, and notes further changes may be forthcoming.

**23-2C-3020.** Please clarify that requirement for mailed notice “deposited in a depository of the US Post Office” means the actual post office and not the city mailroom.

**23-2E-2.** Please add language to include Small Area Plans. This section specifically provides for Neighborhood Plan amendments but not amendments for other small area plans, which can also have legislative amendments.

**23-2E-2030.** Where is the new section governing the creation and responsibilities of Neighborhood Plans and Neighborhood Plan Contact Teams (current code, Art. 16, Sections 25-1-805)?

**23-2G-1050(B)(5).** Please require traditional public process for conversion to CUP and clarify status of conversion. This draft section gives rights to a conditional use in a zone without the usual, public process for conditional use. In addition, as written, it is not clear whether the result would be considered conforming use or a nonconforming use. If it is considered conforming, then this should be an abandonment of a nonconforming use; if it’s nonconforming, then potentially under 23-2F-1060(B) the termination hasn’t occurred, allowing a longer lifespan for the nonconforming use. This section also states a nonconforming use can be converted to an allowed use. Wouldn’t that generally be the case and, if so, is this clause needed?

**23-2G-2050 Nonconforming Short-Term Rental Use.** Please consider simpler phrasing that is not open to misinterpretation, such as: “All Type 2 STRs shall be terminated by April 1, 2022, and shall not be eligible for any type of appeal or continuing use under this Division.”

This subsection, which is new in Draft 2, states that “a person shall discontinue a nonconforming Type 2 Short-Term Rental use that is regulated under Subsection 23-4E6330(B) not later than the earlier of (1) April 1, 2022; or (2) If the license for a short-term rental use is not renewed, the date on which the existing license expires.” This phrasing is potentially problematic for two reasons: (1) By establishing Type 2 Short-Term Rentals as a nonconforming use, you potentially open the door to appeals to continue that use; (2) Type 2 STRs are not currently a nonconforming use so requiring a person to “discontinue a nonconforming Type 2 Short-Term Rental,” you open the door to the argument that only nonconforming Type 2s must discontinue use and that those that were conforming may continue to operate. Alternatively, please consider removing this subsection from the Nonconforming Article and keeping it, instead, in the section on STRs (23-4E-6330 where it makes more sense and is less likely to give rise to thorny legal contortions.

**23-2I-1030.** Please reinstate 20 day appeal window for board or commission decisions.

In Draft 1, deadlines for appeals of administrative decisions (25-1-182) have been shortened from 20 days after decision to 14 or 7 days depending on whether notice of decision is required. This greatly reduces the window for affected residents to appeal decisions that may significantly affect them – this time should not be shortened. Draft 2 reinstated the 20 day appeal window for administrative decisions, but still shortens deadline to file an appeal for a board or commission decision from 20 days to 14, a significant reduction.

**23-2I-2010(A)(7).** Please provide link or citation to ordinance establishing Appeal fee per this section.

**23-2I-2030**. Please reinstate current requirement that notifies and invites all interested parties to a meeting to resolve an appeal to ensure a fair and open process. The draft changes the meeting to resolve issues from a requirement for staff to host one if requested, and include all parties, to ‘may’ host one if requested and can meet separately. Staff response states: “In staff’s experience, parties to an appeal often have intractable positions. Staff cannot force parties to meet and the Code should not impose that obligation.” While it is true that staff cannot force parties to meet, current code language does not impose this obligation. To avoid any perception of favoritism, all interested parties should be invited to any meeting with staff regarding an appeal of an administrative decision. Please reinstate current code Section 30-1-227, which reads: “Meeting to Resolve Issues: If requested by an interested party, the single office shall schedule a meeting to discuss and attempt to resolve the issues raised by an appeal of an administrative decision. The single office shall notify all interested parties of a meeting scheduled under this section. All interested parties may attend the meeting.”

**23-2I-3020**. Please reinstate current code Section 25-1-189(C) regarding appeals Technical Codes or explain why it was dropped.

**23-2I-3040(A).** Please revise to provide case file for an appeal to all board members hearing the appeal. This draft provisions states that the case file for an appeal is only provided to the chair of the board that will hear the appeal, but all board members will need this information and chair may not legally communicate with them outside a public meeting.

**23-2I-3050(E).** Please reinstate right to by the appellant (Section 25-1-191(B)). Draft would allow this only at the discretion of the chair.

**23-2I-4020**. Please ensure this provision, which increased burden of proof for appellant/city, is reviewed by the Building and Standards Commission. This provision increases the burden of proof on appellant/city for enforcement. Current code section 25-1-190 reads: “The appellant must establish that the decision being appealed is contrary to applicable law or regulations.” This provision adds the phrase “by clear and convincing evidence” in subsections (A) and (B), thus creating a new higher burden of proof.

**23-2L-1050(A)(2.)** Please reinstate mailed notice provisions for Areawide Interlocal agreements. This section removes the currently required mailed notice to organizations for Areawide Interlocal agreements, instead requiring only published notice. Current code (25-1-903(B)(2)) requires mailed notice to registered organizations as well as published notice (25-1-132(C)) on 11/16 day timeline. Council added this provision in 2008-2009 because interlocal agreements had been processed behind the scenes with no input (20081208-070) and it was very problematic.

**23-2M: Definitions and Measurements**

**23-2M, Generally**. For ease of use, please consider combining these sections with all terms simply listed alphabetically. It is confusing to have definitions in this Article divided into “General Terms and Phrases” and “Land Uses,” forcing the reader to guess where to look for a term. For instance, the definitions of Agricultural Operations, Civic Open Spaces, Multi-Family Redevelopment and other terms commonly associated with Land Uses do not appear in the Land Use definition section, but rather General Terms and Phrases. Similarly, nearly all the terms that appear in General Terms and Phrases have at least some connection to Land Uses by virtue of the fact that they appear in the Land Development Code. Please considering consolidating these into one section.

**23-2M-1030**. **Affordable Housing**. p. 2. Please remove draft definition and replace with: “See Article 23-3E: Affordable Housing.” New in Draft 2, this defines the term “affordable housing” as: “Housing that costs no more than 30 percent of a household’s monthly income, as defined by the U.S. Department of Housing and Urban Development.” While technically correct, in context of the Land Development Code, this definition would: (a) make virtually all wealthy areas of the city technically “affordable" overnight (Michael Dell’s house is no doubt affordable to him); and (b) make these wealthy areas, including individual properties, eligible for special entitlements related to “affordable housing” conferred elsewhere in the draft (parking reductions, height increases, impervious cover increases, etc.). “Affordable housing” has a more specialized meaning in context of the Land Development Code and is already more specifically defined within Article 23-3E: Affordable Housing, which stipulates required Median Family Income levels for various benefits. For these reasons, the definition should simply reference that Article

**23-2M-1030. Agricultural Operations.** Please ensure this is clearly distinguished from “Community Agriculture,” which is defined in the Land Use section and which is allowed in residential zones R2A-R2E. The definition of “Agricultural Operations” explicitly includes “raising or keeping of livestock or poultry.” Meanwhile, “Animal Production” (also defined in Land Use section) is not mentioned in the use charts for residential zoning, either as allowed or disallowed, but the Parking Table 23-4D-2040A does list “Animal Production” (no parking required), thus implying that it may be an allowed use. Further, the “Community Agriculture” definition specifically references “raising and harvesting food,” which could certainly be interpreted as allowing meat production. Obviously, large animal raising operations are not compatible with residential zoning so please clarify this.

**23-2M-1030.** **Applicant.** **Recommendation:** This should be expanded to add the following italicized phrase: “A person, business entity or agent who formally submits a development application with the City.

**23-2M-1030.** **Carport.** Please reinstate current code language, which specifies that a carport must be open on two or more sides.

**23-2M-1030. Civic Open Spaces.** Why is this definition in Terms and not in Land Use?

**23-2M-1030. Community Benefits.** Please replace referenced “Gatekeeper Requirements of the Downtown Density Bonus Program” with “Application Requirements” or a more generic term. The term “Gatekeeper Requirements” does not appear in the Downtown Density Bonus program, while “Application Requirements” does.

**23-2M-1030**. **Efficiency Unit.** This defines “efficiency unit” as containing “not more than 400 square feet of floor area, and not having a bedroom or sleeping area separate from the principal living area.” Questions:

(1)Austin has many existing and new efficiencies larger than 400 SF so how will they be defined?

(2) Why does this definition appear here instead of the Land Use definitions section?

(3) In fact, why is a definition of “efficiency unit” needed at all? I have yet to find any references to this term in the Residential Multi-Unit Zones or in the Affordable Housing section.

**23-2M-1030.** MISSING DEFINITION. **Group Residential**. “Group Residential” appears on the Use charts in the zoning districts in 24-4D, but is not defined here.

**23-2M-1030.** **Height**. Why does this provide two ways to measure height and why isn’t this in the Measurements section?

**23-2M-1030.** **High Opportunity Area**, page 19.Please strengthen the definition of ‘high opportunity areas’ to require an area to provide **at least three or more**of the listed conditions to be identified as ‘high opportunity’ or, alternatively, reference the Kirwan Opportunity Map directly.

Draft definition of ‘high opportunity area’ allows an area to qualify by meeting just one of eight conditions, including the embarrassingly low bar of “minimal environmental hazards. This matters because ‘high opportunity areas,’ are specifically referenced as criteria for decisions involving off-site production and land dedications in lieu of building on-site affordable units in the Affordability Bonus section. See CodeNext 23-3E-1060(D)(3) and (D)(5). Even if it were legal to build new housing in an environmentally hazardous area, few would consider ‘not being poisoned’ a high opportunity.

**23-2M-1030. Multi-Family Redevelopment.** INCORRECT TERM**.** Please replace with Multi-Unit Redevelopment. CodeNext draft now uses Multi-Unit rather than Multi-Family.

**23-2M-1030**. **Open Zone.** Please remove if no longer relevant. This term was used in Draft 1, but I believe consultants stated it has been removed in Draft 2, and I haven’t seen any mentions of it so far in the current draft.

**23-2M-1030.** MISSING DEFINITION: **Valid Petition.** This does not appear under P for Petition, or under the V for Valid.

**23-2M-1030**. MISSING DEFINITIONS/INCORRECT TERMS. Please provide definitions for the following terms, which appear on the Use charts in 23-4D, but are not defined here: **Recreation: Indoor; Outdoor, Formal; Outdoor, Informal; Outdoor, Natural.** Please delete definitions for Recreation: Community, Nonprofit; Indoor, For Profit; Outdoor, For Profit, unless they appear elsewhere in the code (they do not appear on the Use charts in 23-4D).

**23-2M-1030**. MISSING DEFINITION: **Small Area Plan.** This is a major city planning tool, which warrants a definition.

**23-2M-1030.** MISSING DEFINITION: **Stepback**. This term is used in throughout 23-4D so needs to be defined.

**23-2M-1030.** MISSING DEFINITION: **Urban Core** with a link to map. ‘Urban Core’ is used throughout Draft 2 to describe geographical areas where certain zoning requirements apply so this needs a clear definition, ideally with live link to map.

**23-2M-2 Land Uses**

**23-2M-2030.** Why has **Convalescent Services** been dropped as a use? In the current code, it’s classified as a Civic Use, but is not listed in draft Land Uses. Current code section 25-3-83(A)(6)(e) requires only one on-site parking space for each four beds in Convalescent Services. See current Civic Use table here:

https://www.austintexas.gov/sites/default/files/files/Planning/Zoning/permitted\_use\_chart.pdf

**23-2M-2030.** Why has **Congregate Living** been dropped as a use? In the current code, it’s classified as a Civic Use, but is not listed in draft Land Uses. Current code section 25-3-83(A)(6)(e) requires only one on-site parking space for each four beds in Congregate Living, a provision Foundation Communities successfully used for its Bluebonnet Studios project on South Lamar. It will be important to preserve this use and its attendant parking reductions for future affordable housing projects. See current Civic Use table here: https://www.austintexas.gov/sites/default/files/files/Planning/Zoning/permitted\_use\_chart.pdf

**23-2M-2030. Multi-Family.** INCORRECT TERM.This should be changed to Multi-Unit to match new terminology in 23-4D, which uses Multi-Unit, not Multi-Family.

**23-2M-2030.** MISSING DEFINITIONS/INCORRECT TERMS: Please define: **Outdoor, Formal; Outdoor, Informal; Outdoor, Natural.** These terms are all used in the Zone Use Tables, but are undefined here. Instead definitions are provided for Recreation, Community Non-Profit; Indoor, For Profit; Outdoor, For Profit, which do not appear in the Use Tables. I’ve noted this in the general Terms section also, as I’m not sure which section is most appropriate for these definitions.

**Typos and Formatting Errors**

**23-2G-1070 (B)(1)**. Unexplained freestanding ‘s’ in this phrase; it appears words were dropped.

**23-2K-3020(C).** This section uses the parenthetical “(new project)” phrase, whereas that phrase has been dropped elsewhere; please make consistent.

**23-2K-2050(B).** For consistency, the subsections listed here should be numbered, (rather than lettered) in parentheses. Subsections following (B) should be (1), (2), (3), etc., not (a)(b)(c).

**23-1B-2030(B)(1)(c).** Typo: “old” should be “Old”.

**23-2M-1030. Building, Principal.** Definition misspells ‘principal’ as ‘principle.’