

# Urban Law Annual ; Journal of Urban and Contemporary Law

---

Volume 1968

---

January 1968

## Design Control Districts: A New Approach to Architectural Review in the Proposed Revised Vermont Planning Enabling Act

Richard May Jr.

Follow this and additional works at: [https://openscholarship.wustl.edu/law\\_urbanlaw](https://openscholarship.wustl.edu/law_urbanlaw)



Part of the [Law Commons](#)

---

### Recommended Citation

Richard May Jr., *Design Control Districts: A New Approach to Architectural Review in the Proposed Revised Vermont Planning Enabling Act*, 1968 URB. L. ANN. 150 (1968)

Available at: [https://openscholarship.wustl.edu/law\\_urbanlaw/vol1968/iss1/9](https://openscholarship.wustl.edu/law_urbanlaw/vol1968/iss1/9)

This Statutory Comment is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Urban Law Annual ; Journal of Urban and Contemporary Law by an authorized administrator of Washington University Open Scholarship. For more information, please contact [digital@wumail.wustl.edu](mailto:digital@wumail.wustl.edu).

# DESIGN CONTROL DISTRICTS: A NEW APPROACH TO ARCHITECTURAL REVIEW IN THE PROPOSED REVISED VERMONT PLANNING ENABLING ACT\*

RICHARD MAY, JR., A.I.P.†

The aim of the Design Control District is to enable municipalities to invoke a system of planning and design controls, similar to but not as far reaching as those empowered under urban renewal, within areas which may not qualify for urban renewal, but which are, nevertheless, of such strategic importance to the community to warrant more precise control than the controls normally utilized under the police power.

The areas contemplated for such districts in Vermont are those surrounding the traditional town green or common which are famous for their historic and architectural quality. Similar or equivalent control might have been attained for these areas by authorizing the creation of historic districts similar to those in Nantucket, Charleston, Savannah or New Orleans. Undoubtedly, many Vermont town centers would equally qualify as having a uniqueness and antiquity of architectural design and attractiveness to a large number of tourists to justify the upholding of such a statute in the courts. Another alternative which was considered was the authorization of architectural boards with powers of review over the design of new buildings or exterior alterations throughout a municipality. Both of these alternatives were rejected because a broader concept was envisioned which has applicability in a variety of urban situations within the State of Vermont and perhaps elsewhere where the above devices and other available planning controls do not suffice. Furthermore, it was felt that broadly empowered architectural review involves many delicate questions of taste and conformity which might be rejected by the State Legislature or, if enacted, would not be adopted by many municipalities. The aim of this statute is to pinpoint the use of a set of extraordinary public powers in critical locations, not merely because they are likely to be sustained in such areas, but because these are the areas where

---

\* The proposed Act is printed at the end of this article.

† Raymond & May, Associates.

changes are likely to occur and where, if they do occur, they will affect the greatest number of people.

The vast majority of urbanized areas, whether located in small communities or large cities, are characteristically stable and change only very gradually with passing years. Exceptions to this, of course are deteriorating areas and newly developing areas. Within the former, urban renewal provides sufficient control to achieve improved urban design in redeveloped and rehabilitated sections. New residential development can generally be subjected to sufficient control by subdivision approval; and site plan review powers suffice in the case of multi-family residence and non-residential uses.<sup>1</sup> Within built-up areas, most new development and redevelopment by private enterprise without government aid is likely to take place at focal points in and around central and outlying commercial centers, or at strategic points in the urban structure such as major street intersections, transit stations, or near major public and semi-public facilities such as hospitals, churches, universities and other institutions. These then are the critical points where opportunities exist for creating improved design and urban quality by public intervention. David Crane recognized the vital role in the city plan of improved and new public facilities in his Plan for Boston<sup>2</sup> where he termed the proposed complex of improved public facilities the "capital web" forming the basic structure of the plan. It is only in and adjacent to these facilities that change is likely to occur in the city.

The Design Control District concept would concentrate design controls around the public facilities in Crane's "capital web," and in addition, at major points of concentration where land is privately owned, such as shopping centers, major street intersections, or around any building or site of architectural merit, historic or cultural interest. A plan is needed at such locations containing detailed proposals for improved traffic circulation, off-street parking and vital green spaces to enhance the appearance and efficient functioning of the area, in addition to proposals for safeguarding and enhancing the architectural quality of buildings. In view of this necessity, the designation of a Design Control District is not permitted unless and until a design plan has been prepared for the district in addition to a report

---

1. Preservation of scenic qualities in rural areas is attempted by other provisions of the proposed Act. See also Allen Fonoroff's article on Highway Corridor Protection in this volume.

2. 1965/1975 General Plan for the City of Boston and the regional core.

describing the particular planning and design problems of the proposed district. Finally, the proposal shall include recommended planning and design criteria to guide future development in the district. These provisions should provide the public and the governing body with all the information they need to decide on the appropriateness of invoking the design control powers in the act. They will not be buying a pig in a poke, but will be presented with the reasons for establishing the district, the specific aims in the form of a design plan, and the criteria on which the review of proposed alterations or property improvements shall be based. The power of design approval rests with the planning board and is not assigned to the design review board which is limited to an advisory function. The original proposal included a provision for compensation for damages where any decision of the planning board would clearly result in reduction of the value or potential use of the property. However, it was felt that the introduction of the principle of compensation in any portion of the Vermont Act might have suggested its use in connection with other innovative provisions of the act which rest entirely on the police power.

No limit is placed on the size of a Design Control District, and it thus might be utilized for sites ranging from a street intersection to the entire area of a community. It could function in a rural area where natural beauty is to be conserved, as well as in the central section of a city. The most important features of the Design Control District proposal are the requirements for documented justification in each case, and for the preparation of the design plan and architectural review criteria. Only on condition of such requirements can architectural review become an effective and equitable planning tool.

## STATUTORY COMMENTS

Vermont Planning And Development Act 1967\* H.B. 205, 1967

### § 4407(6) DESIGN CONTROL DISTRICTS

Zoning regulations may contain provisions for the establishment of design control districts. Prior to the establishment of such a district, the planning commission shall prepare a report describing the particular planning and design problems of the proposed district and setting forth a design plan for the areas which shall include recommended planning and design criteria to guide future development. The planning commission shall hold a public hearing, after public notice, on such report. After such hearing, the planning commission may recommend to the executive body such design control district. A design control district can be created for an area containing buildings of historical, architectural or cultural merit, and other areas in which there is a concentration of community interest and participation such as a central business district, civic center or a similar grouping or focus of activities. Within such a designated design control district no building may be erected, reconstructed, substantially altered, restored, moved, demolished or changed in use or type of occupancy without approval of the plans therefor by the planning commission. A design review board may be appointed by the executive body of the municipality to advise the planning commission. which board shall have such term of office, and such procedural rules, as the executive body determines.

---

\* This bill was proposed for enactment but was not enacted into law.