

CodeNEXT Version 3: Neighborhood Implications

The third versions of CodeNEXT text and map were released on February 12, 2018, and despite reports in the press that neighborhood advocates can breathe a sigh of relief, nothing could be further than the truth. Version 3 is significantly different than the previous two versions. The R residential codes have been reformulated, and the commercial zones have additions and modifications. Some areas still retain legacy (F25) zoning – for now. While the R code is supposed to be a uniform code for the “whole city” the different sub-categories are clearly designed for either the urban core or the more suburban areas of Austin. In a nutshell, almost the entire city would be up-zoned, and with few exceptions there would no longer be any single-family zoning as we know it. At over 1,500 pages of complex and inconsistent language, this draft has failed in its goal to simplify our current code. City staff has continually refused to chart the changes from current code to new code.

Most of the areas of the city which had transect zoning in Version 1, next R3 zoning in Version 2, now have R2 zoning. R2A and R2C have been placed in the more central city, while R2B has been placed in the more suburban areas. Currently zoned SF-2 areas which now allow a home but no ADU would be allowed two units on every lot: either a single-family house plus ADU, or a duplex on corners. The new map converts current SF-3 lots to R2C, which permits a house and ADU anywhere, on significantly smaller lots. Many neighborhoods also would not have consistent zoning throughout and would have spot zoning, even though they currently have uniform zoning. For example, in Brentwood, some SF-3 lots have been zoned to R4A, and in Allandale, some SF-2 lots have been rezoned to R4B. (This is a classic example of entitlement creep). R4 contains densities of 60-plus units per acre, which is higher than even MF-5 (high density multi-family) in current zoning.

Under the current code, there are 9 “single-family” housing zoning categories which range from one house to townhomes. The new code contains 17 categories which have 61-plus sub-classes with differing development regulations, with lots sizes drastically reduced from current code down to 18 feet wide, 1,800 square foot lots. The footnote from Version 2 allowing 25-foot wide lots has migrated into the Lot Size and Intensity tables, with a single-family attached house being allowed by right on a 25-foot wide, 2,500 square foot lot in *all* R2 classes. In R2A and R2B, single-family attached plus an ADU are allowed on 5,000 square foot lots. In R2C, a single-family attached house is allowed with an ADU on a 3,500 square foot lot. These small lot sizes will greatly increase re-subdivisions and redevelopment. With re-subdivision, a 10,000 square foot lot in R2A and R2B could have 4 units, and in R2C, only 7,000 square feet is required for 4 units. Additionally, for lots less than 30 feet wide there is no impervious cover limit for the front yard, so these re-subdivided lots could have 100% impervious cover front yards. This impervious cover in the front yards could greatly exacerbate flooding. While development potential is not absolute, CodeNEXT V3 significantly increases the number of allowed units per acre.

Even suburban neighborhoods such as Great Hills would not be immune from radical changes in neighborhood character. Currently zoned as SF-2 (no duplexes or ADUs), it is proposed to be R1B, allowing ADUs on a 15,000 square foot lot and *manufactured homes*. Other areas of Great Hills currently zoned SF-3 are proposed to be R2B, in which a 10,000 square foot lot could be cut up into 4 lots.

Another impact would be on existing older apartment complexes that currently provide a significant amount of affordable housing in neighborhoods. For example, currently MF-3 zoning allows 36 units/acre. New RM3 zoning would allow 36 units/acre also, but if only 5-10% of units are “affordable”, then an increase of 40 units/acre is allowed to give 76 total. These entitlements would incentivize demolition of existing older apartments for newer units with only token numbers of affordable housing.

While some people consider F25 or legacy current zoning to be protective of neighborhoods such as Hyde Park, the city’s preferred policy in Draft 3 is to rezone properties within the F25 Zone to current zones established in CodeNEXT and gradually eliminate Planned Development Agreements (PDAs), Neighborhood Conservation Combining District (NCCDs), and conditional overlays (COs).

There are also use changes in residential areas. While the Live/Work designation has been removed from the residential house scale zones, the home occupation allowed use has been expanded to include retail sales of any merchandise between 9 AM and 5 PM, and will allow any home to be used as a business if one employee lives on site. An administratively given Minor Use Permit (MUP) would allow up to 3 additional workers in the house. Commercial vehicles may also be stored on the property if they are screened from the street. Signage is also allowed. There is a short list of excluded businesses including adult-oriented, automobile repair, bar/nightclub, restricted personal services and restaurants, but these uses are not excluded: brew pubs, food stores, and alcohol sales so they may be allowed as a home occupation (see 23-43-6200 for excluded uses).

Compatibility standards are greatly reduced, with no implementation greater than 100’ from residential property. Currently a 120’ tall building would have to be 540’ from a residential property. That setback has been reduced to 100’. This would significantly impact residences close to arterials.

Another compatibility issue is the location of businesses that impact the quality of life. Even schools would be affected. In CodeNEXT V3, bars do not need special zoning and a conditional use permit, they are allowed by right along most major corridors, and with either an administrative approval (MUP) or Conditional Use Permit (CUP) in many other locations. Every single property along Burnet Road from 38th to Hwy 183 could have a bar, and if it is in the Main Street (MS) category and less than 2,500 square feet, it would need no parking at all. Additionally, locations of brew pubs have been extended in Version 3 from Version 2, into MU1 classes that sit next to homes.

Residential parking would be cut in half, and business parking reduced from 20 to 60%, with additional reductions of 40% for location. In addition to bars, the following uses require no parking if the use is less than 2,500 square feet: Office General (non-medical) MU and MS, Library, Museum, Art Gallery, Retail in MS, and Studio in MS. The planning director may also waive all on-site parking. More parking is required in industrial areas than close to neighborhoods.

Occupancy limits for duplexes would be rolled back to pre-2014 limits, despite assurances by Greg Guernsey that they would be unchanged. Neighborhoods near the universities would once again face increased demolitions and stealth dorms.

The existing commercial zoning categories such as NO, LO, GO, LR, GR and CS have been eliminated in CodeNEXT and replaced with 11 Mixed Use and 7 Main Street zones that carry forward commercial uses and also permit the addition of residential uses. Importantly, the new zones do not track the existing commercial zones. In other words, these new zones do not simply add the availability of residential uses. These new zones dramatically change what is allowed on existing commercially zoned property. For example, the current Neighborhood Office zoning district, which was created for maximum compatibility with residential uses, has been eliminated. In fact, there is no longer any office zoning, as retail and entertainment zoning has been combined with office zoning. Most corridors have also been given height increases of at least 25', many going from 60 up to 85 feet.

The map and code can be found [here](#). The official timetable shows this going to the City Council in April. There are limited public hearings. Public involvement and input is critical to “getting this right”, as the mayor puts it. Currently, the rezoning of all of Austin can be approved with a simple majority vote of the Council, but there is petition drive to put the rezoning of the city to a vote of the people.

Follow [Community Not Commodity](#) for information on the petition drive and forthcoming in-depth analysis of Version 3.