HOW TO WRITE A ZONING ORDINANCE
Topics

1. Why Update the Code?
2. Overview of the Code Update Process
3. Choosing a Format
4. Getting Started
5. Creating a Code Audit/Diagnosis
6. Drafting the Regulations
7. More About Procedures
8. Testing
9. Multi-Format Implementation
### Quiz: Is it Time to Update?

<table>
<thead>
<tr>
<th></th>
<th>Code has definitions for tannery, abbatoire, wool-pulling, or eleemosynary societies</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Code includes pyramid zoning with cascading uses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Purpose statements? What purpose statements?</td>
<td></td>
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<tr>
<td>3.</td>
<td>Code does not include development standards for things like landscaping or open space</td>
<td></td>
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<tr>
<td>4.</td>
<td>Parking standards have not been updated since the 1973 oil embargo</td>
<td></td>
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<tr>
<td>5.</td>
<td>Community has created a PUD for a single-family structure</td>
<td></td>
<td></td>
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<tr>
<td>6.</td>
<td>State enabling legislation includes better regulatory tools than local regulations</td>
<td></td>
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</tr>
<tr>
<td>7.</td>
<td>You have looked for a provision for “x” topic but it is not there —and this has happened more than once</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Is it Time to Update?

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>8.</strong></td>
<td>BZA (BOZ, ZBA) variance approval list is formidable</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td><strong>9.</strong></td>
<td>There is a staff copy of the code that is heavily annotated and covered in post-its</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>10</strong></td>
<td>Planning was historically handled by another department</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>11</strong></td>
<td>Code was originally borrowed (read copied) from another jurisdiction</td>
<td></td>
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<td></td>
</tr>
<tr>
<td><strong>12</strong></td>
<td>A major process (e.g., rezoning) is ignored in favor of a minor alternative</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>13</strong></td>
<td>Use variances are a staple</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>14</strong></td>
<td>There is one staff go-to person, questions cannot be answered when this person is out</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>15</strong></td>
<td>Development applications require a blessing from council members in that district</td>
<td></td>
<td></td>
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</tbody>
</table>
## Is it Time to Update?

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Current code is older than youngest staff member</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td></td>
<td>Current code is older than the oldest staff member</td>
<td></td>
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<tr>
<td>17</td>
<td></td>
<td>There have been more than a few instances of creative interpretation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td></td>
<td>Applicants must follow administrative documents that are actually regulatory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td></td>
<td>Pending litigation for any type of infrastructure issue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td></td>
<td>Rezonings conditionally approved with deed restrictions to further restrict uses otherwise permitted in the new district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td></td>
<td>Procedures are improvised</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td></td>
<td>Code provisions have blocked development that complied with plan</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td></td>
<td></td>
<td></td>
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<td>---</td>
<td></td>
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<tr>
<td><strong>24</strong></td>
<td>Only way to create mixed-use development is through combination of multiple districts</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td><strong>25</strong></td>
<td>Single-issue districts (e.g., no tanning parlors in Sunshine Street Overlay district)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>26</strong></td>
<td>Code is missing critical, basic development information: density, dimensions, uses</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>27</strong></td>
<td>Add yours here</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
What is a Good Code?

- Consistent with the plan
- Result of public involvement
- Identifies development the community wants
- Users can understand it
- It is complete
- Its provisions and requirements are legal
- The jurisdiction can use the code
Steps to Code Reform

- **Plan**
  - Start with a good plan

- **Scope**
  - Select a project manager
  - Identify your budget
  - Select a code writer or consultant
  - Write a clear scope

- **Public Process**
  - Talk to people
  - Listen to people
  - Facilitate

- **Diagnose**
  - Diagnose your code
  - Decide what kind of code you want

- **Write**
  - Buy the 21st Century LDC
  - Write the standards
  - Vet the standards

- **Adopt**

- **Train**
  - Train the staff
  - Train the applicants
Choosing a Format
<table>
<thead>
<tr>
<th>Code Type</th>
<th>Euclidean</th>
<th>Performance</th>
<th>Impact / GM</th>
<th>Composite</th>
<th>Form Based</th>
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</thead>
<tbody>
<tr>
<td>Use</td>
<td>●</td>
<td></td>
<td>●</td>
<td></td>
<td>●</td>
</tr>
<tr>
<td>Bulk</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
</tr>
<tr>
<td>Environment</td>
<td></td>
<td>●</td>
<td>●</td>
<td>●</td>
<td>●</td>
</tr>
<tr>
<td>Building Design</td>
<td></td>
<td></td>
<td>●</td>
<td>●</td>
<td>●</td>
</tr>
<tr>
<td>Site Design</td>
<td></td>
<td>□</td>
<td>●</td>
<td>●</td>
<td>●</td>
</tr>
<tr>
<td>Infrastructure capacity</td>
<td>□</td>
<td>●</td>
<td>●</td>
<td></td>
<td>●</td>
</tr>
<tr>
<td>Timing</td>
<td></td>
<td></td>
<td></td>
<td>●</td>
<td>●</td>
</tr>
</tbody>
</table>

● = directly related | □ = indirectly related
What is a Conventional Code?

- Use-based – separation and control of uses
- General bulk and height controls
- Historic single-use districts, evolved into more mixed-use districts
- Most conventional codes have parking standards
- Some have development and design standards
What is Form Based Zoning?

- Emphasis on regulating the physical form of buildings and abutting public realm (street, blocks & building frontage)
  - Compared to conventional zoning’s emphasis on separation of use and use-based standards
Conventional Zoning Prioritizes USE over form:

Form Management Use

Form-Based Zoning Prioritizes FORM over use:

Form Management Use

- Not quite a revolution – but very clearly a migration
What is a Hybrid Code?

- Traditional code plus at least one other type
- Geographic application
- Combined procedures and development standards
- “Specialty districts” can include specific regulations
Sustainable Codes (Hybrid)

- Any code type modified to include sustainable development concepts:
  - Climate Change
  - Alternative Energy Production
  - Water Quality
  - Native Species and Habitat Protection
  - Low-impact Development and Green Infrastructure
  - Mobility and Transportation
  - Land Use and Community Character
Things Conventional Codes May Omit

- Design Standards
- Procedures
- Nonconformities
- Vested rights
- Sustainability Standards
- Infrastructure capacity
- State/federal legal issues
- Development standards – landscaping, open space, parking lot design
- Method for mixing uses
Things Form Based Codes May Omit

- Land uses
- Sustainability standards
- Procedures
- Nonconformities
- Vested rights
- Suburban design
- Supplemental use regulations
- Infrastructure capacity
- Enforcement
- State/federal legal issues
Use Conventional Zoning If...

- Your community is risk averse
- You are happy with what you have
- Low staffing or learning curve
- You fear the unknown
- You like the letter "Z"
Use Form Based Zoning If...

- Your community embraces the cutting edge
- You don’t have a zoning code, or what you have is circa 1936
- Average age of staff is no more than 30 years, and everybody’s GIS, Sketch-Up and InDesign skills are exceptional
- Words like “transect,” “streetscape,” “public realm,” and “entry features” are part of the every-day vocabulary in your city
Getting Started
Issue Identification

- How does the code implement the plan?
- How does the code get in the way of the plan?
- What does the community want that is not in the code?
- What regulations are most frequently negotiated?

- Why do applicants seek:
  - Variances
  - Waivers
  - Modifications
  - PUD/PD Approval

- What do elected officials complain about?
- What things must staff interpret?
Issue Identification – Talk To:

- Interview people who work with the code (even if you are the expert)
- Elected and appointed officials
- Talk to developers and other design professionals
- Legal department - find out if your community has lost any legal challenges to the regulations
Issue Identification – Research:

- Compare the regulations to the plan(s) and ask “how would I accomplish ____”
- Determine what issues are most common at the Planning Commission, BZA, or Council/Board
- Review some development applications
- Review the planning desk copy of the code (or most-flagged version)
- Research APA and other planning publications for best practices to compare to actual practices
Types of Issues

- Obsolescence
- Obfuscation (either actual or used as a term in your existing regulations)
- Accretion
- Out of compliance
- Inconsistent with plan
- Inconsistent internally
- Inconsistent with growth patterns
- Overly restrictive (new opportunities)
- New regulatory tools
Problem-Solving

- Check statutes and cases
  - Vary from state to state
  - Change daily
  - Consult experienced land use counsel

- Legal audits
  - Pinpoint problems
  - Suggest solutions
What Needs to be Updated?

- Zone Districts
- Definitions
- Objectives - Assumptions
- Vesting / Non-Conformities
- Standards
- Procedures
Following Issue Identification

Diagnosis/Annotated Outline

- Analyze issues and current regulations
- Organize the new document
- Quick review without messy details
- Provide flexibility
- Provide examples
Diagnosis: Frame the Problem

- Not all problems have regulatory solutions
- Not all regulatory problems are worth the effort
- Issue identification begins with the plan
- Don’t confuse regulations with enforcement
- Focus, focus, focus!!
Annotated Outline *add denver*

- Outline that identifies where all code information will be located
- Describes changes to existing regulations and potential new regulations
- Shows formatting and numbering

<table>
<thead>
<tr>
<th>Current Ordinances</th>
<th>COMPARISON OF ORDINANCES</th>
<th>Proposed UDC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter 50. Zoning</td>
<td>Table of Contents</td>
<td>Chapter 1: General Provisions</td>
</tr>
<tr>
<td>Chapter 51. Water Resource Management</td>
<td></td>
<td>Chapter 2: Zoning Districts</td>
</tr>
<tr>
<td>Chapter 18. Erosion and Sediment Control</td>
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<td>Chapter 3: Use Regulations</td>
</tr>
<tr>
<td>Chapter 28A. Heritage Preservation</td>
<td></td>
<td>Chapter 4: Development Standards</td>
</tr>
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<td>Chapter 29A. Housing Code</td>
<td></td>
<td>Chapter 5: Administration and Procedures</td>
</tr>
<tr>
<td>Chapter 37: Plats</td>
<td></td>
<td>Chapter 6: Definitions</td>
</tr>
<tr>
<td>Chapter 44. Signs</td>
<td></td>
<td>Appendices</td>
</tr>
<tr>
<td>Chapter 45. Art. IV Concurrent Use</td>
<td></td>
<td>Index</td>
</tr>
<tr>
<td>Chapter 45. Art. X. Vacation of Highways</td>
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<td></td>
</tr>
</tbody>
</table>
Contents: Conventional Code Diagnosis

THEME 1: ENSURE CONSISTENCY WITH THE VISION 2025 COMPREHENSIVE PLAN

THEME 2: CHANGE THE COUNTY’S APPROACH TO AGRICULTURAL ZONING

A. Overview
B. Change the 20-Acre Minimum Lot Size/Establish Exclusive Ag District
   1. Proposed Changes from VISION 2025
   2. Key Issues with Implementing the Exclusively Agricultural District

THEME 3: IMPLEMENTING THE DEVELOPMENT GUIDANCE SYSTEM

A. Translate the Development Guidance System into Regulatory Language
B. Establishing a Method for Determining Hardship

THEME 4: IDENTIFY BASIC BASELINE DEVELOPMENT STANDARDS

A. Create a Complete Set of Development Standards With Built-In Flexibility
B. Address Key Sustainability and Natural Resource Protection Concerns
C. Address Maintenance and Enforcement

THEME 5: UPDATE THE ZONE DISTRICTS AND CREATE A USE TABLE

A. Tie the Zone Districts More Closely to VISION 2025
B. Create a Gateway District
C. Develop a Consolidated Table of Allowed Uses
D. Improve the Use Classification system
E. Eliminate the Cumulative Zoning System
F. Review and Revise Use Allocation
G. Introduce More Specific Use Standards
Contents: FBC Charrette Summary

Summary

Form-Based Code

Test Sites

As part of the update to Mesquite’s Unified Development Ordinance, a multi-day public design charrette was held in Mesquite. Specifically, the charrette was charged with the mission to investigate how form-based zoning could be folded into the updated ordinance as an alternative zoning category for both new and existing development.

The design charrette envisioned the use of a new form-based zoning classification called the Traditional Neighborhood Design (TND) District. This district establishes and encourages innovative mixed-use development as an alternative to typical post World War II suburban, use-segregated developments. Specifically, the district is intended to be used for the creation of developments that:

1. Create a dynamic, mixed-use environment, where walking is the predominant mode of transportation.
2. Provide a range of housing choices in close proximity to each other, including vertical mixed-use.
3. Create land development solutions that are not typically found elsewhere in the city.
4. Produce quality public spaces that are usable for a variety of public and semi-public activities.
5. Ensure higher standards of design and construction of buildings, public infrastructure, and landscaping.
6. Guarantee a high degree of connectivity for pedestrian and vehicular traffic.
7. Locate buildings close to the street, so that streets and squares are defined as “outdoor rooms”.
8. Utilize all the streets for on-street parking.
9. Expedite the development process.
10. Provide numerous, narrow, slow-speed streets to ensure the safety of pedestrians and bicyclists.

Three areas were used as test sites for the district: a site north of the Rodeo, the Big Town site, and a greenfield site along Interstate 20. Specifically, potential designs and illustrations were produced to display how each site could develop by using the Traditional Neighborhood Design District.
Exercise Question #1

Issue Identification & Diagnosis
Public Involvement

It is very difficult to draft your way out of negative feedback from the public.
How To Assess The Need for Change

Public process
- Surveys
- Interviews
- Focus groups
- Workshops
- Charrettes

Drivers
- Mandates
- Stakeholders
- Leaders
- Users

Policy
- Data analysis
- Maps
- Plan documents
- State / federal law
Creating a Public Review Process

- How much? How little?
  - Was there previous planning groundwork?
  - How much time do you have?
  - Legal requirements = minimum for adoption

- What kind?
  - Issue identification vs. draft review
  - Technical review vs. policy review

- Who to involve?
  - Targeted group vs. wide open
Public Involvement Loop

- **Constant**
  - Planning Commission
  - Advisory Committee
  - Departments

- **Intermittent**
  - Public
  - Development Community
  - Design Professionals
Drafting - Working with Elected and Appointed Officials

- Policy Input and Guidance
- Involvement in Process
- Avoiding Surprises
- Identifying Hot Button Issues
  - Citizen Groups
  - Environmental Groups
  - Development Professionals
Form-Based Code Public Involvement

- Charrette
- Visual Preference Survey
- Interviews
- Character Areas Analysis - Transect Identification
- Marketing, Branding, Catch-Phrases
What About the Internet

- Blogs
- Drafts
- YouTube
- Interviews
- FAQs
- Meeting calendar/schedule
- What’s New?
- Kitten/baby videos
- Form of the week
- Glossary/terminology
Exercise Question #2:
Public Involvement
Drafting the Regulations

1. Conventional Codes
2. Form-Based Codes
3. Hybrid Codes
Conventional Code
Typical Code Contents

- General Provisions
- Zone Districts
- Uses
- Development Standards
- Administration and Procedures
- Nonconformities
- Enforcement
- Definitions
Use Regulations

- Categories - residential, commercial, industrial
- Permitted by right
- Permitted with discretionary review
- Accessory
- Supplemental Regulations
- NAICS / LBCS
Conventional Zoning Metrics

- Minimum lot size
- Frontage
- Depth
- Density
Conventional Zoning Metrics

- Yards - Setbacks
Conventional Zoning Metrics

- Coverage – Impervious Surface Ratios
Conventional Zoning Metrics

Height
Conventional Zoning Metrics

- Floor Area / Floor Area Ratio
Supplemental Use Regulations

- Accessory Uses / Home Occupations
- Bed & Breakfast
- Child Care
- Convenience Stores
- Junkyards / Waste Disposal
- Shopping Centers
- Office Parks
- Outdoor Storage
- Temporary Uses
Development Standards

- Landscaping / Buffering
- Lot & Block Layout
- Parking / Loading
- Environmental Controls
- Industrial Performance Standards
- Site Design
Zoning Map

- Part of ordinance
- Labels districts
- Shows boundaries
- Boundary rules
- Authentication
- Digital maps
Nonconformities

- Uses
- Structures
- Lots
- Situations
- Applications (vesting)
Paranoia
Uncertainty
Delay
Marshall v. Salt Lake City
(Utah 1943)

- Residential “C” district created small “utility zones” for neighborhood conveniences
- Spot zoning challenge rejected:
  - “Here the general zoning plan of the city set within a reasonable walking distance of all homes in Residential ‘A’ districts the possibilities of such homes securing daily family conveniences and necessities, such as groceries, drugs, and gasoline for the family car, with free air for the tires and water for the radiator, so the wife and mother can maintain in harmonious operation the family home, without calling Dad from his work to run errands.”
Form-Based Codes
Typical Code Contents

1. Regulating Plan
2. Public Space Standards
3. Building Form Standards
4. Definitions
5. Optional:
   - Use Standards
   - Architectural Standards
   - Landscaping Standards
   - Signage Standards
   - Environmental Resource Standards
1. Regulating Plan

- Part of the code
- Combines plan vision with form-based regulations
- Identifies key street frontage types
- Code’s building form standards are tied to identified street frontage types
- May look like a zoning map (e.g., Miami, Denver)

Regulating Plan from Peoria, Illinois
Yellow = “Warehouse General Frontage”
Blue = “Warehouse Local Frontage”
Columbia Pike = “Main Street Frontage”
11th Street = “Local Frontage”
2. Public Space Standards

- Maximum block dimensions
- Street cross-section design
  - Sidewalks
  - Travel lanes
  - On-street parking
  - Street trees
  - Street furniture
Public Space Standards

- Smart Code Model (ver. 9.2)
- Street Cross Section Standards
  - Intent = “Movement”
  - ROW width
  - Pavement width
  - Design speed
  - On-street parking
  - Street trees
Public Space Standards

- Smart Code Model (ver. 9.2)
- Public Frontage Standards - By Transect Type
  - Curb, walkway, planters & landscape standards
3. Building Form Standards

- Height
- Build-to
- Entry features
- Ground-story and upper-story fenestration, (e.g., transparency)
- Upper-story sculpting & massing (e.g., step-backs, roof forms)
Building Form vs. FAR

- Advantage of Form-Based Approach vs. ‘FAR’/envelope/bulk approach = Predictability of resulting form
  - Buildings’ relation to street
  - Maximum height and massing
  - Building coverage vs. open areas on lot
Floor Area Ratio (FAR)
FAR = 4

4 Floors
FAR = 4
8 Floors
FAR = 4
16 Floors
FAR = 4

32 Floors
Building Form vs. FAR

Building Forms from Denver Zoning Code
Hybrids –
A Little Bit Country ...
A Little Bit Rock and Roll
Hybrid Codes

“99% of All Codes”
## Typical Hybrid Code Contents

<table>
<thead>
<tr>
<th>Conventional +</th>
<th>Form-Based +</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Standards</td>
<td>Use Standards</td>
</tr>
<tr>
<td>Form-Based Districts and Standards</td>
<td>Overlays and Special Districts</td>
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<td>Performance Zoning</td>
<td>Development Standards</td>
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<td>Overlays and Special Districts</td>
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<tr>
<td>Composite Districts</td>
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<tr>
<td>Infrastructure Standards</td>
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</tbody>
</table>
What is a composite code?

Conventional Zoning
Cheeseburger
No Coke, … Pepsi

Composite Zoning
Appetizer
Main Course
Dessert
Drink
USE OPTIONS

Source: David Hutton, Planning Director, City of Leander
COMPOSITE ZONING

CHOICE OF USE

- SFR – SINGLE FAMILY RURAL
- SFE – SINGLE FAMILY ESTATE
- SFS – SINGLE FAMILY SUBURBAN
- SFU – SINGLE FAMILY URBAN
- SFT – SINGLE FAMILY TOWNHOUSE
- MH – MANUFACTURED HOME
- MF – MULTI-FAMILY
- LO – LOCAL OFFICE
- LC – LOCAL COMMERCIAL
- GC – GENERAL COMMERCIAL
- LI – LIGHT INDUSTRIAL
- HI – HEAVY INDUSTRIAL
- PUD – PLANNED UNIT DEVELOPMENT

GC – GENERAL COMMERCIAL

- BAR
- CONVENIENCE STORE
- GROCERY STORE
- HOTEL
- RETAIL SALES
- AUTO REPAIR
- AUTO SALES
- AUTO WASHING AND FUELING

Source: David Hutton, Planning Director, City of Leander
SITE COMPONENTS

Source: David Hutton, Planning Director, City of Leander
TYPE 2 STANDARDS

- Drive-through service lanes permitted
- Outdoor display not permitted
  (Type 3 limits to 30% of building floor area)
- Outdoor storage not permitted
  (Type 3 limited to 20% of building floor area)
- Outdoor commercial fueling and vehicle washing not permitted
  (Allowed in Type 3 with 100-150’ spacing from residential district)
- Overhead commercial service doors not permitted (Type 3 allows them)

Source: David Hutton, Planning Director, City of Leander & modifications by White & Smith, LLC
ARCHITECTURAL COMPONENTS

Source: David Hutton, Planning Director, City of Leander
COMPOSITE ZONING
CHOICE OF ARCHITECTURAL STANDARDS

TYPE A STANDARDS

- 85% masonry required
- 15% of front façade to consist of window openings
- Building fronts have at least 5-9 architectural features (depending on building size)
  (Type B is 4-7)
- Residential height not to exceed 35’
- Non-residential height not to exceed 45’ (up to 90’ with step-back)

Source: David Hutton, Planning Director, City of Leander & modifications by White & Smith, LLC
COMPOSITE ZONING
PREDICTABILITY (GC USES)

Source: David Hutton, Planning Director, City of Leander
### TABLE 9.3.1-5 TND POINT SYSTEM

<table>
<thead>
<tr>
<th>Criteria</th>
<th>(B) Applicability</th>
<th>(C) Total Possible Points</th>
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<tbody>
<tr>
<td>[1] The plan must include a series of compact neighborhoods.</td>
<td>O up to 500 acres</td>
<td>2</td>
</tr>
<tr>
<td>[2] Each neighborhood has a variety of densities and dwelling types.</td>
<td>O up to 500 acres</td>
<td>1</td>
</tr>
<tr>
<td>[3] Control building, block size and streets.</td>
<td>M more than 500 acres</td>
<td>2</td>
</tr>
<tr>
<td>[4] Create sequences of experiences.</td>
<td>O up to 500 acres</td>
<td>1</td>
</tr>
<tr>
<td>[5] Terminate views</td>
<td>O up to 500 acres</td>
<td>0</td>
</tr>
</tbody>
</table>

### EXAMPLES:

Don't do this:

Do this:

1. Buildings are placed close to street and aligned with sidewalk.
2. Fenestrations (windows) and entryways along ground floor.
3. Durable materials.
4. Vertically oriented windows.
5. Horizontal and vertical modulation of façade.
6. Third story optional.
7. On-street parking counts towards required off-street parking.
8. Base - middle - cap with visible cornice line.
9. Outdoor civic spaces
10. Street trees or shrubs.
The New Denver Zoning Code

DZC = Contextual + Form Based + Conventional

- **Contextual:**
  - Recognizes and validates suburban and “less urban” patterns of Denver development
  - Variation on Smart Code’s “transect”

- **Form Based:**
  - Building form standards calibrate development to its neighborhood context

- **Conventional:**
  - Includes important use-based allowances / limits
## TABLE 1. TRANSECT ZONE DESCRIPTIONS

<table>
<thead>
<tr>
<th>Zone</th>
<th>General Character</th>
<th>Building Material</th>
<th>Type of Core Space</th>
<th>Transportation</th>
<th>Land Use</th>
<th>Parking</th>
<th>Commercial</th>
<th>Residential</th>
<th>Green Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>Denver</td>
<td>Natural landscape with some agricultural use</td>
<td>Not applicable</td>
<td>Streets</td>
<td>Private</td>
<td>No parking</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>T2</td>
<td>Denver</td>
<td>Conventional with some commercial and retail buildings</td>
<td>Not applicable</td>
<td>Streets</td>
<td>Private</td>
<td>No parking</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>T3</td>
<td>Denver</td>
<td>L-shaped buildings</td>
<td>Non-applicable</td>
<td>Streets</td>
<td>Private</td>
<td>No parking</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>T4</td>
<td>Denver</td>
<td>Urbanism</td>
<td>Non-applicable</td>
<td>Streets</td>
<td>Private</td>
<td>No parking</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>T5</td>
<td>Denver</td>
<td>Suburban</td>
<td>Non-applicable</td>
<td>Streets</td>
<td>Private</td>
<td>No parking</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
<tr>
<td>T6</td>
<td>Denver</td>
<td>Urban Core</td>
<td>Non-applicable</td>
<td>Streets</td>
<td>Private</td>
<td>No parking</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

### The Smart Code's Transect “Zones”

Denver's Neighborhood Contexts →

- **Suburban**
- **Urban Edge**
- **Urban**

---

**Contextual**

SeeSmart Version 8.2

SC27
“Form-Based”

Context = Urban Neighborhood
Building Form = Duplex

DUPLICATE

HEIGHT:
- U-SU-A1: 2.5' H
- U-SU-B1: 3.0' H
- U-SU-2: 3.5' H
- U-TU-A1: 2.5' H
- U-TU-B1: 3.0' H
- U-TU-2: 3.5' H
- U-TU-3: 4.0' H

FLOOR: 0' to 2.0' above grade

MINIMUM LOT WIDTH:
- 25' for U-SU-A1
- 30' for U-SU-B1
- 35' for U-SU-2

MINIMUM LOT DEPTH:
- 17' for U-SU-A1
- 17' for U-SU-B1
- 17' for U-SU-2

SIDEWALK SHADOW:
- 10' for U-SU-A1
- 10' for U-SU-B1
- 10' for U-SU-2

ACCESSORY STRUCTURE:
- Not permitted

DESIGN ELEMENTS:
- Attached Garage Allowed
- Building Coverages
- Parking and Drive Lot Coverages

BUILDING CONFIGURATION:
- Not applicable

DENVER ZONING CODE
June 25, 2010

Amendment 5
Use-Based Regulations

<table>
<thead>
<tr>
<th>USE CATEGORY</th>
<th>SPECIFIC USE TYPE</th>
<th>C-RX-5</th>
<th>C-RX-8</th>
<th>C-RX-12</th>
<th>C-MS-5</th>
<th>C-MS-12</th>
<th>C-CCN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Vehicle Parking Request: # spaces per unit of measurement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Bicycle Parking Request: # spaces per unit of measurement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- (% Required Spaces in Enclosed Facility)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>APPLICABLE USE LIMITATIONS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMMERICAL SALES, SERVICES, &amp; REPAIR PRIMARY USE CLASSIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Business</td>
</tr>
<tr>
<td>- Arts, Recreation and Entertainment Services, Indoor</td>
</tr>
<tr>
<td>- Vehicles: 1.25/1,000 ft² GFA</td>
</tr>
<tr>
<td>- Bicycles: 1/750 ft² GFA (20/80)</td>
</tr>
<tr>
<td>- Arts, Recreation and Entertainment Services, Outdoor*</td>
</tr>
<tr>
<td>- Vehicles: 1.25/1,000 ft² GFA</td>
</tr>
<tr>
<td>- Bicycles: 1/750 ft² GFA (20/80)</td>
</tr>
</tbody>
</table>
| Nonresidential Uses in Existing Business Structures in Residential Zones
  (All Uses Shall Be Packed According to the Parking Requirement Stated in this Use Table for the Specific Nonresidential Use) | L-ZP  | Not Applicable | Not Applicable | Not Applicable | §11.4.3 |
| Eating & Drinking Establishments                              | P-ZP  | P-ZP  | P-ZP   | P-ZP   |        |        |       |
| - All Types                                                   |        |        |        |        |        |        |       |
|     - Vehicles: MS only, 2/1,000 ft² GFA                      | L-ZP  | L-ZP  | L-ZP   | L-ZP   |        |        |       |
|     - Bicycles: 2.5/1,000 ft² GFA                             |        |        |        |        |        |        |       |
|     - Bicycles: 1/1,500 ft² GFA (0/100)                       |        |        |        |        |        |        |       |
| Lodging Accommodations, All Others                           | P-ZP  | P-ZP  | P-ZP   | P-ZP   |        |        |       |
|     - Vehicles: 0.875/guest room or unit (300/20)             |        |        |        |        |        |        |       |
|     - Bicycles: 1/2 guest room or unit (80/20)                |        |        |        |        |        |        |       |
| Office                                                         | L-ZP  | L-ZP  | L-ZP   | L-ZP   |        |        |       |
| - Dental / Medical Office or Clinic                           |        |        |        |        |        |        |       |
|     - Vehicles: 1.25/1,000 ft² GFA                           |        |        |        |        |        |        |       |
|     - Bicycles: 1/750 ft² GFA (60/40)                         |        |        |        |        |        |        |       |
| - Office, All Others                                          | P-ZP  | P-ZP  | P-ZP   | P-ZP   |        |        |       |
|     - Vehicles: 1.25/1,000 ft² GFA                           |        |        |        |        |        |        |       |
|     - Bicycles: 1/750 ft² GFA (60/40)                         |        |        |        |        |        |        |       |
Exercise Question #3: Drafting the Regulations
Drafting – Common Themes
Who Drafts

- Potential victims
  - Staff
  - Consultant
  - Politicians
  - Citizen committee
  - Special interests

- What to think about
  - Number of staff
  - Competing demands
  - Budget
  - Competence
  - Experience
    - Amount
    - Breadth/disciplines
Pre-Drafting Details: Project Manager

- Characteristics of good project managers
- Responsibilities
  - Manage process
  - Manage consultant
  - Coordinate staff/consultant communication
  - Schedule meetings
  - Provide information
  - Delegate tasks
  - Coordinate with public/stakeholders
  - Coordinate with Planning Commission / Governing Body
  - Involve local media outlets
Drafting Regulations
“What do other places do?”

- Precedent is most common and useful avenue for solutions
  - Vets problems
  - Vets solutions
  - Administrative experience
  - Development community’s reaction
  - Public’s reaction
“What do other places do?”

- **Sources of precedent**
  - Communities in your state
  - Communities in other states
  - Model codes
  - Planning Advisory Service (PAS)
  - List serves
  - Cases
  - Consultants
“What do other places do?”

- Make sure the solution works for YOU
  - Legal framework
  - Statutory framework
  - Physical/topography/climate differences
  - Political climate
  - Built character
  - Comprehensive plan
  - Staffing
  - Other costs
Drafting: Who Is My Audience?

**Audience While Drafting**
- Your staff
- Legal department
- Other departments
- Planning Commission/Elected Officials
- Development Community

**Audience After Adoption**
- Your staff
- Development Community
- Business Community
- Public
- Planning Commission/Elected Officials
- Judicial system
Regulatory Drafting

- Organize to meet your reader’s needs
- Know your audience
- Communicate clearly what the person reading the regulations is supposed to do

“There are two things wrong with most legal writing. One is style. The other is content.”
Regulatory Drafting

- Understand your word choice
  - Shall =
  - Must =
  - Must not =
  - May =
  - Will =
  - Should =
  - Encourage =
Regulatory Drafting

- Use common English
- Special case – Terms of art
- Make a point
- Test your instructions
- Use active voice (most of the time)
  - The ball was kicked.
  - Tina kicked the ball.
Top 10 New Urbanist Jargon Words and Phrases

10. Centroidal
9. Enfront
8. Regulating Plan
7. Essence of Propinquity
6. Human Scale
5. Building Disposition
4. Pedestrian Shed
3. Charrette
2. Immersive Environment
1. Transect
Drafting Pet Peeves

- “Shall be required”
- “Such”
- “in the event that”
- “it is the responsibility of”
- “the provisions of Section xx.xx”
- “This page intentionally left blank”
- “No less than…”
- Irrelevant capitalization of Common Words
- Insert your personal favorite peeves here....
Types of Graphics

- Pictures
- Drawings
- Text and Line Drawings
- 3-D Illustrations
- Plans
- Sections
- Elevations
- Sketches
- Photographs
Do Graphics Regulate?
Exercise Question #4: Drafting
Drafting Procedures
Discretionary Authority

Highly Discretionary

Legislative - Plan Amendments, Rezonings

Administrative (quasi-judicial) - Subdivisions, CUPs, Variances, Modifications (warrants)

Ministerial - Building Permits, CO

Non-Discretionary
**Procedures - Drafting Tips**

### Table 4-1: Summary of Decision Authority by Process Type

<table>
<thead>
<tr>
<th>Code Interpretation</th>
<th>Staff/City Manager</th>
<th>BOZA</th>
<th>Planning Board</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SECTION 9-2-3</strong></td>
<td>D</td>
<td>CA (14)</td>
<td>CA (30)</td>
<td>CA</td>
</tr>
<tr>
<td>Setback variance &lt; 20%</td>
<td>D</td>
<td>D</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-3</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Setback variance &gt; 20%</td>
<td>-</td>
<td>D</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-3</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Parking, access dimensions</td>
<td>D</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-2</strong></td>
<td>-</td>
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<td>-</td>
<td>-</td>
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<tr>
<td>Parking deferral</td>
<td>D</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-2</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Parking reduction &lt;25%</td>
<td>D</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-2</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Parking reduction &gt;25% but &lt; 50%</td>
<td>D(14)</td>
<td>-</td>
<td>CA, D(30)</td>
<td>CA</td>
</tr>
<tr>
<td><strong>SECTION 9-2-2</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Parking reduction &gt;50%</td>
<td>-</td>
<td>-</td>
<td>D(30)</td>
<td>CA</td>
</tr>
<tr>
<td><strong>SECTION 9-9-6(F)</strong></td>
<td>-</td>
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</tr>
<tr>
<td>Building height, conditional</td>
<td>D</td>
<td>-</td>
<td>-</td>
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<tr>
<td><strong>SECTION 9-7-6</strong></td>
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<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Building height, connected or non-standard</td>
<td>D(14)</td>
<td>-</td>
<td>CA, D (30)</td>
<td>CA</td>
</tr>
<tr>
<td><strong>SECTION 9-2-14</strong></td>
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<tr>
<td>Building height</td>
<td>D(14)</td>
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<td>-</td>
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<td><strong>SECTION 9-7-5</strong></td>
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<td>D(30)</td>
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<tr>
<td>Conditional Use</td>
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<td><strong>SECTION 9-2-2</strong></td>
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<tr>
<td>Use Review</td>
<td>D(14)</td>
<td>-</td>
<td>D(30)</td>
<td>CA</td>
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<td><strong>SECTION 9-2-15</strong></td>
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<tr>
<td>Site Review</td>
<td>D(14)</td>
<td>-</td>
<td>CA, D (30)</td>
<td>CA</td>
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<td><strong>SECTION 9-2-14</strong></td>
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<tr>
<td>REZONING</td>
<td>-</td>
<td>-</td>
<td>R</td>
<td>D</td>
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<td><strong>SECTION 9-2-18</strong></td>
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<td>Annexation</td>
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<td>R</td>
<td>D</td>
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<td><strong>SECTION 9-2-16</strong></td>
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<tr>
<td>Wetland Permit-Simple</td>
<td>D</td>
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<td>-</td>
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<td><strong>SECTION 9-3-9</strong></td>
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<tr>
<td>Wetland Permit-Standard</td>
<td>D(14)</td>
<td>-</td>
<td>D(30)</td>
<td>CA</td>
</tr>
<tr>
<td><strong>SECTION 9-3-9</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Extension of Dev't Approval &lt; 1yr</td>
<td>D</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-12(B)(1)</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Extension of Dev't Approval &gt;1yr</td>
<td>-</td>
<td>-</td>
<td>D(30)</td>
<td>CA</td>
</tr>
<tr>
<td><strong>SECTION 9-2-12(B)(2)</strong></td>
<td>-</td>
<td>-</td>
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<tr>
<td>Recission of Dev't Approval</td>
<td>D</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>SECTION 9-2-12(E)</strong></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

**Key:**
- D = Decision Authority
- R = Recommendation only
- CA = Call-up and Appeal Authority
- (n) = Max. number of days for call-up or appeal
Procedures-More Drafting Tips

- Standardize common elements of all procedures
  - Pre-application steps
  - Waiver of fees/submittal requirements
  - Public notice
  - Withdrawal of application
  - Appeals
## Procedures - Even More Drafting Tips

- **Helpful graphics a must**

### TABLE 4-2: PUBLIC NOTICE OPTIONS

<table>
<thead>
<tr>
<th>Public Notice Type</th>
<th>Type of Application, Meeting or Hearing</th>
<th>Mailed Notice</th>
<th>Posted Notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Administrative Reviews (except those identified below)</td>
<td>none</td>
<td>none</td>
</tr>
<tr>
<td>2</td>
<td>Subdivisions &amp; Minor Subdivisions</td>
<td>To adjacent property owners and mineral rights owners a min. of 10 days before final action</td>
<td>Post property a min. of 10 days from receipt of application and prior to final action or any hearing</td>
</tr>
<tr>
<td>3</td>
<td>Good neighbor meetings</td>
<td>To property owners within 600 feet of subject property a min. of 10 days before meeting</td>
<td>none</td>
</tr>
<tr>
<td>4</td>
<td>Solar exceptions, solar access permits, accessory units, cooperative housing</td>
<td>To adjacent property owners a min. of 10 days before final action</td>
<td>Post property a min. of 10 days from receipt of application and prior to final action or any hearing</td>
</tr>
<tr>
<td>5</td>
<td>Applications requiring BOZA action, wetland permit and boundary determination</td>
<td>To property owners within 300 feet of subject property a min. of 10 days before final action</td>
<td>Post property a min. of 10 days from receipt of application and prior to final action or any hearing</td>
</tr>
<tr>
<td>6</td>
<td>Development Review Applications (site review, use review, annexation, rezoning, concept plans)</td>
<td>To property owners within 600 feet of subject property and any mineral rights owners a min. of 10 days before final action</td>
<td>Post property a min. of 10 days from receipt of application and prior to final action or any hearing</td>
</tr>
</tbody>
</table>

One-Step Reviews

- Note: All One-Step Reviews follow either of the above process except Variances
Procedures - Food for Thought

- How much procedural complexity can your community stomach?
- As complexity increases... demand for administrative resources increases
  - Every decision requires a public hearing
  - Everything’s negotiated
  - Design review run amok
- Flip Side – Less isn’t always more
| Testing |  |
Drafting - Testing & Modeling

- Testing
  - When and how often
  - Who will conduct?
- Different approaches:
  - Hypothetical or prototypical cases
  - Actual cases/plans
  - “Maximum” acceptability test
  - Show the difference - old vs. new - why is new better?
  - Parallel application by staff while ordinance is pending
| MULTI-FORMAT OPTIONS FOR IMPLEMENTATION |
Old/New: Parallel Codes

Two codes, two sets of rules, and choices…

- Old Code continues to operate…and:
  - Applicant has choice to develop under old or new code
  - Incentives to sway choice toward new
    - Process
    - Underscore differences

- New Code operates parallel to old…and:
  - Applicant has choice to develop under new code
  - Or, city makes new code mandatory in some places, and in other places, applicant has the choice.
Old/New: Embedded Codes

New code language and approach is fully integrated into existing code

Example:

- City adopts a form-based approach to zone districts and uses, but carries forward existing parking, landscaping, environmental protection and other general development standards

- New form-based zone districts are fully integrated into existing code

- Current general development standards carried forward

- Definitions are revised to incorporate new form-based related terms
Old/New: Optional Codes

New code provisions are integrated into existing code, and available as option for all applicants

Example: Form-based approach to development is an option available only through a PUD-type review process. Applicant prepared a regulating plan and form-based standards to govern together as the PUD district plan.

Options are acceptable, but may not achieve objectives
Old/New: Mandatory Codes

No parallel codes, no transitions to ease the pain, no applicant choices, no optional, just follow the new code

Example: Huntersville, NC adopted an entirely new zoning code based on New Urbanist planning principles, and incorporating lot/building types as building blocks for new zone districts.

Lot Type/Storefront Bldg

Building Placement to rear, Parking / Vehicular Access in front

Encroachment / Pedestrian Access to Building, Street Wall / Entrance
After Adoption...

- **The Code as Living Document...**
  - Training for staff
  - Testing and stretching period
  - Oversight committee option
  - Readjust, revise, rethink
  - Is it really your problem to fix?