

Philadelphia's New Zoning Code



Changes to the *Preliminary Report*

October 26, 2011





Master Ordinance

- **CONVERSION OF BASE DISTRICTS:** Renames the existing zoning districts across the city with the corresponding zoning district name in the new Zoning Code.
- **CONVERSION OF 16 NEIGHBORHOOD COMMERCIAL OVERLAYS TO CMX-2.5:** Designates as CMX-2.5 the base commercial zoning districts covered by an existing neighborhood commercial overlay.
- **EFFECTIVE DATE:** The new code will become effective eight months after the date of its adoption.
- **No “OPT-IN” PERIOD:** Applicant will not have the option to choose the new code within the eight-month transition period.



Amendments Recommended by Council

40 Amendments in Resolution No. 110741

7 addressed at October 12th ZCC meeting

3 to be reviewed with the Law Department and the Zoning Committee of the Phila. Bar Association

21 new recommendations for review today (including **3** consolidated with other amendments)

6 modifications of previous recommendations also for review today

+ **5** non-Council recommendations for review today



Amendments Recommended by Council

Addressed at October 12th ZCC Meeting

Recommendation	Amendment No.
✓ Amending parking requirements for Religious Assembly in residential districts to reflect standards in the existing Code.	4
✓ Amending the expansion of nonconformities to 10%.	5
✓ Amending the burdens of proof for Special Exceptions to reduce the burden on protestants by incorporating the Bray standards.	10
✓ Amending reference to “Accepted Plans”	11
✓ Re-incorporating the types of uses and distance requirements for regulated uses under the existing code.	24 (also 37, 38)
✓ Creating an additional overlay to carry over the Roxborough and Fox Chase Environmental Control Districts.	35
✓ Creating two Auto-Oriented Commercial Districts, CA-1 and CA-2.	36



Amendments Recommended by Council

To be Discussed with the Law Department:

Recommendation	Amendment No.
• Requiring L&I to promulgate regulations for any manual or guide that interprets this Zoning Code.	16
• Reincorporating review criteria for dimensional variance standards from the existing code.	21
• Providing for Use Permit application and instructions.	23

Amendments Recommended by Council

New Recommendations for Review Today:

Recommendation	Amendment No.
• Regulating single medical professional office separately from group practice medical offices.	2 (also 37-39)
• Amending the qualifications for the standing (not rotating) CDR committee civic association review seat.	12
• Providing for the option for use of either Sky Plane or Bulk and Massing regulations included in the existing code.	13
• Providing minimum Good Faith standards by applicant for RCO meetings and posted notices.	14
• Requiring ZBA variance decisions in writing.	15
• Providing that appeals to the ZBA by protestants must be made within 30 days from the date of constructive notice.	17
• Providing a temporary moratorium on non-accessory signage in the former Food Distribution District.	18
• Amending the minimum acreage of SP-INS districts from 3 to 5 acres and requiring contextual standards with abutting residential districts.	19



Amendments Recommended by Council

New Recommendations for Review Today:

Recommendation	Amendment No.
• Requiring Civic Design Review for any new Master Plan districts.	20
• Providing that any modification of use variances require ZBA action.	22
• Providing minimum spacing and distancing standards from specific uses for certain re-entry facilities.	25
• Reincorporate existing code provisions for wireless facilities.	26
• Amending the definition for “nightclub.”	27
• Defining “beverage distributors” as a use within the Wholesale category.	28
• Retaining the protections of the East Falls, Lower and Central Germantown, Overbrook Farms, and Fairmount Special Controls Districts.	29-32
• Retaining the protections of the North Delaware Avenue Area and Old City Residential Area Special Control Districts.	33-34
• Create definitions for family, variance, Master Plan, and streetscape design.	40



Amendments Recommended by Council

Modifications of Previous Recommendations for Review Today:

Recommendation	Amendment No.
• Amending the primary use to recreation solely and allowing certain accessory uses in the SP-PO, Parks and Open Space District.	1
• Remove the family community home use type and permit such homes wherever a “family” (3 unrelated persons) is allowed. Amend the definition of group community homes to include 4 or more unrelated persons.	3 (also 37, 38)
• Creating two categories of home occupations.	6
• Eliminating mandatory submission requirements and penalties for non-submission of Community Benefits Agreements.	7
• Amending bed and breakfast use-specific standards and restricting the use from certain residential districts.	8 (also 37)
• Providing for RCOs to set their own geographical boundaries and for district council person to serve as RCO for areas where there is no RCO.	9



New Recommendations from Council

#2 Regulating single medical professional office separately from group practice medical offices to incorporate use-specific standards for solo practices that prevent adverse impacts in residential districts.

ZCC Response: **Partially Accept.** Divide the Medical, Dental, and Health Practitioner subcategory into two use types – Sole Practitioner and Group Practitioner.

- Permit ***Sole Practitioners*** in the same districts where the *Preliminary Report* permitted Medical, Dental, and Health Practitioners.
- Permit ***Group Practitioners*** in the same districts where the *Preliminary Report* permitted Medical, Dental, and Health Practitioners, except:
 - Permit by special exception in RMX-1, RMX-2 (Council recommended prohibition)
 - Permit by special exception in CMX-1, CMX-2, and CMX-2.5 districts

Relevant Section(s): 14-601(5)(b), Tables 14-602-1, -2, -3



New Recommendations from Council

#12 Amending the qualifications for the standing (not rotating) CDR committee civic association review seat to require active membership with a Zoning Committee of an RCO.

ZCC Response: **Partially Accept.** Clarify that the civic association review seat is for: *a person with experience reviewing projects on behalf of civic associations, including a person who previously served or currently serves on a zoning, land use, or similar committee of a Registered Community Organization.*

Relevant Section(s): 14-304(5)(a)



New Recommendations from Council

#13 Providing the option for use of either Sky Plane controls or Bulk and Massing regulations included in the existing code.

ZCC Response: **Do Not Accept.** Two sets of standards will be confusing for investors, difficult for L&I to administer, and yield unpredictable development outcomes.

Relevant Section(s): 14-502(4)(a), 14-701

#14 Providing minimum Good Faith standards by applicant for RCO meetings and posting of notices.

ZCC Response: **Partially Accept.** Adequate standards will vary for each case. Instead, amend RCO meeting documentation requirements to require, in case of failure to meet with an RCO, documentation from the applicant that demonstrates his/her “good faith” to establish contact and arrange a meeting with an RCO.

Relevant Section(s): 14-303(12)(d)



New Recommendations from Council

#15 Requiring ZBA variance decisions in writing.

ZCC Response: **Accept.** Revise 14-303(8)(e)(.1) and (.2) to “ ... *the Zoning Board must make all of the following findings where relevant, and to the extent that a specific finding is not relevant, shall so state **in writing.***”

#17 Providing that appeals to the ZBA by protestants must be made within 30 days from the date of constructive notice.

ZCC Response: **Partially Accept.**

- Amend 14-303(15)(a)(.3) to require protestants to appeal within 30 days of the date a zoning permit has been posted on the property, or in case of a failure by the applicant to post, within 30 days of constructive notice.
- Create new standard in 14-303(6) requiring an applicant, upon receipt of a permit, to post the permit on the property in a conspicuous place for at least 30 days.



New Recommendations from Council

#18 Providing a temporary moratorium on non-accessory signage in the former Food Distribution District.

ZCC Response: **Accept.**

Relevant Section(s): 14-905(9)

#19 Amending the minimum acreage of SP-INS districts from 3 to 5 acres and requiring contextual standards with abutting residential districts.

ZCC Response:

- **Accept** recommendation to increase the minimum acreage to 5 acres.
- **Do not accept** recommendation for contextual front, side, and rear yards. Side and rear yards have minimal impact on adjacent properties. The *Preliminary Report* has a general provision to require all properties to conform to the front setback of the most restrictive residential district on the same block.
- **Accept** recommendation to adopt contextual fence heights. The maximum permitted fence height shall be 125% of the fence height allowed in the most restrictive adjacent district.



New Recommendations from Council

#20 Requiring Civic Design Review for any new Master Plan districts.

ZCC Response: **Accept.**

Relevant Section(s): 14-304(3)(e), 14-304(5)(b)

#22 Providing that any modification of use variances requires ZBA action.

ZCC Response: **Accept.**

Relevant Section(s): 14-304(8)(f)



New Recommendations from Council

#25 Providing minimum spacing and distancing standards from specific uses for certain re-entry facilities.

ZCC Response: **Accept.**

- Amend definition of re-entry facilities to include facilities with 25 or more residents.
- Require spacing of at least 500 ft. from residential districts and protected uses (schools, religious assemblies, hotels, libraries, public parks and playgrounds, recreation centers, and convention / civic centers).

Relevant Section(s): 14-601(4)(i), 14-603



New Recommendations from Council

#26 Reincorporating existing code provisions for wireless facilities.

ZCC Response: **Accept** recommendation to reincorporate existing fall zone and guy wire requirements and newspaper notice of ZBA hearing.

Relevant Section(s): 14-603(16) and (17)

#27 Amending the definition for “nightclub”.

ZCC Response: **Accept** recommendation to revise definition to distinguish nightclubs from other special assembly occupancies, such as theaters.

Relevant Section(s): 14-601(7)(c)(.2)



New Recommendations from Council

#28 Defining beverage distributors as a use within the Wholesale category.

ZCC Response: **Accept**. Create a specific use type for ***beer distributor*** that references PLCB's definition.

Relevant Section(s): 14-601(9)(d)

#30 Retaining the protections of the Lower and Central Germantown Special Controls District

ZCC Response: **Accept** . Create a new subsection in the /NCA overlay for this area and carry over the use prohibitions (including recently proposed amendment regarding minimum size of general merchandise stores).

Relevant Section(s): 14-503



New Recommendations from Council

#29, 31, 32 Retaining the protections of the East Falls, Overbrook Farms, and Fairmount Special Controls Districts.

ZCC Response: **Partially Accept.** The ZCC has converted commercially-zoned districts in these overlay areas to CMX-2.5, which prohibits a number of the uses of concern in these overlays. The ZCC recommends the following:

- Do not carry over prohibition of uses already prohibited in CMX-2.5: ***auto-oriented uses, major utilities, nightclubs, regulated uses, take-outs, animal services.***
- Prohibit ***fortune teller establishments*** in CMX-2.5
- Review any remaining area-specific use controls against current city-wide standards, and determine how the key controls can be maintained either through an overlay or amendment to city-wide standards.

Relevant Section(s): 14-601(9)(d)



New Recommendations from Council

#33-34 Retaining the protections of the North Delaware Avenue Area and Old City Residential Area Special Control Districts.

ZCC Response: **Partially Accept.**

- Include the North Delaware Avenue District for the area bounded by 6th Street, Girard Avenue, Front Street, Laurel Street, Delaware Avenue, and Spring Garden Street. Accept Council's recommendation to prohibit ***assembly & entertainment*** uses and ***nightclubs*** and to permit ***eating & drinking establishments*** by special exception in this area.
- Accept Council's recommendation to prohibit ***assembly & entertainment*** uses, and ***nightclubs*** and to permit ***eating & drinking establishments*** by special exception in the Old City Residential area.

Relevant Section(s): 14-601(9)(d)



New Recommendations from Council

#40 Creating definitions for family, Master Plan, streetscape design, and variance.

ZCC Response: **Accept.**

- The *Preliminary Report* has already provided a definition for “family”, which includes up to 3 persons unrelated by blood, marriage, adoption, or foster-child status.
- Amend Section 14-203 to include definitions for Master Plan, streetscape design, and variance.

Relevant Section(s): 14-203



Modifications of Previous Recommendations

#1 Amend the primary use to recreation solely and allowing certain accessory uses in the SP-PO, Parks and Open Space (Special Purpose) District.

ZCC Response: **Partially Accept.**

- Accept Council's recommendation to permit ***day care, basic utilities, retail sales, eating & drinking establishments, government offices,*** and ***parking*** as accessory uses only. Create standards for SP-PO accessory uses to include retail sales and eating & drinking establishments up to 3,000 sq. ft. operated under license or concession agreement with the Dept. of Parks and Recreation.
- Do not accept Council's recommendation to prohibit ***libraries & cultural exhibits*** as primary uses, as this would make many existing uses non-conforming.

Relevant Section(s): 14-407, Table 14-602-4



Modifications of Previous Recommendations

#3 Remove the family community home use type and permit such homes wherever a “family” (3 unrelated persons) is allowed. Amend the definition of group community homes to include 4 or more unrelated persons.

ZCC Response: The ZCC Work Plan Committee has **an alternative proposal** to distinguish homes for disabled individuals, who are protected by Federal law, from other group homes.

- Define ***small community homes*** to include up to 5 disabled persons. Permit small community homes wherever a “family” is allowed.
- Define ***group community homes*** to include 6 or more disabled persons. Permit by special exception in RSA, RTA, RM, and RMX districts.
- Regulate group homes for non-disabled individuals as ***group living***, where 4 or more unrelated persons may reside. Permit by special exception RSA, RTA, RM, and RMX districts.

Relevant Section(s): 14-601(2)(b), Table 14-602-1



Modifications of Previous Recommendations

- #6** Creating two categories of Home Occupations: 1) Home Office – professional services provided to customers who do not come onto premises; and 2) Home-Based Business – professional services provided to customers who come onto premises.

ZCC Response: A two-category system for home occupations would be too difficult to administer and could cause potential conflicts with building code requirements. The ZCC Work Plan Committee has **an alternative proposal** to ensure home occupations do not adversely affect residential neighborhoods.

- Restrict the uses permitted as home occupations to: *business & professional offices; sole medical, dental & health practitioners; business support services; financial services; personal services (limited to personal instruction and maintenance of personal health/well-being); and artist studios.*
- Expressly prohibit regulated uses (e.g. massage shops, payday lenders, etc.) as home occupations.

Relevant Section(s): 14-603(10)



Modifications of Previous Recommendations

#7 Eliminating mandatory submission requirements and penalties for non-submission of Community Benefits Agreements.

ZCC Response: **Partially Accept.** Several attendees of the October 12th ZCC meeting expressed concern with this recommendation, stating that disclosure of Community Benefits Agreements increases transparency in the development process. The ZCC Work Plan Committee recommends requiring disclosure of all private agreements to the ZBA, but eliminating penalties for non-disclosure.

Relevant Section(s): 14-109



Modifications of Previous Recommendations

- #8** Amending Bed and Breakfast use-specific standards and restricting the use from certain residential districts.

Work Plan Committee Response:

- At the October 12th meeting, the ZCC recommended requiring the registration of B&B's with the Pennsylvania Tourism and Lodging Association and enrollment in the PTLA's inspection program.
- In addition, Council recommends prohibiting B&Bs in RSD, RSA, and RTA districts. Many members of the Work Plan Committee feel that B&B's are best-suited for these low-density residential districts. The Committee requests direction from the ZCC on this recommendation.

Relevant Section(s): 14-603(2)



Modifications of Previous Recommendations

#9 Providing for RCOs to set their own geographical boundaries and for district council person to serve as RCO for areas where there is no RCO.

ZCC Response:

- At the October 12th meeting, the ZCC **accepted** Council's recommendation to have the district council person serve as RCO for areas where there is no locally-registered RCO.
- **Accept** additional request from Council to allow issue-specific (city-wide) groups to register as RCOs. Provide notice to city-wide groups.
- Provide notice and require meetings with geographic-based (local) groups or the district council person, as appropriate.

Relevant Section(s): 14-303(12)



Other Recommendations

CONDITIONS ON APPROVALS: Recommendation from the Zoning Committee of the Bar Association to clarify that the Planning Commission may recommend, but not impose, conditions on zoning approvals.

ZCC Response: **Accept.**

Relevant Section(s): 14-303(9)

REGISTERED COMMUNITY ORGANIZATIONS: Recommendation from Chestnut Hill Community Association's to distinguish primary RCOs from other RCOs. Primary RCOs would be organizations that routinely review applications for rezoning and zoning variances pursuant to an established review procedure. Established review procedures of primary RCOs would apply in lieu of the RCO meeting requirements in the zoning code.

ZCC Response: **Do not accept.** A two-tiered RCO system is difficult to administer and results in uneven community participation.



Other Recommendations

CONSULTATIONS WITH OTHER AGENCIES: Recommendation from the Zoning Committee of the Bar Association to require consultations by the ZBA with other agencies to be on the record.

ZCC Response: **Accept.** Amend 14-304(4) to state: “*Such consultations of the Zoning Board shall be on the record.*”

TWO-STEP ZONING PERMITS FOR PROJECTS REQUIRING CIVIC DESIGN REVIEW:

Recommendation from the Crosstown Coalition to provide notice to RCOs at both stages if an applicant opts to delay CDR until the second stage.

ZCC Response: **Do Not Accept.** The draft code provides adequate opportunity for notice. L&I determines CDR applicability during the first stage, and per 14-304(5)(c), the applicant is required to notify RCOs at this time. During the second stage, the CDR Committee will notify the public via web notice of the CDR meeting.



Other Recommendations

ZBA INQUIRY TO OTHER AGENCIES: The draft code allows the Zoning Board to consider the reports of other city agencies made as a result of its own inquiry in zoning decisions. The Zoning Committee of the Bar Association raises a concern that this provision is contrary to the need to cross-examine the drafter of the report.

ZCC Response: The Law Department recommends amending 14-303(8)(e) to state: *“Upon request of any party, the Zoning Board may compel the attendance of the City agency.”*

Questions

