

website. If there is no general requirement of web posting, this section should state that the public may also view applications on line at the website.

(.3) Describe the property involved by general vicinity, street address, size, and/or nearest cross street, and the zoning district in which the property is located;

(.4) Describe the nature, scope, and purpose of the application or proposal being advertised and the type of permit, approval, or variance being sought;

(.5) Indicate the time and place of any required meeting or public hearing regarding the application; With reference to the timing of neighborhood meetings, please see the comments at 14-203(1)(c) at Consol. Code pg 2-13.

(.6) Indicate that interested parties may appear at the meeting or public Chapter hearing and speak on the matter or may file written comments, and the email and postal address (The Coalition believes that it is quite important that interested parties can issue electronic comments to an email address) to which written comments may be sent; and

(.7) Contain any additional information found within the application required by L&I, the ZBA, or the Planning Commission for the type of application being proposed. This clause is intended to clarify that the information provided on the notice is limited to what is in the application

(b) Sign Notice Consol Code pg 2-17

Where 14-202 requires notice by sign, the notice shall contain the content listed in subsection 14-203(6)(a) (pg. 2-16) above, and shall meet the following requirements.

(.1) Provision and Posting of Signs

L&I shall provide each applicant with the required number of signs. In order to provide clear and adequate notice, all posting shall comply with the sign posting requirements of this 14-203(6)(b). The Zoning Code Administrative Manual contains additional information about best practices for sign notices. It is impossible to assess the last sentence because the administrative manual has yet to be issued. We suggest that the Manual should contain a picture or pictures of a notice so that citizens can learn whether a particular notice passes muster or is bogus.

(.2) Number and Location of Signs

At least one sign shall be clearly posted by the applicant on each street frontage of the property that is the subject of the application and as close to the sidewalk as possible. On large parcels, or when a property is in the interior of a block or tract of land, additional signs may be required to be posted adjacent to and facing the surrounding properties. Signs shall be posted in plain view, not obstructed by bushes, tree limbs, fences, or gates, and at eye level so that passers-by may read the sign without coming onto the property. Signs may not be posted on moveable gates, doors, or windows, or on trees or utility poles. In the case of an appeal where the appellant does

not control the property that is the subject of the appeal, L&I may waive the posting requirement and require alternative notice designed to provide effective notice to all interested parties.

(.3) Time of Posting

Notification signs shall be posted at least 21 days immediately prior to any public hearing, and including the day of the hearing. It shall be the applicant's responsibility to see that each required sign remains posted during the entire period. See comments at 14-203(1)(c) at Consol. Code pg. 2-13 this draft pg. 19, regarding the 21 day notice concerning community meetings which is impractical because civic associations run on a 30 day schedule.

(.4) Reposting *Consol Code pg. 2-18*

(.a) If a public hearing is continued to a later date, the property shall be reposted as if it were an original application, but if the date for continuation of the hearing is less than 21 days after the original hearing, then the property need only be posted from a date 7 days after the date of the original hearing until the date of the continued hearing. The following should be added as the last sentence: "Further, written notice shall be issued to any registered community association required to be notified of the application."

(.b) If signs are not posted in accordance with the preceding requirements, the body conducting the public hearing shall delay action on the matter and require reposting of the signs, unless the applicant satisfies the body that (a) the required posting began on or before the required date, and (b) the applicant made diligent efforts to keep the signs posted during the entire period, and (c) that only circumstances beyond applicant's control prevented a continuous posting, then the ZBA may act on the application. Any reposting of required signs will be treated as a new posting. This paragraph would be more explicit if the following clause were inserted here: "subject to the provisions of .4.a above", and a new posting fee shall be required.

(.5) Sign Removal *Consol Code pg. 2-18 to 2-19*

No person shall alter, deface, remove or affect the visibility of any sign posted pursuant to this 14-203(6) until after a the public hearing has been held or the application has been withdrawn. Each required notice sign shall be removed by the applicant within 5 days after a decision has been made or a permit issued on the matter referenced on the sign or the application has been withdrawn.

(c) Newspaper Notice⁷²

Where Table 14-202-1 requires newspaper notice, that notice shall be in a newspaper of general circulation within Philadelphia, shall contain the content listed in subsection 14-203(6)(a) above, and shall be published once at least 15 days before the required public hearing. If a hearing is required the notice shall also comply with all applicable requirements of Pennsylvania Statutes related to notices of public hearings.

(d) Other Forms of Notice

No provision of this 14-203(6) shall restrict any department or agency of the City from providing additional notice in a different form, including without limitation

notice through posting of information on the city's web site, or through links to other web sites, or through electronic mail or mailing lists. Notices pursuant to this subsection (e) shall be provided at the city's option, and shall not substitute for any required notices under subsections (a) through (d) above. All applications ~~for zoning map or text amendments~~ shall be posted on the City's web site. The preceding sentence suggests that only applications for zoning map and text amendments should be posted on the City's website. We believe all applications should be so posted. Failure to provide any form of supplemental notice under this subsection (e) shall not be cause to delay, reverse, or appeal any decision of the ZBA or any department or agency of the city.

(e) Registered Community Organization Notice 74 See the commentary at 14-203 (6) at page 2-40 of the Consolidated Draft which notes the confusion as to the sequencing of procedures for projects requiring design review. This section suggests that the DR process commences at the L&I filing and proceeds in parallel as the applicant seeks zoning approval but but what if the DR committee provides comments on a project that fails to pass zoning muster?

(.1) An applicant that has received a referral or refusal from L&I may not apply to the ZBA for approval of a special exception, regulated use or variance until the applicant has first provided written notice to the Registered Community Organization(s) whose area of concern include the applicant's property pursuant to this 14-203(6)(e).

(.2) An applicant that has been notified by L&I that an application will require review under the Civic Design Review process may not complete the filing of the application until the applicant has first provided written notice to the Registered Community Organization(s) whose area of concern include the applicant's property pursuant to this 14-203(6)(e).

(.3) For applications covered by subsections 14-203(6)(e)(.1) and 14-203(6)(e)(.2) above, the City shall notify the applicant of the name and contact information for the Registered Community Organization(s) to be contacted and shall require that the applicant provided notice in the preferred form stated in the organization's filing documents (i.e. electronically or by mail).

(.4) At the same time the applicant provides written notice to the Registered Community Organization(s), the applicant shall send a copy of the notice to the Planning Commission.

(.5) L&I shall require that the applicant provide copies of the notice(s) to the Registered Community Organization(s) and Planning Commission to be included in the application materials before finding that the application is complete under 14-203(4) *and this requirement shall be*

placed in the Administrative Manual. We suggest that this requirement should be placed in the Administrative Manual so that applicants are made aware of it. *Consol code pg. 2-19*

(7) Public Hearings *Consol Code pg. 2-20 to 2-21*

~~Whenever this Zoning Code requires that the ZBA conduct a public hearing, the following provisions shall apply.~~

We suggest that the following language be substituted -“All ZBA hearings should be subject to the following provisions” because, under the Charter, the ZBA can only act at hearings and the current introduction leaves the impression that somehow the ZBA can act outside of the hearing process.

(a) Hearings of the ZBA shall be held at the call of the Chairman and at such other times as the ZBA may determine.

(a.1) We strongly advocate that meetings of the ZBA involving neighborhood issues be conducted after business hours because at present, protestants must interrupt their business day in order to testify at ZBA hearings. ZBA officials are appointed to serve the public. Conduct hearings during the business day does not serve the public. After all, the ZCC, itself, met at 8 am, not 9. Is the time of the ZCC bd members more valuable than that of the citizenry? Our suggestion is that: “ *All applications pertaining to residential properties or as to which a neighborhood meeting is required shall be held after 5:00 p.m. to facilitate community involvement.*”

(b) Four members of the ZBA shall constitute a quorum for any public hearing required under this Title.

(c) The concurring vote of a majority of the ZBA, present and constituting a quorum at a public hearing, shall be required for action by the ZBA.

(d) All hearings shall be open to the public.

(e) The burden of demonstrating that an application meets all of the applicable requirements of this Zoning Code shall be on the applicant.

(f) Any member of the public who attends a public hearing before the ZBA, including but not limited to translators and family members, shall be permitted to offer testimony ~~individually~~. We believe that “individually” should be eliminated for two reasons. First, it could be read to prevent the ZBA from requesting that attendees raise their hands if their proposed testimony would be duplicative of earlier testimony. Second, it suggests that, although members of the public may testify themselves, they cannot have representatives, such as experts, testify on their behalf. even if it is ultimately determined the individual or the person on whose behalf they are offering testimony did not have standing to appeal the decision by the ZBA to the Court of Common Pleas.

(g) Any organization that attends a public hearing before the ZBA shall be allowed to offer testimony on behalf of the organization, even if it is ultimately determined that the organization did not have standing to appeal the decision by the ZBA to the Court of Common Pleas.⁷⁸ However, any corporation, including an incorporated non-profit, that is the applicant in the matter before the ZBA must be represented by an attorney at the public hearing on that matter before the ZBA.

(h) The ZBA may determine the order of testimony and may establish time limits on testimony in order to allow all interested parties to be heard.

(i) The ZBA may administer oaths and compel the attendance of witnesses, and issue subpoenas for that purpose.

(j) Attorneys representing applicants or objectors, including but not limited to attorneys representing civic groups, will be permitted to cross-examine, present evidence, and request the issuance of subpoenas.

(k) The ZBA shall keep minutes of its deliberations showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its hearings, inspections, examinations, and other official actions, all of which shall be immediately filed in the office of the ZBA and shall be a public record.

(l) Any party may appear in person or by an attorney, and may be accompanied by a family member or translator⁸⁰. For good and proper cause, the right of an attorney to practice before the ZBA may be suspended by the ZBA. Statements by a person's attorney on his behalf may be considered as testimony.

(m) Any agency of the City shall have the power, in all public hearings before the ZBA, to appear and to present facts and information to assist the ZBA in reaching a decision.

(n) Hearings on appeals relating to the One Year Rule set forth in 14-204(9)(h) shall be conducted in accordance with the procedures set forth in that section.

(o) All decisions of the ZBA shall be in writing, shall state the reason(s) for the decision, and notice of the decision shall be mailed to the applicant and his attorney of record and to such other persons or attorneys who have properly entered an appearance in the case. The decision shall be a public record. The Code should make clear that it is not asking the ZBA to write formal decisions with findings of fact and conclusions of law for matters which are not appealed. It is our understanding that the ZBA is processing 1,500-1,800 cases a year and we are concerned that if each case generated a decision ZBA could not keep up the pace and there would be substantial delays. Further, it is the practice of the ZBA to hire outside counsel to write decisions on matters that are appealed. If this practice were employed in each decision, the cost would be significant. If the ZCC does not intend that the ZBA write a formal decision, the ZCC should specify the format of the decision required. Otherwise, there may be litigation as to the issue of whether a particular ZBA written decision complies with this Code. We suggest an addition such as : *"Such decision need not contain findings of fact or conclusions of law but must*

cite the sections of the Code applied and contain a narrative summary explanation as to how the Code section(s) applied to the application."

(p) The ZBA shall prepare an annual report to be sent to the Federal Emergency Management Agency⁸² of all variances granted during the previous calendar year within areas subject to flooding as provided in 14-606(5) describing the conditions under which the variances were granted.

(8) General Decision-Making Criteria - *Consol Code pg. 2-21 to 2-22*

Where L&I, the ZBA, or the Planning Commission is required to render a decision or provide a recommendation on an application and this Zoning Code does not provide specific criteria for review and approval of that type of application in 14-204, the application shall be recommended for approval or shall be approved, with or without conditions, if the application complies with all applicable standards of this Zoning Code and any related regulations adopted by the city. This clause appears to enable the decision makers to authorize uses and structures which are not permitted by the Code. This section therefore raises the basic question as to whether the decision makers should be permitted to authorize conditions which are not described in the Zoning Code. Presently, the current code is permissive – i.e. the decision makers can only authorize uses, etc. which are permitted. This language would permit decision makers to authorize uses, etc. which have not been foreseen and therefore are not included within the Code. This makes the Coalition nervous.

(9) Conditions on Permits and Approvals *Consol Code pg. 2-22*

(a) Planning Commission and ZBA

(.1) ~~The Planning Commission and~~ ZBA are is authorized to recommend or impose conditions on approvals that it determines are necessary to: The power to grant conditions is an extension of the power to grant approvals for either variances or special exceptions. The Planning Commission and L & I do not, and should not, have the power to grant variances or special exceptions. Accordingly, we suggest that the Planning Commission be deleted from (.1).

(.a) Bring the application into compliance with the requirements of this Zoning Code or any previously adopted plan of development for the property, or (Perhaps the thought that should be expressed here is that any conditions must be zoning related. This language is a bit murky. It might be a useful exercise for the ZCC to express why this particular subparagraph is included.)

(.b) Prevent or minimize adverse effects upon surrounding areas or upon public facilities and services that are (i) caused by the proposed zoning change, and (ii) consistent with the purposes of this Zoning Code. This second paragraph could also be eliminated if the recommendation in (.a) above were inserted. Our understanding of the ZCC's idea here is that any conditions must be zoning related so that the ZBA could not impose a condition dealing with a topic that was not a zoning issue. This could be expressed in one paragraph

(.2) Where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, and the Planning Commission or ZBA has authority to impose those conditions, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts. This subsection (d) shall not constitute a grant of authority to either the Planning Commission or ZBA to require the dedication of land or payment of money, but constitutes a limitation on any existing authority to impose such conditions. (We are confused by this paragraph. The first sentence suggests that the Planning Commission or the ZBA can impose financial requirements as a condition for granting an application. The second sentence seems to state that this cannot be done. Further, we question whether the Charter permits either the Planning Commission or the ZBA to impose such financial conditions.

(b) L&I

L&I is authorized to impose conditions on permits necessary to bring the application into compliance with the requirements of this Zoning Code. This section provides L & I employees the power to add conditions on permits which, apparently, would not otherwise be issued. Presently, L & I employees have four options – to grant a permit, deny a permit, refuse to consider an application because it is not properly completed or lacks supporting documentation or suggest that the applicant must go to the ZBA to get a special exception. We are concerned that, under this section L & I employees would be given the authority to improvise their own conditions which might vary substantially from the provisions of the Code. Our concern is heightened by the fact that there appear to be no limits on the power of L & I to provide conditions.

(c) All Review and Approval Bodies

(.1) All conditions imposed shall be reasonably related to the anticipated impacts of the proposed use or development and the purposes of this Zoning Code. Our understanding of this paragraph (.1) is that it is inserted so that conditions are related to the purposes of the issuing agency. In this connection, there is a distinction between the powers of the ZBA and the powers of the Planning Commission. We would suggest that the paragraph be revised to take into account the different roles of the ZBA and the Planning Commission. The controls on the ZBA should read: *“The Zoning Board of Adjustment may issue conditions on any approvals (whether a variance or a special exception) provided that the condition has a purpose recognized in this Zoning Code.”* With reference to the Planning Commission, we would suggest that para. (.1) be revised so that it reads *“The Planning Commission may issue conditions on its approval of subdivisions provided that the conditions are not related to the subdivision itself.”*

(.2) Any conditions on approvals shall be expressly listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Zoning Code.

(10) Inactive Applications *Consol Code pg. 2-23*

If L&I requests additional information regarding any application and the applicant does not respond, or if L&I issues a permit and the applicant does not pick up the permit, the application will be treated as inactive. The definition of inactive applications and specific timeframes and rules regarding their disposition are found in the City of Philadelphia Administrative Code. We cannot provide any meaningful comment on this section because the Administrative Manual has yet to be issued.

(11) Protection of Property Rights

(a) All review and approval procedures in this Zoning Code shall be conducted, and decisions made, so as to protect the property rights of applicants pursuant to the fifth and fourteenth Amendments to the U.S. Constitution and [comparable provisions] of the Pennsylvania Constitution. Why is this inserted here? Is it necessary to tell Code users that the ZCC (or City Council) is subordinate to the State and Federal constitutions?

(b) Without limiting the previous Section, no decision pursuant to this Zoning Code shall have the effect of depriving a property owner of all reasonable economic use of the property, or of denying a property owner of a property right protected by the U.S. of Pennsylvania Constitutions without due process of law. Why is this inserted here? Is it necessary to state that the ZCC (or City Council) is subordinate to the State and Federal constitutions?

(c) ~~If an applicant alleges that the provisions of this section have been violated, that allegation shall be treated as a request for (a) a variance pursuant to 14-204(8), or (b) a code interpretation pursuant to 14-203(12). If it is treated as a request for a variance, the ZBA may grant such relief as it deems appropriate to avoid a denial of constitutionally protected rights, including but not limited to a variance allowing a use that is not otherwise allowed in the zoning district, provided that the use does not constitute a public nuisance. The relief granted by the ZBA need not be the same as that requested by the applicant, provided that it results in the applicant retaining a reasonable economic use of the property. If treated as a request for a code interpretation, the Planning Commission may consider revising an existing code interpretation or adopting a new code interpretation to avoid a denial of constitutionally protected property rights. We believe this provision should be eliminated. It seems to say that where the Code tramples on the legal rights of a citizen, the decision maker under the Code can modify the Code. We believe that issues of constitutionality are best left to the court system.~~

(12) Code Interpretations As this section is presently written, an applicant could obtain without any community notice what, in effect, would be a final determination on an issue that would otherwise require community notice. In other words, an applicant could request an advisory opinion on an administrative basis and receive an administrative determination

without any alert issuing to the affected community. While section 12 does contain an escape clause permitting the administrative agency to reverse itself, this is cold comfort. Human nature being what it is, there will be an effective presumption in favor of advisory opinions once issued. Therefore, in the advisory opinion process, communities should be permitted to participate. If advisory opinions are to be permitted, community organizations should be notified under 14-203(1) at Consol. Code pg. 2-13 at (.8).

(a) Any person may request a written interpretation of the meaning of any provision of this Zoning Code as it applies to a specific property or circumstance, provided that the request does not relate to a pending application for a permit or approval before L&I, the ZBA, or the Planning Commission.

(b) A request for a written interpretation shall be filed with the Planning Commission and a response to the request shall be provided by the Planning Commission within 30 days.

(c) The Planning Commission may consult with any department or agency of the City.

(d) The written interpretation of the Planning Commission shall be posted on the Planning Commission web site within 1 week after its issuance and shall be transmitted to the applicant at the street address or electronic address stated on the application.⁸⁸

(e) Following the issuance of a written interpretation, the decisions of L&I, the ZBA, and the Planning Commission shall be generally consistent with that interpretation unless and until a replacement or modifying written interpretation is issued by the Planning Commission. However, the issuance of a written interpretation shall not require that L&I, the ZBA, or the Planning Commission to reach a particular decision on any application if the facts of the application or property or the location or character of the proposed use or structure in any application differ from those stated or assumed by the Planning Commission at the time the written interpretation was made.

(13) Appeals *Consol Code pg. 2-24 to 2-26*

(a) Appeals to Zoning Board of Adjustment

(.1) A decision determination made by L&I pursuant to this Zoning Code may be appealed to the ZBA by any applicant, any taxpayer, organization, or entity affected by the decision, or by any department or agency of the city affected by the decision. We would suggest that the word "decision" be replaced with the word "determination" because, in some instances, L & I does not make a decision. For example, in special exception cases, the matter is referred to the Zoning Board. Further, it is our understanding that City Council has standing to appeal as a body under Act 193 of 2004.

(.2) A recommendation by the Planning Commission or by any agency or department of the city is not a final decision and may not be appealed to the ZBA. We are confused by this paragraph. This paragraph is confusing. The word "recommendation" connotes that the Planning Commission decision is non binding. If the Planning Commission recommendation is "non

binding,” then we have no issue with this provision. If, however, a Planning Commission “recommendation” is binding, then there must be some right to appeal somewhere. We suggest the following in substitution: *“A recommendation by the Planning Commission or any or agency is not binding and may not be appealed to the ZBA.”*

(.3) Any appeal of an L&I decision by an applicant shall be filed with the ZBA within 30 days after receipt of L&I’s decision through a written notice of appeal stating specifically how L&I’s decision is inconsistent with the requirements of this Zoning Code. *Any appeal of an L & I decision by a person or entity other than applicant shall be filed in a reasonable time but not more than 90 days after delivery of L & I’s decision* This paragraph could be improved if it provided that any appeal must be filed with the ZBA “within 30 days after receipt of L & I’s decision.” Further, the elimination of the “reasonable time” requirement does not address the situation where a protestant is unaware that a permit has been issued over the counter and therefore is unaware that a 30 day clock is running. The way to fix the language might be to provide 30 days for applicants to appeal and “reasonable time” for protestants to appeal.

(.4) After the filing of an appeal, L&I shall promptly transmit to the ZBA copies of the application materials, all documents related to L&I’s decision, and ~~a statement of the reasons for L&I’s decision~~ the applicable sections of the Code being applied and the reasons for their application. The final clause “a statement of the reasons for L & I’s decision” suggests that L & I has discretion to make decisions,. The current practice is that L & I points to the controlling code section which has driven its decision.

(.5) Any corporation, including an incorporated non-profit with IRS 501(c)(3) tax exempt status, that appeals an L&I decision to ZBA must be represented by an attorney at the ZBA hearing, as required by Pennsylvania administrative law. *We note that this language repeats the second section of 14-203(7)(g) at pg. 2-20.*

(.6) The ZBA may decide to consider the appeal at a hearing based on written materials such as the information contained in L&I record, and the reasons stated in the appeal form if it believes that additional testimony is not necessary to determine compliance with this Zoning Code, or may allow additional testimony to determine compliance. If additional testimony is accepted, the ZBA may receive testimony from any person pursuant to 14-203(7) regardless of whether that person would have had standing to file the appeal. *Does this section violate the local agency law which requires notice of a hearing and the opportunity to testify.*

(.7) This paragraph attempts to paraphrase Section 51006 subsection 2 of the Philadelphia Home Rule Charter. In fact, the attempt is not totally consistent with the Charter provision. We suggest that this language be deleted and that the Charter provision be inserted. The Charter provides:

“In the exercise of its powers, the Zoning Board of Adjustment may reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and, to that end, it shall have all the powers of the officer from whom the appeal is taken _____”. ~~The ZBA may affirm or reverse, in whole or in part, or may modify the order, requirement, decision, or~~

~~determination appealed from; and may make decision or order, with or without conditions, necessary to make the decision appealed consistent with the provisions of this Zoning Code. It shall have all the powers of the agency from which the appeal is taken.~~

(.8) The ZBA shall make a decision on the appeal within a reasonable time after receiving the appeal.

(.9) An appeal to the ZBA shall not stay any actions consistent with L&I's decision unless (a) the applicant requests that the ZBA stay those activities because of specific negative impacts on the surrounding area, and (b) the applicant cites specific inconsistencies between the requirements of Zoning Code and L&I's decision making it likely that the applicant's appeal will be successful, and (c) the ZBA grants the applicant's the request for a stay of activities based on those factors.⁹²

(b) Appeals to the Board of License and Inspection Review

A decision by the Art Commission or a decision by the Historical Commission regarding construction, alteration, or demolition in a historic area pursuant to 14-903 may be appealed to the Board of License and Inspection Review. Chapter 14-200: Administration and Procedures 14-204: Specific Procedures | (14) Lapsing of Approvals New Philadelphia Zoning Code | Consolidated Draft | August 2010 2-26 **(c) Appeals to the Courts** *Consol Code 2-26*

The ZCC has eliminated the detailed provisions of current Code section 14-1807 which provides a check list for perfecting appeals. If this section is read literally, an appellant could perfect an appeal by saying "I appeal." From Assuming that a goal is to make the Code user friendly, 1807 is exactly the type of provision that should remain. From the Coalition's point of view, the most important 1807 provision is subsection (7)(a) which enables a community group to obtain a copy of the notes of testimony at the City's expense. For this reason alone, the Coalition would not be satisfied with having these topics dealt with in the Administrative Manual which could be changed without Council approval/ Other important procedural protections provided in 14-1807 who can file an appeal, the right to intervene, what constitutes a record on appeal and protections to the City for sanctions for failing to file a record in a timely fashion.

A decision made by the ZBA or the Planning Commission pursuant to this Zoning Code may be appealed to a Pennsylvania Court of Common Pleas by any aggrieved party pursuant to 53 P.S. 13131.1 and other applicable state law within 30 days of the decision or such other time as the Courts allow.

(14) Lapsing of Approvals *Code 2-26*

(a) Except as specifically stated in another section of this Zoning Code, an approval or permit granted under this Zoning Code shall expire if construction or operation pursuant to the permit or approval has not begun within 3 years after the date the permit or approval was granted. **We**

suggest that the final clause of this provision be modified so that it read “within three years after the later of the granting of a permit or approval or appeal from such permit or approval.”

(b) As this paragraph is phrased, it suggests that once one obtains a use registration permit, the permit is only valid for six months. It is our understanding that the thought intended to be conveyed is that once one obtains a use registration permit, the permit is invalidated if the use does not commence within six months of the issuance of the permit. Therefore, we suggest that the language be revised to read “As an exception to subsection 14-204(1)(a), L & I use registration permits shall be invalidated if the permittee does not commence the use within six months of the issuance of the permit.” ~~As an exception to subsection 14-204(1)(a), L&I use registration permits shall be valid for a period of 6 months.~~

(c) As an exception to subsection 14-204(1)(a), a stormwater permit shall expire 2 years from the date of issuance unless the activity for which the permit is required is commenced prior to that date. If a permit expires, an applicant may apply for a new permit, and the application will be subject to all provisions as if the original permit had never been issued.⁹⁵

(d) Unlike the ZBA and the Planning Commission which only act in public hearings, L & I is an administrative agency so that these extensions can occur under the radar. Further, this subsection(d) provides no procedures as to how an applicant would obtain the one year extension. We further advocate that an applicant for such an extension be given 45 days notice of the ZBA or Planning Commission hearing. ~~L&I~~, The ZBA, or the Planning Commission that granted the original approval may, renew or extend the time of a previous approval one time for up to one year if the required findings or criteria for that approval remain valid. No more than one extension may be granted.

14-204 Specific Procedures⁹⁶

(1) Comprehensive and Other Plan Adoption *Consol Code 2-26*

It is impossible to provide meaningful comments on this section because there is no definition of comprehensive plan.

(a) Applicability

This Section applies whenever a comprehensive plan or other plan is intended to become the adopted policy of the city and to guide the approval of rezonings, permits, or approvals, including special exception and regulated use approvals, in the area of the city covered by the plan.

(b) Review and Action by Planning Commission

(.1) No plan shall become the adopted policy of the city unless it is first approved by the Planning Commission. OPTIONAL Review at Additional Meetings with Public Notice Section 14-203(6) Review by Planning Commission at Scheduled Meeting DECISION by Commission P P Indicates Public Meeting or Hearing Required P Comprehensive Plan Adoption

(.2) The Planning Commission shall review the plan in at least one regularly scheduled Planning Commission meeting. The Planning Commission may schedule additional public meetings to review the plan, and notice of those meetings shall be provided as set forth for in 14-203(6).

(.3) In the case of a comprehensive plan or other plan prepared by the city or any public or quasi-public entity, if the Planning Commission determines that the plan will promote the best interests of the city and that it should become the policy of the city, it shall adopt the plan, or adopt it with changes, and the plan shall then be considered an amendment to the comprehensive plan. If the Planning Commission determines that the plan will not promote the best interests of the city, or that it should not become the policy of the city, it shall not adopt the plan.

(.4) In the case of a plan prepared by a group other than the city or a public or quasi-public agency, if the Planning Commission determines that the plan will promote the best interests of the city it may accept the plan, but the plan will not be considered an amendment to the comprehensive plan.

(c) Effect of Approval

Only plans that have been adopted by the Planning Commission as amendments to the comprehensive plan shall be used by the Planning Commission, L&I, or the ZBA to support the approval, approval with conditions, or denial of permits or approvals, including special exception and regulated use approvals. Pursuant to 14-105(2), accepted plans may be used at the discretion of the Planning Commission, L&I or the ZBA, but these bodies are not required to make decisions consistent with accepted plans.

(d) Amendment

An adopted plan may be amended through the same process used for initial review and decision on the plan.

(2) Zoning Map and Text Amendments

(a) Applicability

This Section applies whenever an ordinance for amendment to the text or illustrations of this Zoning Code or for an amendment to the official zoning map related to this Title.

(b) Review by Planning Commission

(.1) No ordinance amending the text or illustrations of this Zoning Code or amending the official zoning map shall be considered by City Council unless it is first reviewed by the Planning Commission.

(.2) The Planning Commission shall review the ordinance in at least one regularly scheduled Planning Commission meeting. The Planning Commission may schedule additional public

meetings to review the ordinance, and notice of those meetings shall be provided as set forth for in 14-203(6).

(.3) The Planning Commission shall then forward to City Council a recommendation for approval, approval with changes, or disapproval of the ordinance based on whether it meets the criteria in 14-204(2)(d) or 14-204(2)(e) below.

(c) Action by City Council

The City Council shall consider the ordinance in the manner set forth in the Home Rule Charter, except that not less than 15 days notice shall be given for any public hearing. In the case of a zoning code or map amendments initiated by City Council, the Council shall not act until it has referred the proposed ordinance to the Planning Commission for comment and waited at least 30 days following the introduction of the ordinance to receive the Planning Commission’s recommendation on the ordinance.¹⁰⁰ In the case of zoning map or text amendments not initiated by Council, Council shall only act after receiving a recommendation from the Planning Commission. City Council may approve, approve with changes, or disapprove the ordinance, and may approve or disapprove an ordinance regardless of the recommendation of the Planning Commission.

(d) Criteria for Review *Consol Code 2-29*

The Planning Commission shall only recommend that the ordinance be approved or approved with changes if it determines that the ordinance meets the following criteria.

(.1) ~~The ordinance is consistent with the comprehensive plan;~~ Phila. 2035 has not yet been adopted and this language suggests that there is an operating comprehensive plan. Better language might be *“The ordinance is consistent with any currently approved comprehensive plan.”*

(.2) The ordinance is consistent with other plans adopted by the city as amendments to the comprehensive plan for the area affected by the ordinance;

(.3) The adoption of the ordinance is in the best interest of the city;

(.4) The impacts of the ordinance on areas surrounding the land affected by the ordinance will be positive, or that any negative impacts are unavoidable or will be mitigated to the extent reasonable.¹⁰¹

(.5) If the ordinance proposes a new overlay district, the same result cannot be achieved through amendments to an existing base or overlay district or the text of this Zoning Code.

(e) Special Provisions for Certain Districts

(.1) **Planned Development Districts** *Consol Code 2-29* *To reflect the contents of this paragraph, the chart at 14-202-1 on page 2-12 should contain a “D” under City Council in the first entry for Type of Application labeled Plan Adoption or Amendment.*

(.a) The zoning districts listed in Table 14-204-1 require the approval of any rezoning of land into that district be accompanied by a plan for the development or redevelopment of land in the area

.b) Any ordinance proposing the designation of any lands into a planned development district other than (i) the Entertainment-Special Purpose (SP-ENT) district or (ii) Neighborhood Conservation Overlay (/NCO) district, shall be reviewed and approved as described in either 14-204(2)(e)(.1)(.c) or 14-204(2)(e)(.1)(.d) below.

(.c) The ordinance may be accompanied by a plan of development for the area to be rezoned that meets the requirements of this Zoning Code. In this case, the ordinance and plan of development shall be reviewed concurrently, any recommendation by Planning Commission shall address both the ordinance and plan, any action by City Council shall address both the ordinance and the plan, and the rezoning and plan of development shall become effective immediately upon City Council action.

(.d) As an alternative to 14-204(2)(e)(.1)(.c), City Council may approve the amendment without approving a plan of development. In this case, the amendment shall not become effective until a plan of development for the property has been submitted, Planning Commission has reviewed that plan and made a recommendation to City Council, and City Council has approved a plan of development pursuant to this Zoning Code.

(.2) Neighborhood Conservation Overlay Districts¹⁰²

(.a) A petition requesting that the Planning Commission initiate the process towards creating an /NCO district shall be filed with the Planning Commission either (1) by a neighborhood association located within the proposed /NCO district, or (2) containing the signatures of at least 30% of all property owners and at least 30% of all owners of owner-occupied housing units located within the proposed /NCO district. The petition shall include a draft map of /NCO district boundaries and draft design guidelines that would apply to the /NCO district.

(.b) The Planning Commission shall review the petition and shall convene at least one public meeting within the /NCO district's proposed boundaries in order to seek public comment on the proposed /NCO district and design guidelines.

(.c) City Council shall not enact any ordinance creating an /NCO district if by the date of the Council public hearing, at least 51% of all property owners or 51% of all owners of owner-occupied housing units located within the proposed /NCO district have filed in writing with the Clerk of Council a statement of opposition to creation of the /NCO district. Those written statements may include petitions with multiple signatures opposing the creation of the /NCO district.¹⁰³

(.d) City Council shall consider the proposed /NCO district ordinance, design guidelines, and map in the same manner as other zoning ordinances, but shall not approve or approve with changes a proposed /NCO district unless it finds that the proposed /NCO district area has a consistent

physical character as a result of a concentration of residential buildings of similar character or a continuity established by an overall plan. The City Council decision shall not include any areas within the /NCO district that were not included in the proposed boundaries of the /NCO district as set forth in the map attached to the proposed ordinance.

(e) The boundaries or design guidelines of an /NCO district may be amended using the same procedures used to create the district.

(.3) SP-ENT, Entertainment (Special Purpose) District *Consol Code 2-32*

(a) We suggest the insertion of the following introductory language above because permitting a single lot owner to submit might lead to abuse. A requirement of 25% is less than the requirements for Neighborhood Conservation Districts at page 2-31 of the Consolidated Draft which calls for 30%." ~~The owner of any lot~~ *The owner of any lot or lots comprising at least 25% of the ground area of the proposed or adopted SP-ENT district*" ~~within a proposed or adopted SP-ENT district~~ may submit to the Planning Commission a proposed plan of development for the Planning Commission's review and recommendation. (.b) The Planning Commission shall review the proposed plan of development and shall make a recommendation to City Council based on whether the plan or amendment is (1) consistent with the purposes of the SP-ENT district, (2) otherwise in compliance with the provisions of this Zoning Code applicable to the SP-ENT district, and (3) otherwise appropriate in terms of scale, density, accessibility and design for the neighborhood where it is located. The Planning Commission may recommend approval, approval with changes, or disapproval.

(c) Council approval of a plan of development or amendment to a plan of development shall be presumed if City Council fails to approve by ordinance, disapprove by ordinance, or table consideration of a proposed plan by the later of (1) 45 days when Council is in session after submission by the Planning Commission of a proposed plan or amendment to the Council, or (2) the fifth Council meeting after Planning Commission transmits its recommendation to Council. In the event the owner of a lot within a SP-ENT district, submits a proposed plan or amendment to the Planning Commission and the Planning Commission fails to approve, disapprove, or table consideration of it within 45 days after submission, the proponent may submit the application directly to the Council and it will be deemed submitted to the Council by the Planning Commission.

(3) Amendments to Plans of Development

(a) Applicability

This Section applies to the amendment of any plan of development required in a planned development district listed in Table 14-204-1.

(b) Action by Planning Commission on Minor Amendments

Proposed amendments that comply with the criteria in subsections (d) through (h) below, as applicable, are “Minor Amendments” and amendments that do not comply with those standards are “Major Amendments.” Amendments shall be submitted to the Planning Commission for review, and the Planning Commission shall provide public notice pursuant to 14-203(6) and conduct a public meeting on the proposed amendment. If, after the public meeting, the Planning Commission determines that the proposed amendment is a Minor Amendment, the Planning Commission may approve the amendment, or approve it with modifications. If the Planning Commission determines that the proposed amendment is a Major Amendment, the Planning Commission shall refer the proposed amendment to City Council together with its recommendation based on the stated purposes of the district involved and the public health, safety, and general welfare of the city.

(c) Action by City Council on Major Amendments

The Planning Commission shall forward Major Amendments to City Council, which shall consider the amendment as a proposed new plan of development for the district in the same manner required by the Home Rule Charter. If Council has not acted to approve, approve with changes, or disapprove the amendment within 45 days when Council is in session after referral of the amendment by the Planning Commission, Council will be deemed to have concurred with the recommendation of the Planning Commission.

(d) General Criteria for Planning Commission Approval

The Planning Commission shall approve a proposed amendment as a Minor Amendment to a plan of development only if it determines that the amendment complies with all of the following criteria:

- (.1) The amendment is consistent with the stated purpose of the district, the stated purpose of existing plan of development, the sound development needs of the district, and the requirements of any applicable overlay district.
- (.2) The amendment only includes uses listed in Tables 14-502-1 through 14-502-4 as a permitted or special exception for the district in which the land is located and the amendment complies with all dimensional requirements listed in Chapter 14-600 for the district in which the land is located. If the application includes a special exception listed in Tables 14-502-1 through 14-502-4 it shall not be approved unless the Planning Commission determines that the criteria of 14-204(4)(d) have been met.
- (.3) The amendment complies with all additional criteria listed in 14-204(3)(e) through 14-204(3)(i) applicable to the zoning district where the land is located.

(e) Criteria for Amendment of RMX-1 District Plans

The Planning Commission shall approve a proposed amendment as a Minor Amendment to an RMX-1 plan of development only if it determines that the amendment also complies with the following criteria.

(.1) Any relocation of buildings, driveways, or access roads results in equal or less environmental impact or lessens impacts on any existing historically significant structure, building or natural amenity, and does not reduce any setback of a building, driveway, or access road from any zoning district boundary.

(f) Criteria for Amendment of RMX-2 District Plans

(.1) If the application is for a plan of development or amended plan of development in the approved Waterfront Redevelopment portion of the RMX-2 zoning district, the Planning Commission shall take no action until it first (a) refers the plan to the Streets Department and the Water Department for their recommendation and (b) waits 30 days to receive the recommendations of the two departments. If no response or recommendation is received within that period, the Planning Commission shall assume that neither department has any objection to approval of the plan or plan amendment.

(.2) The Planning Commission shall approve an amendment to an RMX-2 plan of development only if it determines that the amendment includes only the following types of changes¹⁰⁸:

(.a) Reductions in the proposed gross floor area, building height, or percentage of commercial space;

(.b) Reductions in the number of residential units;

(.c) Replacement of one type of dwelling structure with another provided that there is no increase in the total number of units results;

(.d) Substitution of one type of permitted commercial use for another;¹⁰⁹

(.e) Reductions or increases in the number of proposed parking or loading spaces, provided that no reduction in overall parking or loading ratios results; and/or Chapter 14-200: Administration and Procedures

(.f) Changes in permitted signage.

(g) Criteria for Amendment of SP-INS District Plans

The Planning Commission shall approve an amendment to an SP-INS plan of development only if it determines that the amendment only approves:

(.1) Permitted or special exception uses listed for the SP-INS district in Table 14-502-4; and/or

(.2) Changes to the types and locations of permitted signage that do not increase the amount or height of permitted signage; and/or

(.3) Changes to the location or design of required parking, loading, and/or landscaping that do not reduce the total amount of parking, loading, or landscaping shown in the approved development plan; and/or

(.4) Temporary facilities or structures that are consistent with the overall intent of the adopted plan of development; and/or

(.5) Additions to buildings or changes in building footprints that do not reduce impervious surface within the district by more than 5% or by more than 5,000 sq. ft., measured collectively from the date of adoption of the district.¹¹¹

(h) Criteria for Amendment of SP-STA District Plans

The Planning Commission shall approve an amendment to a SP-STA district plan of development only if it determines that the amendment also complies with the following criteria.

(.1) The amendment includes only (a) changes to the types and locations of permitted signage, but does not increase the amount or height of permitted signage, and/or (b) changes to the location or design of required parking, loading, and/or landscaping that do not reduce the total amount of parking, loading, or landscaping shown in the approved development plan, and/or temporary facilities or structures that will not undermine the overall intent of the adopted plan of development, and/or (c) additions to buildings or changes in building footprints that do not reduce impervious surface within the district by more than 5% or by more than 5,000 sq. ft., measured collectively from the date of adoption of the district.

(.2) Notwithstanding the provisions of 14-204(3)(d) only City Council shall have the power to approve special exception uses listed in a SP-STA district.

(i) Criteria for Amendment of SP-ENT District Plans¹¹⁴

(.1) If the application is for a plan of development or amended plan of development in the SP-ENT district, the Planning Commission shall take no action until it first (a) refers the plan to the Streets Department and the Water Department for their recommendation and (b) waits 30 days to receive the recommendations of the two departments. Except as noted in subsection (2) below, if no response or recommendation is received within the 30 day period, the Planning Commission shall presume that neither department has any objection to approval of the plan or plan amendment.

(.2) If the approval of the Streets Department is required before the issuance of a permit relating to off-street parking and the Streets Department does not approve, disapprove, or conditionally approve the proposal within 30 days after submission of the proposed plan or amendment to the Streets Department, the Planning Commission shall presume the Streets Department has approved the plan or amendment.¹¹⁵

(.3) The Planning Commission shall approve an amendment to a SP-ENT district plan of development only if it determines that the amendment includes only (a) changes to the types and locations of permitted signage, but does not increase the amount or height of permitted

signage, and/or (b) changes to the location or design of required parking, loading, and/or landscaping that do not reduce the total amount of parking, loading, or landscaping shown in the approved development plan, and/or temporary facilities or structures that will not undermine the overall intent of the adopted plan of development, and/or (c) additions to buildings or changes in building footprints that do not reduce impervious surface within the district by more than 5% or by more than 5,000 sq. ft., measured collectively from the date of adoption of the district.

(.4) Notwithstanding the provisions of 14-204(3)(d) only City Council shall have the power to approve special exception uses listed in a SP-ENT district.

(4) Special Exception Approval

(a) Applicability

This Section shall apply to all applicants for a special exception that is permitted in the zoning district where the property is located as shown in Tables 14-502-1 through 14-502-4.

(b) Review by L&I *Consol Code 2-38* This paragraph, by using the phrase “shall review the application for consistency with the criterion 14-204(4)(d)” suggests that the L & I reviewers are to make a determination that is solely within the province of the ZBA. We suggest that the paragraph read: “The application shall be filed with L & I and, if L & I determines that a special exception is needed, L & I shall forward the application to the ZBA for consideration.

~~The application shall be filed with L&I, which shall review the application for consistency with the criteria in 14-204(4)(d) and forward the application to the ZBA for consideration.~~

(c) Hearing and Action by the ZBA *Consol Code 2-38* The provision would be more explicit if the phrase “approve with changes” were modified to read “approve with changes or conditions.”

The application shall be reviewed by the ZBA and a public hearing shall be held pursuant to 14-203(7). The applicant shall have the burden of presenting evidence that the criteria in 14-204(4)(d) below have been met. The ZBA may approve, approve with changes or conditions, or disapprove the application based on its determination as to whether those criteria have been met.

(d) Criteria for Review and Action by the ZBA *Consol Code 2-38*

The ZBA shall approve or approve with conditions, only if it determines that the proposed special exception meets the following conditions:

(.1) The application is consistent with the comprehensive plan for the city, any adopted area redevelopment plan, and any other adopted plans for

the area where the property is located; and
the Legislative Findings have been deleted, but may be included in the adopting ordinance. Applicability section is new since Module 1.

- (.2) Complies with all applicable Use-Specific Standards in 14-503; and 120
- (.3) Will not substantially increase congestion in the public streets or transportation systems; and
- (.4) Will not overcrowd the land or create an undue concentration of population; and
- (.5) Will not impair an adequate supply of light and air to adjacent property; and
- (.6) Will not unduly burden water, sewer, school, park, or other public facilities; and
- (.7) Will not impair or permanently injure the use of adjacent conforming properties; and P P I
- (.8) Will not increase the danger of fire or otherwise endanger the public health or safety.

(5) Regulated Use Approval

(a) Applicability

This section applies to the review and approval of those uses listed in 14-503(10)(a).

(b) Review and Approval *Consol Code 2-39*

We do not believe that the procedure for granting a regulated use is the same as the procedure for granting a special exception. Regulated uses that violate the distancing requirements found at 14-503(10)(b) on pg. 5-39 are not permitted unless a variance is granted.

The procedure for reviewing and approving Regulated Uses is the same as the procedure for special exception approval in 14-204(4), except that the criteria for approval are those shown in subsection 14-204(5)(c) below.

(c) Criteria for Review and Action by the ZBA The ZBA shall approve or approve with conditions, only if it determines that the proposed Regulated Use meets all of the Use-Specific Standards for that use set forth in 14-503.

(6) Civic Design Review *Consol Code 2-40*

(a) Applicability

(.1) Required Review

This section applies to any development that meets the criteria in Table 14-204-2.

Table 14-204-2: Civic Design Review Triggers *Consol Code 2-40*

The Civic Design Review triggers are too high for the townhouse districts of many of our members.

Civic Design Review is required in the following three cases:

The applicant's property is located in this district:

AND the property abuts one or more of the following: [1]

AND the application:

Case 1: Any RM, RMX, C, I, or SP district Any RSD or RSA district 1. Includes more than 25,000 sq. ft. of new construction; or 2. Includes more than 25 new dwelling units; or 3. Includes buildings that are more than 20 ft. taller than the tallest building on an RSD or RSA lot within 400 ft. of the project property.

Case 2: Case 1 does not apply, AND Any C, I, or SP district Any RM or RMX district 1. Includes more than 50,000 sq. ft. of new construction; or 2. Includes more than 50 new dwelling units; or 3. Includes buildings that are more than 20 ft. taller than the tallest building on an RM or RMX lot within 400 ft. of the project property. ***Consol Code 2-40***

Case 3: Cases 1 and 2 do not apply AND Any district Any district 1. Is not for an industrial building in an industrial district. 2. Includes more than 100,000 s. ft. of new gross floor area or more than 100 new dwelling units.

Table Note:

[1] For purposes of this Table 14-204-2 only, a property "abuts" the applicant's property if (a) it shares all or part of a side or rear property line with the applicant's property, or (b) it is separated from the applicant's property by only an alley, driveway, railroad line, or creek, or (c) it is located on the block face located across a street from the front lot line of the applicant's property and (i) the street separating the two properties is less than 100 ft. wide (measured curb to curb), and (ii) the closest points on the applicant's property and the subject are less than 200 ft. apart.

(.2) Other Reviews *Consol Code 2-40*

GENERAL COMMENT: The suggested sequencing of a project that requires Civic Design Review is difficult to discern from the draft Consolidated Code. The opening phrase of this section provides that "a project that is required to be reviewed by another department agency". This phrasing leaves open the question as to what the term "another department" means. Does this mean that applicants are encouraged to obtain zoning approval/variances before triggering the civic design review process? If that is the intention, it should be more clearly stated. The term "another department" could be construed to mean a department other than the ZBA because this language is found within the zoning code. The present language does not clearly state whether Civic Design Review should, ideally, occur before or after zoning approval and the provision should set this forth clearly. As a practical matter if design review occurs before zoning approval, the DR panel might be wasting time reviewing a project that does not pass zoning muster. This section must be read in conjunction pg. 2-19, 14-203(6)(e) which seems to state that L&I shall flag Design Review projects and that the Design Review process begins after the L&I filing.

A project that is required to be reviewed by another department , agency, board, or commission of the city under this Zoning Code may require additional review under 14-204(6)(a)(.1) above to cover additional aspects of project design not included in the earlier review. In general, the review in this 14-204(6) will occur after other required reviews in order to take the content of those reviews into account, and the timelines for review by the Civic Design Review Committee will be extended to begin after the recommendations from other required reviews have been received.

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APPENDIX B

CROSTOWN COALITION ANALYSIS OF 14-800 (SIGNS) OF CONSOLIDATED DRAFT

Crosstown Coalition Analysis of 14-800 (Signs) of Consolidated Draft

Current Section of Draft Consolidated Code	Suggested Language/Recommendations
Section 14-801	Insert new suggested new paragraph after current "intent paragraph"
pp 8-1	It is also the intent of this chapter to ensure commercial and non commercial signage is applied as part of a thoughtful, planned process so as not to contribute to visual clutter and detract from the aesthetic beauty of the City of Philadelphia. Excessive or poorly planned outdoor advertising signs contribute to the appearance of deterioration of commercial and industrial areas of the City and therefore negatively impact upon the economic viability of these areas. Nonconforming signs jeopardize public safety by distracting pedestrians and to a greater extent passing motorists, since these signs by their nature are erected in areas intended to be seen by drivers of motor vehicles. It is the intent of these signage regulations to promote traffic safety, enhance the aesthetic beauty, protect public and private investment, and stimulate economic development and commercial revitalization through attractive and appropriate commercial and noncommercial signage.
14-805 (1)f (.2) Pp 8-4	500 feet should be 660 as in old code for a standard billboard, as well as to be consistent in the newly drafted noted at section 14-806 10 (b) and section 14-806 8 (b)
14 - 805 (1) f Pp 8-5	Suggested new section (.7) The digital billboard is not to be located within 1000 ft. of any residential district where the sign would face a residential use.
Table 14-805-1 Pp 8-5	Include under the row for all permanent signs – no sign shall be illuminated by flashing, animated, or intermittent illumination <i>or digital</i>
14-805 – 1 Table Pp 8-5	Signs in R districts – It looks like signs above the second floor can be approved by the art commission and don't need a variance – this is a change from the old code...this should still require a variance – example the Unisys sign last year.
CMX 4 - CMX 5 Pp 8-6	Signs for commercial uses and hotels – temporary signs...25 square feet...Insert a definition of temporary – "less than 6 months or less than 1 year".
	CMX2 for commercial uses - freestanding, should there be a maximum of 1 square feet?
	CMX2 for commercial districts, flashing signs under current code is 1000 feet away if facing a residential district...revised code has it at 300

Crosstown Coalition Analysis of 14-800 (Signs) of Consolidated Draft

	<p>Form CMX1 and CMX 2 we recommend going to the smaller sign size similar to R2 in the existing code, no flashing within 300 feet of a residential use...not just 300 feet within a residential district. Would be a quality of life issue for those that live in a commercial corridor/ mixed commercial and residential...no flashing or intermittent within 300 feet of "residential use"</p>
<p>14-805-2 Table pp 8-7</p>	<p>For CMX1 – We would like to suggest revising this section to be a bit more practical to ensure compliance. We feel that the suggested limits may be altered in such a way so as to allow for additional store front signage that may or may not be temporary and may or may not be accessory. For example the brand advertizing that is permanently placed on the storefront. That type of signage is not being regulated. We recommend adjusting the signage allowance to allow for permanent accessory signage as well as a formula for "additional signage" in this way assist with understanding, compliance and enforcement.</p> <p>Suggested Language:</p> <p><i>Insert in the first row of table 14-805-2 on pp 8-7, after the current text; In addition, accessory signage "Sale" or menu boards etc. or other signage directing consumers to products or services on premise, shall not exceed ¼ sq. ft. for each linear ft. of building facing either one street or for all street faces combined. This signage must also be attached flat against the wall of the building, or be hung inside the windows facing the street. Signage of a temporary or non temporary nature will count for this computation.</i></p>
<p>14-805 6) Pp 8-10</p>	<p>For purposes of clarity we suggest inserting a list of code sections that have additional signage regulation. We suggest inserting a list of the remaining overlays/special districts along with the code section that refers to signage.</p> <p>Suggested text;</p> <p>Add the following text to the end of the paragraph at 14-805 (6) Specifically, the following overlay districts listed in 14-400, include additional signage regulations; Center City, Overbrook Farms, and City Avenue.</p>
<p>Table 14-805-2 Pp 8-7</p>	<p>CMX-3 if a building is more than 3 stories high they get an additional 10% sign area – that is an increase from the prior code.</p>
<p>14-806 (8) (f) pp 8-14</p>	<p>Suggest replacement language for subsection (f) Digital billboards are not to be any brighter than standard static billboards, which are on average no brighter than 100 nits.</p>
<p>14-806 (8) (g) pp 8-14</p>	<p>Suggested new section: (g) A traffic engineering safety report on existing traffic patterns in the area where the digital billboard is to be placed has been conducted by a traffic engineering professional and approved by the streets department to assure pedestrian and vehicular safety.</p> <p>Suggested new section: (h) To offset the carbon impact of digital signage, and to be in line with Philadelphia's current goal to decrease the overall carbon footprint, for each year that a digital sign is in operation sign</p>

Crosstown Coalition Analysis of 14-800 (Signs) of Consolidated Draft

<p>owners are required to plant 10 street trees in the nearest residential community or make an equivalent donation to the neighborhood association for the purpose of planting 10 street trees or other neighborhood greening project.</p>	<p>14-806 (10) Pp 8-15</p> <p>Add in a paragraph regarding intent at the start of the prohibited areas:</p> <p>Major public and private investments have been made and continue to be made in key gateway areas in order to improve traffic safety, enhance visual aesthetics, preserve nearby historic and cultural districts, prevent declining property values and encourage economic investment, tourism and the economic vitality of Philadelphia. Within these areas, there are a number of unsightly signs, including non-accessory outdoor advertising signs, which detract from the aesthetic beauty of the area, contribute to visual clutter and jeopardize public safety by distracting passing motorists and pedestrians. There are few, if any, circumstances under which the prohibition of these signs will render property valueless, result in unnecessary hardship or otherwise meet the criteria for a variance stated in Section 14-204 8).</p>
<p>14-806 (9) Pp 8-15</p>	<p>Regarding permitted areas vs. prohibited areas we recommend adding language or a caveat that the signs are subject to where they are prohibited.</p> <p>Suggested language; Insert the following text for subsection (9)...Outdoor advertising signs and non-accessory signs shall be permitted, unless otherwise prohibited by this code within the following areas:</p>
<p>14-806 (10) (b) pp 8-15 conflicts with 14-806 (8) (b) pp 8-14 and 14-805 (1) (f) (.2) pp 8-4</p>	<p>Current code does not permit a billboard within 660 feet of egress or exit. Revised code states both 500 feet, as well as 660 feet.</p>
<p>14-205 9) (c) pp 2-65</p>	<p>Proposed new section:</p> <p>c) Any sign not lawfully in existence on March 28th, 1946 which does not conform to this Section shall be required to be removed five (5) years after the adoption of this title; provided, that in the case of signs subject to the Federal Highway Beautification Act, as amended, 23 U.S.C. Section 131 and the State Outdoor Advertising Control Act of 1971, as amended, 36 P.S. Section 2718.101 et seq., in the event such Acts are amended following the adoption of this title, the five (5) year grace period may be shortened or extended in conformity with those Acts.</p> <p>(.1) Nothing in this subsection is intended to prohibit the Department of Licenses and</p>

Inspections from removing a sign at any time without compensation which has been determined to be a public nuisance or unlawfully in existence under any other provision of The Philadelphia Code.

(.2) *Continuance of Prohibited signs During Grace Period.* Within the grace period provided in subsection (9) above, a prohibited sign shall be maintained in good condition, but it shall not be structurally altered so as to enlarge or extend the area or height of the sign. However, no prohibited sign shall be reconstructed if for any reason it becomes necessary to replace the entire sign, including the sign face, the frame and any supporting mechanism, but excluding the foundation.

(.3) *Prohibition of Pending Permits.* No permit shall be issued for any sign which will be subject to the provisions of this Section.

14-206 1 f
pp 2-69

See also footnote 673 pp 8-13. This note states that penalties were addressed sections 100 and 200 for signage. We could not locate these specific penalties so are suggesting they be inserted.

Suggested new section 14-206 (1) (f) (.3) *Penalties.* In addition to any other sanction or remedial procedure provided, the penalty for violation of any provision of this Section shall be a identified in the administrative manual for each offense, and may include imprisonment not exceeding thirty (30) days if the fine is not paid within ten (10) days. Continuous violation of the same provision shall be a separate violation for each day.

14-304 (7) (b) pp 3-11

Sign area controls limitation removed. But not for businesses, just for civic, public, institutions? Could be problematic...if an institution can put one up but not a business...seems discriminatory...could lead to legislation...

Table 14-502 4) SP –
O uses pp 5-33

We recommend and “N” for government uses of Parks and Open Space for SP-O

We recommend an "S" for Library and Cultural exhibits for SP - O

14-307 3) pp 3-25 We recommend the following language - add to the end of the current section (3)

"...and in accordance with the process set forth and approved by the Parks and Recreation Commission which includes a public input process as well as a recommendation to city council for approval. <insert reference to Parks Ordinance>

Current § 14-1807 (7)(a) enables a community group to obtain a copy of the notes of testimony/

14-203 13) (.10) insert as new section pp 2-25

Transcript at the City's expense. We recommend including the following language in the administrative and procedures section of the code.

<need to shorten this language – apologies we did not get to that>

(.10) The following provisions shall apply to community and neighborhood groups and organizations:

(a) After the filing of a Notice of Appeal with the Court, a community or neighborhood group or organization which participates in the appeal as an appellant, appellee or intervenor shall not be required to pay the costs of transcribing the proceedings before the Zoning Board of Adjustment which are the subject of the appeal. After the filing of a Notice of Appeal, a community or neighborhood group or organization which seeks the benefits of this Paragraph shall notify the City of its request that the City make payment of its transcript costs.

(b) Upon receipt of a request for the payment of transcript costs from a community or neighborhood group or organization which is an appellant in the appeal, the City shall contact the Zoning Board's official agency reporter and make prompt arrangements for and pay the costs of such transcription, and comply with any other rules of court with respect to such transcription, just as if the City were the appellant in the matter. The City shall direct the Zoning Board's official agency reporter to provide a copy of the transcript to such group or organization or its counsel as soon as the transcription has been completed. Upon receipt of a request for the payment of transcript costs from a community or neighborhood group or organization which is an appellee or intervenor in the appeal, the City shall see to it that a copy of the transcript of the Zoning Board proceedings is provided, at the City's expense, to such group or organization or its counsel, as soon as the transcription is completed.

(c) For the purposes of this Paragraph, a community or neighborhood group or organization

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	<p>shall be a group or organization composed primarily of tenants and property owners who reside in the vicinity of the property which is the subject of the zoning appeal or have a mission or purpose that is directly impacted by the matter of concern. It shall not include groups or organizations which are composed primarily of members who represent commercial or business enterprises.</p> <p>Definitions 14-1000 Recommended change to the definition Sign, Accessory or On premise – Pp 10-32 At the end of the definition insert following language – “ This does not include signs that advertise a single product or product logo without the incorporation of the business name or identifying information as part of the sign itself.”</p>
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General comments;

Billboards as a “use”does all the distancing regulations really suggest that billboards should be a “use” category?

At our open house on signage, recommendations were made to include a “bubble chart” similar to the process flow charts in other sections of the code. We would like to continue to work with the signage committee on creating a pictorial guide as well as a “flow chart” for approving signage in various districts.

APPENDIX C

CROSTOWN COALITION ANALYSIS OF TRANSIT ORIENTED DEVELOPMENT REGULATIONS

Transit Oriented Development (TOD)

One of the most important innovations in the overall Code, these development incentives still lack key information need for full review, have unanswered questions, and may need further refinements to fully achieve its purpose. These comments relate both to development standards in Section 600, and to the bonus criteria (in Section 602) which could significant bearing on the effectiveness of the TOD initiatives.

14-602 (9) Floor Area Bonuses for Transit Improvements

The criteria here for including transit improvements for bonuses, envision the improvements to be made within the development site, and as part of the construction. It is possible that a project's ridership increases may have capacity or operational impacts somewhere in the transit system other than at the project site. Additionally, the priority needs for remedy problems or make improvements to the transit infrastructure may be different from what a developer could build directly as part of his/her project. There should be a method where a developer could make a contribution to priority needs as an option to directly producing improvements of less value to overall transit performance or infrastructure needs. The definition of qualifying improvements in (.2) and the approval process should be broadened to include off-site work.

Additionally, the approving entity (9, a, 1.) should be the City of Philadelphia instead of (or as well as) SEPTA; the City actually owns the concourse and many stations.

Recommendations:

14-602 (9) (a) Revise (a) criteria to read:

A floor area bonus may be earned by: a) connecting to, constructing or extending a rail, subway, or trolley transit station or concourse within Center City, or, b) a contribution to the physical improvements of the transit infrastructure to be done by others, provided that the project or alternate contribution meets the following standards:

(.1) The applicant shall submit a letter from the City of Philadelphia and Southeastern Pennsylvania Transportation Authority (SEPTA) confirming that the City and SEPTA are aware of: the proposed construction or extension and approves the location, size, and scope of the project or the adequacy and applicability of the contribution.

(.2) Qualifying improvements by the developer may include new access easements or improvements to connecting passageways, mezzanines, or concourse areas.

(.3) The improvements by the developer shall be designed and developed as an integral part of the total development project.

(.4) The improvements by the developer shall be engineered and completed to accommodate peak hour travel in all directions.

14-605 (3) Transit Nodes

While the map is shown as draft, the selection and designation of nodes raise questions.

Key opportunities in the system structure: Places where different routes intersect or collect have inherently a higher passenger capacity and a wider variety of origin areas. While some route intersections have been noted (e.g. Wayne Junction), others seem to be missing such as Olney (subway/bus) and the Frankford Transportation Terminal (subway/bus). Additionally, transit stops which would seem to thrive with the development impetus TOD could bring are not included: Oregon, more stops on the Frankford Elevated and the Broad St Lines, and the area between Eastwick and the University of Pennsylvania.

TOD Map legibility: Incidentally, in keeping with the reader-friendly conversion in the rest of the code to black and white for visibility, the TOD map should be black and white. In addition to symbols for the four TOD types, the non-TOD zones should be identified as such.

Center City as a TOD?: Previously there have been several basic questions about TOD designations, bonuses, and consequent effects in Center City. Several of these have been addressed elsewhere, but the map should either identify and locate them.

Recommendations:

- 1) Add Olney and Frankford Transportation Terminal to the map as nodes
- 2) Add line stations on Frankford elevated and Broad Street line as Type 2 or Type 3 nodes
- 3) Add Market East, Suburban and 30th Street stations, maybe with a different symbol and reference to their discussion elsewhere
- 4) Make the map legible, and reproducible, in black and white

14-605 (4-9) Development Standards for TOD Nodes

The specification of what types of buildings, uses, portals, different street classifications, etc. for the different zones are important to their ultimate development and economic success. Yet how they would set up seems constrained and the application of the criteria themselves seem overly prescriptive.

The TOD sites indicated vary greatly in terms of their physical sites, development potential, and surroundings. They also vary in terms of types, capacity, and character of the transit connections. Therefore the regulations and process for establishing and mapping individual zones must be flexible enough to: 1) adapt effectively to varying individual conditions; and 2) inclusive enough to facilitate partnering and “buy in” by potential stakeholders.

Recommendations:

14-605 (4) TOD Boundaries and Elements Revise to read:

For each of the TOD nodes shown on the map in 14-605(3), the Planning Commission shall designate and entertain a Plan of Development and map:

- (a) The boundaries of the areas subject to the standards of this 14-605; and
- (b) Primary and Secondary TOD Primary Streets as appropriate to each TOD node, and as defined in Chapter 14-1000.

The actions of 14-605 (4) TOD Boundaries and Elements can be initiated by: 1) the Planning Commission, a developer or developers, or by registered civic association or associations.

Additional TOD nodes beyond those identified on the map in 14-605(3), can be initiated the above process but must be formalized by Councilmanic Ordinance.

Revise sections (5, 6, 7, 8), as follows:

14-605,(5, a) Intent: Strike “rail” from ...high rail transit... in line three. This should include subway and surface transit concentrations as well as rail.

14-605, (5b ,6b ,7b , and 8 b) Regulations, Revise the first sentence for each type (in 5, 6, 7, and 8)

Notwithstanding the provisions of Chapter 14-600: for each Type 1 TOD Plan of Development, the following bonuses shall apply and development standards apply, as appropriate, after [Insert Effective Date of Zoning Code].

14-605 (9) Development Standards Applicable to all TOD Nodes: Revise first line to read:

The following standards for all TOD nodes shall apply, as determined applicable and relevant in the Plan of Development for each TOD Node:

Additionally, if these highly specified standards are to be retained, there needs to be graphical presentations of the standards for better clarity and comprehension.

(10) Use Regulations: Revise the first line to read:

Notwithstanding the provisions of Tables 14-501-1 through 14-501-4, after [insert Effective Date of Zoning Code] all new development and redevelopment in all TOD nodes shall comply with the use regulations in this 14-605(10), as applicable and appropriate in the Plan of Development for each TOD Node:

14-605 (10) (.2) TOD prohibited uses, car rentals

Prohibiting car rentals in TOD zones seems counter productive. People who want to rent cars are likely to be people don't own cars but need them for a specific purpose transit doesn't provide. If rental options aren't easily available, there is more incentive to own a car, or to be located elsewhere.

Recommendation: remove 14-605 (10) (c) (.2)