

APPENDIX 4. COMPARISON OF DAVIDSON’S HISTORIC PRESERVATION ORDINANCE WITH NC ENABLING LEGISLATION

Powers and Duties of the Davidson Historic Preservation Commission (LOCAL ORDINANCE)	Powers of the Historic Preservation Commission (STATE ENABLING LEGISLATION)
<p>The powers and duties of the Historic Preservation Commission are found in the Davidson Planning Ordinance in Section 22.3.4¹</p>	<p>The powers of the HPC are prescribed at §160D-942²:</p>
<p>The Commission is hereby empowered to undertake, or to delegate such responsibilities, as they deem appropriate to the Charlotte-Mecklenburg Historic Landmarks Commission, such actions as set forth in this ordinance and in the North Carolina General Statutes, including, but not limited to:</p>	<p>A preservation commission established pursuant to this Chapter may, within the planning and development regulation jurisdiction of the local government, do any of the following [emphasis added]:</p>
<p>A. Organizing itself and conducting its business;</p>	
<p>B. Receiving and spending funds appropriated by the Davidson Board of Commissioners for operating and performing its duties;</p>	<p>[§ 160D-943: A governing board is authorized to make appropriations to a historic preservation commission established pursuant to this Chapter in any amount determined necessary for the expenses of the operation of the commission and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic landmarks, or within designated historic districts, or of land on which such buildings or structures are located, or to which they may be removed.] [NB – historic preservation is an authorized purpose for a municipality to collect taxes]</p>

¹ <https://www.ci.davidson.nc.us/DocumentCenter/View/11360/Section-22-Historic-Preservation-20210701>

²https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_160D/GS_160D-942.pdf (emphasis added)

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<p>C. Conducting an inventory of properties of historical, archaeological, architectural, and/or cultural interest;</p>	<p>(1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.</p>
<p>D. Recommending to the Davidson Board of Commissioners that individual buildings, structures, sites, areas, or objects within its zoning jurisdiction be designated as "historic landmarks" and that areas within its zoning jurisdiction be designated as "historic districts;"</p>	<p>(2) Recommend to the governing board areas to be designated by ordinance as "Historic Districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks."</p>
<p>E. Recommending to the Davidson Board of Commissioners that designation of any area as a historic district, or part thereof, or of any building, structure, site, area, or object as a historic landmark, be revoked or removed for cause;</p>	<p>(5) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.</p>
<p>F. Reviewing and acting on proposals for: 1. Exterior alteration, relocation, or demolition of designated historic landmarks; 2. Exterior alteration, relocation, demolition, or new construction of properties within designated historic districts;</p>	<p>(10) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks, pursuant to this Part.</p>
<p>G. Negotiating with property owners who propose to demolish or relocate a designated landmark, or a building, structure, site, area, or object within a designated district, in an effort to find a means of preserving such properties, including consulting with private civic groups, interested private citizens, and other public boards or agencies;</p>	<p>(11) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.</p>
<p>H. Instituting action, through the Davidson Code Enforcement official or Mecklenburg County Code Enforcement officials, to prevent, restrain, correct, or otherwise abate violations of this ordinance or of ordinances designating historic landmarks or districts;</p>	

<p>Powers and Duties of the Davidson Historic Preservation Commission (LOCAL ORDINANCE)</p>	<p>Powers of the Historic Preservation Commission (STATE ENABLING LEGISLATION)</p>
<p>I. Entering at reasonable times and with the consent of the owner or occupant, upon private lands to make examinations, conduct surveys and inventories, or other purposes in performance of its official duties. However, no member, employee, or agent of the Commission shall enter any private building or structure without the express consent of the owner or occupant thereof;</p>	<p>(8) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the commission may enter any private building or structure without the express consent of the owner or occupant thereof.</p>
<p>J. Reviewing and acting upon proposals for alterations of interior features of designated historic landmark, as specified, and for which owner consent was given, in the ordinance establishing designation;</p>	<p>[§ 160D-947(b): Interior Spaces. – Notwithstanding subsection (a) of this section, jurisdiction of the commission over interior spaces is limited to specific interior features of architectural, artistic, or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. The consent of an owner for interior review binds future owners and/or successors in if the consent has been filed in the office of the register of deeds of the county in which the property is located and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.]</p>
<p>K. Appointing advisory bodies or committees as appropriate;</p>	
<p>L. Negotiating with property owners for the acquisition or protection of significant historic properties;</p>	<p>(11, repeated) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.</p>

Powers and Duties of the Davidson Historic Preservation Commission (LOCAL ORDINANCE)	Powers of the Historic Preservation Commission (STATE ENABLING LEGISLATION)
<p>M. Acquiring by any lawful means, the purchase fee, or any lesser included interest, including options to purchase, properties designated as landmarks, properties located within designated districts, or land to which historic buildings or structures may be moved; holding, managing, preserving, and restoring such a property and improving the interest; and exchanging or disposing of the interest through public or private sale, lease, or other lawful means, provided the property shall be subject to covenants or other legally binding restrictions which shall secure appropriate rights of public access and the preservation of the property. All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by the local governing body shall be acquired in the name of the Town of Davidson unless otherwise provided by that body;</p>	<p>(3) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property. (4) Restore, preserve, and operate historic properties.</p>
<p>N. Accepting grants of funds from private individuals or organizations for preservation purposes;</p>	
<p>O. Conducting educational programs pertaining to historic landmarks or historic districts within its jurisdiction;</p>	<p>(6) Conduct an educational program regarding historic properties and districts within its jurisdiction.</p>
<p>P. Publishing or otherwise informing the public about any matters related to its purview, duties, responsibilities, organization, procedures, functions, or requirements;</p>	
<p>Q. Advising property owners about the appropriate treatment(s) for characteristics of historic properties;</p>	

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<p>R. Cooperating with the State of North Carolina, the United States of America, local governments, public or private organizations, or their agencies, in pursuing the purposes of this ordinance, including entering into contracts, provided that such contracts are not inconsistent with state or federal law;</p>	<p>(7) Cooperate with the State, federal, and local governments in pursuance of the purposes of this Part. The governing board or the commission, when authorized by the governing board, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.</p>
<p>S. Preparing and recommending adoption of a preservation element, or elements, as part of the Town of Davidson comprehensive plan;</p>	<p>(9) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.</p>
<p>T. Proposing to the Davidson Board of Commissioners amendments to this or to any other ordinance, and proposing new ordinances or laws relating to historic landmarks and districts or to the protection of the historic resources of the Town of Davidson and its environs.</p>	<p>(9, repeated) Prepare and recommend the official adoption of a preservation element as part of the local government's comprehensive plan.</p>