

Board of Adjustment LDC Workgroup	
Recommendations, Comments & Questions on Proposed LDC (to share with City Council)	
11/4/2019 -- Compiled by Don Leighton-Burwell, BOA Chair; updated 11-25-2019	
Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
General Comments by BOA Workgroup	RECOMMENDATION: BOA Workgroup does not support this shift of approvals to City Staff (e.g. MUPs and "Minor Adjustments").
	COMMENT: The zoning code and general planning requirements (Chapter 23-3 and 23-4, respectively) are better-written than current code, with clearer language and better graphics and format. The proposed new regulations are simpler and more prescriptive, with fewer exemptions and exceptions.
	RECOMMENDATION: Graphic examples (and commentaries regarding intent) of development rights (similar to the Signage Chapter 23-7 of the proposed LDC), would help laypeople more fully understand the LDC.
	COMMENT: Increases in housing supply should result from a code that is simpler and clearer—simplicity and clarity equal predictability, which equals greater ease of use...which equals greater ease of review...which equals faster reviews...which equals, per unit time, more housing created.
	RECOMMENDATION: Increases in Housing Supply do NOT equal increases in Affordable Housing Units (per Staff's Report Card); preservation of existing affordable units must play a role.
	RECOMMENDATION: Where an ADU is allowed (within a Residential Zone), the accompanying table should make that clear by creating an "ADU column" between "Principal Dwelling Units" and "Width."
	COMMENT: Concern that lack of or poor public notice may diminish appeal rights of people contesting City Staff interpretations, determinations and approvals.
	RECOMMENDATION: Request Staff to continue work on BOA "Heat Map" (and update of AMANDA) to better track permits, appeals, variances, special exceptions; this will allow people to access information more easily and thus support both clarity and transparency of City processes.
	RECOMMENDATION: BOA wants to be able to track common variance requests to serve as basis for possible LDC amendments.
INTRODUCTION:	
GENERAL PROVISIONS	
23-1A-3030 (C) (2) (a) (i and ii) Types of Administrative Decisions; A decision by the responsible director on an application for:	
(i) A site plan or minor use permit;	RECOMMENDATION: BOA Workgroup does not support MUPs, as public input is not required as part of this streamlined process and diminishes public input that is currently required by a CUP.
(ii) A minor adjustment or alternative equivalent compliance	(See sections later in this document...)
23-1A-4010 (A) Consistency Requirement. "Legislative, quasi-judicial, and administrative decisions under this Title must be consistent with the Comprehensive Plan, as required by Article X of the City Charter."	COMMENT: Adherence to the Comprehensive Plan (Imagine Austin) is a critical component of any LDC re-write. Imagine Austin should be considered in its entirety, and new LDC sections should support ALL of the goals of Imagine Austin.
23-1A-5020 (B) (2) (b) "If a general provision conflicts with a provision that is more specific to a development application or category of development, then the specific provision applies and controls over the general provision unless the general provision was adopted more recently and the manifest intent of the city council was for the general provision to apply."	QUESTION: How is "manifest intent" determined and by whom?
RESPONSIBILITY FOR ADMINISTRATION	
23-1B-2020 Board of Adjustment	
23-1B-2020 (C) (2) "An appeal of an administrative action filed by an aggrieved party under Division 23-3B-2 (Code Interpretations and Use Determinations), in accordance with the procedures in Article 23-2I (Appeals);"	COMMENT: While recent State Law appears to limit public input by restrictly defining an "aggrieved party", the BOA continues to seek fair and impartial outcomes that welcome public input and transparency.
ADMINISTRATION & PROCEDURES:	
GENERAL PROVISIONS	

Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
23-2A-1010 (B) "More detailed requirements for particular types of development approval and administrative decisions may be found throughout this Title, as well as in administrative rules and policy memos adopted by the responsible directors listed in Table 23-1B-3020(A) (Overview of City Departments)."	QUESTION: How will "administrative rules and policy memos" be conveyed to both the Public (in general) and BOA (in particular)?
23-2A-1030 (A) Overview of Legislative, Quasi-Judicial and Administrative Approvals (Table)	
<u>BOA Jurisdiction:</u>	
• Zoning Variances 23-3B-4020	
• Special Exception 23-3B-4	
• Administrative Appeals (Zoning Regs) 23-3B-2040 - notice?	QUESTION: How will "administrative appeals" be conveyed to both the Public (in general) and BOA (in particular)?
• Administrative Appeals (Enforcement Orders) 23-1B-2050	
<u>BOA Appeals:</u>	
• Nonconforming Status Determination 23-2H-1	
• Zoning Code Interpretation 23-3B-2020 - notice?	QUESTION: How will "Code Interpretations" be conveyed to both the Public (in general) and BOA (in particular)?
• Zoning Use Determination 23-3B-2030 - notice?	QUESTION: How will "Use Determinations" be conveyed to both the Public (in general) and BOA (in particular)?
• Stop Work Order 23-2J-3010	
• Suspension or Revocation Order 23-2J-2	
23-2B-2020 (B) Three to Eight-Unit Residential modifies "Regulations for Tree Protection" and reduces "Application Fees" (over requirements for One to Two-Unit Residential)	RECOMMENDATION: All efforts should be made to maintain Tree Protections (to ensure that our Urban Forest is not lost); any fee reductions should not create an incentive for tree removal.
23-2C-1010 (C) "... responsible director may specify the order in which approvals within each category must be obtained."	COMMENT: BOA often hears cases requiring approvals from other entities (e.g. Environmental Board, etc); therefore efforts to prioritize approval order are welcome.
23-2C-2040 (A) (2) "The responsible director shall, to the greatest extent possible , provide comments on or before the deadlines for staff review established under Section 23-2C-1010 (Application Requirements and Procedures)."	RECOMMENDATION: Staff and the Director are often bound by "may", while appellants are bound by "shall"; even when no notice is given on a determination by Director or City Staff. We think that City Staff should be held to the same standards as Applicants and Appellants.
23-2D-1010 (B) "Throughout this Title, notice requirements are established for particular types of development applications and administrative decisions by referencing procedures established in this article. Notice is not required for every development application or administrative decision , but only where required by a specific provision of this Title."	COMMENT: Lack of notice creates disadvantages to potential appellants (due to notice requirements) and prevents public input. BOA continues to seek regular updates on Determinations and Decisions made by City Staff.
23-2D-2010 (A) "A person or organization is entitled to notice of a public hearing, application, or administrative decision under this Title if a provision of this Title requires the responsible director to provide the person or organization with notice of the public hearing, application, or administrative decision."	RECOMMENDATION: As noted above, lack of notice on administrative decisions is contrary to transparency in government. There should be some way of conveying these decisions to the Public.
23-2D-3040 (F) "If requested by an applicant, the responsible director may allow the applicant to post a sign required by this Title..."	QUESTION: BOA gets complaints about improperly posted or maintained signs - how is compliance administered?
23-2D-5020 (3) Notice of Administrative Decisions: "all persons who qualify as registered parties under Section 23-2D-2030 (Registered Parties)."	QUESTION: How are "Registered" parties differentiated from "Interested" parties? What recourse do "interested parties" have, if only "registered parties are notified?"
23-2G-1010 (C) (1) (a): "...in general a variance may only be approved if site conditions unique to a particular property create a hardship that makes strict compliance with a regulation impossible or unreasonable."	RECOMMENDATION: BOA concurs with this statement.
23-2G-2030 (B)	

Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
23-2G-2040 (A) (1) <u>Modification to Address Errors in Construction</u> ; "Criteria for Approval. The director may approve an administrative modification under this subsection if the modification is the minimum amount necessary to address errors in construction... "	RECOMMENDATION: BOA does not support administrative approvals by Staff for Impervious Cover; that is BOA's jurisdiction. We do support Staff waivers on Layout/Setback errors (not to exceed 5 per cent on Front Yard Setback; not to exceed 3 inches other Setbacks) and Height errors (not to exceed 2 per cent).
23-2G-2040 (A) (1) <u>Administrative Modifications for Residential Structures</u> "... this subsection authorizes the director to grant de minimis modifications to specified development regulations..."	COMMENT: "De minimus" needs clear definition; see BOA suggested limits above.
23-2G-2040 (A) (3) <u>Scope of Modification</u> ; "...the director may approve a modification relaxing :"	RECOMMENDATION: The ability to administratively modify setback requirements by up to 10% be deleted. In particular, rear and side setbacks are established to protect structures from each other. Residential structures are, in general, more susceptible to damage by fire than commercial.
• A setback limitation by up to 10 percent ; or	RECOMMENDATION: Layout/Setback -- not to exceed 5 per cent on Front Yard Setback; not to exceed 3 inches other Setbacks
• Height requirement by up to 5 percent. "	RECOMMENDATION: Height -- not to exceed 2 per cent
23-2G-2050 (A) (1) <u>Alternative Equivalent Compliance</u> ; "This section grants the director limited flexibility in applying certain design standards relating to building placement, building form, and site configuration to facilitate development that meets the intent of this Title through alternative design which may not strictly adhere to particular standards or requirements." Also, "may not be used to vary or modify zone regulations, such as height, setbacks, impervious cover, or floor area ratio."	QUESTION: What is "limited flexibility" and why are the listed standards at the discretion of the director to modify (vs BOA or other Boards)? This needs clear definition and circumstances of applicability.
23-2H-1040 (B) <u>Appeal of Decision on Nonconforming Status</u> ; "If the responsible director issues a determination under Section 23-2H-1030 (Determination of Nonconforming Status), that determination may not subsequently be challenged by appealing the director's approval or disapproval of a development application for the use or structure."	QUESTION: If this is limited to the Director making determination of "nonconforming status" only, BOA concurs with this statement.
23-2H-1050 (C) <u>Modification of Nonconforming Structures</u> ; [see entire section] • Height and Setback Requirements	(See sections above regarding Setback and Height...)
23-2H-1070 (B) (1) (a) <u>Alteration of Non-Conforming Structures (Residential Structures Wall Demolition or Removal</u> ; "No more than 50 percent of exterior walls and supporting structural elements of an existing nonconforming structure may be demolished or removed..."	RECOMMENDATION: This seems excessive (50% retention of exterior walls); with this level of demolition, little of the original structure is still maintained. In this case, complete demolition and adherence to new LDC is suggested.
23-2H-2020 (C) (1) (C) <u>Non-Conforming Lots; Residential Uses</u>	RECOMMENDATION: Text reading "be an existing lot" be modified to "be an existing lot or tract of land that has been deemed exempt from platting by means of a land status determination." Most nonconforming "lots" are actually <i>portions</i> of lots. Without this recommended modification, portions of lots that are currently buildable (and that would qualify for exemption from platting) will become unbuildable without variances. COMMENT: this code rewrite is being "sold" as a means of increasing housing supply, specifically the supply of "affordable" housing. If this is true then we should not be taking buildable land off the table.
23-2H-2030 (C) <u>Non-Conforming Parking; Limitations on Approval</u> ; "The responsible director may approve an administrative modification reducing the standards of Division 23-3D-2 (Parking and Loading) if strict compliance is determined to be infeasible under Subsection (B). A reduction approved under this section must be the minimum necessary , as determined by the director."	COMMENT: Perhaps this should be the jurisdiction of the BOA?
23-2H-3020 (A) <u>Complaint Residential Use</u>	RECOMMENDATION: Existing single-family uses within any zone should be considered a compliant use. There is much currently affordable housing to be found on land outside the R1 and R4 zones, housing that will be in greater danger of demolition if the language of this section is not changed.

Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
23-2H-3030 A & B <u>Termination of Compliant Residential Uses</u>	QUESTION: Needs wording and definition clarification. Is this saying that if you use a residential property for something besides a residential property then it's no longer a residential property? What terminology could be used to make grounds for termination clearer?
Article 23-2I: APPEALS	
23-2I-1020 (A) (1) (b) <u>Appeal of Administrative Decisions;</u>	
For an appeal to the Board of Adjustment, a person who: <ul style="list-style-type: none"> Filed the application that is subject of the decision; Is the owner or representative of the owner of the property that is subject to the decision; or Is aggrieved by the decision and is the owner of a real property within 200 feet of the property that is the subject of the decision. 	COMMENT: This section defines limits placed on BOA by State Legislature in 2019 session; "interested parties" can no longer appeal project-specific decisions to the BOA. Suggest that wording be changed to "...and is the owner of [a] real property within 200 feet..." DELETE "a" from text above
23-2I-1030 (A) (2) <u>Deadline for Appeal;</u> "20 days after an appealable administrative decision"	QUESTION: How are appeals made on issues that do NOT require notice? Staff should amend LDC to create some method for BOA to decide "merit" or "standing" for <u>potential</u> appeals PRIOR to official filing by aggrieved parties on cases where the deadline has been exceeded, especially when notice has not been made. RECOMMENDATION: City Legal has concerns that changes to any tolling provisions might lead to frivolous appeals by complainants. In particular, the filing of an appeal can require a stoppage of work on a project. Under the current LDC 25-1-181 <u>STANDING TO APPEAL</u> , "(B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision." Therefore, an Aggrieved Party (who is outside of the customary twenty (20) day cut-off) can file an application of "Standing" to the BOA to determine the merits of the "late" appeal (not unlike a pre-trial hearing). If granted by the BOA, a Notice of Appeal can be made by the appellant. If the validity of "standing" is denied by the Board, no work stoppage would be incurred by the developer and work can continue without interruption.
23-2I-1040 (A) <u>Development Not Permitted During Appeal;</u> "Development under an approved site plan may not occur during the time period in which an appeal of the site plan may be initiated under Section 23-2I-1030 (Deadline for Appeal), except for site clearing. "	RECOMMENDATION: What if issue being appealed is removal of trees? This exception should be deleted.
23-2I-2010 (A) (6) Fee established by separate ordinance	QUESTION: Where can fee schedule be accessed?
23-2I-2020 (B) <u>Assignment to Appeals Board;</u> "An appeal that challenges the director's interpretation or application of Chapter 23-3 (Zoning Code), or a separately adopted zoning ordinance, shall be heard by the Board of Adjustment."	QUESTION: What are the appeal fees noted in 23-2I-2010 (A) (6) and where can the fee schedule be accessed?
23-2I-3010 (B) <u>Notification of Applicant and Presiding Officer;</u> "On receipt of a timely filed notice of appeal under Section 23-2I-1030 (Deadline for Appeal), the director shall promptly notify the applicant, if the applicant is not the appellant, and the presiding officer or staff liaison of the body to which the appeal is assigned. "	RECOMMENDATION: Define "promptly".
23-2I-3020 (D) <u>Scheduling and Notice of Public Hearing;</u> "If an appeal concerns issues with potential to affect individuals or groups who are not parties to the appeal or otherwise entitled to notification, the director may provide additional notice to those individuals or groups."	QUESTION: Who would this be and how would the director determine who are those individuals or groups (e.g. Planning Contact Teams, Neighborhood Associations, etc)? RECOMMENDATION: Also, change the wording from "...director may provide..." to "...director SHALL provide..."
23-2I-3030 (B) <u>Pre-Hearing Submittals;</u> "The process adopted under this section must, to the greatest extent possible, require that materials be submitted in a timely manner so that parties to the appeal and members of the board have an opportunity review the materials in advance of the public hearing."	RECOMMENDATION: BOA would benefit from deadline for submittal of "back-up" information on all cases heard before the Board. This may require an update to the BOA Rules of Procedure.

Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
23-21-3040 (B) <u>Staff Report and Case File</u> ; "A use determination issued by the Planning Director under Section 23-3B-2030 (Use Determinations) or a code interpretation issued under Section 23-3B-2020 (Code Interpretations) satisfies the requirement for a staff report under Subsection (A). A supplemental report may be provided, but is not required. "	RECOMMENDATION: BOA requests a monthly report from City Staff (as well as public posting) of ALL use determinations and code interpretations. The supplemental report should not be optional.
23-21-4020 (A) <u>Appellate Burden</u> ; "General Standard. Except as provided in Subsection (B), a body considering an appeal may not reverse or modify a decision under appeal unless the appellant establishes by substantial evidence that the decision is contrary to applicable regulations within the jurisdiction of the board considering the appeal."	COMMENT: BOA reserves the right to "reverse or modify" any appealable decision (by City Staff) that is within our jurisdiction based on the evidence presented.
23-2K-2010 (D) <u>Vested Rights Determination; Reconsideration</u> : "An applicant may request that the director reconsider a vested rights determination at any time before the application expires under Section 23-2C-2030 (Expiration of Application). A pending request for reconsideration tolls the expiration date, as provided in Section 23-2C-2050 (Tolling of Expiration Period), including the 45-day period for completeness review under Section 23-2C-2020 (Completeness Review)."	QUESTION: This does not appear to be with BOA's jurisdiction, except for possible appeals. This that correct?
<u>23-3 ZONING CODE</u>	
23-3A-2020 <u>Zones Described and Established</u>	COMMENT: As single LDC will be much easier to administer than two codes. Properties inside F25 should be mapped to new zones. Those zones selected for their correlation to the stipulations of current NCCDs.
23-3B-1050 (B) (1) <u>Minor Use Permit; "Notice of Application</u> . The director shall provide notice of an application for a minor use permit under Section 23-2D-5010 (Notice of Application) and allow comments on the application to be submitted for a period of at least 14 days .	RECOMMENDATION: BOA Workgroup does not support MUPs, as public input is not required as part of this streamlined process and diminishes public input that is currently required by a CUP.
23-3B-1050 (B) (3) <u>Minor Use Permit; "Notice of Decision</u> . Within three days after issuing a decision on a minor use permit application , the director shall provide notice of the decision under Section 23-2D-5020 (Notice of Administrative Decision).	RECOMMENDATION: BOA Workgroup does not support MUPs, as public input is not required as part of this streamlined process and diminishes public input that is currently required by a CUP.
23-3B-1050 (C) <u>Minor Use Permit; (1) "Standard for Approval</u> . The director shall approve or conditionally approve a minor use permit under this section if the director finds that the application satisfies the findings and criteria for approval of a conditional use permit under Subsection 23-3B-1040(E) (Conditional Use Permit); (2) "The director shall establish guidelines for review of minor use permit applications, including interdepartmental consultation, and shall ensure that criteria for approval and conditioning of applications are applied consistently ."	RECOMMENDATION: BOA Workgroup does not support MUPs, as public input is not required as part of this streamlined process and diminishes public input that is currently required by a CUP.
<u>23-3B-2 CODE INTERPRETATIONS AND USE DETERMINATIONS</u>	
23-3B-2020 (B) (1) <u>Project Level Determination; "Request by Applicant</u> . During the application period for a site plan or building permit, an applicant may request that the director issue a project interpretation regarding the meaning or effect of a particular site development regulation applicable under this Title or a separately adopted zoning ordinance."	RECOMMENDATION: BOA concurs with this statement and requests that all code interpretations and use determinations by the Director be conveyed in a monthly report to the BOA (and posted in accessible public forum (COA website)).
23-3B-2020 (B) (2) (a) <u>Project Level Determination; "Notice and Decision</u> . After receiving a request for interpretation under this section, the director shall: (a) Provide notice of an application for a project interpretation under Section 23-2D-5010 (Notice of Application)..."	QUESTION: How is the public made aware of this interpretation, so that it might be appealed?
23-3B-2020 (E) <u>Non-Project Level Determination; "Posting of Interpretations</u> . The director shall post code interpretations on the City's website ."	QUESTION: Where will this be done and how will BOA and other Boards & Commissions be informed as to the interpretation?

Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
23-3B-2030 (B) <u>Use Determinations</u> ; <u>Review Procedures</u> . A use determination is subject to the same procedures as a code interpretation under Section 23-3B-2020 (Code Interpretations), including requirements for notice under Section 23-2D-5010 (Notice of Application) and Section 23-2D-5020 (Notice of Administrative Decision). A use determination may be requested as either a project or non-project determination.”	QUESTION: How is the public made aware of this determination, so that it might be appealed?
23-3B-2040 <u>ADMINISTRATIVE APPEAL</u> ; (A) <u>Project and Non-Project Determinations</u> . A party who meets the requirements of Section 23-2I-1020 (Appeal of Administrative Decisions) may appeal a project or non-project interpretation issued under this division to the Board of Adjustment, consistent with the procedures established in Article 23-2I (Appeals).” and,	QUESTION: Want clarification of who may appeal each type of interpretation, determination and permit decisions?
(B) <u>Permitting Decisions</u> . (1) If the responsible director approves or disapproves a development application that is subject to the regulations of this chapter or a separately adopted zoning ordinance, a party who meets the requirements of Section 23-2I-1020 (Appeal of Administrative Decision) may appeal the director’s interpretation of applicable zoning regulations to the Board of Adjustment under the procedures established in Article 23-2I (Appeals).”	
23-3B-4 <u>CRITERIA FOR VARIANCES AND SPECIAL EXCEPTIONS</u>	
23-3B-4030 (C) <u>Special Exception - Level 1</u> ; “Required Findings. The Board of Adjustment may approve a special exception under this section if the Board finds that...” [NOTE: See findings; limited to Residential House-Scale Zones; “ may NOT grant special privilege that is inconsistent with other properties in the area ”).	RECOMMENDATION: Since "Special Exception - Level 2" has been deleted by City Staff, then Special Exception - Level 1 should become "Special Exception" (no reference to "level").
23-3B-4040 <u>Special Exception - Level 2</u> ; DELETED BY STAFF at BOA request . Not currently in the LDC.	RECOMMENDATION: Since "Special Exception - Level 2" has been deleted by City Staff, then Special Exception - Level 1 should become "Special Exception" (no reference to "level").
23-3C-2030	COMMENT: “Multifamily” represents a broad range of residential developments. It would be clearer and less confusing to eliminate multifamily use and instead distribute the project types described as multifamily to their own individual use designations. If “duplex” is a defined use then why can’t “triplex” be one, too?
23-3C-2030	COMMENT: “Single-family attached” describes two townhouses, each on its own lot. “Townhouse” use is defined elsewhere. Why not simply eliminate "single-family attached" use?
23-3C-2050 (B) (1)	COMMENT: Definition of “top plate” implied by code is different than the industry-standard definition. A “top plate” is the top of a side wall from which rafters spring. Thus, a portion of a roof is, by definition, higher than the top plate of the wall that supports that roof. The intent is to prevent any portion of a roof within 10’ of a property line from being X height above the average adjacent grade. (X = 25’ in many zones.) Why not simply change (1) to read: “Within 10’ of the property line, the structure may not reach a height greater than X above average adjacent grade”?
23-3C-2050 (B) (3) (b)	COMMENT: The prohibition of shed roofs may be illegal per state law (the state law that prohibits the prohibition of any material or method allowed by the building code). Even if legal, the prohibition is a subjective stylistic mandate. Additionally: if a gabled roof runs parallel to a side lot line and extends within 10’ of a property line, that roof (within 10’ of a property line) is technically a shed roof. This stipulation should just be eliminated.
Table 23-3C-3100 (E)	QUESTION: Private frontages are required in R2B but not R2A or R2C. Is this intentional?

Code Section / Issue for Consideration	Workgroup Synopsis (with support of BOA)
23-3D-10060 (B) <u>Fences and Walls; Maximum Height</u>	RECOMMENDATION: Reference existing language of current LDC which limits heights of fences to six (6) feet, except in certain circumstances.
23-3D-9 DOCKS, BULKHEADS, AND SHORELINE	
23-3D-9060 (C) <u>Site Development Standards for Docks, Marinas, and Other Lakefront Uses</u> ; "Standards for Docks. A dock, or similar structure, must comply with the requirements of this subsection: (1) A dock may extend up to 30 feet from the shoreline, except that the director may require a dock to extend a lesser or greater distance from the shoreline if the director finds it necessary to ensure navigation safety. "	QUESTION: Is ability of the Director to require "lesser or greater distance from the shoreline" new to the proposed LDC? If so, why has this jurisdiction been moved from BOA to City Staff? RECOMMENDATION: BOA wants Staff Report and Recommendation (Environmental and Watershed Protection) on all LA (Lake Austin) cases.
23-3D-10 ADDITIONAL GENERAL STANDARDS	
23-3D-10060 (C) (2) <u>Fences and Walls</u> ; "Fences of any kind, any height, in any zone are prohibited within a floodplain or drainage easement without prior approval by the director."	COMMENT: Existing fences in areas that have been included in expanded floodplains (via Atlas 14) should be exempt for this requirement.
23-7 SIGNAGE	
23-7B-1030 (3) <u>Electronic Message Signs</u> ; " Night-time Brightness . The illuminance differential of any message displayed on the sign may not exceed 0.3 foot-candles at night. "	RECOMMENDATION: This section needs clarification. Foot-Candles are typically measured at some defined distance from the light source, versus lumens or other photometric criteria.
23-7B-2020 (C) <u>Permanent Signs Without a Permit; Signs for Residential Uses.</u>	RECOMMENDATION: No signage should be allowed in Residential House Scale Zones.
23-7C-2120 (3) <u>Wall Mural Sign; Illumination Requirements.</u>	RECOMMENDATION: Wall Murals should NOT be illuminated (this section REQUIRES that they be illuminated).
23-7D-2010 (4) <u>Variances and Appeals; Sign Variances; Variance Conditions</u>	RECOMMENDATION: BOA concurs with this statement.
23-7D-2020 (A) <u>Administrative Sign Modifications</u> ; "Purpose and Applicability. This section authorizes the director or building official to administratively approve an on-premises sign in excess of the size or height restrictions imposed under this chapter. Authority under this section derives from the Local Government Code, Chapter 216, Subchapter Z, and does not authorize variances allowing an off-premise sign."	COMMENT: Shouldn't this be BOA jurisdiction? Allows up to 5% maximum size or height; per 23-7D-2030, this decision is appealable to BOA, but how does is the public notified on this administrative decision?