



SECTION C

CREATING AND USING DESIGN GUIDELINES

Role They Play

Design guidelines provide:

- A basis for making fair decisions
- Consistency in design review Incentives for investment
- Property value enhancement
- A tool for education

The above is an excerpt from the "Benefits of Design Review" by Noré Winter. Alliance Review, July/August 2001.

Local review of work proposals. In the design review process, owners of locally designated landmarks and districts must get approval from a locally appointed historic preservation commission or architectural review board for major exterior alterations, additions, and new construction. Commission approval is in the form of a "certificate of appropriateness." To be approved, an application for must meet the design review criteria within the preservation ordinance that a community has adopted. Both the terminology and process may vary somewhat, depending upon the ordinance.

Clarifying the role of the guidelines. The topic of local design guidelines always needs to be understood within its relationship to the local preservation ordinance. The ordinance is a law and the design review criteria are part of the law. Design guidelines are not, in and of themselves, mandatory like the ordinance and should not be confused with the ordinance. In most cases, guidelines are just that—helpful, interpretive, explanatory recommendations. Consisting of written and graphic information in a printed, book format, they are key support materials for administering design review and may be used to advantage by commissions, boards, and applicants alike in the review process.

The philosophical principles in *The Secretary of Interior's Standards for the Treatment of Historic Properties* have been proven to be important in the successful administration of historic districts. Sometimes they are cited within a preservation ordinance as part of the design review criteria. Sometimes they are referenced in the ordinance as the required basis for development of a local design guideline. While some preservation ordinances state that design guidelines "shall be adopted," others state that design guidelines "may be adopted." A few districts may use the Standards for Rehabilitation by themselves—as a general guideline—without creating a specific local design guideline. It can be confusing. The ordinance can remove confusion by specifying which categories of information must be used (e.g., review criteria) and which are only advisory (e.g., guidelines).

PLEASE NOTE note if you plan to apply for Federal income tax incentives for historic preservation: Following a local ordinance and local design guidelines--especially if the goal in your historic district is to "restore" historic buildings to an earlier appearance--may be in conflict with the federal "Secretary of the Interior's Standards for Rehabilitation" (36 CFR 67) used to review federal tax credit applications. The expressed goal of rehabilitation is to update historic buildings for continuing and new uses while preserving character-defining features. Be sure to ask your State Historic Preservation Office for guidance early in the planning stages of any Federal income tax incentives project.

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What They Can and Cannot Do

Although it is very important to develop and use design guidelines to help administer the local preservation ordinance, understanding their usefulness and limitations at the outset can help prevent misunderstandings down the road. Take this summary to heart!

Guidelines CAN

- Explain, expand, and interpret general design criteria in the local preservation ordinance.
- Help reinforce the character of a historic area and protect its visual aspects.
- Protect the value of public and private investment, which might otherwise be threatened by the undesirable consequences of poorly managed growth.

- Indicate which approaches to design a community encourages, as well as which it discourages.
- Serve as a tool for designers and their clients to use in making preliminary design decisions.
- Increase public awareness of design issues and options.

Guidelines CANNOT

- Serve the same legal purpose as the design review provisions of the ordinance. An ordinance is a law, but local design guidelines are typically not laws.
- Limit growth, or regulate where growth takes place. Guidelines address only the visual impact of individual work projects on the character of a local historic district. Growth itself is a separate issue that must be separately addressed through zoning ordinances and preservation planning.
- Control how space within a building is used. They usually deal only with the exterior, publicly visible portions of buildings, not with how interior space is laid out or used.
- Guarantee that all new construction will be compatible with a historic area or the guarantee creativity that is essential to the best sorts of sensitive design.
- Guarantee "high quality" construction. Since materials are generally not specified in the design guidelines, the final visual results, again, cannot be guaranteed.

What Guidelines Can and Cannot Do For Your Historic District. Excerpted and adapted from *Design Review for South Carolina Historic District Commissions* by Winter & Co., 1988.

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Accepted Principles & Practices

"Accepted practices of historic preservation provide the theoretical foundation for the guidelines." *Noré V. Winter, Developing Design Guidelines for Historic Districts, 1993*

A firm foundation. The work we do today in our historic neighborhoods and on local landmarks is firmly connected to accepted historic preservation principles and practices of 19th century Europe. From the past, we inherit the idea of a hierarchy for work, from the "least intervention to the greatest." These are a few of the well-known ideas. We "maintain rather than repair." We "repair rather than replace." We "preserve rather than restore." We "restore rather than reconstruct."

Development of Federal Standards in the '70s. Based on accepted principles and practices, the National Park Service created The Secretary of the Interior's Standards for Historic Preservation Projects. This document contained general Standards for all projects and specific Standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction. The early Standards were used to measure the appropriateness of project work where federal grant-in-aid funds were sought. Also in the 70s, the Standards for Rehabilitation were singled out as requirements for a brand new federal program that offered a 20% tax credit for certified rehabilitation work—the Federal Preservation Tax Incentives Program. By adopting the Standards in regulation, the federal government made them requirements for those programs.

Ongoing use in the '80s and '90s. During two decades of ongoing use within the NPS' Federal Preservation Tax Incentives and Grant-in-Aid Programs, the Secretary's Standards were updated with public input to keep pace with the times. The Standards for Rehabilitation were revised in 1990 through their adoption in regulation (36 CFR 67) for the Tax Incentives Program. The Secretary of the Interior's Standards for Historic Preservation Projects were revised in 1983 and again 1992, when they were re-named *The Secretary of the Interior's Standards for the Treatment of Historic Properties* through their adoption in regulation as 36 CFR 68. They remain in use today within the HPF Grant-in-Aid Program.

Into the 2000s. Without a doubt, Rehabilitation is the most frequently applied approach to work in our nation's communities today and the Federal Preservation Tax Incentives Program is as popular as ever. But the Standards for Rehabilitation have tended to overshadow the more inclusive conceptual package, *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. The Standards for Rehabilitation are often applied where the project goal is Preservation or Restoration. If a historic district applies work other than Rehabilitation—in particular, Restoration—then other Standards should be considered, adopted, and applied as well. Read on to learn more about the basic differences between the four treatments

and the importance of choosing the best approach for work in your historic district or on a local landmark!

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The Secretary's Standards and Local Guidelines

Until fairly recently, historic district commissions and review boards adopted the Secretary of the Interior's Standards for Rehabilitation to administer the local preservation ordinance without local design guidelines. If yours is one of them, please consider two important points:

Why you need specific local design guidelines. The Secretary's Standards for Rehabilitation are very broad, general philosophical principles developed by the federal government for reviewing project work on individual buildings receiving federal grant funds and tax credits. But a historic district is a collection of buildings, sites, and settings that share a common history, appearance and special meaning in time and place. Typical work projects in historic districts have a visual impact on the distinctive character of adjacent structures, streetscapes, and the larger setting. It makes better administrative sense to create a local—specific—design guideline based on principles of the Standards than use the Standards by themselves to review a work proposal for a Certificate of Appropriateness.

Better still, include all four approaches to work in your guidelines. A second, even more important, issue is calling all work in historic districts "rehabilitation" when the work is, in fact, preservation or restoration—or even reconstruction. **It can't all be rehab, can it? The answer is "no."** For instance, if project work is proposed to restore a landmark building for public interpretation, then the Standards for Restoration should be used from start to finish.

If work in your district is not all rehabilitation, then your ordinance should reflect broader criteria and the local design guideline you develop should include additional interpretive guidelines. The model you can easily use locally is *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*.

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Steps in Writing Local Guidelines

"Local Design Guidelines are a part of a longstanding tradition of balancing the welfare of the general public and the interests of individual property owners. Local preservation ordinances, zoning laws, and building codes are other tools traditionally used to maintain this balance. They are not intended to prevent property owners from making changes to their property. They are meant to ensure that those changes enhance the historic qualities that are enjoyed by all members of the community and which make an area a special place in which to live and work. Depending on the powers outlined in the ordinance and the particular needs of the district, design guidelines can range from recommended design approaches to compulsory standards. Of course, there are many intermediate levels in between..." ***This web page adapted from an Information Sheet: Historic District Design Guidelines, Georgia Department of Natural Resources, 1985.***

First, think about how you are going to use the design guidelines. Remember—the ordinance is a law and the design review criteria are part of the law. Design guidelines are not, in and of themselves, mandatory like the ordinance and should not be confused with the ordinance. In most cases, guidelines are just that—helpful, interpretive, explanatory recommendations. Recognize that if you call it a "guideline," you should not deny a work proposal just for failing to meet the guideline. A guideline is advisory. If you wish to describe a basis for denying an application, call it a criterion, standard, or some other term that makes clear that it is a requirement and make it part of your ordinance.

Who should be on your writing team? The first order of business is to put together a *team* to draft your local design guidelines. Be sure to engage knowledgeable and committed people in your guidelines work group, e.g., preservationists, district residents, policy setting officials, and code inspectors. Architects, preservation consultants, urban planners, lawyers, and other professionals should be consulted and can provide invaluable ideas on the substance and effect of the proposed language.

ONE / Analyze your district's character. It is essential to have a clear understanding of the history of the district and how that history is reflected by its physical characteristics, such as the architecture, landscape, and street plan. Ideally, the buildings, streetscapes, and setting should be identified in the district's nomination package. Has the district evolved over time or does it represent one period in time? Decide exactly what it is that needs to be protected!

TWO / Identify historic preservation goals and district needs. Will buildings in the district be preserved, as is; or rehabilitated for new uses; or restored to an earlier appearance? Will different approaches to work be applied, depending upon the significance, use, and interpretation? In this section, identify the approach or approaches to work that will protect the

historical value and significant features of the district, e.g., preservation, rehabilitation, or restoration. Include general Standards or principles for all treatments for which guidelines will be written. Guidelines, however, should be custom-tailored to the particular history and characteristics of the district. For example, if a town has six districts and they differ in appearance and the kinds of work needed to protect them, then each one should have a specific set of guidelines.

THREE / *Review other district guidelines.* See how other historic districts have developed design guidelines in order to prevent "reinventing the wheel." Choose basic elements that apply to your own historic district and adapt them to yours. Especially note successful methods of illustrating preservation concepts.

FOUR / *Write specific guidelines for your district.* Design guidelines should address the special character of your district and the work needed to protect it. Draft an illustrated history that identifies significant characteristics and features of the district, such as buildings, streetscapes, and landscapes. The use of photos and drawings throughout to reinforce key points is strongly recommended. Information on materials maintenance, repair and replacement should be included, as well as guidance on new construction in the district. If restoration is a recommended treatment for the district, guidelines on those approaches should be included. Make guidance on the treatment of streetscape (including signage) and landscape features an integral part of the publication.

FIVE / *Review your design guidelines.* While in final draft, review the guidelines, asking a number of questions: Are they consistent with the provisions of the local ordinance? Do they achieve the original goals? Are there administrative problems? Do they conflict with the ordinance and other codes? If the Secretary of the Interior's Standards are used, do your guidelines agree with the principles in the Standards? Are they consistent with the particular needs of the district? Will the guidelines meet with community support? How do we want to use the guidelines? Are they truly advisory in nature or should we call them "standards" or "criteria" because we want to make them requirements? Answering questions like these can prevent problems that might otherwise arise later.

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Conducting a Successful Design Review Meeting

There are four basic factors that influence the quality of the review process:

- **The clarity of the design guidelines**
- **The operating style of the review committee**
- **Consistent review procedures**
- **Documentation of decisions and their rationale**

Within that framework, here are some excellent tips—presented as a series of steps—for making sure the meeting is clearly presented and that the design criteria in the ordinance and local design guidelines that have been adopted are precisely followed.

- 1. Remember that the purpose of the meeting is to make a decision!** Keep this objective paramount. Not only that, the decision should be made in a timely manner, and it should be stated clearly. The commission or review board should enter the review meeting with a willingness to discuss, but always within the context of the design review criteria and guidelines.
- 2. Focus on the big issues, not on personal biases or petty details.** This means that reviewers must distinguish between a design concept that they may dislike personally, but that meets the design criteria and guidelines, and a design that is objectively inappropriate because it clearly violates the design criteria and guidelines.
- 3. Remember that the ordinance and guidelines that were adopted represent a consensus** of residents, professionals, and political leaders, and that the commission's role is to administer them, not to draft new guidelines at every meeting.
- 4. Listen to the presentation by the applicant and his representatives.** This provides the applicant with the opportunity to describe the project objectives and to show the intended design.
- 5. Ask for clarity of presentation content.** Withhold design criticisms. First determine that everyone understands what has been presented. Ask questions about what the drawings mean, if necessary. Don't be embarrassed if technical information is not clear. It is your responsibility to be certain that you understand what has been presented.
- 6. Check to see that documentation for the proposal is complete.** If important drawings, models, or photographs are missing that are essential for the commission to make a determination, cut the review short before getting into design

criticism. Reviewing an incomplete application is a waste of time for everyone. It may also be a disservice to an applicant if a proposal is denied, simply because it is misunderstood.

7. If the documentation is complete, critique the proposal following the design criteria and guidelines. USE A CHECKLIST to see that you covered all the items, and ask for public comments as well. You should allow open discussion among the commission, applicant, and public, but keep it on track and avoid tangential issues that may be emotionally charged, but do not have direct bearing on the appropriateness of the design in terms of the criteria and guidelines.

8. When the discussions seem to be over, ask these questions of yourselves. First: "Have the criteria and guidelines been sufficiently met to merit an approval? You have two choices for an answer: "Yes" or "No." Second: "Which criteria and guidelines give you the basis for making this decision?" An approval or disapproval should be based on specific criteria in the ordinance, and you should be able to identify the critical ones. If you can answer these questions, you are ready for a vote!

9. Once you have voted, summarize the outcome clearly. Remember, you are not finished until you have a summary! Do not let the applicant leave without understanding what you have decided—approval, denial, a conditional approval, re-submission of a new design, etc.

10. Finally, thank the applicant for participating in the process. A successful design review meeting means that you have treated the applicant fairly by basing your decision—either way—squarely on the ordinance's design criteria, and the design guidelines written and adopted by your community.

Adapted from Making Judgments in the Review Process: A Guide for the Design Review Committee by Noré V. Winter, 1986.

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Problems Facing Historic District Commissions

Despite a rapidly growing body of law dealing with the powers of local historic preservation commissions, there are troubling hints that in many communities existing commissions do not (because they cannot) do an adequate job of protecting local resources. There may be several reasons for such a problem:

ONE / A weak local preservation ordinance, which prevents the commission from protecting local resources adequately. This weakness may be of two primary types: ambiguity in language (often resulting from a failure to define key terms) or unnecessary restrictions in basic commission powers. Although there are now several published "model" preservation ordinances, review of an existing local preservation ordinance should always be undertaken by someone familiar with the body of existing case law in a specific state but also aware of national trends in local historic preservation programs.

TWO / Lack of staff support for the commission, which makes it difficult for the commission to issue suitable minutes, to draft certificates of appropriateness and to monitor work on approved projects. Adequate local staff is essential in order for a commission to produce the routine administrative paperwork that any responsible local governmental agency needs to prepare as evidence that it has followed required procedures and reached a clear decision.

THREE / An inadequate budget for the commission's work, which prevents staff and commission members from attending training workshops, national or regional or statewide preservation conferences, and makes subscribing to basic materials which might help the commission in its work difficult or impossible. The National Park Service and National Alliance of Preservation Commission have sponsored helpful statewide and regional training conferences, and the National Trust for Historic Preservation routinely includes in the program for its annual preservation conference several sessions for preservation commission members.

FOUR / Lack of support from a city or county attorney, meaning that challenges to the commission are weakly defended and that basic legal advice to the commission chairman, members and staff about the commission's powers and proper procedures for conducting hearings is unavailable. In extreme cases, a local attorney may have a personal bias that makes it impossible for this individual to provide objective advice, which accurately reflects existing case law.

FIVE / Political interference with the operations of the commission, perhaps taking the form of poor appointments to the commission or a tendency for the city council to overrule the commission almost automatically whenever an owner files an appeal to the council from a commission decision.

SIX/ The failure of commission members to understand the local preservation ordinance they administer and the appropriate role of the commission on which they serve.

What can be done about these problems?

The first approach to a solution is for local preservation leaders to assess the situation and try to identify the basic problem. (Some unfortunate commissions may exhibit all of the symptoms listed above, and help for these commissions will require some careful political groundwork over a period of many months or even years.)

- If a local ordinance is weak, it may be very difficult to strengthen the ordinance until the commission has shown that it can be a helpful player on the local scene. A city council is not likely to give additional powers casually to a commission, which has not yet proved its worth. Advice from the state Certified Local Government Coordinator can be extremely useful in alerting a commission to areas in which its ordinance is weak when compared to other ordinances in its state.
- Contacting a state Certified Local Government coordinator may also be a good way to learn about staffing and budgets for typical preservation commissions across a state. This statistical information can then be used locally to argue for stronger staffing and a more adequate budget for a commission.
- Commission members, local preservation leaders and representatives of the press should be aware that in many smaller communities the city or county attorney fills this role on a part-time basis and may work on a contract arrangement. Political leaders may be reluctant to permit an expensive outside consultant to devote scarce time to preservation questions until they understand the risks of not providing necessary legal advice to the local commission.
- A beginning preservation commission must bear in mind the importance of its educational activities. Local property owners, the city attorney, and members of the city council must be reminded frequently of the purposes of the new preservation ordinance and the importance to the community as a whole of identifying and protecting its cultural resources. The commission must learn not to be shy about emphasizing its good work and pointing to obvious achievements.
- Each new member of a local preservation commission should be given basic materials to help that member do a better job as a commission member. Some commissions develop notebooks containing copies of state enabling legislation, the local preservation ordinance and any rules of procedure or design guidelines the commission may have adopted. A set of minutes from the commission's previous year may help orient a new commission member. Every effort should be made to convince a new commission member that he or she has serious responsibilities that will need to be addressed in a thoroughly professional manner.

By Stephen Neal Dennis, Washington, DC. This material is based in part on a "Preservation Law Update" issued by the National Center for Preservation Law in 1989 (Update 1989-47, December 7, 1989).