

Columbia, Missouri

Development Code Update

DEVELOPMENT CODE TRENDS AND PROPOSED CODE STRUCTURE

Introduction

Clarion Associates and Ferrell Madden have been retained by the City of Columbia to integrate and update Chapters 29 (Zoning) and 25 (Subdivision) of the municipal code. During January, 2014, the consulting team made an introductory visit to the city, conducted numerous interviews with stakeholders and interest groups, and took an extensive tour of the city. The next step in this process is to review zoning trends and a proposed structure for the integration of Chapters 25 and 29. One of the difficulties in choosing a “user-friendly” development code structure is that there is a wide variety of different “users”. Citizens concerned with the stability and quality of their neighborhoods, for example, may prefer a structure in which all of the information about their zoning district is contained in one chapter, and there is no need to read other portions of the code. In contrast, investors seeking locations to establish a new commercial business would prefer a structure that allows them to compare permitted uses and development regulations across a variety of zone districts without looking at each one individually.

Before deciding on the structure of a new zoning and subdivision code, it is important to understand some of the trends that are influencing zoning and development code reform across the country. This document reviews four of those trends:

- Integrated Code Structure;
- Broader, More Flexible Zone Districts;
- Broader, More Flexible Permitted Uses; and
- More “By-right” Development.

This project also includes a careful look at “form-based” zoning regulations – which allow additional flexibility in building use in return for a greater control over the form and shape of buildings in order to ensure that they “fit” well into the surrounding area and help to shape the public realm. One of the primary goals of many form-based controls is to require new buildings in walkable urban areas to be constructed close to the street (i.e. with little or no parking between the front of the building and the street) in areas where that is the historic (or the desired new) building pattern. That encourages walking in those areas and discourages auto-oriented site designs from eroding the walkability and economic viability of the surrounding area. For instance, form-based controls could be used to encourage more compact neighborhood developments, such as Columbia’s Village of Cherry Hill.

While some form-based controls include maximum height limits, many do not. Height limits were discussed during the Downtown Urban Design Charrette in 2010, but several stakeholders have suggested that would not be appropriate in downtown Columbia, and there is currently no proposal for downtown height limits under discussion. Form-based zoning controls are under consideration for the downtown area (currently the C-2 zoning district) and may also be considered for other small areas of

the city – particularly small commercial nodes or corridors where a more pedestrian orientation would enable those areas to better serve the surrounding neighborhoods. There has been no proposal to apply form-based zoning on a citywide basis or to large areas outside of downtown.

Trends

1. Integrated Code Structure

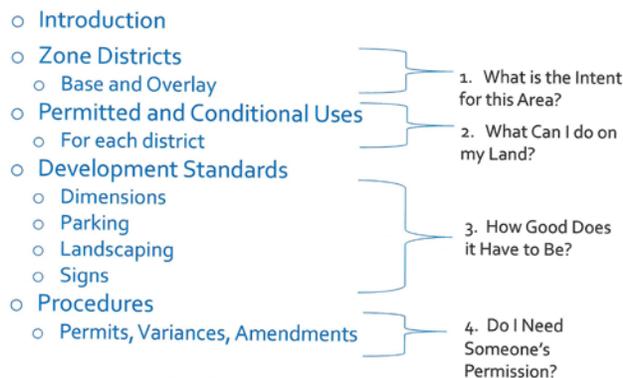
Older zoning codes often have (1) an introductory chapter on “General Provisions”, (2) a separate chapter for each zoning district that includes the permitted uses and the “invisible envelope” of minimum building setbacks and maximum building heights for that district, (3) one “bin” chapter containing a wide variety of regulations for those things that do not vary by zone district (like parking and landscaping controls), and (4) a chapter of project review and approval procedures. An example is shown below, together with commentary as to the weaknesses of this approach.

- Introduction
- R1
 - Uses
 - Invisible Envelope
- R2
 - Uses
 - Invisible Envelope
- C1
 - Uses
 - Invisible Envelope
- Bin
- Procedures

Problems:

- As districts are added, code becomes very long
- Much of the content in each district is repeated, so many opportunities for inconsistencies as piecemeal amendments are made to individual districts
- The “Bin” chapter(s) get to include so many things that everyone must read all of it to know if some of it might apply to them

To avoid these shortcomings, many newer codes adopt an integrated structure that avoids the need to repeat permitted use lists and height/setback standards for each zoning district in turn. An example is shown below, and commentary in the right column shows how this structure answers the four basic questions that development codes need to answer.



An integrated code structure also allows the use of consolidated tables that allow comparisons of what uses are permitted in each district, which is helpful to potential investors and reduces the chances of inconsistent treatment of permitted uses in similar districts in the future. The first few lines of consolidated permitted use table are shown in the example from another community below.

3. Broader, More Flexible Uses

Many older codes have very detailed lists of permitted uses, and newer codes try to reduce the number of narrowly defined uses by consolidating them into broader, more flexible categories. Often this occurs because individual uses are added to the code in response to a specific request for a specific site, and with conditions or limitations that may only make sense for that site; the larger citywide need for that type of use is not considered. Narrowly defined uses are a problem because they tend to get outdated faster (i.e. the private market can think up new uses faster than zoning codes can be amended to accommodate them) and they can easily lead to inconsistent treatment of uses with very similar land use impacts. Finally, the more narrowly defined each use is, the more “change of use” applications and reviews will be required by staff, which increases administrative costs to the city.

There are five major areas in which similar permitted use lists can often be consolidated without creating adverse impacts to neighboring properties:

- Retail sales
- Personal services
- Professional services
- Technology
- Industrial uses



If some of the consolidated uses create impacts on their surroundings, those can often be addressed through “use-specific standards” addressing size, scale, site design, or hours of operation.

4. More “By-Right” Development

When older zoning and subdivision regulation are updated, a fourth major trend is to increase the types of proposed uses and development that can be approved “by-right” – i.e. after a staff review of compliance with the code – and reduce the volume of applications requiring a public hearing or public review before a planning commission, hearing officer, or city council. The major advantages of more “by-right” development include:

- Increased predictability for investors;
- Improved consistency in code administration;
- Faster decisions;
- Lower administrative costs, because less staff time is required to prepare for hearings; and
- Improved user-friendliness, because fewer applications require an understanding of both the zone district standards and the review process and approval criteria.

One important hidden benefit of more by-right development is that it encourages more careful thinking about what objective quality standards should govern different types of development. Without the opportunity to have a hearing (where a decision is often based on vague criteria like “compatibility”

with the surrounding area or “appropriate” size and scale), the code includes objective standards to ensure that the proposed development’s impacts on its neighbors are mitigated. If new or better standards are needed to protect lower density neighborhoods from the impacts of larger development nearby, those can be drafted as objective “neighborhood protection standards” (for example, requirements of additional buffering, lower building heights, or parking areas further away from homes) that produce more predictable protection than case-by-case hearings.

In addition, public hearings often have the unintended consequence of encouraging “Not in My Back Yard” (NIMBY) behavior, even when the proposed development clearly complies with the code’s objective requirements. For all these reasons, newer codes try to limit conditional uses and public hearing reviews to larger and more complex developments with development impacts that are harder to predict, and where discussion of those impacts and a discretionary decision on how to mitigate them is appropriate.

In addition to drafting more accurate and objective development standards, increasing the volume of by-right development often requires delegation of some decisions currently made by city council to the planning board, or delegation of decisions made by the planning board to planning staff. If necessary, the planning board is given the ability to “call up” staff decisions for discussion, and the planning director is given the authority to “bump up” unusual or controversial projects to the planning board for their decision.

Finally, to reduce the number of variance hearings, an increasing number of cities authorize planning staff to approve projects that fail to meet building setback, building height, or parking requirements by 10% or less because of unusual site features.

In light of these trends, our recommended structure for the new Columbia Development Code and two alternative codes structures that we do not recommend (together with the pros and cons of each of those structures). Our specific recommendations regarding the implementation of “form-based” zoning controls, consolidation of similar zone districts, consolidation of similar permitted uses, and “by-right” development will be presented when the Detailed Outline of the new code is released in late March 2014.

If you would like comment on this document or give additional input on any aspect of the Columbia Development Code Update, please complete the on-line survey available at _____ or contact Tim Teddy, Community Development Director, at (573) 874-7318 or ttteddy@gocolumbiamo.com.

Recommended Code Structure

Proposed Structure

Chapter	Content
1. General Provisions	<ul style="list-style-type: none"> Title, authority, applicability to different types of development. A single alphabetical list of all defined terms, to replace the multiple lists in different portions of the current code.
2. Zoning Districts	<ul style="list-style-type: none"> A section for of each base zoning district and a purpose statement of its intended use. This will likely include new form-based districts to replace some or all of the C-2 district and possibly additional form-based districts for future use in other areas. A section for each overlay zoning district and related controls. Any special regulations applying to only that district. <p>(This chapter would NOT include lists of permitted and conditional uses or the form and density/setback standards for each zone)</p>
3. Permitted Uses	<ul style="list-style-type: none"> A permitted use table listing all permitted and conditional uses in all zone districts, which allows for comparisons across districts and more internal consistency. A list of any special conditions (e.g. maximum size, scale, special buffering, or hours of operation) applicable to a listed use, cross-referenced to the permitted use table.
4. Form and Development Controls	<ul style="list-style-type: none"> A dimensional table listing density, setbacks, height, open space, and similar regulations applicable to the non-form-based districts. This would also include a list of exceptions to setbacks and height controls (e.g., for chimneys or bay windows). Form-based controls applicable to more than one form-based zone district. If only one form-based district is proposed, this section is not necessary, because those controls would appear one time in the section addressing that district in Chapter 2. Subdivision standards (e.g., lot, block, and connectivity standards). Landscaping and buffering regulations (which can vary by context and district). Parking regulations (which can vary by context, use, and district). Outdoor lighting regulations (which can vary by context and district). Neighborhood protection standards (e.g., controls that require buildings to step down heights, increase setbacks, reduce light pole height, and buffering when adjacent to single-family or duplex neighborhoods). Sign regulations (which can vary by context and district).
5. Procedures and Enforcement	<ul style="list-style-type: none"> A list of each review and decision-making body in the city. A section covering procedural regulations applicable to more than one type of application (e.g. public notice requirements, requirements to pay application fees) to avoid repetition. A section for each specific type of application (e.g. rezoning, variance, conditional use) describing the steps required for approval and the criteria that will be applied to the decision. A section addressing non-conforming uses, buildings, and site features. A section covering violations, enforcement, and penalties.

Pros and Cons

- Pro.** The code structure is intuitive, because each chapter heading indicates the kind of questions that it answers (e.g., “what uses are permitted” or “how does the site need to be laid out and developed” or “whose approval do I need?”).

- **Pro.** This structure makes the development code as short as possible, since it avoids repetition of similar lists of permitted and conditional uses in each zoning district. Not only does repetition lengthen the code, but it increases the chances for inconsistencies, since amendments may forget to reference one of the several similar lists.
- **Pro.** Form-based zoning controls are integrated into the code structure, rather than having a separate freestanding chapter on form-based terms, approaches, and requirements that overlaps similar information presented in other chapters.
- **Con.** The basic information about permitted uses and dimensional standards (density, heights, and setbacks) in a specific zone district is not available in the chapter addressing that use (as it is in the current code). However, even under the current code a reader interested in the R-2 district still has to read that chapter (29-7) and numerous other sections between Sections 29-21.1 and 29-41 in order to know what is permitted in the R-2 district. There is no code structure currently in use that prevents all need to refer to multiple chapters in order to get all of the information about development in that district.

Alternative 1

One alternative structure for the Columbia Development Code is shown below.

Chapter	Content
1. General Provisions	<ul style="list-style-type: none"> Title, authority, applicability to different types of development. A single alphabetical list of all defined terms, to replace the multiple lists in different portions of the current code.
2. Zoning Districts	<ul style="list-style-type: none"> A section for each <u>group of zoning districts</u> (e.g., residential, office, commercial, industrial, mixed use, form-based, etc.) that includes purpose statements, a table of permitted uses, and a table of dimensional standards (e.g., density, setbacks, height, or form-controls) for each group of districts. Instead of repeating this information for each district, it would be repeated for each group of districts. In the case of form-based districts, this would include the form standards. A list of any special conditions applicable to specific listed uses, cross-referenced to each permitted use table. Rather than repeating the full list for each group of districts, it would appear at the end of this chapter. A section for each overlay zoning district and related controls. Any special regulations applying only to the zoning districts in that group.
3. Site Development Standards	<ul style="list-style-type: none"> Subdivision standards (e.g., lot, block, and connectivity standards). Landscaping and buffering regulations (which can vary by context and district). Parking regulations (which can vary by context, use, and district). Outdoor lighting regulations (which can vary by context and district). Neighborhood protection standards (e.g., controls that require buildings to step down heights, increase setbacks, reduce light pole height, and buffering when adjacent to single-family or duplex neighborhoods). Sign regulations (which can vary by context and district).
4. Procedures and Enforcement	<ul style="list-style-type: none"> A list of each review and decision-making body in the city. A section covering procedural regulations applicable to more than one type of application (e.g. public notice requirements, requirements to pay application fees) to avoid repetition. A section for each specific type of application (e.g. rezoning, variance, conditional use) describing the steps required for approval and the criteria that will be applied to the decision. A section addressing non-conforming uses, buildings, and site features. A section covering violations, enforcement, and penalties.

Pros and Cons

- Pro.** Code users who know which group of districts they want to explore can find purposes statements, permitted uses, and dimensional standards for that group of districts in the section of Chapter 2 addressing that group of districts. This represents a half-way point between the current code structure (repeating this type of information separately for each district) and the recommended structure above (which consolidates it for all districts).
- Con.** This structure makes it slightly more difficult for potential investors to evaluate which zone district would best accommodate their buildings and uses, because they may need to review two or three separate groups of districts rather than referring to two integrated tables.
- Con.** Significant repetition of permitted use tables and conditions related to those uses in each group of districts will significantly lengthen the code.

- **Con.** Separating permitted use and dimensional information into multiple tables increases the chances that uses will be treated inconsistently across different zone district groups. For example, when a new use is added to the commercial zone district section in the future, it is more difficult to see whether the same or a similar use is treated inconsistently in the industrial or mixed use zone districts.

Because of the length of the resulting development code and the greater potential for inconsistencies to arise in the future, we do not recommend this structure.

Alternative 2

A second alternative structure for the Columbia Development Code is shown below.

Chapter	Content
1. General Provisions	<ul style="list-style-type: none"> Title, authority, applicability to different types of development. A single alphabetical list of all defined terms, to replace the multiple lists in different portions of the current code.
2. Standards Applicable to Individual Zoning Districts	<ul style="list-style-type: none"> A section for each zoning district covering any building and site development standards (including density, setbacks, heights, etc.) unique to that district, but not including general requirements for building or site development addressed in the following three chapters. A section for each overlay zoning district and related controls.
3. Standards Applicable to All Zoning Districts	<ul style="list-style-type: none"> Subdivision standards (e.g., lot, block, and connectivity standards). Landscaping and buffering regulations (which can vary by context and district). Parking regulations (which can vary by context, use, and district). Outdoor lighting regulations (which can vary by context and district). Neighborhood protection standards (e.g., controls that require buildings to step down heights, increase setbacks, reduce light pole height, and buffering when adjacent to single-family or duplex neighborhoods). Sign regulations (which can vary by context and district).
4. Standards Applicable to Specific Types of Buildings	<ul style="list-style-type: none"> A section listing specific standards applicable to different defined types of buildings (e.g., multifamily apartment buildings, storefront buildings, office buildings, buildings with drive-through features). These standards would supplement the general dimensional standards in Chapter 2 by specifying how different types of buildings need to be planned and laid out within the basic parameters applicable to the district as a whole. For example, the standards for site layout for an office building and a building with a drive-through might differ within the same zoning district.
5. Standards Applicable to Individual Land Uses	<ul style="list-style-type: none"> A permitted use table listing all permitted and conditional uses in all zone districts, which allows for comparisons across districts and more internal consistency. A list of any special conditions (e.g. maximum size, scale, special buffering, or hours of operation) applicable to a listed use, cross-referenced to the permitted use table.
6. Procedures and Enforcement	<ul style="list-style-type: none"> A list of each review and decision-making body in the city A section covering procedural regulations applicable to more than one type of application (e.g. public notice requirements, requirements to pay application fees) to avoid repetition A section for each specific type of application (e.g. rezoning, variance, conditional use) describing the steps required for approval and the criteria that will be applied to the decision A section addressing non-conforming uses, buildings, and site features A section covering violations, enforcement, and penalties

Pros and Cons

- Pro.** This structure accommodates more detail about specific building massing and site layouts, for specific types of buildings (in Chapter 5). In general, this type of structure is used where an entire city, or most of it, is to be regulated through form-based zoning controls that include defined use types.

- **Con.** Because of the need to repeat dimensional and form controls for individual zone districts in Chapter 2, this code structure would significantly lengthen the code (and increase the chances for internal inconsistencies discussed above).
- **Con.** Citizens and investors interested in finding a zoning district that could accommodate their intended building would now need to look in two places (Chapters 2 and 4) to understand the controls applicable to that type of building in different zoning districts.
- **Con.** Chapter 5 is specifically designed to accommodate form-based controls based on building types, but some types of form-based codes do not involve the definition of specific building types. In addition, we anticipate that most of the land in Columbia will not be covered by form-based controls (with or without defined building types). Instead, the recommended structure above aims to include those controls in the specific zoning district(s) addressing downtown (and perhaps a few other areas), without the need to create a separate chapter to address those issues.

Because of the length of the resulting development code and its poor fit to the anticipated level and extent of form-based controls in Columbia, we do not recommend this structure.