

Community Appearance Regulation:

Municipal Design Review Practices in Metropolitan Chicago

Sponsored by:



The Chaddick Institute

Provided for:



Municipal Design Review Network

Prepared by:



Scenic Illinois

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The Enduring Value of Design Review

Anyone involved in urban design will invariably be asked whether high quality development is affordable during difficult economic times. Over the past few decades, there has been a considerable amount of discussion about the advantages of good design.¹ Today the long-term value of good design is seen as particularly important. Moreover, recent economic pressures provide new opportunities to improve the processes for design review.

In the Chicago metropolitan area, most people are familiar with the innovative design features that have made Millennium Park so attractive. The “Economic Return on Perception,” a recent Urban Land Institute publication, has identified the economic benefits from the well recognized public building and landscape improvements—including a 25% increase in nearby property values.²



There are also many more specific advantages for using review processes to achieve the benefits of quality urban design,³ including the following:

- **Economic:** An increase in the overall ambience of older commercial areas, by respecting the human scale in facade and sign design, encourages shoppers to make longer visits and increase their purchases of goods and services.
- **Social:** An affirmation or creation of a “sense of place,” by building neighborhood identity and pride, which can encourage better local security, socialization and property maintenance.
- **Greening:** Well-designed mixed use development helps preserve green space by using less land for buildings, retaining more land in a natural state and including new energy efficient and sustainable technologies.

The author of *Saving Face* conducted a study to demonstrate and quantify the benefits and concluded that: “design review can serve as a positive tool, along with other civic actions, to upgrade a community and that the increased investment in design staff to implement this tool can be recaptured by increased property valuation.”⁴

Finally, case studies of communities with longstanding design regulations, as described in this report, provide solid evidence that these local governments believe their economic interests are best served by design review regulations that have been implemented and refined over past years.

Key Partners

Chaddick Institute for Metropolitan Development

The Chaddick Institute, located at DePaul University in Chicago, has advanced the principles of effective land use, transportation, and infrastructure planning since its creation in 1993. The Institute offers planners, attorneys, developers, and entrepreneurs a forum to share expertise on difficult land-use issues through workshops, conferences, and policy studies. Financial support for the Institute is provided by the Harry F. and Elaine M. Chaddick Foundation.



Scenic Illinois

Scenic Illinois, a not-for-profit civic advocacy group, initiated the first comprehensive and specific statewide study of aesthetic regulations in 1998. At that time, Scenic Illinois and the Chaddick Institute compiled community appearance data on approximately 100 communities in northern Illinois. Scenic Illinois also initiated the formation of the Municipal Design Review Network and has continued to support public participation in community planning.



Municipal Design Review Network

The Municipal Design Review Network (MDRN) provides a forum for Chicago metropolitan area communities to share information regarding architectural review of buildings, signage and landscaping. The MDRN network has the specific goal to develop professionalism and best practices for the challenging legal issues involved in the regulation of aesthetics.



Overview

In the Chicago metropolitan area, a variety of organizational approaches and commission review processes are being used to improve the effectiveness of design review. During these challenging economic times, many communities are turning to innovative new strategies.

• Background

Design review is a strategy for managing the quality and details of new development through focus on the appearance of construction and site planning details. Design review protects community character by applying urban design and architectural principles, and should provide a framework that helps guarantee fairness and consistency in the approval of buildings and new development.⁵

In the Chicago metropolitan area, this design review was embodied in the first wave of appearance codes adopted in the 1970's. These ordinances principally dealt with the materials and styles of building facades and signage. Some communities concentrated on a "theme" for development or focused on sign control. The element many communities had in common was their establishment of an appearance ordinance or code to provide the legal framework for appearance review requirements.⁶

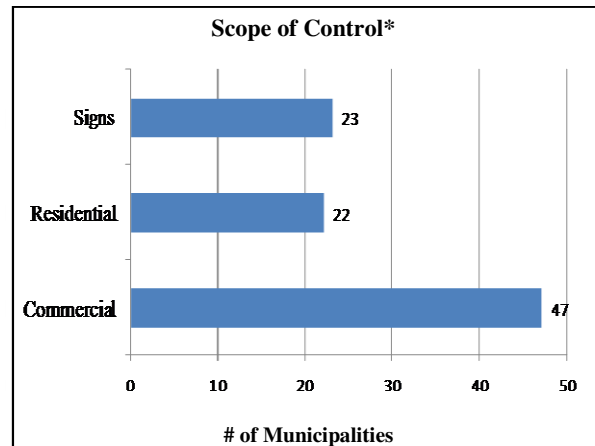
In 2007, the Illinois Legislature amended the Illinois Municipal Code to expressly authorize design review commissions.⁷ The law allows flexibility for review/standards through various administrative processes. The next sections will present various approaches to satisfy the requirements that have been set forth by the legislature.

• Overall Considerations

According to American Planning Association sources, the oldest appearance code in the Chicago metropolitan area was adopted by the Village of Glenview in 1969, and other codes have developed following the Glenview model.⁸ Coupled with information for design review provided by the American Institute for Architects, the code provided the basis for design standards.

In most local codes, there is usually a section of the enabling ordinance that describes the geographic area covered. The codes included in this study applied not only to business and commercial areas; but also included other zoning districts and some single family residential areas as summarized in the following illustrations.

Note: for this study and discussion, specific "historic preservation" commissions are not included.



* Based upon a 2008 Chaddick Institute survey of approximately fifty municipalities utilizing design review in the Chicago metropolitan area.

The heart of any appearance code is the section that establishes the criteria for appearance. The elements that are addressed in the appearance criteria section may include all or any of the following: building design, relationship of building to site, relationship of project to adjoining area, landscape and site treatment, signs, lighting, street hardware, miscellaneous structures and maintenance.

As with all regulatory processes involving discretionary authority, design review requires a method that is fair and consistent. This is not only a legal necessity, but it provides a discipline and structure that make design review effective. As noted in the accompanying diagrams, all processes include the following stages to assure legal sufficiency: review, decision-making and appeal.

Review Processes

There are several prevalent models of design review processes in Illinois, with various advantages and challenges. Three of the most common models are described below.

• Architectural Review Commission

Under this model, a separate commission or board, comprised of architects or a mix of citizens/design professionals, is delegated authority for design decisions. From the perspective of local government and developers, this model provides an authoritative design review process, because the structure is based on state legislation that authorizes the establishment of such a separate entity.⁹ In the Chicago metropolitan area, such entities are sometimes called “Appearance Commissions.”

Many communities utilizing this approach allow preliminary and final hearings for a project. The preliminary hearing gives the applicant an opportunity to discuss the proposal during which petitioner and commission negotiate a design in compliance with the applicable codes. Once approved, the proposal is given a “Certificate of Appropriateness,” to issue a building permit if all other municipal code requirements are met.

• Plan Commission

This model, utilizing a more traditional plan commission structure, provides an expanded role with respect to urban design aspects.¹⁰ Some municipalities have used a separate committee or subgroup of their planning board to do so.

Historically, some jurisdictions that wanted to implement design review processes had concerns about authorization of a separate entity. These jurisdictions established a design review board to advise the body which is clearly authorized by statute to make certain discretionary decisions—the planning commission.

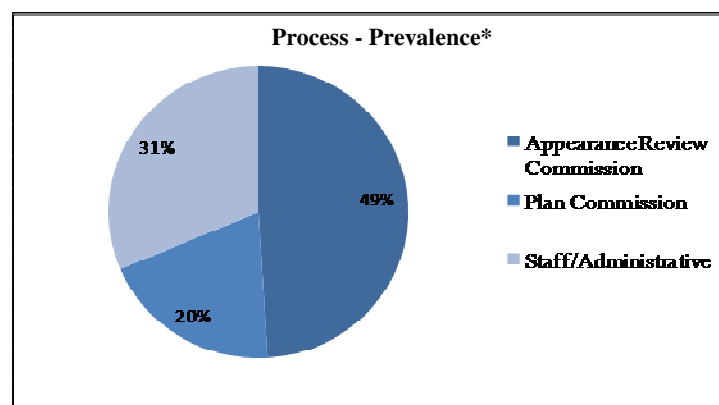
This structure has the effect of limiting the design review committee to an advisory role and having the planning commission apply conditions that reflect certain aesthetic considerations. In addition, the appeal to the local legislative body is often desirable in this instance because it provides a safety valve through which disputes can be resolved.

• Staff/Administrative

Variations used by a small but growing number of communities involve assigning the role to the staff director of the municipal development department. When compared to “discretionary” commission approaches, this form has been called “administrative” design review.¹¹

This model reflects the reality that in some jurisdictions the planning commission has no authority to make final decisions on matters involving aesthetic considerations. It is the local legislative body that acts as final decision maker on most land use approvals, (also see “overlay districts”). Consequently, greater reliance is placed upon designated staff and measurable standards.

The administrative form of design review depends very much on the training and expertise of the staff who are involved. Some suburbs have included designation of a town architect to professionalize the process.

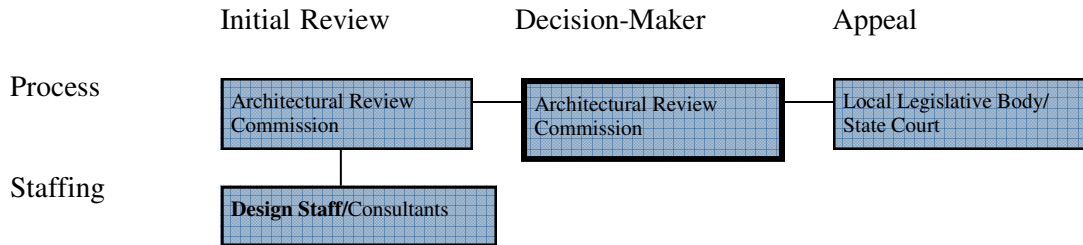


* Based upon a 2008 Chaddick Institute survey of approximately fifty municipalities utilizing design review in the Chicago metropolitan area.

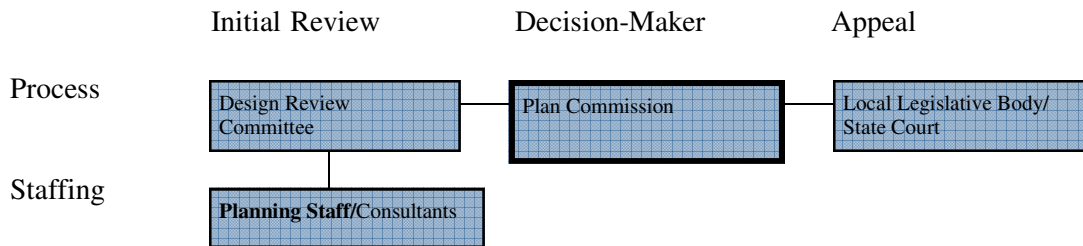
Review Processes

The prevalent models each have review, decision and appeal stages as illustrated below:

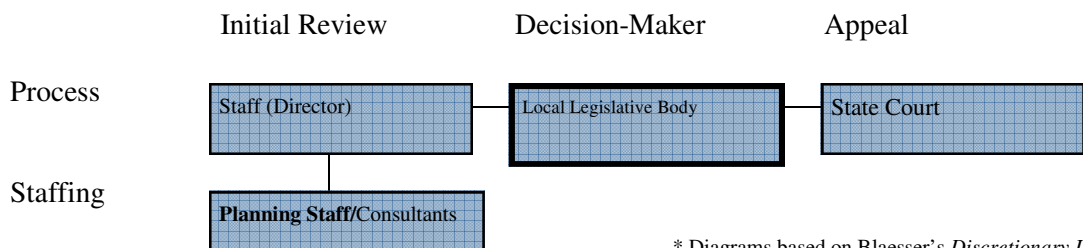
- Architectural Review Commission



- Plan Commission



- Staff/Administrative



* Diagrams based on Blaesser's *Discretionary Land Use Controls*.¹²

“Overlay Districts”

Some local codes also make use of “overlays” for a certain geographic area, either to trigger a design review process or highlight a particular area as being of special concern to the community. This could be seen as a logical extension of the landmark preservation or “Historic Districts” which were the precedents for design review. Further, in many villages and newer suburbs this overlay approach also has application, e.g., in the downtown, for urban renewal or other purposes.

Case Studies-Related Examples

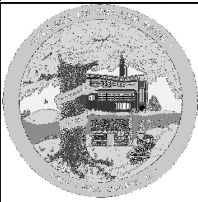


Lake Forest

Located 30 miles north of downtown Chicago, Lake Forest is a historic planned community on the North Shore in Lake County with a population of approximately 20,000. Over the past 150 years, The City of Lake Forest has planned the community and business district to maintain a historic environment with European charm.

The Lake Forest architectural review commission (“Building Review Board”) was established in 1962 and is composed of residents who are appointed by the Mayor. The Board reviews projects that are outside the boundaries of the City’s Historic Districts. The projects reviewed include demolitions, architectural additions and alterations, exterior lighting, signs and landscaping. In particular, design guidelines have been incorporated into the Code and guide the decisions of the board. Experienced municipal staff are actively involved in the meetings and preparation.¹³

This well established community has successfully used a special community “Character Study” and an architecture review board—with detailed documentation of procedures—to preserve the uniqueness of neighborhoods in the community.



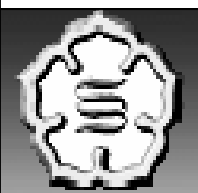
Orland Park

This suburb of 60,000 located 25 miles southwest of the Chicago Loop, has evolved from a farming settlement over a century ago into a major regional commercial center. Orland Park has been repeatedly recognized in national magazine surveys for its “quality of life.”

Orland Park utilizes its staff and Plan Commission to shape the site plans, landscaping and architecture of commercial and residential projects. The Commission is supported by staff professionals who actively engage in the design review process in a collaborative manner.

Design reviews are generally divided into two categories. First, routine “appearance review” process covers minor exterior site and building changes. This review process involves a staff review based upon the Village’s code standards. The staff review determination may be appealed to the Plan Commission. Secondly, all other development and redevelopment is reviewed directly by the Plan Commission. The Plan Commission makes recommendations as part of the site plan review which is adopted by the Village Board.¹⁴

This active Plan Commission approach has recently been effective in the development and design of several major civic projects and high quality mixed use centers. It has allowed the Village to effectively and strategically cope with rapid development over many years.



Schaumburg

A western “edge city” with extensive office and commercial development, the Village of Schaumburg, as a municipality, has a relatively short history of less than 50 years. However, with a population that has grown to 75,000, the community has the dynamic experience of actions based on progressive planning and design theories. The result of those efforts is evident throughout the village.

Schaumburg has directly involved planning staff in the development process. The Planning Services Division coordinates review of proposed development and construction permitting as well as administering the Village Historic Preservation, Streetscape Enhancement, and Community Development (Block) Grant programs. The division includes building, engineering, landscaping, and planning staff.¹⁵

In addition, Schaumburg utilizes an administrative Project Review Group, which is an interdepartmental reviewing body coordinated by the Community Development Department. This Group receives input from all applicable Village departments and divisions. This intensive staff involvement has facilitated various new development projects, redevelopment projects and detailed design standards.

Case Studies-Comprehensive Approach



Glenview

Located in northern Cook County, the Village of Glenview is a North Shore community that is 22 miles from downtown Chicago. Glenview is an established suburb with approximately 46,000 residents in the area of 14 square miles.

Glenview has been recognized for its tradition of quality development since the 1969 formation of the first “Appearance Commission” in the Chicago metropolitan area. In the past 10 years Glenview experienced dramatic growth with the development of outlying greenfields and the redevelopment of the Glenview Naval Air Station into the award winning mixed-use development called The Glen.

Recent Corridor Planning Example

Recently, multiple commercial redevelopments were proposed at the western edge of Glenview along the Milwaukee Avenue “corridor”, in conjunction with a State roadway reconstruction. Due to the variety of land uses along this corridor, and the sudden development pressures, a special effort that included various facets of design was needed. Using the processes and tools summarized below, a plan was crafted to successfully integrate the Milwaukee Avenue corridor into the Village, provide consistent direction for private development activity, and improve the corridor as a gateway to Glenview.

Comprehensive Plan Basis

The impetus for the corridor project came from the Village Comprehensive Plan, prepared a few years earlier. The Plan called for land use recommendations along the Milwaukee Avenue Corridor in accordance with detailed redevelopment plans. Glenview launched this process by appointing a Milwaukee Avenue Corridor Committee including Village Trustees and various other Village Commissioners and area residents.

“Charrette” Approach

The project culminated in a Charrette—an intensified planning and visioning exercise that gathered a lot of feedback quickly through the public participation of residents, property and business owners. During special workshop sessions dedicated to design considerations, professional consultants were able to incorporate input from these various stakeholders and generate redevelopment concepts and implementable improvement plans.

Plan Commission

The Glenview Plan Commission focuses on the site plan aspects of proposed developments. This commission was involved in adopting the general guidelines. Using the guidelines in the corridor plan it was able to promote cross connections between parcels and establish “new urbanist” streetscape designs.



Appearance Commission

The Glenview Appearance Commission is responsible for maintaining the aesthetic quality of Glenview's built environment through architectural and landscape design review. By utilizing the new corridor plan, the Commission has been able to review developments in accordance to the desired design standards and promote landscaping continuity throughout the corridor.

Regulatory Approval Process—Bottom Line

Several factors led to an expedited approval process for projects in the corridor including: many Commission members were directly involved in the corridor project; there was significant community participation; and the design expectations for the corridor's redevelopment were clearly established.¹⁶

Legal Considerations-Practical Analysis



Initial Court Cases

For many years the discretionary approach to design review relied upon collective municipal experience with little risk of a legal challenge. Most developers or property owners did not wish to be delayed by extended litigation and simply complied with requests by review bodies. However, since the 1980's, the courts have indicated that applying broad discretion with vague criteria will not be tolerated.¹⁷

The professional planning publication, *Aesthetics, Community Character and the Law* discusses case law regarding aesthetics at the state and local level.¹⁸ In 1992, an Illinois Appellate Court determined that a design review ordinance was an unconstitutional delegation of legislative authority when it authorized an appearance commission to act in more than an advisory capacity. In *Waterfront Estates Development v. City of Palos Hills*, the court stated that a legislative body must provide intelligible standards to guide an administrative agency with discretionary authority.¹⁹

With the early cases as guidance, legal practitioners have found design regulation to be effective for municipalities—when they balance clear standards and review processes.²⁰

Illinois Legislation

In 2007, the Illinois legislature amended the Illinois Municipal Code to expressly authorize design review ordinances. The law allows flexibility for review/standards through various administrative processes.

The amendment to the municipal code provided that, "...the corporate authorities in each municipality have the following powers...to establish local standards solely for the review of the exterior design of buildings and structures, excluding utility facilities and outdoor off-premises advertising signs, and designate a board or commission to implement the review process."²¹

It is clear from this legislative enactment that design review has become an acceptable form of regulatory authority and foregoing examples present various approaches to satisfy the framework that has been set forth by the courts.



Related Litigation

In July, 2009, an Illinois Appellate Court issued a decision, in the case of *Hanna v. City of Chicago*, that the Chicago Landmark Ordinance is unconstitutional because of its vagueness.²² While this decision did not overturn the ordinance, it did raise confusion and concern in the historic preservation and architectural design communities—because of the broader Commission issues.

Under the earlier Illinois court cases noted above, if a legislative body grants an administrative agency discretionary authority to act, it must provide intelligible standards for guidance in the exercise of that authority. If the final approval of an administrative act rests with the legislative body, however, then there is no delegation problem. In the *Hanna* case, the court found that there were not intelligible standards to guide the commission in the exercise of its authority.²³

In a broader sweep, the Appellate Court also found the requirement that commission members have "special interest, knowledge, or experience" in architecture, history, or similar disciplines could be excessively vague and ambiguous.²⁴ This is notable for other design review boards because the function of a design review board is so specialized, and members typically come from designated professional groups such as: architects, landscape architects, artists, engineers, and developers. It is also common to find boards that include one or more citizens or business representatives in order to provide their perspective.

The City of Chicago immediately appealed this decision to the Illinois Supreme Court, but no final relief was granted. The case is expected to be reheard at the trial court level, and further appeals can be anticipated.



Key Findings-Design Guidelines

More communities are using innovative and illustrated Design Guidelines to accomplish their goals of promoting quality design without adverse regulatory or economic consequences.

• Background

Design guidelines have been used world-wide for many centuries. In Illinois, there was a lull in implementation between Burnham's 1909 Plan of Chicago and the 1970's "appearance code" phenomena. Yet in this period, there was a steady evolution in the laws affecting aesthetic controls.²⁵

During the 1980s, there was a dramatic resurgence of interest in urban design. Design review had acquired a negative image in some circles due to perceptions that ordinances and reviews dwelled on superficial characteristics of buildings, such as materials and colors. As a result, the use of design guidelines became much more sophisticated. Guidelines are now much more detailed than they had been previously—and they are more comprehensive.

• Prior Studies

A Chaddick Institute 1998 survey found that a surprisingly low number of Illinois communities had sign regulations that included guidelines demonstrating what is acceptable for development and signage. Even fewer towns, (22%) indicated they use written or graphic examples of good architectural design.²⁶

The earlier survey publications concluded that written or graphic design guidelines indicating recommended architectural design could help protect the uniqueness and sense of place in a community. Used properly, such guidelines can help the development process by clearly demonstrating to builders and developers what is acceptable and what is expected.²⁷

*The overall purpose of guidelines is not to impose particular architectural details. Design guidelines help to fill the gap between general planning policies and specific zoning standards.*²⁸

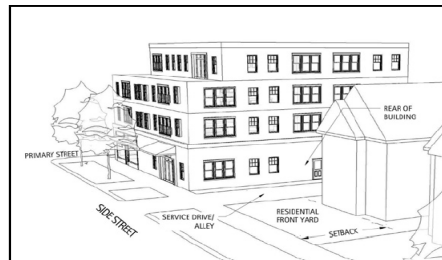


Illustration Source:
Glenview Form
Based Code

• Current Practices

This review of current practices indicates that design guidelines should, at a minimum, address the following subjects: overall site design, building orientation, use of plant material and signage.²⁹

The form for design guidelines depends upon the community, who will use them, and who will administer them. Typically, design guidelines are separate documents that supplement an ordinance or code. By being separate, guidelines explain better (and in more detail) just what qualities the community wants in its development. Ideally, the community can publish the guidelines in a format that clearly corresponds to the ordinance or code provisions.

The current generation of guidelines recognizes that pictorial images can be as powerful as words in shaping development. While written language is still necessary, the use of photographs, sketches, and diagrams is becoming increasingly widespread to illustrate what is and is not acceptable.³⁰

In a recent APA publication, an experienced zoning attorney noted: “The photographs respond to the “I’ll know it when I see it” inclination that we all possess...The exercise of putting the visual acceptability into words also serves to clarify the focus of that acceptability.”³¹

Increasingly, Chicago area communities are stepping up their public participation processes and providing more local examples to strengthen their topical guidelines. The process of community and professionals meeting to critique the examples not only clarifies the documentation but also focuses the desired community vision and standards.

**Municipal Design Review Network Participants
(Chicago Metro Area*)**

Municipality	Scope of Control			Process	Method
Algonquin				STF	
Antioch	C	R	S	STF	
Arlington Heights	C	R	S	ARC	A
Bannockburn	C	R	S	ARC	A
Barrington	C		S	ARC	R
Buffalo Grove	C	R ¹	S	ARC	R
Countryside	C ²			STF	
Deerfield	C			ARC	A
Des Plaines	C			ARC	R
Downers Grove	C			ARC	R
Elmhurst	C			ARC ³	R
Evanston	C ⁴	R		PC	
Frankfort	C			STF	
Glen Ellyn	C			ARC	R
Glencoe	C	R ⁵		PC	
Glendale Heights	C	R ⁶		PC	
Glenview	C		S	ARC	A
Hawthorn Woods	C			ARC	R
Highland Park	C		S	ARC	A
Highwood	C	R		ARC	R
Hinsdale	C			PC ⁷	
Kenilworth	C		S	ARC	A
Lake Bluff	C	R	S	ARC	A/R
Lake Forest	C	R ⁸	S	ARC	A
Lake Zurich	C		S	STF	
Lemont	C			STF	
Libertyville	C		S	ARC	R
Lincolnshire	C		S	ARC ⁹	R
Lincolnwood	C	R	S	STF ¹⁰	
Montgomery	C	R		STF/PC ¹¹	
Morton Grove	C		S	ARC	A
Naperville		R		STF	
Northbrook	C	R		ARC	A
Northfield	C		S	ARC	A
Orland Park	C			PC	
Palatine	C		S	STF	
Park Ridge	C	R	S	ARC	A
Plainfield	C	R		STF	
Prospect Heights	C	R ¹²		ARC	R
Riverside	C	R	S	PC	
Roselle	C	R	S	STF	
Schaumburg	C	R ¹³	S	STF	
Skokie	C	R		ARC	A
Sugar Grove	C			PC ¹⁴	
Westmont	C	R		STF	
Wheaton	C			STF	
Wheeling	C		S	PC	
Wilmette	C		S	ARC	A
Winnetka	C			STF	

*Based upon 2008-9 data provided by the municipalities.

Key Terms

“Scope of Control”

C) Commercial
(Including: Multi-family buildings, District/PUD and Industrial)

R) Residential (Single-family)

S) Signs

Note: “Historic Preservation” Commissions NOT included

“Process”

ARC) Architecture/Appearance Review Commission (separate)

PC) Plan Commission

STF) Staff/Administrative

“Method”

A) Approval Authority

R) Recommend to Board

Notations

 = Architecture/Appearance

Footnotes (chart)

¹ Teardowns and some additions

² Recently expanded process

³ For district/downtown

⁴ Appearance review is advisory

⁵ Teardowns

⁶ Some single-family

⁷ Currently forming review board

⁸ Alterations and demolitions

⁹ Advisory board

¹⁰ Design guidelines and standards

¹¹ For new developments

¹² Single-family teardowns

¹³ Special district and teardowns

¹⁴ Initial ARC (staff) review

Endnotes



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13. *Background provided by* Catherine Czerniak, Director of Community Development, City of Lake Forest.
14. *Background provided by* Robert Sullivan, Planning Director, Village of Orland Park.
15. *Background provided by* Thomas Farace, Senior Planner, Village of Schaumburg.
16. *Input from* Jeff Brady, Planning Director, Village of Glenview.
17. *See* Poole, Samuel E. "Architectural Appearance Review Regulations and the First Amendment: The Good, The Bad and The Consensus Ugly." The Urban Lawyer 19.2 Spring 1987: 284.
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23. *Hanna v. City of Chicago*, First District No. 1-07-3548 (Jan. 2009); Legal Bulletin. Illinois Municipal League. 2009-02 3.5.09. Springfield, IL p2.
24. *Hanna* at p11.
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About the Author



John Hedrick, an attorney and consultant is President of the Scenic Illinois organization which supports public land use planning and design. He has been involved in land use issues in Illinois for over thirty years, while specializing in advertising, corporate and regulatory matters. He is also a Village Commissioner for building and landscape design review and is involved in various municipal planning matters. John has worked with the Chaddick Institute as the founder of the Municipal Design Review Network for communities involved with architectural and landscape review.

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Municipal Design Review Network

The Municipal Design Review Network (MDRN) is a unique forum for Chicago metropolitan area communities with "design review" boards or staff to share and develop "best practices" regarding architectural review of buildings, signage and landscaping. For information regarding program dates and further details please contact:

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