



OCCUPANCY LIMITS UNDER CODENEXT V 3 AND THE RETURN OF STEALTH DORMS

CodeNEXT would undo anti-demolition occupancy limits for duplexes. In 2014, the City Council reduced occupancy limits for new duplexes from six to four unrelated adults per site. It did this to reduce incentives to replace affordable family-friendly homes with expensive rent-by-the room units, sometimes called “stealth dorms.” It worked so well that the council extended those limits in 2016. Despite Planning Director Greg Guernsey’s assurances over the past year that CodeNEXT would keep the current rules, Draft 3 would roll back the 2014 reform as it relates to duplexes, plus it would result in bizarre outcomes for other structures.

Duplexes. The CodeNEXT limit for duplexes constructed after June 5, 2003 would be 3 unrelated adults per unit, instead of 4 per site (lot). Under Draft 3, we are facing once again the high-occupancy duplex problem where builders would have incentive to demolish an affordable home and replace it with a new duplex building with 6 bedrooms to be rented at \$1,000+ per bedroom per month. The new rules for occupancy limits can be found at 23-4E-7040. If enacted, the City would create opportunities for higher profit margins, increasing the incentive to raze existing, more affordable housing, displacing families, and reducing the number of children in schools.

Houses and Single-Family Attached. The current rule for houses permitted after March 31, 2014 would be changed in central zones from 4 unrelated adults per site to 4 per structure. The R2C zone under Draft 3 would allow the division of a standard 50’ lot and construction of a two-unit Single-Family Attached building straddling the center lot line with an additional 2 ADUs. CodeNEXT would require only 1 parking space per dwelling unit in the main building and zero for the ADUs. A simple way to describe Single-Family Attached is that it is a single townhouse building with a common wall with each side owned by two different owners. The most conservative interpretation of the occupancy rule applied in this case is 4 unrelated adults in the main building structure and 2 in each ADU. The result is a former 50’ lot scraped clean of a relatively affordable house replaced by 4 dwelling units potentially occupied by 8 unrelated adults and with only 2 onsite parking spaces for all of them. CodeNEXT would double the unrelated adult occupancy limit for this site and at the same time reduce the required onsite parking, once again creating incentives for stealth dorms.

A Conditional Use permit (CUP) may allow more. Consistent with many other provisions in Draft 3 diluting the rights of neighbors is 23-4E-7040 (F) that would give the Land Use Commission the power to approve a conditional use permit to allow a greater number of unrelated adults. It could be used to give a pass to investors who knowingly built excess capacity thinking that they could ignore the occupancy rules because of lax enforcement.

R3C zones. In R3C zones, occupancy limits on cottage court structures built after March 31, 2014 would be 18 unrelated adults in the case of a 5,000 square foot lot and 36 in the case of a 10,000 square foot lot! This highlights the absurdity of effectively up-zoning single-family neighborhoods as multi-family. Parking? In each case, 1 onsite spot per dwelling unit = 3 or 6, depending on lot size. To our knowledge, the current map does not contain many R3 zones, but they are sitting there like Trojan horses for City Hall insiders to roll into unsuspecting neighborhoods.