

# Philadelphia 2018 Legislative Recap: Important Building and Zoning Code Updates

Ballard Spahr Zoning and Land Use  
Breakfast Briefing

February 13, 2019

## Program Participants

**Moderator**

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**Panelists**

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- For more information, please contact Amanda Paola at 215.864.8436 or [paolaa@ballardspahr.com](mailto:paolaa@ballardspahr.com).

## Educational Objectives

At the end of this program, participants will be able to:

- Understand the legal requirements for administrative review under the Philadelphia Zoning Code.
- Understand certain changes in the Philadelphia Zoning Code related to the zoning permit approval process.
- Understand the changes in the Philadelphia Zoning Code related to the Affordable Housing Bonus.
- Understand the changes to the Philadelphia Building Code and related codes.
- Understand the implementation of the new Philadelphia Building Code.

## Presentation Outline:

- Zoning Code Updates
  - Administrative Review
  - Notice Requirements
  - Affordable Housing Bonus
  - One Year Rule
- Building Code Updates
  - Timing of New Building Code
  - Examples of Building Code Changes
  - Energy Code Updates
  - Plumbing Code Updates

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## Zoning Code Updates – Administrative Review

- City Council Bill No. 180498-AAA enacted Oct. 18, 2018
- Revamped procedures for “administrative review” of changes to zoning plans previously approved by ZBA
- Previously, ZBA regulations authorized L&I to approve minor zoning adjustments that reduced project scope, with denials referred to ZBA Chair
- L&I does not otherwise recognize amendments to existing zoning permits – must issue new permit (with new application)

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## Zoning Code Updates – Administrative Review

- New law limits time period for administrative review, and formalizes notice requirements, superseding ZBA regulations
- L&I Process Guide clarifies new requirements
- Time of Filing:
  - File prior to April 16, 2019;
  - File within 180 days of ZBA decision; or
  - Change required by City (e.g., specific Building Code requirement)

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## Zoning Code Updates – Administrative Review

- Impact:
  - Minor changes to reduce the footprint, GFA, or height of an approved structure; or
  - Lessens the degree of impact related to dimensional variances; or
  - Lessens the number of approved dwelling units; or
  - Lessens the number or size of approved signs; or
  - Makes comparable changes that reduce the intensity of the proposed use
- Notice Requirements:
  - Registered Community Organizations;
  - District Councilperson; and
  - Interested parties

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## Zoning Code Updates – Administrative Review

- Time of Decision:
  - At least 14 days after notice from L&I to all parties of application approval
  - Parties may request a ZBA hearing

## Zoning Code Updates – Notice Requirements

- City Council Bill No. 180295-AAA Enacted October 4, 2018
- Changes to 14-303(12) – Neighborhood Notice and Meetings
  - New corrugated plastic sign measuring 4 square feet provided by Department of L&I must include the following:

## Zoning Code Updates – Notice Requirements

- “ZONING NOTICE: THERE WILL BE A PUBLIC HEARING REGARDING THIS PROPERTY. FOR MORE INFORMATION:”
  - The telephone number of the Zoning Board of Adjustment
  - The L&I zoning appeals website
- Posted on property subject to approval, review or variance
- Applicant has 20 days to provide written notice

## Zoning Code Updates – Notice Requirements

- Written notice to affected properties / property owners must be mailed
- Zoning Appeals – Notice to include refusal/referral and the property address
- Notice of Date, Time and Location of RCO meeting must be sent within three business days of receiving confirmation of the date of the public meeting

## Zoning Code Updates – Notice Requirements

- Proof of Mailing – Certificate of Mailing from USPS
- Civic Design Review – provide copy of Project Information Form prior to meeting or as soon as possible

## Zoning Code Updates – Notice Requirements

- Changes to 14-303(13) – Public Notice
  - Notification for original hearing shall be posted within five business days after filing an appeal and remain posted through the day of hearing
  - Continued hearings – reposting if hearing scheduled more than two days from original hearing date when L&I makes sign available
  - Map amendment – written notice from Commission to affected properties within 14 days of amendment’s introduction

## Zoning Code Updates – Affordable Housing Bonus

- City Council Bill No. 170678-AAA enacted Oct. 17, 2018
- Expands existing Mixed-Income Housing zoning floor area bonus to include smaller scale zoning districts (RM-2, RM-3, RM-4, RMX-1, RMX-2, and IRMX in addition to RMX-3, CMX-3, CMX-4, and CMX-5)
- Building height and housing unit density bonuses also apply to certain zoning districts
- New L&I Code Bulletin to be released Feb. 2019
- PCPC Mixed-Income Zoning Bonus Certified Applicant Acknowledgement Form

## Zoning Code Updates – Affordable Housing Bonus

		Additional Gross Floor Area, as Percent of Lot Area									
		RM-2	RM-3, RMX-1	RM-4	RMX-2	IRMX	RMX-3	CMX-3 as provided in § 14-702(2)(c) (except in /TOD)	CMX-3 (within /TOD only)	CMX-4	CMX-5
Mixed Income Housing (§ 14-702(7))	Moderate Income	25%	50%	100%	75%	150%	150%	150%	200%	150%	300%
	Low Income	50%	75%	175%	125%	250%	250%	250%	300%	250%	400%

		Additional Building Height		
		/CDO	/ECO	RM-1, CMX-1, CMX-2, CMX-2.5
Mixed Income Housing (§ 14-702(7))	Moderate Income	48 ft.	48 ft.	7 ft.
	Low Income	60 ft.	60 ft.	7 ft.

		Housing Unit Density Bonuses (RM-1, CMX-1, CMX-2, or CMX-2.5 only)
		Mixed Income Housing (§ 14-702(7))
	Low Income	50% increase in units permitted



## Zoning Code Updates – Affordable Housing Bonus

- Low income bonus = 50% Area Median Income for rental units or 70% Area Median Income for owner-occupied units
- Moderate income bonus = 60% Area Median Income for rental units or 80% Area Median Income for owner-occupied units
- 10% of total dwelling units in project
- Comparable to market-rate units in terms of size, design, exterior appearance, energy efficiency, overall construction
- Dispersed throughout development

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## Zoning Code Updates – Affordable Housing Bonus

- Restrictive covenant requirement
- 50 year compliance period
- Payment-in-lieu option

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## Zoning Code Updates – One Year Rule

- City Council Bill No. 180295-AAA Enacted Oct. 4, 2018
- Changes to 14-303(6)(g) - **The One Year Rule.**
- (.1) L&I shall determine whether a substantially similar application for the same property was finally denied or ***dismissed by the Zoning Board or a court*** within one year prior to the date of the application, or whether an appeal is pending (either before the Zoning Board or before a court) of the denial or ***dismissal*** of a substantially similar application. If such a determination is made and if the application is not one that L&I may grant as of right under this Zoning Code, then L&I shall deny the application and note on the application "Denied – One Year Rule."

## Building Code Updates – Timing of New Building Code

- Pennsylvania Act 36 of 2017; Philadelphia adoption of 2018 International Codes
- Effective as of Oct. 1, 2018; applies to permit applications filed on or after April 1, 2019
- Code Bulletin B-1801
- Applicable types of building permits

## Building Code Updates – Examples of Building Code Changes

- Increased potential for wood-frame construction projects
- Easements for party line fire walls (Board of Building Standards considerations)
- Special inspections for installation of fire-resistant through penetration systems in high-rises
- Clarification of egress requirements

## Building Code Updates – Examples of Building Code Changes

- Fire service access elevator design
- Philadelphia vs. other jurisdictions

## Building Code Updates – Energy Code Updates

- Tremendous change with 2015/2018 codes
- Over 30% increase in energy efficiency compared with 2009
- Multiple compliance path options; learning curve for designers
- Commercial buildings – commissioning report required
- Residential buildings – blower door test approved by third party

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## Building Code Updates – Plumbing Code Updates

- Mayor Kenney Executive Order establishes Plumbing Advisory Board
- Advisory Board developing recommendations for local amendments to International Plumbing Code
- Approval process governed by Uniform Construction Code

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## Ballard Spahr Breakfast Briefing - Conclusion

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- What's next for Philadelphia's Zoning and Building Codes?
- Questions?

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