

1 AN ACT concerning design review.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Counties Code is amended by amending
5 Section 5-3003 and by adding Section 5-30023 as follows:

6 (55 ILCS 5/5-30003) (from Ch. 34, par. 5-30003)

7 Sec. 5-30003. Definitions. As used in this Division, the
8 following terms shall have the meanings ascribed to them as
9 follows:

10 "Alteration". Any act or process that changes one or
11 more historic, architectural or physical features of an area,
12 site, landscape, place or structure, including, but not
13 limited to, the erection, construction, reconstruction, or
14 removal of any structure; the expansion or significant
15 modification of agricultural activities; surface mining; and
16 clearing, grading or other modification of an area, site or
17 landscape that changes its current or natural condition.

18 "Architectural significance". Embodying the distinctive
19 characteristics of a type, period, style or method of
20 construction or use of indigenous construction, or
21 representing the work of an important builder, designer,
22 architect, or craftsman who has contributed to the
23 development of the community, county, State or country.

24 "Archaeological significance". Importance as an area,
25 site, place or landscape that has yielded or is likely to
26 yield information concerning past patterns of human
27 settlement, or artifacts or information concerning previous
28 cultures in Illinois or previous periods of the present
29 culture. Areas, sites or landscapes of archaeological
30 significance may include, but are not limited to, aboriginal
31 mounds, forts, earthworks, burial grounds, historic or

1 prehistoric ruins, locations of villages, mine excavations or
2 tailings, or other locations.

3 "Building". Any structure designed or constructed for
4 residential, commercial, industrial, agricultural or other
5 use.

6 "Certificate of Appropriateness". A certificate issued
7 by a preservation commission or design review board
8 indicating its approval of plans for alteration,
9 construction, demolition, or removal affecting a nominated or
10 designated landmark or property within a nominated or
11 designated preservation or design review district.

12 "Certificate of Economic Hardship". A certificate
13 issued by a Preservation Commission authorizing an
14 alteration, construction, removal or demolition even though a
15 Certificate of Appropriateness has previously been denied or
16 may be denied.

17 "Commissioners". Members of a Preservation Commission.

18 "Conservation Right". A term that includes easements,
19 covenants, deed restrictions or any other type of less than
20 full fee simple interest as that term is defined in Section 1
21 of "An Act relating to conservation rights in real property",
22 approved September 12, 1977, as amended.

23 "Construction". The act of adding an addition to a
24 structure or the erection of a new principal or accessory
25 structure on a lot or property.

26 "Demolition". Any act or process which destroys in part
27 or in whole a landmark or a building or structure within a
28 preservation district.

29 "Design Criteria". A standard of appropriate activity
30 that will preserve the historic, architectural, scenic or
31 aesthetic character of a landmark or preservation district.

32 "Design review board". Any officer or body designated by
33 the county board to review applications for and issue a
34 certificate of appropriateness for exterior architectural

1 features of all or specified proposed development in a design
2 review district.

3 "Design review district". A geographically definable
4 area possessing a significant concentration, linkage, or
5 continuity of sites, buildings, structures, or objects united
6 aesthetically by development or that, in the determination of
7 the county board, has the potential to be united
8 aesthetically by development.

9 "Development incentives". Any of the following:

10 (1) Reductions in building setback requirements.

11 (2) Reductions or waivers of impact fees,
12 application fees for development permits, utility tap-in
13 fees, or other dedications or exactions.

14 (3) Reductions in minimum lot area, width, or
15 depth.

16 (4) Reductions in required parking spaces per
17 dwelling unit or per square foot of floor area.

18 (5) Increased maximum lot coverage.

19 (6) Increased maximum building height or stories.

20 (7) Reductions in minimum building separation
21 requirements, provided that the reductions do not
22 conflict with building code requirements of the State or
23 the county, as applicable.

24 (8) Reductions or waivers of public or nonpublic
25 improvements.

26 (9) Approval by the county board of mixed use
27 zoning in conjunction with the housing project if
28 commercial, office, industrial, or other land uses will
29 contribute significantly to the economic feasibility of
30 the housing development and if the mixed use zoning is
31 consistent with the comprehensive plan.

32 (10) Authorization for the affordable housing
33 development to include nonresidential uses, provided the
34 uses or the authorization is consistent with the

1 comprehensive plan.

2 (11) Authorization for the affordable housing to be
3 located in a nonresidential zoning district, provided the
4 authorization is consistent with the comprehensive plan.

5 (12) Other incentives proposed by the developer of
6 an affordable housing project or by the county that
7 result in identifiable cost reductions for affordable
8 housing, including direct financial aid by the county in
9 the form of a loan or grant to subsidize or provide low
10 interest financing for on- or off-site improvements,
11 land, or construction costs.

12 "Development Rights". The development rights of a
13 landmark or of a property within a preservation district as
14 defined in Section 11-48.2-1A of the Illinois Municipal Code.

15 "Development Rights Bank". A reserve for the deposit of
16 development rights as defined in Section 11-48.2-1A of the
17 Illinois Municipal Code.

18 "Exterior Architectural Appearance". The architectural
19 character and general composition of the exterior of a
20 building or structure, including but not limited to the kind,
21 color and texture of the building material and the type,
22 design and character of all windows, doors, light fixtures,
23 signs and appurtenant elements.

24 "Historic Significance". Character, interest or value as
25 part of the development, heritage, or culture of the
26 community, county, State or country; as the location of an
27 important local, county, State or national event; or through
28 identification with a person or persons who made important
29 contributions to the development of the community, county,
30 State or country.

31 "Landmark". A property or structure designated as a
32 "Landmark" by ordinance of a county board, pursuant to
33 procedures prescribed herein, which is worthy of
34 rehabilitation, restoration, or preservation because of its

1 historic or scenic or architectural significance.

2 "Landscape". A natural feature or group of natural
3 features such as, but not limited to, valleys, rivers, lakes,
4 marshes, swamps, forests, woods, or hills; or a combination
5 of natural features and buildings, structures, objects,
6 cultivated fields, or orchards in a predominantly rural
7 setting.

8 "Object". Any tangible thing, including any items of
9 personal property, including, but not limited to, wagons,
10 boats, and farm machinery, that may be easily moved or
11 removed from real property.

12 "Owner of Record". The person or corporation or other
13 legal entity in whose name the property appears on the
14 records of the County Recorder.

15 "Preservation District". An area designated as a
16 "preservation district" by ordinance of a county board and
17 which may contain within definable geographic boundaries one
18 or more landmarks and which may have within its boundaries
19 other properties, areas, sites, landscapes or structures
20 which, while not of such historic or architectural or scenic
21 significance to be designated as landmarks, nevertheless
22 contribute to the overall visual characteristics of the
23 landmark or landmarks located within the district.

24 "Preservation Ordinance". An ordinance enacted by a
25 county board pursuant to this Division that provides for the
26 nomination, designation, and protection of landmarks or
27 preservation districts, and that contains, at a minimum, the
28 elements required by Section 5-30009.

29 "Removal". Any relocation of a structure, object or
30 artifact on its site or to another site.

31 "Repair". Any change that is not construction,
32 alteration, demolition, or removal and is necessary or useful
33 for continuing normal maintenance and upkeep.

34 "Scenic Significance". Importance as a result of

1 appearance or character that remains relatively unchanged
2 from and embodies the essential appearance related to a
3 culture from an earlier historic or prehistoric period; as a
4 result of a unique location, appearance, or physical
5 character that creates an established or familiar vista or
6 visual feature; or as a geologic or natural feature
7 associated with the development, heritage or culture of the
8 community, county, State or nation.

9 "Site". The traditional, documented or legendary location
10 of an event, occurrence, action or structure significant in
11 the life or lives of a person, persons, group, or tribe,
12 including but not limited to, cemeteries, burial grounds,
13 campsites, battlefields, settlements, estates, gardens,
14 groves, river crossings, routes, trails, caves, quarries,
15 mines or significant trees or other plant life.

16 "Structure". Anything constructed or erected, the use of
17 which requires permanent or temporary location on or in the
18 ground, including (but without limiting the generality of the
19 foregoing) barns, smokehouses, advertising signs, billboards,
20 backstops for tennis courts, bridges, fences, pergolas,
21 gazebos, radio and television antennae, solar collectors,
22 microwave antennae, including supporting towers, roads, ruins
23 or remnants (including foundations), swimming pools or
24 walkways.

25 "Survey". The systematic gathering of information on the
26 architectural, historical, scenic, and archaeological
27 significance of buildings, sites, structures, areas, or
28 landscapes through visual assessment in the field and
29 historical research, for the purpose of identifying landmarks
30 or districts worthy of preservation.

31 (Source: P.A. 86-962.)

32 (55 ILCS 5/5-30023 new)

33 Sec. 5-30023. Design review.

1 (a) The county board may adopt and amend a design review
2 ordinance that authorizes the designation of areas, by
3 ordinance, as design review districts and that requires, in
4 accordance with criteria specified in the ordinance, that a
5 certificate of appropriateness be obtained from a design
6 review board for the exterior architectural appearance of all
7 or specified proposed development within the district.

8 (b) The county board may adopt and amend a design
9 review ordinance only after it has adopted a comprehensive
10 plan that contains a community design element.

11 (c) A design review ordinance adopted under this Section
12 must include the following minimum provisions:

13 (1) A citation to enabling authority to adopt and
14 amend the ordinance.

15 (2) A statement of purpose consistent with the
16 purposes of land development regulations.

17 (3) A statement of consistency with the
18 comprehensive plan.

19 (4) Definitions, as appropriate, for any words or
20 terms contained in the design review ordinance. Where
21 this amendatory Act of the 92nd General Assembly defines
22 words or terms, the ordinance must incorporate those
23 definitions, either directly or by reference.

24 (5) Criteria to be applied by the county in
25 selecting areas to be designated by ordinance as design
26 review districts.

27 (6) Criteria to be applied by the design review
28 board in reviewing applications for a certificate of
29 appropriateness for all or specified development in a
30 design review district. The criteria must include any
31 matters that are consistent with the desired character of
32 the exterior architectural appearance of buildings and
33 structures and their surroundings in a design review
34 district.

1 (7) Procedures for the review of applications for a
2 certificate of appropriateness under subsection (f).

3 (8) Specifications for all application documents
4 and plan drawings for a certificate of appropriateness.

5 (9) Designation of an officer or body, including a
6 regional planning commission, a metropolitan planning
7 organization, or a hearing examiner, as the design review
8 board or the creation of a new board. The same officer
9 or body may be designated as both the historic
10 preservation commission and the design review board or
11 separate designations may be made. If the design review
12 ordinance creates a new board, then the ordinance must
13 (i) specify the number of members who shall serve on the
14 board, including alternate members; (ii) provide for the
15 appointment of board members, including alternate
16 members, and for the organization of the board; (iii)
17 specify the terms of members of the board, including
18 those that may be staggered; (iv) specify the
19 requirements for voting on matters heard by the board and
20 specify the circumstances in which alternate members may
21 vote instead of regular members; and (v) specify
22 procedures for filling vacancies in unexpired terms of
23 board members, including alternate members, and for the
24 removal of members, including alternate members, for due
25 cause.

26 (d) A county that has adopted a design review ordinance
27 may adopt a manual of written and graphic design guidelines
28 to assist applicants in the preparation of an application for
29 a certificate of appropriateness. The design guidelines must
30 be adopted by the county board and must provide examples that
31 could meet the intent of the criteria adopted in the
32 ordinance, but are not by themselves legally binding.

33 (e) The ordinance must contain a legal description of
34 the boundaries of the design review district. A county board

1 may not adopt or amend ordinances to establish a design
2 review district unless it first receives a recommendation
3 from the design review board; provided, however, that the
4 county board may enact or amend the ordinance if it has not
5 received a recommendation from the design review board within
6 30 days after the date of the public hearing on the proposed
7 ordinance or amendment. Recommendations of the design review
8 board are not binding upon the county board.

9 A design review district must be shown as an overlay or
10 overlay district on the zoning map of the county.

11 (f) The approval of a certificate of appropriateness
12 constitutes a development permit. A hearing must be
13 required as a condition precedent to the approval of the
14 development permit.

15 (g) When a design review board approves a certificate of
16 appropriateness under this Section, it may adopt any
17 conditions that in its opinion are directly related to the
18 criteria described in paragraph (6) of subsection (c),
19 provided those conditions do not conflict with or waive any
20 other applicable requirement of county law. The officer or
21 body must base any conditions it adopts on competent credible
22 evidence it incorporates into the record and its decision. A
23 failure to comply with an approved condition is a violation
24 of the land development regulations. If the design review
25 board issues the certificate with conditions under this
26 subsection, the plan drawings and other materials submitted
27 with the application describing the exterior improvements
28 must be revised to include the conditions before the
29 certificate of appropriateness is issued.

30 (h) This Section does not allow a design review board,
31 in a decision on an application for a certificate of
32 appropriateness, to prohibit or deny a use that is permitted
33 as of right by the applicable zoning use district and may not
34 be construed to prevent the ordinary maintenance or repair of

1 any exterior architectural appearance in a design review
2 district that does not involve a change in design, material,
3 or appearance thereof. This Section does not prevent the
4 construction, reconstruction, alteration, restoration,
5 moving, or demolition of any feature that the county
6 certifies is required by the public health or safety because
7 of an unsafe or dangerous condition. Nothing in this Section
8 may be construed to prevent the maintenance or, in the event
9 of an emergency, the immediate restoration of any existing
10 above-ground utility structure without a certificate of
11 appropriateness.

12 Section 10. The Illinois Municipal Code is amended by
13 changing Section 11-48.2-1A and by adding Section 11-48.2-6A
14 as follows:

15 (65 ILCS 5/11-48.2-1A) (from Ch. 24, par. 11-48.2-1A)

16 Sec. 11-48.2-1A. (1) The development rights of a landmark
17 site are the rights granted under applicable local law
18 respecting the permissible bulk and size of improvements
19 erected thereon. Development rights may be calculated in
20 accordance with such factors as lot area, floor area, floor
21 area ratios, height limitations, or any other criteria set
22 forth under local law for this purpose.

23 (2) A preservation restriction is a right, whether or
24 not stated in the form of a restriction, easement, covenant
25 or condition, in any deed, will or other instrument executed
26 by or on behalf of the owner of the land or in any order of
27 taking, appropriate to the preservation of areas, places,
28 buildings or structures to forbid or limit acts of
29 demolition, alteration, use or other acts detrimental to the
30 preservation of the areas, places, buildings or structures in
31 accordance with the purposes of the Division. Preservation
32 restrictions shall not be unenforceable on account of lack of

1 privity of estate or contract, or of lack of benefit to
2 particular land or on account of the benefit being assignable
3 or being assigned.

4 (3) A transfer of development rights is the transfer
5 from a landmark site of all or a portion of the development
6 rights applicable thereto, subject to such controls as are
7 necessary to secure the purposes of this Division. The
8 transfer of development rights pursuant to sound community
9 planning standards and the other requirements of this
10 Division is hereby declared to be in accordance with
11 municipal health, safety and welfare because it furthers the
12 more efficient utilization of urban space at a time when this
13 objective is made urgent by the shrinking land base of urban
14 areas, the increasing incidence of large-scale, comprehensive
15 development in such areas, the evolution of building
16 technology and similar factors.

17 (4) A development rights bank is a reserve into which
18 may be deposited development rights associated with publicly
19 and privately-owned landmark sites. Corporate authorities or
20 their designees shall be authorized to accept for deposit
21 within the bank gifts, donations, bequests or other transfers
22 of development rights from the owners of said sites, and
23 shall be authorized to deposit therein development rights
24 associated with (i) the sites of municipally-owned landmarks
25 and (ii) the sites of privately-owned landmarks in respect of
26 which the municipality has acquired a preservation
27 restriction through eminent domain or purchase. All transfers
28 of development rights from the development rights bank shall
29 be subject to the requirements of Sections 11-76-1 through
30 11-76-6 of the Municipal Code of Illinois, and all receipts
31 arising from the transfers shall be deposited in a special
32 municipal account to be applied against expenditures
33 necessitated by the municipal landmarks program.

34 (5) The term, public easement, shall have the same

1 meaning and effects herein as it has in Article IX, Section 3
2 of the Illinois Constitution of 1870 and Article IX, Section
3 4(c) of the Illinois Constitution of 1970. This amendatory
4 Act of 1971 does not apply to any municipality which is a
5 home rule unit.

6 (6) "Design review board" means any officer or body
7 designated by the corporate authorities of a municipality to
8 review applications for and issue a certificate of
9 appropriateness for the exterior architectural appearance of
10 all or specified proposed development in a design review
11 district.

12 (7) "Design review district" means a geographically
13 definable area possessing a significant concentration,
14 linkage, or continuity of sites, buildings, structures, or
15 objects united aesthetically by development or that, in the
16 determination of the corporate authorities of the
17 municipality, has the potential to be united aesthetically by
18 development.

19 (8) "Certificate of appropriateness" means the written
20 decision of a design review board that a proposed development
21 is in compliance with a design review ordinance.

22 (9) "Exterior architectural appearance" means the
23 architectural character and general composition of a
24 structure, including, but not limited to, the kind, color,
25 and texture of building material and the type, design, and
26 character of all windows, doors, light fixtures, signs, other
27 appurtenant elements, and natural features when they are
28 integral to the significance of the site.

29 (Source: P.A. 77-1372.)

30 (65 ILCS 5/11-48.2-6A new)

31 Sec. 11-48.2-6A. Design review.

32 (a) The corporate authorities of a municipality may
33 adopt and amend a design review ordinance that authorizes the

1 designation of areas, by ordinance, as design review
2 districts and that requires, in accordance with criteria
3 specified in the ordinance, that a certificate of
4 appropriateness be obtained from a design review board for
5 the exterior architectural appearance of all or specified
6 proposed development within the district.

7 (b) The corporate authorities of a municipality may
8 adopt and amend a design review ordinance only after they
9 have adopted a comprehensive plan that contains a community
10 design element.

11 (c) A design review ordinance adopted under this Section
12 must include the following minimum provisions:

13 (1) A citation to enabling authority to adopt and
14 amend the ordinance.

15 (2) A statement of purpose consistent with the
16 purposes of land development regulations.

17 (3) A statement of consistency with the
18 comprehensive plan.

19 (4) Definitions, as appropriate, for any words or
20 terms contained in the design review ordinance. Where
21 this amendatory Act of the 92nd General Assembly defines
22 words or terms, the ordinance must incorporate those
23 definitions, either directly or by reference.

24 (5) Criteria to be applied by the municipality in
25 selecting areas to be designated by ordinance as design
26 review districts.

27 (6) Criteria to be applied by the design review
28 board in reviewing applications for a certificate of
29 appropriateness for all or specified development in a
30 design review district. The criteria must include any
31 matters that are consistent with the desired character of
32 the exterior architectural appearance of buildings and
33 structures and their surroundings in a design review
34 district.

1 (7) Procedures for the review of applications for a
2 certificate of appropriateness under subsection (f).

3 (8) Specifications for all application documents
4 and plan drawings for a certificate of appropriateness.

5 (9) Designation of an officer or body, including a
6 plan commission, a metropolitan planning organization, or
7 a hearing examiner, as the design review board or the
8 creation of a new board. If the design review ordinance
9 creates a new board, then the ordinance must (i) specify
10 the number of members who shall serve on the board,
11 including alternate members; (ii) provide for the
12 appointment of board members, including alternate
13 members, and for the organization of the board; (iii)
14 specify the terms of members of the board, including
15 those that may be staggered; (iv) specify the
16 requirements for voting on matters heard by the board and
17 specify the circumstances in which alternate members may
18 vote instead of regular members; and (v) specify
19 procedures for filling vacancies in unexpired terms of
20 board members, including alternate members, and for the
21 removal of members, including alternate members, for due
22 cause.

23 (d) A municipality that has adopted a design review
24 ordinance may adopt a manual of written and graphic design
25 guidelines to assist applicants in the preparation of an
26 application for a certificate of appropriateness. The design
27 guidelines must be adopted by the corporate authorities of
28 the municipality and must provide examples that could meet
29 the intent of the criteria adopted in the ordinance, but are
30 not by themselves legally binding.

31 (e) The ordinance must contain a legal description of
32 the boundaries of the design review district. The corporate
33 authorities of a municipality may not adopt or amend
34 ordinances to establish a design review district unless they

1 first receive a recommendation from the design review board;
2 provided, however, that the corporate authorities of a
3 municipality may enact or amend the ordinance if they have
4 not received a recommendation from the design review board
5 within 30 days after the date of the public hearing on the
6 proposed ordinance or amendment. Recommendations of the
7 design review board are not binding upon the corporate
8 authorities of a municipality.

9 A design review district must be shown as an overlay or
10 overlay district on the zoning map of the county.

11 (f) The approval of a certificate of appropriateness
12 constitutes a development permit. A public hearing must be
13 required as a condition precedent to the approval of the
14 development permit.

15 (g) When a design review board approves a certificate of
16 appropriateness under this Section, it may adopt any
17 conditions that in its opinion are directly related to the
18 criteria described in paragraph (6) of subsection (c),
19 provided those conditions do not conflict with or waive any
20 other applicable requirement of municipal law. The officer or
21 body must base any conditions it adopts on competent credible
22 evidence it incorporates into the record and its decision. A
23 failure to comply with an approved condition is a violation
24 of the land development regulations. If the design review
25 board issues the certificate with conditions under this
26 subsection, the plan drawings and other materials submitted
27 with the application describing the exterior improvements
28 must be revised to include the conditions before the
29 certificate of appropriateness is issued.

30 (h) This Section does not allow a design review board,
31 in a decision on an application for a certificate of
32 appropriateness, to prohibit or deny a use that is permitted
33 as of right by the applicable zoning use district and may not
34 be construed to prevent the ordinary maintenance or repair of

1 any exterior architectural appearance in a design review
2 district that does not involve a change in design, material,
3 or appearance thereof. This Section does not prevent the
4 construction, reconstruction, alteration, restoration,
5 moving, or demolition of any feature that the municipality
6 certifies is required by the public health or safety because
7 of an unsafe or dangerous condition. Nothing in this Section
8 may be construed to prevent the maintenance or, in the event
9 of an emergency, the immediate restoration of any existing
10 above-ground utility structure without a certificate of
11 appropriateness.