

The ZRR is **NOT** User-Friendly: An Analysis with Examples

Streamlining and user-friendliness have been invoked as rationales for jettisoning the existing zoning code and replacing it with a new one. In the course of this wholesale revision, many quite substantive changes have been made -- and obscured. But the end result is not a more succinct code that is easier to use. The setdown draft is actually much longer (somewhere between 200-300 pages) than the existing code and significantly more difficult to work with.

What accounts for this gap between the rhetoric and the reality? First, people expect zoning regulations to be painful to read. So the fact that these supposedly new-and-improved regs are so convoluted isn't held against by people who have little or no basis for comparison. ("Wow, if this new code is user-friendly, imagine how bad the old code must be. That's why it's so crucial that we replace it.") By contrast, people who are accustomed to working with regulations are appalled by what they experience when they try to use the code.¹

And this goes to the second issue -- which is that user-friendliness can really only be judged by actually trying to use the code rather than by simply reading it. In other words, you need to ask a concrete question like "Can I open an animal hospital on a property within the Reed-Cooke overlay?" Or "How large can an external ADU be in Forest Hills and where can it be located on the lot?" and see the steps you have to go through to answer it.

That's because reading the text from cover to cover begs some very practical questions that would confront a typical user and obscures many of the problems such a user would encounter. Among the questions begged -- where do I start and how do I know when I'm done? (A 980 page text isn't user-friendly if you have to read the whole thing to be sure you've found the right answer to your question.) Among the problems obscured -- contradictory information in widely scattered sections that apply to the same zone, lack of cross-references, prohibitions that are not explicit but must be deduced from what is not mentioned, ambiguities that arise from categories that are broad and/or not mutually exclusive.

I've bumped into all of these kinds of problems while working with the ZRR draft. And they were so pervasive that I began to wonder whether this was just par for the course. I knew that Philadelphia had successfully completed a wholesale revision of its code and that that effort had been described in terms quite similar to those that have been used to promote the ZRR. So I decided to compare work product. And what I discovered is that most of the problems I identified with the proposed new DC code were not replicated in the Philly code.

What follows are two concrete comparisons showing how we can learn from Philadelphia. The first involves zone definitions and demonstrates how easily the provisions of DC's old code

¹ See, e.g. ANC Commissioner Mark Eckenwiler's testimony at the January 30 hearing on the ZRR. While Eckenwiler supported the substance of the regs he commented on, he referred to the draft as "a spaghetti tangle," adding "I am an attorney; I deal with statutes and fairly intricate regulations all day long, and God help the person, God help the layman, who was trying to interpret this." (p. 51 of transcript available at <http://dcoz.dc.gov/trans/140130zc.pdf>)

could be represented in a much more user-friendly way. (It also explains why, if the changes proposed by the ZRR were made, DC's new code could NOT be summarized in such an easily accessible manner.) My second example focuses on use tables and compares one from the ZRR with one from Philly's new code. It suggests how incompetent OP's draftsmanship has been, as well as how far short of the mark the current text is if our goal is to create a user-friendly zoning code.

Example 1:

Here's what a summary of a residential zone looks like in DC's current zoning materials:

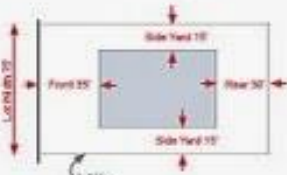
SUMMARY OF ZONE DISTRICTS

Updated April 1, 2013

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R-1-A	Permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot width of 75 feet for residential, churches, and public recreation and community centers and 120 feet for schools, a minimum lot area of 7,500 square feet for residential, churches, and public recreation and community centers and 15,000 square feet for schools, a maximum lot occupancy of 40% for residential, 60% for church and public school use, and 20% for public recreation and community centers and a maximum height of three (3) stories/forty (40) feet (60 feet for churches and schools and 45 feet for public recreation and community centers). Rear yard requirements are twenty-five (25) feet, side yard requirements are eight (8) feet.
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And here's how a similar zone is depicted in Philadelphia's new zoning materials:

Quick Reference Guide				
Lower Density Residential Districts				
ZONING DISTRICT	TYPICAL PLAN/BUILDING FORM	TYPICAL BUILDING	DIMENSIONAL STANDARDS	
RSD-1			Min. Lot Width	75 ft.
Permitted Building Type: Detached Uses permitted as of right: Single-Family; Passive Recreation; Community Center Uses requiring special exception approval: Market or Community-Supported Farm			Min. Lot Area	10,000 sq. ft.
			Min. Open Area	65%
			Min. Front Setback	35 ft.
			Min. Side Yard Width	10 ft. per side yard
			Min. Rear Yard Depth	30 ft.
			Max. Height	30 ft.

I think it's fair to say that Philadelphia's approach represents a significant improvement over DC's. The information is well-organized and clearly presented. There's a lot of content, but the layout is uncluttered and it's easy to find what you're looking for. So I understand why, when our Office of Planning says that they're adding graphics and tables to make the zoning code more user-friendly, people think that's a good thing. Replacing a wall of text with charts, drawings, and photos is a better way to explain what kinds of development is allowed in a particular zone.

But over the course of the ZRR, OP has not produced a document similar to Philadelphia's. In fact, it has created a proposed new code that (unlike our current code) would be virtually impossible to summarize in such a manner.

If you page through Philadelphia's document, you'll see that their new code has 35 zones. If you look at the chart on the first five pages of the ZRR (and do a bit of simple addition), you'll discover that DC's proposed new code would have 142 zones. It's hard to create a "Quick Reference Guide" when you have that many zones. And if you tried to make one for the ZRR, following the same format that Philadelphia used, it would look really bizarre for a couple of reasons.

The first is that numerical order in DC's new code (unlike Philly's new code -- or DC's current code, for that matter) doesn't really correspond to increases in scale, density, intensity, or variety of uses. So while in Philadelphia's code you see a progression (or, more accurately, a series of progressions), a ZRR version of the same type of document would show you a jumble. Either the zones would not be listed in numerical order (in which case it would be hard to find the one you were looking for) or the zones would be listed numerically, and the first four sets of images you'd see would go from single-family detached, large lot to single family detached, smaller lot, to semi-detached, to rowhouse in a progression that seems to make sense, but then suddenly, you'd be back to single-family detached, and the lot sizes would go up and down. Pages later, you'd see rowhouses again, and, after that, some single family detached homes might reappear (depending on how the A-1 (currently R-5-A) zone is represented).

The second reason is that anyone who set out to produce such a Guide would have a difficult choice to make regarding the photographs used to typify each zone. Either many of the zones would look indistinguishable from one another (because they allow the same type of housing stock) or, if an attempt were made to vary the images used as examples, the Guide might lead readers to focus on visual attributes that are actually irrelevant to the zone definition.

In sum, our existing code could easily be made more user-friendly without changing its content. Yet instead of moving us toward greater user-friendliness, the ZRR, by eliminating overlays and proliferating zones, would actually represent a major step backward.

Example 2:

My second example compares Philadelphia's new code with DC's proposed new code, by looking at the difference between the end products that resulted when each city's drafters decided to create use tables. A use table is designed to show which uses (e.g. residential, retail, commercial, light industrial) are allowed in particular zones.

Here's a use table from Subtitle F of the ZRR (page 38), which governs Apartment (or "A") Zones:

1403 USE GROUPS PERMITTED BY SPECIAL EXCEPTION (A)

1402.9 The following use groups shall be permitted as special exceptions in the A zones if approved by the Board of Zoning Adjustment under Y Chapter 8 and subject to the conditions of each section:

1403.1

Uses	(R5A, NO/R5A)	(R5B, R5B/DC) (R5B/CAP) (R5B/RC)	(R5C)	(R5D R5E, R5D/DC, R5E/DC)
Arts, Design, Creation	S	S	S	S
Basic Utilities	S	S	S	S
Chancery	S	S	S	S
CBIF	S	S	S	S
Daytime Care	S	S	S	S
Education, College/University	S	S	S	S
Education, Private	S	S	S	S
Emergency Shelter	S	S	S	S
Medical Care	S	S	S	S
Institutional, General	S	S	S	S
Office	S	S	S	S
Parking	S	S	S	S
Parks and Recreation	S	S	S	S
Residential	S	S	S	S
Retail	S	S	S	S

1403.2

The most striking thing about this chart is that every cell in it contains the same content -- an "S." And the second most striking thing is that there's no legend to tell a reader what that "S" stands for. It stands for "special exception" which can be deduced from the table's title.

But seriously, if every cell in a table is going to be filled with the same information (which is already presented in the table's title), then you might as well just make a list. There's zero content added by creating 60 boxes filled with "S"s. It's as if someone created a table for the sake of creating a table (or because they were told tables were "user-friendly"). To make matters worse, there actually is content that could obviously and usefully be included in those cells -- that is citations to the regs that lay out use-specific standards for granting a special exception. These regs typically follow the table, but the table doesn't tell you that. And a user may not find it easy to locate the relevant reg without a cross-reference because

- there aren't always use-specific standards; sometimes only the generic special exception standards must be met;

- some use-specific standards appear to have been inadvertently omitted; or
- some use-specific standards that are included weren't put in the same order or labeled in the same way as the use was listed in the table.

And, in any event, the labels aren't highlighted in the text. So you have to keep wading through all the use-specific standards following the table until you find the one you're looking for or conclude that one does not exist. This isn't a problem that is limited to the special exception tables.

It's also important to realize that this isn't the only use table governing the Apartment zones -- there's also one on page F-32 (By Right Uses) and another on page F-36 (Accessory Uses). Of the 35 use groups (which I happen to know exist because I read about them in a different Subtitle), 3 are listed in all three tables, 6 are listed in two of these tables, 16 are listed in only one table, and 10 aren't mentioned in any of the tables. You're supposed to deduce from their omission that these last 10 use categories are prohibited in "A" zones. And, presumably, even after you've found the use you're looking for in one table, you are expected to keep looking for it in the others as well -- since it might recur. Not that the use table itself tells the reader any of this.

At a more trivial level, note that while the chart governs "A" zones, none of those zones are identified by their new "A" names. Here's my best- case scenario for what the top of the chart would look like if they were:

Uses	A-1 A-6	A-2 A-7, A-8, A-9	A-3	A-4, A-5, A-10, A-11
Arts, Design, Creation	S	S	S	S

There are few enough "A" zones that it's not an inordinate amount of work to find the one you're looking for even with such a heading. But when you get to the "R" zones (where there are 20) or the "M" zones (where there are 36), the non-consecutive numbering of similar zones becomes more problematic.

For comparison's sake, let's look at a use table from Philadelphia's new code. On the next page you'll see page 1 of the two-page chart that covers all of Philadelphia's residential zones. (Three other charts cover acceptable uses in Commercial, Industrial, and Special Purpose districts.)

Table 14-602-1: Uses Allowed in Residential Districts²⁰³

Previous District Name	R1	R1A	R2	R3	R4	R5	R6/7	R9A/10A/R20	RSA	R8/9/10/10B/18/19	R11/11A/12/13	R14	R15/16	RC-6	WRD/ITD	RC-4	
District Name	RSD-1	RSD-2	RSD-3	RSA-1	RSA-2	RSA-3	RSA-4	RSA-5	RTA-1	RM-1	RM-2	RM-3	RM-4	RMX-1	RMX-2	RMX-3	Use-Specific Standards
Y = Yes permitted as of right S = Special exception approval required N = Not allowed (expressly prohibited) Uses not listed in this table are prohibited See § 14-602(3)(a) (Notes for Table 14-602-1) for information pertaining to bracketed numbers (e.g., "[2]") in table cells.																	
Residential Use Category																	
Household Living (as noted below)																	
Single-Family	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Two-Family	N	N	N	N	N	N	N	N	Y	Y[1]	Y	Y	Y	Y	Y	Y	
Multi-Family	N	N	N	N	N	N	N	N	N	Y[1]	Y	Y	Y	Y	Y	Y	
Group Living (except as noted below)	N	N	N	S	S	S	S	S	S	S	S	S	S	S	S	S	
Personal Care Home	N	N	N	S	S	S	S	S	S	S	S	S	S	S	S	S	§ 14-603(11)
Single-Room Residence	N	N	N	N	N	N	N	N	N	S	S	S	S	S	S	S	
Parks and Open Space Use Category																	
Passive Recreation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Active Recreation	N	N	N	S	S	S	S	S	S	S	S	S	S	S	S	S	
Public, Civic, and Institutional Use Category																	
Day Care (as noted below)																	
Family Day Care	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	§ 14-603(5)
Group Day Care	N	N	N	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	Y	Y	Y	§ 14-603(5)
Day Care Center	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	§ 14-603(5)
Educational Facilities	N	N	N	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S	S	S	
Fraternal Organization	N	N	N	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S	S	S	
Hospital	N	N	N	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S	S	S	
Libraries and Cultural Exhibits	N	N	N	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S	S	S	
Religious Assembly	N	N	N	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y	Y	Y	
Safety Services	N	N	N	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y	Y	Y	
Transit Station	N	N	N	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y[2]	Y	Y	Y	
Utilities and Services, Basic	N	N	N	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S[2]	S	S	S	
Wireless Service Facility	N	N	N	S	S	S	S	S	S	S	S	S	S	S	S	S	§ 14-603(16); § 14-603(17)
Office Use Category																	
Business and Professional	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[3]	Y[4]	Y	
Medical, Dental, Health Practitioner (as noted below)																	
Sole Practitioner	N	N	N	N	N	N	N	N	N	N	N	N	N	Y[3]	Y[4]	Y	
Group Practitioner	N	N	N	N	N	N	N	N	N	N	N	N	N	S[3]	S[4]	Y	

It actually is user-friendly and here are some reasons why:

First, the coding is intuitive (Y=Yes; N=No) and, even if it weren't, there's a legend at the top of the chart. By contrast, the use tables in the ZRR don't include legends and their coding is arguably counter-intuitive. When you see A and P in a use table, for example, you might think

A=allowed and P=prohibited. But, in fact, A=accessory and P=permitted. (Of course "permitted" itself is ambiguous in this context -- could mean requires a permit, rather than is a matter-of-right use. And an "A" use can, itself, be "P.")

Secondly, an important attribute of the Philadelphia use chart is that it is easy to use regardless of whether you start with a location/zone and want to determine acceptable uses or whether you start with a use and want to know where it can be located. Both kinds of questions are the sorts that would predictably send people to a zoning code. So, for example, you might already live in an RSD-2 zone and wonder whether you (or your next door neighbor) can open a home daycare. Conversely, you might be planning on opening a home daycare and want to know, as you house-hunt, what kind of zoning you should be looking for. This chart makes it easy to answer either question and to compare the answers across zones (or across uses).

The table also handles the relationship between new and old zones well. Old zones are listed in the first row (which presumably will disappear after a transitional period between codes) and new zones are below. So there's a convenient bridge between codes. More substantively, it helps that the new zones share the organizational logic of the old zones (the higher the number, the greater the density) but, at the same time, that the new names are all actually new. In the ZRR, by contrast, "R-2" is the new "R-1-B" while "R-3" is the new "R-2." That will be a source of endless confusion as people look up prior decisions.

Philadelphia is doing a similar kind of renumbering but by having RSD-2 (rather than R2) replace R1A, their drafters avoid such confusion. And the move from R to RSD adds a bit of useful information -- the R still signifies residential zones, but adding the SD tells users that the zone is characterized by single-family detached housing -- whereas RSA denotes a zone where the norm is single-family attached housing, as opposed to RM zones, which allow multifamily housing. Creating labels that actually tell you something about the zone is helpful.

Also, note the cross-references in rightmost column of the chart. If a use requires a special exception and there are specific standards for granting it, the table refers you to the regulation number where those standards can be found.

Finally, it's useful that all the residential zones are covered in a single table. (The ZRR has more than a dozen such tables, spread out over multiple Subtitles). The visual division of uses, marked by major categories in bold/gray with subcategories beneath makes the organization of the chart immediately apparent and very functional (vs. the not-quite-consistent alphabetization used in the ZRR tables). And it saves users an amazing amount of effort when tables just say no (or "N") regarding prohibited uses, rather than force the reader to plow through multiple tables (and a chapter on uses) to deduce which uses have been omitted from the zone standards.

I'm not saying that there's no room for improvement in Philadelphia's new code. I don't understand, for example, why the contents of the footnotes aren't included in the same pdf as

the table itself. And I hate American Legal's interface for the online code -- because, for example, it uses frames and won't provide a URL that links directly to the pdf of the residential use table. But the Philadelphia code shows what a difference competent draftsmanship makes. Long story short, there is no reason that DC should settle for less.