**CodeNext Draft 2**

**Compatibility Standards**

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While somewhat improved over the first draft, Draft 2 still removes crucial compatibility provisions intended to ameliorate noise, odors and operational impacts for residents living near high intensity developments. The draft creates unnecessarily complex and inequitable triggers for stepbacks/setbacks that may result in disproportionate impacts for residents depending on site variables, while its recommended base heights fail to provide sufficient leverage for community benefits such as affordable housing or infrastructure improvements. Nor does the current draft adequately address incompatible uses, context sensitive parking reductions, or indicate how F25 properties will be handled under new proposed compatibility provisions.

Recommendations are organized as follows: (1) missing compatibility standards; (2) context sensitive parking reductions; (3) incompatible uses; (4) height and setbacks/stepbacks; and (5) former Chapter 25. For comparison, please see current compatibility standards in Article 10 at the below link, or other current code sections as referenced.

<https://www.municode.com/library/tx/austin/codes/land_development_code?nodeId=TIT25LADE_CH25-2ZO_SUBCHAPTER_CUSDERE_ART10COST>

**1. Reinstate the following provisions of Article 10, Compatibility Standards, Section 25-2-1067, which have been removed in the current draft.**

**a. Noise levels of mechanical equipment.** Reinstate current code language: “The noise level of mechanical equipment may not exceed 70 db at the property line.”

Note: Several noise prohibitions appear in various places throughout the draft (Mobile food Sales, Mobile Retail, Late Night Restaurant), but there is no uniform protection from mechanical equipment noise as the current compatibility standards require.

**b. Placement of refuse receptacles/dumpsters**. Reinstate current code language: “A permanently placed refuse receptacle, including a dumpster, may not be located 20 feet or less from property: (1) in an SF-5 or more restrictive zoning district; or (2) on which a use permitted in an SF-5 or more restrictive zoning district is located….The location of and access to a permanently placed refuse receptacle, including a dumpster, must comply with guidelines published by the City. The Watershed Protection and Development Review Department shall review and must approve the location of and access to each refuse receptacle on a property.” Note: The draft requires dumpster screening, but removes the above requirements.

**c. Use of reflective surfaces.** Reinstate current code language: **“**A highly reflective surface, including reflective glass and a reflective metal roof with a pitch that exceeds a run of seven to a rise of 12, may not be used, unless the reflective surface is a solar panel or copper or painted metal roof.”

**d. Distance from intensive recreational uses**. Please reinstate current code language: “An intensive recreational use, excluding a multi-use trail and including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining property: (1) in an SF-5 or more restrictive zoning district; or (2) on which a use permitted in an SF-5 or more restrictive zoning district is located.” Note: The draft moved this provision to Section 23-4E-6310(B), which would limit its application to only those recreational uses owned by public schools. This provision needs to apply to all intensive recreational uses, no matter the owner, as it does in current code.

**e. Driveway placement.** Reinstate current code language and chart: “Unless a parking area or driveway is on a site that is less than 125 feet wide, a parking area or driveway may not be constructed 25 feet or less from a lot that is: (1) in an SF-5 or more restrictive zoning district; or (2) on which a use permitted in an SF-5 or more restrictive zoning district is located.” Current code also provides a detailed width and setback chart for parking/driveway construction for lots less than 125 wide, which I have been unable to find in Draft 2.

Note: Draft 2, Section 23-4E-3020(E) does state that “a parking and loading area, circulation area or queue line” constructed or substantially reconstructed after January 1, 1985 must comply with design standards in the Transportation Criteria Manual, but omits any mention of driveways or driveway placement near residential areas.

**f. Lighting.** Please reinstate current code language that a light source “is not directly visible from adjacent property” in an urban family residence (SF5) or more restrictive zoning district. Note: Draft 2, Section 24-3E-2030(B) states that full shielding and full cut-off is required for exterior lighting, but omits this crucial phrase. Instead, this phrase has been moved to 23-4E-6310(B), which limits its application to properties owned by public schools, while current compatibility standards provide a uniform application, regardless of owner.

In addition, Section 24-3E-2030(B) also appears to conflict with a new provision added to Section 23-2F-2040, Alternative Equivalent Compliance, which would allow uniform floodlighting of building facades, which introduces dark skies concerns. As previously noted in comments on the Administration and Procedures Section, please remove new proposed language 23-2F-2040 that would allow flood lighting of facades.

**2. Ensure proposed parking reductions are context sensitive to avoid dangerous conditions or other unintended consequences.**

At a minimum, proposed parking reductions should include consideration of:

• Street width;

• Sidewalk availability;

• Current parking conditions/congestion;

• Proximity to public schools or other uses serving vulnerable populations such as day care centers;

• Impacts on trash/recycling pick up (will residents be required to move cars on pickup days and how will this impact routing of trash/recycling trucks?);

• Impact on designated bike lanes;

• Parking associated with proposed new uses.

**3. Better address potentially incompatible uses such as restaurants, bars/nightclubs, micro-breweries and adult entertainment near residential areas.**

a. Reinstate current code provision requiring a parking area for a bar or nightclub to be separated from residential uses by 200’.Current code Section 25-5-146(B) requires that a parking area for cocktail lounge or late hours restaurant must be separated from residential uses of SF-6 or less intensive by 200’ as a condition of approval. Draft 2 mirrors this language where a CUP is required for bar/nightclub use (Section 23-4B-1020(F)(2)), but removes the requirement where the use is allowed by-right (MS3A and MS3B, Table 23-4D-5030(A)). Some properties along corridors are currently proposed for MS3 zoning, which allows bar/nightclub use by right even where these properties adjoin residential zoning. The current draft would provide no parking buffer to protect nearby residents from loud patrons, slamming car doors, outdoor urination or other activities commonly witnessed in bar parking lots.

b. Remove MUP for Bars/Nightclubs, Micro-Brewery/Micro-Distillery/Winery and replace with CUP near residential areas.

c. Clarify “Adult Entertainment” requirements in Use Tables and do not allow in Mixed Use or other residential zoning**.** Draft Table 23-4D-4030(B) currently lists Adult Entertainment in MU4B and MU5A as “P/CUP.” It’s also listed this way in Table 23-4D-6030(A) for Commercial Centers and the Downtown Core, both of which also include residential uses. (1) Please clarify whether P/CUP means Adult Entertainment is a permitted use or requires a CUP. (2) Generally speaking, I believe the Adult Entertainment use requires more thought in its application. As a woman, I would feel uncomfortable living in a mixed-use building with an adult entertainment use on-site and there is no way I’d ever contemplate raising my kids there. If we’re serious about getting more families into multi-unit housing, this is a huge step backwards. The Adult Entertainment use would seem to more appropriately limited to non-residential areas, such as the Commercial/Industrial zones.

d. Consider the impacts of by-right restaurant use in all commercial zoning regardless of location, and reinstate an intermediate zoning option for less impactful commercial uses in residential areas where restaurants use may not be appropriate.Current code allows generally compatible commercial uses in residential areas through LO (Limited Office) or NO (Neighborhood Office) zoning categories. The draft removes these categories and replaces them with MS and MU, both of which allow restaurants as a by-right use. While restaurants may be desirable in many places, they are not a compatible use immediately adjacent to house-scale residential use due to their unique operational demands. These include large delivery trucks, dumping of bottles and trash, odors from commercial-size food dumpsters and associated vermin, frequent dumpster pickup, and the installation and emptying of legally required grease traps (large pre-cast concrete tank with a liquid holding capacity from 250 to 5,000 gallons, which must be emptied by a licensed hauler at least once every 3 months or more frequently if needed). The draft does provide for Live/Work and Home Occupation, but unlike NO or LO, these do not allow small freestanding offices unattached to a residential use to serve community needs in a residential area, as does the current code. For these reasons, it seems an intermediate zoning option would be beneficial.

**4. Better calibrate height and setbacks/stepbacks to ensure compatibility and provide greater leverage for community benefits.**

a. Use a set distance measured in feet from property line to trigger compatibility for stepbacks and setbacks, rather than proposed complicated and inequitable triggers based on adjacency and alley width.While Draft 2 offers some improvements over Draft 1, the current wording may still result in inequitable application, with some residents facing inappropriately tall structures due to variables in location.

b. Maintain corridor heights at no more than 60’ to match existing entitlements, with density bonus tradeoffs (affordable units, infrastructure improvements, etc.) required beyond 60’ in height.

c. Provide a single unified standard for Rear and Side setbacks to provide equitable protection for nearby residents**.**

d. Support ZAP’s maximum height/setback/stepback recommendations.

**5. Indicate how F25 areas will interface with new proposed compatibility standards.**

Staff has stated that roughly a quarter of the city will remain under current Title 25 zoning (now mapped as F25), yet the draft triggers height and setback/stepback only by proximity to “Residential House Scale” or “Residential Multi-Unit” zoning categories, neither of which exist in F25. Please explain how F25 properties will interface with new proposed compatibility provisions.