

Crafting of Language in CodeNext
Sections 23-1 & 23-2
Assessments and Recommendations
Draft *Submitted by a community member*

Clear language is a key to a successful land development code. Ambiguities lead to inefficiencies and unintended consequences. Sections of CodeNext that call for improved wording are listed below.

23-1A-3020 (A)(2)(a) It is mentioned here and elsewhere that an amendment to "text" of the code is a legislative action.

Recommendation: 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.

23-1A-3020(A)(2)(b) 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., 23-1B-3020(A) and 23-2A-1030(A)). Given that there have been recent questions about the allowable procedures for initial zonings, it would make sense to be consistent and intentional with the language.

Recommendation: Adjust language for consistency.

23-1B-2010(A) "This Division *establishes* the sovereign boards and commissions..." (emphasis added) but in fact the City Code 2-1-3 does so: "Each board described in Article 2 (Boards) is established or continued in existence...". See also 23-1B-2010(B) which references "establishing" the boards.

Recommendation: Align which part of the code "establishes" the boards and commissions.

23-1B-2-2020(E)(1) A meeting may be called if "requested by the Board."

Recommendation: Include precise language as to what it means for a meeting to be "requested by the Board."

23-2A-1030.A Here and elsewhere explicit department names are referenced and in fact at least one is already out of date (23-2M-1030 mentions "Watershed Protection and Development Review Department").

Recommendation: Develop a mechanism to reference city departments whose names may change without created outdated code.

23-2C-2020(B) This section defines several criteria that make one an "interested party" but then 23-2C-3020 identifies how to mail to some in that explicit list (which is, per 2020(B), interested parties) as well as '(6) an interested party.' This suggests that there is another way to be an interested party to qualify under (6) but not be listed in 2020. The list also omits how to mail to the "person who occupies a primary residence within 500 feet."

Recommendation: Clarify the text.

23-2E-2 This section accounts for Neighborhood Plan amendments but not amendments for other small area plans. They also can have legislative amendments.

Recommendation: Address legislative amendments to small area plans.

23-2G The organization of this section is confusing and appears to have errors. Nonconforming uses, structures and lots are considered as the 3 types of nonconformances under Section 1020, but then

Section 1030 only discusses determination of nonconformance of uses and structures, but not lots. Other problems include:

23-2G-2020 Is mis-titled as "Order of Process"; is about noncomplying lots.

23-2G-2040 Is mis-titled as "Termination of Nonconforming Use"; it is about bulkheads etc.

Recommendation: Clean up the language.

23-2G-1050(B)(5) This section states that a "nonconforming use may be converted to an allowed use or a conditional use for the zone in which the property is located." This could be misconstrued to grant such a conditional use to a nonconforming use without the usual process for a conditional use.

Recommendation: Clarify language to make it clear that a conditional use here is subject to all requirements for a conditional use under the Title.

23-2I-3040(A) This states that the case file for an appeal is only provided to the chair of the board that will hear the appeal. All board members will need this information for their deliberation.

Recommendation: Adjust the language to state that the case file for an appeal will be made available to all members of a board that will hear the appeal.

23-2M-1030 General Terms and Phrases. Many of these definitions need adjustment for clarity and appropriateness. Several are poorly crafted. In addition there is a systemic problem that is evident. Definitions are scattered throughout the current code and they have all been moved to this section which certainly has a benefit. However many of the definitions were context-sensitive, e.g., the term "Removal" is under the tree section of the code, and refers explicitly to removing a tree. Now that the definition has been moved verbatim to Section 2M including its reference to trees, any use of the word "Removal" in CodeNext must refer to removal of a tree. But the term "removal" is also used in reference to other objects, e.g. structures in 23-7.

Recommendation: Create a working group to carefully review each of the definitions in this section.