

VILLAGE OF DOWNERS GROVE
Report for the Village
9/7/2021

SUBJECT:	SUBMITTED BY:
Downtown Design Review Ordinance and Architectural Design Review Board Name Change	Stan Popovich, AICP Director of Community Development

SYNOPSIS

An ordinance has been prepared to:

- Amend Downtown Design Review standards for certain projects located in the DB (Downtown Business), Downtown Core (DC) and Downtown Transition (DT) zoning districts.
- Change the name of the Architectural Design Review Board (ADRB) to the Historic Preservation and Design Review Board (HPDRB).

STRATEGIC PLAN ALIGNMENT

The goals for 2019-2021 include *Steward of Financial, Environmental and Neighborhood Sustainability*.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval on the September 14, 2021 active agenda.

BACKGROUND*Downtown Design Review*

At the [May 18, 2021](#) and [June 8, 2021](#) meeting, the Village Council discussed the updated Downtown Design Guidelines and considered amendments to the current review and approval process for certain construction projects in the Downtown. At the June 8, 2021 meeting, the Village Council adopted the updated Downtown Design Guidelines and directed staff to prepare the necessary text amendments to the Village's Zoning Ordinance regarding the review and approval process for the following certain construction projects in the Downtown:

- facade renovations
- additions visible from a street or alley
- new multi-family
- new commercial.

Staff identified Chapter 7 (Building Code) of the Municipal Code to be the preferred location for these amendments. Modifications to Chapter 7 do not necessitate Plan Commission review. The key features of these proposed amendments are:

- **Development Review Process:** This section specifically outlines the process that applicants will need to undertake for the above mentioned improvements. This will require an applicant to receive a Certificate of Design Appropriateness (CODA) from the ADRB, before starting any of the listed improvements in the DB (Downtown Business), Downtown Core (DC) and Downtown Transition (DT) zoning districts. The CODA application will necessitate a public hearing with the ADRB.

A CODA is not required for:

- any improvements made to a Detached House or Two-Unit House used for residential purposes; or
 - a development that requires consideration by the Village Council (i.e. PUD or Special Use). Design is considered by the Village Council as part of their approval process.
- **Definition of Façade Renovation:** At the June 8, 2021 meeting a conceptual definition was provided to the Village Council. The text amendment proposes the following definition for façade renovations:

Facade renovation. A facade renovation as it relates to a CODA is defined as improvements that require a permit and includes any combination of two or more of the following:

- changes to exterior materials that currently require a permit as provided by DGMC Section 7.301;
 - expansion, removal or addition of window or door openings;
 - changes to the roofline or parapet; or
 - changes in building height.
- **List of Standards:** A list of standards is provided for the ADRB to apply when considering improvements. The standards state that improvements must be appropriate to and compatible with the character of the surrounding properties; and substantially consistent with the adopted Village Downtown Design Guidelines.
- **Process for Appeal:** An applicant may appeal to the Village Council a decision by the Community Development Director or a denial of a Certificate of Design Appropriateness. An appeal must be filed with the Village Manager within 30 days of the decision being appealed. Within 90 days from receipt of the appeal, the Village Council may affirm or overturn the Director's or ADRB's decision or may send the application back to the ADRB with recommended changes.
- **Penalties:** Penalties may be assessed in cases of work starting without the necessary CODA approval or when work is being completed not in conformance with a CODA. Penalties include tickets, stop work orders, doubling of permit fees, removal of unapproved construction and escalating monetary fines.

Name Change to Historic Preservation and Design Review Board

In 2015, the Village undertook a significant effort to examine the Village's historic preservation program and recommend improvements to the program. The ADRB and the Ad Hoc Sub-Committee on Historic Preservation developed the Report and Recommendations on Historic Preservation (Report) which identified

several desired outcomes and recommendations that have guided changes to the historic preservation ordinance and program. In the 2015 Report, ‘Inform and Educate the Public’ was one of the desired outcomes.

In an effort to continue to inform the public about the Village’s historic preservation efforts, it is recommended that the name of the ADRB be changed to better reflect the board’s authority to administer the historic preservation provisions as detailed in Section 2.57 of the Municipal Code. By changing the board’s name, it would be clear to the general public that the Village has a historic preservation board.

During the ADRB’s [July 2020](#) meeting, the Board recommended changing the name of the Architectural Design Review Board to the Historic Preservation and Design Review Board.

ATTACHMENTS

Ordinance

ORDINANCE NO. _____

**AN ORDINANCE AMENDING
DOWNTOWN DESIGN REVIEW STANDARDS
AND RENAMING THE ARCHITECTURAL DESIGN REVIEW BOARD**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by redline/underline; deletions by ~~strikeout~~):

Section 1. That Section 1.16 is hereby amended to read as follows:

Sec 1.16 Citation And Settlement In Lieu Of Prosecution For Certain Offenses

* * *

- (e) Any person served with a citation for violations of the following provisions of the Downers Grove Municipal Code, may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum of three hundred dollars (\$300.00) if paid within ten (10) days of service of the citation, or six hundred dollars (\$600.00) if paid after such ten (10) day period but before filing of a complaint in the Circuit Court of DuPage County.

- (1) DOWNS GROVE MUNICIPAL CODE

- a. DGMC Section 7.1801; (a), (d), (e), (f), (g), (i), (k), (n), (o), (p);
Demolition/Construction Site Management.
 - b. DGMC Section 15.301; Limitation on sale or display of certain materials with respect to minors; Demand for identification; warning signs.
 - c. DGMC Article 7.XXII Certificate of Design Appropriateness

* * *

Section 2. That Section 2.53 is hereby amended to read as follows:

Sec 2.53 Appointment Of Members To Boards And Commissions

* * *

- (c) Members of the following boards and commissions shall be appointed, and the chairperson designated, by the Mayor, subject to confirmation by the Village Council:

~~Architectural Design Review Board~~
 Board of Fire and Police Commissioners
 Community Events Commission
 Environmental Concerns Commission
Historic Preservation and Design Review Board
 Human Service Commission
 Liquor Commission
 Plan Commission
 Stormwater and Flood Plain Oversight Committee
 Technology Commission

Transportation and Parking Commission
Zoning Board of Appeals

* * *

Section 3. That Divivion 2.IV.3 is hereby amended to read as follows:

Division 2.IV.3 Architectural Design Review Board Historic Preservation and Design Review Board

Section 4. That Section 2.56 is hereby amended to read as follows:

Sec 2.56 Created; Composition; Terms Of Office

~~An Architectural Design Review Board~~ Historic Preservation and Design Review Board (HPDRB) is hereby created, which commission shall consist of seven (7) members appointed for staggered terms of three (3) years each. Members shall hold office for their designated terms until their successors have been appointed. Two (2) members shall be architects, one (1) member shall be an attorney, one (1) member shall be a representative of the Downers Grove Historical Society and three (3) members shall be citizens from the general public.

(Ord. No. 1622, § 2; Ord. No. 3266, § 34; Ord. No. 3855, 2/8/99; Ord. No. 4518, 6/17/03; Ord. No. 4881, 7/3/07)

Section 5. That Section 2.57 is hereby amended to read as follows:

Sec 2.57 Powers And Duties

~~The Architectural Design Review Board~~ Historic Preservation and Design Review Board (HPSRB) shall have the following powers and duties:

- (a) Administer the historic preservation provisions of this Code;
- (b) Administer the Certificate of Design Appropriateness provisions of this Code;
- ~~(b)c~~ Perform such additional duties as the Village Council may direct.

Section 6. That Section 7.303 is hereby amended to read as follows:

Article 7.III Permits

Section 7.303 Action on Application

- (a) General. The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefor. If the Building Official is satisfied that the proposed work conforms to the requirements of this Code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefor as soon as practicable.
- (b) Certificate of Design Appropriateness Determination. The Director shall review any work included in the building permit application to determine whether a Certificate of Design Appropriateness (CODA) shall be required. If the Director determines that a CODA is required, the individual who submitted the building permit application shall submit an application for a CODA in accordance with DGMC Article 7.XXII. An appeal of the Director's decision to require a CODA shall be made in accordance with the procedures described in DGMC Section 7.2204.

Section 7. That Article 7.XXII is hereby added as follows:

Article 7.XXII Certificate of Design Appropriateness

Section 8. That Section 7.2201 is hereby added as follows:

Sec 7.2201 Certificate of Design Appropriateness (CODA) - Required

- (a) A Certificate of Design Appropriateness (CODA) is required for any of the following improvements for structures located in the DB, DC and DT Zoning Districts, that require a permit from the Village:
 - (1) Facade renovation. A facade renovation as it relates to a CODA is defined as improvements that require a permit and includes any combination of two or more of the following:
 - a. changes to exterior materials that currently require a permit as provided by DGMC Section 7.301;
 - b. expansion, removal or addition of window or door openings;
 - c. changes to the roofline or parapet; or
 - d. changes in building height.
 - (2) Building additions visible from a street or alley.
 - (3) New multi-family buildings and single-family attached houses that are not required to seek Village Council approval as provided in DGMC Section 28.12.040 or DGMC Section 28.12.050.
 - (4) New commercial buildings that are not required to seek Village Council approval as provided in DGMC Section 28.12.040 or DGMC Section 28.12.050.
- (b) A CODA is not required for any improvements made to a Detached House or Two-Unit House used for residential purposes or any improvements requiring Village Council approval in the DB, DC and DT Zoning Districts as provided in DGMC Section 28.12.040 or DGMC Section 28.12.050.

Section 9. That Section 7.2202 is hereby added as follows:

Sec 7.2202 Certificate of Design Appropriateness (CODA) Application and Procedure

- (a) An application for a CODA shall be on a form provided by the Department and shall be submitted to the Department. A filing fee may be required as identified in the Administrative Regulation entitled "User-Fee, License & Fine Schedule".
- (b) Consideration of the CODA shall be by the Historic Preservation and Design Review Board (HPDRB) as follows:
 - (1) Within thirty (30) days from the receipt by the Department of a complete application for a CODA, the HPDRB shall schedule a public hearing on the application, which shall be held not more than sixty (60) days after such receipt.
 - (2) Public Hearing Notice - Notice of the required public hearing on a CODA application shall be provided in the following manner:
 - a. Public Hearing Notice - Mailing Notice. Not less than fifteen (15) days prior to the hearing, the Village shall mail notices to property owners within two hundred fifty feet (250') of the subject property, as measured from the property line to property line, but excluding public rights-of-way less than one hundred fifty feet (150') in width (in other words, most rights-of-way are not counted in calculating the required notification radius);
 - b. Public Hearing Notice - Notice Posting. The Village may:

1. generate a public hearing notice, which the applicant shall post on the building or site that is the subject of the application; and
 2. post notice in accordance with the Open Meetings Act; and
 3. publish notice on the Village website.
- (3) Failure to provide any form of notice set forth in DGMC 7.2202(b)(2) that is not required by State law does not invalidate, impair, or otherwise affect any application, public hearing or decision rendered with respect to the matter under consideration.
 - (4) During the public hearing, the HPDRB shall review and evaluate the application according to the criteria set forth in DGMC Section 7.2203. A simple majority vote of the HPDRB shall be necessary for the approval of a CODA.
 - (5) The HPDRB shall notify the applicant of its decision in writing within fifteen (15) days of the date of the hearing. If approved, the Director shall issue the CODA. If denied, the notice shall state the reasons therefor.
 - (6) The approved CODA will lapse and have no further effect one (1) year after it is approved by the HPDRB, unless a building permit has been issued. If substantial changes to the plans that were submitted with the application for the CODA are necessary, a new CODA shall be required.
 - (7) All permits involving the issuance of a CODA shall be subject to a CODA compliance inspection. Such inspection shall be completed by the Department prior to the issuance of any Certificate of Occupancy.
 - (8) Any changes in the design or construction of the improvements shall be brought to the immediate attention of the Director for determination as to whether the changes are in substantial conformance with the CODA. Any changes that are not in substantial conformance with the CODA approval shall be remanded to the HPDRB.
 - (9) Any construction activity that is not in substantial conformance with an approved CODA is subject to the penalties as identified in DGMC 7.2208.

Section 10. That Section 7.2203 is hereby added as follows:

Sec 7.2203 Reviewing Criteria For Certificate of Design Appropriateness (CODA)

No CODA may be approved by the HPDRB unless the HPDRB determines that the applicant has presented evidence to show that the proposed external building and/or site improvements are:

- (a) appropriate to and compatible with the character of the surrounding properties; and
- (b) substantially consistent with the applicable Village Downtown Design Guidelines.

Section 11. That Section 7.2204 is hereby added as follows:

Sec 7.2204 Appeal of Director's Decision or HPDRB's Denial of a Certificate of Design Appropriateness (CODA)

- (a) Within thirty (30) days from either the date of the Director's decision or the denial of an application by the HPDRB, an applicant may appeal said decision or denial to the Council. Notice of such appeal shall be in writing to the Village Manager, who shall notify the Department. The Department shall prepare the record and forward it to the Council. Within ninety (90) days from receipt of the appeal, the Council may affirm or overturn the Director's or HPDRB's decision; and in the case of the HPDRB's decision, the Council may also send the application back to the HPDRB with recommended changes. Decisions of the Council shall constitute final administrative decisions subject to administrative review as provided by State law.
- (b) When acting on an appeal of the Director's decision, the Council must grant a presumption of correctness to the Director's decision, placing the burden of persuasion of error on the applicant.
- (c) An appeal of the Director's decision may be sustained only if the Council finds that the Director erred.

- (d) All construction activities on the property that are the subject of an appeal must cease during the pendency of the appeal.

Section 12. That Section 7.2205 is hereby added as follows:

Sec 7.2205 Remediying Of Dangerous Conditions

- (a) In the event that a condition on a building that necessitates improvements, as listed under DGMC Section 7.2201(a), presents an imminent danger to the public health, safety, or welfare or requires immediate construction, reconstruction, repair, alteration, or demolition as ordered by a court of competent jurisdiction or as determined by the Director, then such work may be performed without a CODA. Work performed under such circumstances shall be the minimum necessary in order to render the improvement safe, after which any additional construction, reconstruction, alteration or demolition shall be processed in accordance with the provisions of DGMC Section 7.2201.
- (b) Under the circumstances described in DGMC Section 7.2205(a), the owner(s) of record of the property shall notify the Director in writing prior to performing the work necessary to make the property safe. If advance notification is not practical due to the emergency nature of the situation, the owner(s) of record shall provide written notification to the Director within two (2) calendar days of commencement of such work. In either case, the written notice shall include the following:
1. A detailed description of the dangerous condition in question;
 2. The time frame needed to complete the work; and
 3. The specific actions to be taken in the performance of such work.

Section 13. That Section 7.2206 is hereby added as follows:

Sec 7.2206 Demolition By Natural Causes

- (a) For the purposes of this Section, natural demolition shall occur when a building that necessitates improvements as listed under DGMC Section 7.2201(a) is damaged by fire, explosion or other casualty or act of God as defined in DGMC Section 28.15.040.
- (b) In the case of demolition by natural causes of all or part of a building that necessitates improvements as listed under DGMC Section 7.2201(a), the owner(s) of record shall obtain a CODA prior to the reconstruction when required under the provisions of this Article.

Section 14. That Section 7.2207 is hereby added as follows:

Sec 7.2207 Penalties

- (a) Demolition or improvements occurring under the provisions of DGMC Sections 7.2205 and 7.2206 of this Article shall not be considered illegal for the purposes of this Article, provided that the Director is properly notified in writing in accordance with DGMC Sections 7.2205(b) or 7.2206(b).
- (b) It shall be unlawful to complete any construction or alteration to, or demolish, any portion of a building that necessitates improvements as listed under DGMC Section 7.2201(a) unless specifically permitted through a CODA issued for that property.
- (c) It shall be unlawful to complete any construction or alteration to, or demolish, any portion of a building that necessitates improvements as listed under DGMC Section 7.2201(a) that does not comply with an approved CODA.
- (d) Any person who violates any provision of this Article 7.XXII shall be guilty of an offense subject to:
- (1) The general penalties for ordinance violations pursuant to DGMC Section 1.15.
 - (2) A stop-work order issued by the Director in accordance with DGMC Article 7.V.

- (3) In cases of work without a permit, the Director may assess a fine of one hundred percent (100%) of a permit fee in accordance with DGMC Section 1.16.
- (4) In cases where construction does not comply with the approved plans or CODA, the Director may also order removal of the unapproved construction.
- (5) Additionally, the property owner and the contractor, shall both, incur the following fines:
- a. First Offense - \$2,000
 - b. Second Offense - \$3,000
 - c. Third and Subsequent Offense - \$4,000
- (e) All violations that are committed by the same person or any firm controlled by such person shall be counted, regardless of whether or not the violations occur at the same time or at the same address. Any finding or plea of guilty or plea of "no contest" upon a citation shall be deemed a violation.
- (f) In addition to any other applicable provisions, the Village may issue to any entity or person who violates any provision of this Article an invoice as settlement of any violation. The invoice shall list the specific violations that occurred, the date or dates of a violation, the location of the violation and shall request payment of the invoice within thirty (30) days. In lieu of invoices, bonds issued for the work at a violation site may be forfeited should funds be sufficient to cover the fines. Upon failure to settle the violation, a complaint shall be filed in the Circuit Court for the damage and violation.

Section 15. That Section 12.200 is hereby amended to read as follows:

Sec 12.200 Definitions

For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them as follows. Words that are not expressly defined in Chapter 1 or this Chapter have the meaning given in the latest edition of *Merriam-Webster's Unabridged Dictionary*.

* * *

Board. ~~The Downers Grove Architectural Design Review Board~~ Historic Preservation and Design Review Board (HPDRB).

* * *

Section 16. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 17. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk