

Proposed Revisions to Philadelphia Detailed Recommendations, November 2009



In September 2009, the consultant team presented draft *Detailed Recommendations for a New Zoning Code* to the Zoning Code Commission. Based upon two months of civic engagement activities, including a public hearing, four community-based workshops, an on-line survey, written testimony from civic organizations and ongoing communication with the public and interest groups, the Zoning Code Commission is requesting the changes incorporated in this memo. The *Detailed Recommendations for a New Zoning Code* and the *Change Memo* will be used in tandem as a set of guidelines for drafting the new zoning code. As each module of the new code is written, the Zoning Code Commission will share this more detailed information with the public to receive additional feedback. The Zoning Code Commission remains open to receiving comments throughout the process.

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Structure	As a result of the changes noted below, the New Zoning Code will have 9 chapters rather than 6. The revised structure is: <ul style="list-style-type: none"> • General Provisions • Definitions • Administration and Procedures • Base Zone Districts • Overlay Zone Districts • Use Regulations • Development Standards • Parking • Signs
General	The Zoning Bulletins issued by The Department of Licenses and inspections (L&I) as interpretations of the current zoning code will be reviewed for continued accuracy and relevance for inclusion in the new zoning code.
Chapter 14-100: General Provisions	
14-105	Relationship to Plan Documents. This section will be revised to clarify that it applies only to those neighborhood and citywide plans prepared for and adopted by City Council and/or the Philadelphia City Planning Commission, and that plans will be referred to in rezonings and special/certificated use approvals, but not in the case of variances. PCPC should develop a policy regarding the adoption of plans, as well as a list of adopted plans, and should

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	post them on its web site.
14-108	Relationship to Other Regulations. This section will clarify that it is the responsibility of L&I application review staff to determine which is the “most restrictive” of any conflicting regulations.
14-109	Relationship to Third-Party Private Agreements. The words “third party” will be removed from the title, since “private” conveys the meaning. The new zoning code would neither require nor prohibit private agreements.
14-110	Interpretations. Flowcharts will be added to show that appeals of L&I decisions (which could involve an interpretation) still go to ZBA, while written requests for an interpretation of the code unrelated to an L&I decision go to the Planning Commission. The ZCC will look at the practice related to the building code that allows the issuance of a “Variance of General Application” to see if this can help inform the new zoning code.
Chapter 14-200: Administration and Procedures	
General	L&I and the Law Department will share with the consultants components of the Administrative Code that may be applicable to the new zoning code. In addition, the Zoning Code Commission is seeking clarification from the Law Department with regard to the Administrative Procedures Act, and the ability of the ZBA to receive testimony, separate and apart from the question of taxpayer standing to appeal zoning decisions.
14-203(1)	Pre-applications and Neighborhood Meetings: The Zoning Code Commission understands that this recommendation has raised significant concerns on the part of many stakeholders. It is the intent of the ZCC to establish working groups with representatives of community organizations, developers, and code professionals to determine if we can achieve agreement on the appropriate timing, scope, and management of neighborhood meetings regarding particular development projects. The intent is to include the agreed-upon language in the draft code language in the spring.
14-203(2)	Authority to File Applications. This section will address authority of conservators per Act 135 of Nov. 26, 2008. The definitions section of the new code should include a definition of “conservator” as per the state law.
14-203(7)	Public Notice. This section will be revised to allow the city to provide additional forms of electronic notice to organizations and citizens when an alternative form of notice (mailed, posted, or published) is not specifically required. This issue may be addressed in the discussion on Pre-Applications and Neighborhood Meetings (Section 14-203 (1)).
14-203(10)	Call-ups and Bump-ups. The Zoning Code Commission understands that this recommendation has raised significant concerns on the part of many stakeholders. Module 1 of the New Zoning Code will contain specific language on this topic that attempts to address concerns, and a decision on whether to include or exclude these provisions will be made following discussion on that draft.
14-204	Specific Procedures. The new zoning code will contain a flowchart illustrating the review and decision-making process for each specific procedure.
14-204 (2 and 3)	Special Uses and Certificated Uses: These two categories of uses will be

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	merged and the combined category referred to as “conditional uses”, even though criteria for approval of specific uses will vary. Conditional uses require the exercise of planning judgment and will require a hearing by ZBA for approval. Uses that can be made subject to objective conditions that can be verified by L&I and attached as conditions to the permit will be removed from the list of special/certificated uses and will be subject to only administrative review.
14-204(7)	Design Review: The new zoning code will clarify the existing design review authority of the Historic Commission and the Art Commission, as well as describing design review responsibilities of the Planning Commission. We will review the procedures of the Historic Commission, Art Commission, and Planning Commission with goal of avoiding duplication of subjects for review. This issue may also be addressed in the discussion on Pre-Applications and Neighborhood Meetings (Section 14-203 (1)).
14-204(9)	Zoning Variances: The new zoning code will clarify that minor modifications of a permit, proviso, or variance issued by the ZBA does not need to return to the ZBA for action. The standard for “minor” would be the same as for administrative decisions.
14-204(10)	Administrative Approvals: The city’s existing procedure for responding to requests for “reasonable accommodation” under the federal Fair Housing Act will be included in this section.
14-205	Non-conformities. The ZCC has established a “Working Group” on this subject to help inform the discussion as this section of the code is written. This section will be revised in four ways. (1) It will clarify the different non-conformity policies related to non-conforming uses, structures, lots, and signs (and combinations of those four situations), (2) It will allow expansion of existing structures containing a non-conforming use up to 25% (the current standard is 10%), provided that all height, setback, and form standards for the property are met. (3) It will retain the current provision that non-conforming uses discontinued for three years cannot be re-established, but will clarify that a non-conforming use that has not been discontinued may be replaced with another non-conforming use that has fewer adverse impacts, subject to review by ZBA. (4) It will clarify that existing structure walls that are non-conforming due to distances from property lines can be extended upward in many districts within the height limits for the property, except in the case of courtyard violations.
14-206	Enforcement. This section will clarify that the city’s power to issue “cease order” (i.e. to order an existing activity to stop) if it does not have required permits is limited to required health or safety permits or activities that constitute a public nuisance. If the activity is missing other city permits it will be allowed to continue to operate as long as those permits are being pursued (or until they are denied).
Chapter 14-300: Zone Districts	
General	Zone Districts. The New Code will use some type of residential zone district designators that will convey additional information about the district but avoid confusion with the current R-1, R-2, etc. designators.

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General	Zone Districts: This proposed chapter will be split into two chapters: (1) Base Zone Districts, and (2) Overlay Zone Districts. This will reinforce the difference between base and overlay zones and will make it easier to find and use the proposed new Center City and Neighborhood Commercial Corridor overlay districts.
14-301(1)	Residential Zone Districts. The R-1 and R-1A districts will not be consolidated due to significant differences in minimum lot size and character.
14-301 (2)	Residential Zone Districts. The R-2 and R-3 districts will not be consolidated because of differences in types of low-density housing permitted.
14-301(5)	Residential Zone Districts. The R-8 district will be consolidated with similar R-9 and R-10 districts, rather than R-6 and R-7.
14-301 (11)	Residential Zone Districts. The R-18 and R-19 districts will be consolidated with similar R-8 and R-9 districts.
14-302	Commercial and Mixed Use Zones. The consolidation of RC-4 and C-4 zones will be reviewed to determine if the intended character of each zone can be preserved. If this is not the case, then the proposed consolidation may not be pursued.
14-302	Commercial and Mixed Use Zones. Provisions allowing the transfer of development rights (TDR) between properties will be reviewed by a Zoning Code Commission working group on floor area incentives and may be revised if necessary to complement the revised incentive system.
14-304(1)	Special Purpose Zones. The Zoning Code Commission will review how Institutional Development District (IDD) Master Plans should be amended over time (i.e., in what cases Planning Commission or City Council approval should be required), and may recommend changes based on those discussions.
14-304(4)	Special Purpose Zones. The Open Space (OS) district will be revised to refer to commercial uses rather than commercial ownership (since the city owns or controls the land) and to reflect the fact that both indoor activities (such as museums) and outdoor activities are permitted.
Chapter 14-400: Use Regulations	
14-401	Use Table: Several concerns were received concerning the conversion of residential structures to residential-related commercial uses. We will review this issue and consider recommending restrictions on conversions during the drafting of Module 2.
14-401	Use Table - Parking: Due to numerous comments received, the creation of new surface parking lots as a primary use of property (i.e., not when required to park cars for another primary use of the property) will be prohibited as a permanent use in some zone districts. New surface parking lots, when permitted, will be subject to landscaping and design controls. Parking structures may be primary uses-by-right in some higher density commercial/mixed use or special purpose districts subject to design controls.
14-401	Use Table – Other Uses: Based on comments received, uses to be reviewed for possible changes in availability or conditions will include (1) expanded availability of child care and adult care, (2) availability of group homes,

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	assisted living, and transitional housing to comply with federal law, (3) farmers' markets, (4) resident occupied and non-resident-occupied bed and breakfast facilities, (5) single room occupancy hotels, (6) age-restricted (i.e. elderly) housing facilities, (6) take-out food service, (7) grocery stores (to encourage them in underserved areas), (8) fast food (to discourage them in over-served areas), and (9) specialized entertainment uses.
14-404	Temporary Uses. Where temporary uses are adequately regulated through existing licensing provisions, we will avoid addressing them in the new zoning code.
Chapter 14-500: Development Standards	
General	The new zoning code will remove limit of one building per lot for commercial and mixed use districts and include standards for building separation etc. when multiple buildings are located on a single lot.
14-501 (1)	Dimensional Tables: The new zoning code will clearly state where "contextual" zoning standards (i.e., height, setback, or lot coverage standards based on those on surrounding properties) can or must be used, as well as any situations where they cannot be used. Different contextual standards may be appropriate in different zone districts, and there may be some zone districts where the use of contextual zoning should not be permitted. Where contextual zoning is used, this section will clarify that the property owner needs to submit evidence of the height and front setbacks on neighboring property. The Zoning Code Commission will review the draft contextual zoning language before determining in what circumstances this tool should be available. The new zoning code will also clarify whether roof terraces and other non-ground floor open space counts towards any required landscaping or required open space (or both, or neither)
14-501(2)	Floor Area Bonuses. This section will consider linking incentives to sustainability, proximity to transit, and neighborhood impacts. Where possible, the incentive will be linked to a physical amenity provided by the applicant, rather than a desired use of the property, which could change in the future.
14-505(4)	Sustainability. GreenWorks provisions on encouraging urban food production will be reviewed and additional tools included if possible.
14-506	Parking and Loading. Parking regulations will become a separate chapter in the New Zoning Code. The new zoning code will allow structured mechanical parking as a way of meeting parking requirements in some higher-intensity commercial/mixed use, and special purpose districts. This section will also state very clearly under what circumstances off-street parking is required to remove ambiguities from the current language. Shopping centers will be subject to both parking space caps and limits on the impervious surface allowed on site. Off-street loading requirements in the IDD district will be clarified.
14-506(2)	Bicycle Parking. Instead of the approach suggested in the Recommendations, the new zoning code will carry over the current, recently adopted bicycle parking requirements.
14-508(2)	Residential Design Standards. This section will review and clarify current

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	limits on front loaded garages in townhouse districts in order to promote walkability and reduce loss of on-street parking spaces.
14-508 (2 and 3)	Residential Design standards and Commercial/Mixed Use Design Standards. We will review those standards included in currently in overlay districts and may recommend that they be applicable citywide.
14-509	Exterior Lighting. This section will clarify that it is limited to on-site lighting provided by the property owner.
14-511	Signs. Sign regulations will become a separate chapter in the New Zoning Code. The Zoning Code Commission recognizes that the substance of the current sign regulations has raised concerns, and will create a working group to discuss potential revisions.

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