

SANFORD LEE COUNTY BROADWAY
UNIFIED DEVELOPMENT ORDINANCE

ARTICLE 2 – ADMINISTRATIVE AGENCIES

Summary: This article describes the various agencies involved in the administration of the UDO. The jurisdiction, powers, and duties of each agency are described. These agencies include: the Department of Community Development, the local Boards of Adjustment, the Governing Bodies of the City of Sanford, Town of Broadway, and Lee County, the Joint Planning Commission, the local Planning Boards, and the Historic Preservation Commission. The procedures outlined in this Article are applicable to all portions of this Ordinance.

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2.1 DEPARTMENT OF COMMUNITY DEVELOPMENT

2.1.1 ESTABLISHMENT

Pursuant to NCGS § 160D-301, the County of Lee hereby establishes the Sanford/Lee County Community Development Department. The Department shall perform the following functions:

- enforce this Ordinance;
- provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval;
- establish Department standards of operation and procedures consistent with the intent of this Ordinance;
- delegate the duties and powers granted to, and imposed upon, the Department of Community Development by this Ordinance;
- consult with other officials, boards or agencies with technical expertise (such as the Department of Public Works or the Fire Chief) as may be provided by this Ordinance; and
- perform such other functions as may be requested by the County of Lee or authorized by this Ordinance.

2.1.2 INSPECTIONS

Pursuant to NCGS §§ 160D-402; -404, the staff of the Department of Community Development is hereby designated the Zoning and Subdivision Inspector for the County of Lee. The Inspector is empowered to enter or inspect any building, structure, premises, or real property in the County of Lee upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Ordinance. Such inspections shall be carried out during business hours unless the Department of Community Development determines that an emergency exists. An inspector shall have the authority to enter private property for the purpose of inspection unless such permission has been refused. If refused, the inspector shall obtain an appropriate administrative search warrant to secure permission to inspect any portion of the property not open to the public. Failing permission, no inspection shall be undertaken without an order from a court of competent jurisdiction.

2.1.3 ENFORCEMENT

The Department of Community Development is hereby authorized and is hereby delegated the authority to commence an action to enforce the provisions of this Ordinance pursuant to NCGS § 160D-404, and § 1.6 of this Ordinance.

2.1.4 INTERPRETATION

In the case of a dispute pertaining to the boundary of a land use category or zoning district, the Department of Community Development shall have jurisdiction and authority to render interpretations of the Official Zoning Map, or disputes pertaining to lot lines, district boundary lines, or questions arising from the administration of this Ordinance.

2.1.5 CONFLICTS OF INTEREST

No staff member shall make a final decision on an administrative decision under the UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship as defined in NCGS 160D-109. If a staff member has a conflict of interest under this Section the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the Director of the Department of Community Development.

2.2 BOARDS OF ADJUSTMENT

2.2.1 ESTABLISHMENT

Lee County, the Town of Broadway and the City of Sanford shall each maintain a separate Board of Adjustment. Within each jurisdiction, each respective Board shall execute all powers and duties as set forth in NCGS §§ 160D-302; -405; -406; and -705 and as set forth herein. All members appointed to a Board of Adjustment shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160D-309.

2.2.2 APPOINTMENT & MEMBERSHIP FOR LEE COUNTY

2.2.2.1 The Lee County Board of Commissioners hereby appoints the Lee County Planning Board to serve as the Board of Adjustment. Five Planning Board members shall serve as regular members and two shall serve as alternate members. Each alternate member, while attending any regular or special meetings of the Board of Adjustment and serving in the absence of any regular member, shall have and may exercise all of the powers and duties of a regular member.

2.2.2.2 VACANCIES

Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

2.2.2.3 OFFICERS, RULES, AND REGULATIONS

The Board shall elect such officers and adopt such rules and regulations for its own government as it deems necessary to carry out the provisions of this article. A copy of such rules and regulations shall be maintained by the Clerk to the Board of Adjustment and posted on the County website.

2.2.2.4 QUORUM

A quorum shall consist of four members in attendance. No case shall be heard unless a quorum is present.

2.2.3 APPOINTMENT & MEMBERSHIP FOR THE TOWN OF BROADWAY

2.2.3.1 The Broadway Board of Commissioners hereby appoints the Broadway Planning Board to serve as the Board of Adjustment. Seven Planning Board members shall serve as regular members and two shall serve as alternate members.

2.2.3.2 Each alternate member, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member, shall have and may exercise all of the powers and duties of a regular member.

2.2.3.3 The Board shall adopt rules governing its organization and for all proceedings before it. A copy of such rules and regulations shall be maintained by the Clerk to the Board of Adjustment and posted on the Town website. Such rules shall provide and require the following in addition to such other rules or regulations that the Board shall adopt:

- The Board shall elect a chairman, vice- chairman, and secretary on an annual basis.
- The secretary shall keep detailed minutes of the proceedings, including relevant facts and testimony of each appeal, the vote of each member on each appeal, abstention from voting, and attendance. The minutes shall contain the signature of the chairman and the secretary.

2.2.3.4 QUORUM

A quorum shall consist of six members in attendance. No case shall be heard unless a quorum is present.

2.2.4 APPOINTMENT & MEMBERSHIP FOR THE CITY OF SANFORD

2.2.4.1 The City of Sanford Board of Adjustment shall consist of six regular members and two alternates. Appointment and membership within the City of Sanford Board of Adjustment shall be in accordance with Sections 2-272 and 2-273 of the City of Sanford *Code of Ordinances*.

The Board of Adjustment shall elect one of its members as chairperson and another as vice-chairperson, who shall serve for one year. The Board shall adopt from time to time such rules as it may deem necessary to carry into effect the provisions of this division. A copy of such rules and regulations shall be maintained by the Clerk to the Board of Adjustment and posted on the City website. The Chairperson of the Board of Adjustment is authorized in his official capacity to administer oaths to witnesses in any matter coming before the Board. Any member of the Board, while temporarily acting as chairperson, shall have and may exercise like authority.

2.2.4.2 QUORUM

A quorum shall consist of four members in attendance. However, no action may be taken on any application unless five members are present.

2.2.4.3 All meetings of the Board of Adjustment shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member on each question, or, if absent or failing to vote, an indication of such fact, and final disposition of appeals shall be by recorded resolution indicating the reasons of the Board therefore, all of which shall be a public record.

2.2.5 POWERS AND DUTIES

GENERALLY. Pursuant to NCGS §§160D-302; -405; -406; and -705, each of the respective Boards of Adjustment shall have the following powers, duties, and authority:

- (a) The Board of Adjustment shall hear and decide appeals from the decisions of the Department of Community Development in which it is alleged there is an error in an order, requirement, decision or determination made by the Department of Community Development in the enforcement of a zoning ordinance adopted pursuant to this Ordinance (NCGS § 160D-405).

- (b) The Board of Adjustment shall hear and decide appeals for variances from the terms of the zoning ordinance pursuant to §3.7 of this Ordinance and NCGS § 160D-406.
- (c) The Board of Adjustment shall interpret the Official Zoning Map and shall pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance (NCGS §160D-302).

The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes.

- (d) The Board of Adjustment shall exercise such other powers as may be granted by this Ordinance.

2.2.6 QUASI-JUDICIAL PROCEDURES

The consideration of any appeal, variance, or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in NCGS 160D-406 and §§ 3.1.5.3, 3.5, 3.7 and 3.8 of this Ordinance.

2.2.7 CONFLICTS OF INTEREST

A member of the board or any other body exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial (as defined in NCGS 160D-109(f)), business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.2.8 RECORDING SECRETARY

The Board shall appoint a recording clerk to serve all three of the Boards of Adjustment. The Department of Community Development is hereby designated as the office of the Board for the purposes of this section. The clerk shall keep minutes of all proceedings of the Board of Adjustment, which minutes shall be a summary of all proceedings before the Board of Adjustment, attested to by a majority of the members of the Board of Adjustment voting. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the board as a public record. In addition, the clerk shall maintain all records of Board of Adjustment meetings, hearings and proceedings, the correspondence of the Board of Adjustment.

2.2.9 STAFF

The Department of Community Development shall be the professional staff of all three Boards of Adjustment.

2.3 LOCAL PLANNING BOARDS

2.3.1 ESTABLISHMENT

Pursuant to NCGS § 160D-301, Lee County, the Town of Broadway and the City of Sanford shall each maintain a separate Planning Board. Within each jurisdiction, each respective Board shall execute all powers and duties as set forth in NCGS § 160D-301 and herein. All members appointed to a Planning Board shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160D-309.

2.3.1.1 CONFLICTS OF INTEREST

An appointed board member shall not vote on any legislative or advisory decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.3.2 POWERS AND DUTIES

2.3.2.1 CITY OF SANFORD PLANNING BOARD

The Planning Board for the City of Sanford shall provide an advisory function to their respective Governing Body and assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval. In no event is the Board authorized to render a final decision approving, denying, or conditionally approving a change in the zoning ordinance, or to render a final decision on an application for development approval. The Board shall have the following powers and duties:

- the preparation of a comprehensive plan or other long-range planning document for the respective jurisdiction;
- To prepare or cause to be prepared amendments to such plan and elements thereof and to submit the amendments for the respective jurisdiction;
- To initiate, hear, review and make recommendations to the respective governing body on applications for amendments to the text of this Ordinance or the Official Zoning Map;
- To adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Board provided, however, that bylaws, policies, procedures, and regulations shall be consistent with this Ordinance before taking effect.

2.3.2.2 LEE COUNTY AND THE TOWN OF BROADWAY PLANNING BOARDS

The Planning Boards for Lee County and the Town of Broadway shall provide an advisory function to their respective Governing Body and assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval. In no event is the Board authorized to render a final decision approving, denying, or conditionally approving a change in

the zoning ordinance, or to render a final decision on an application for development approval. The Board shall have the following powers and duties:

- the preparation of a comprehensive plan or other long-range planning document for the respective jurisdiction;
- To prepare or cause to be prepared amendments to such plan and elements thereof and to submit the amendments for the respective jurisdiction;
- To initiate, hear, review and make recommendations to the respective governing body on applications for amendments to the text of this Ordinance or the Official Zoning Map;
- To hear, review, and recommend approval or disapproval of applications for preliminary subdivision plat approval, in accordance with the rules and regulations established herein; and
- To adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Board provided, however, that bylaws, policies, procedures, and regulations shall be consistent with this Ordinance before taking effect.

2.3.3 MEMBERSHIP AND APPOINTMENTS FOR LEE COUNTY

2.3.3.1 The Lee County Planning Board shall consist of seven regular members and two alternate members who shall be appointed by the Board of Commissioners to serve three-year terms. Each member shall be eligible to serve two consecutive terms.

2.3.3.2 Alternate members shall serve in the absence of a regular member and shall have the same powers and duties as a regular member while serving in this capacity. Alternate members shall be designated as either “first alternate” or “second alternate” with the first alternate always being the first candidate to step in for an absent regular member.

2.3.3.3 The Board shall annually elect a Chair and a Vice-Chair by a majority vote of the Board. The Chairperson shall preside at all meetings and hearings of the Planning Board and the duties normally conferred by parliamentary usage on such officers. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have the same powers and duties as those of the Chair.

2.3.4 MEMBERSHIP AND APPOINTMENTS FOR THE TOWN OF BROADWAY

2.3.4.1 Appointment and membership within the Town of Broadway Planning Board shall be in accordance with §2-2 of the *Town of Broadway Code of Ordinances*.

2.3.4.2 The Board shall annually elect one of its members as chairperson and another as vice-chairperson. Election of officers shall be in accordance with §2-2 of the *Town of Broadway Code of Ordinances*.

2.3.4.3 The conduct of meetings of the Planning Board shall be in accordance with §2-2 of the *Town of Broadway Code of Ordinances*.

2.3.5 MEMBERSHIP AND APPOINTMENTS FOR THE CITY OF SANFORD

2.3.5.1 Appointment and membership within the City of Sanford Planning Board shall be in accordance

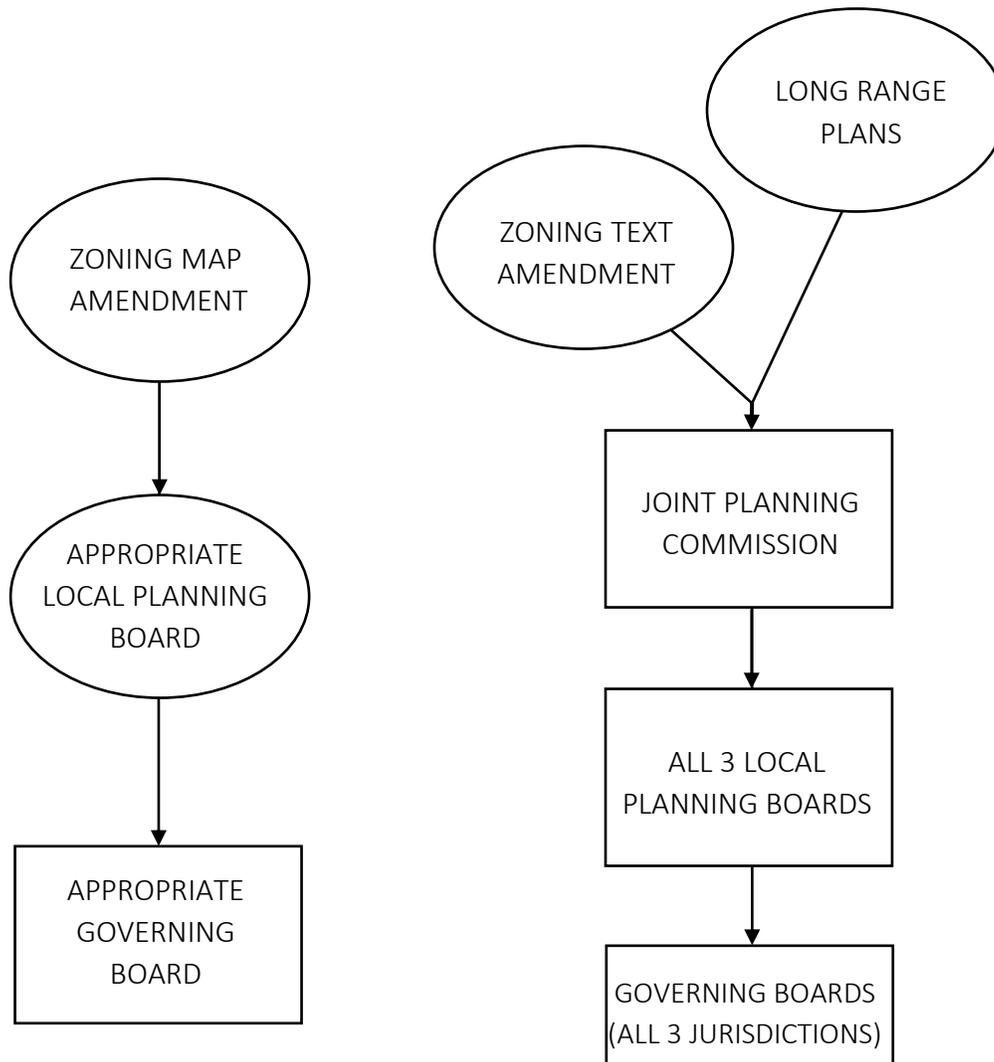
with Sections 2-232 and 2-233 of the City of Sanford *Code of Ordinances*.

2.3.5.2 The Board shall annually elect one of its members and chairperson and another as vice-chairperson. Election of officers shall be in accordance with Sections 2-234 of the City of Sanford *Code of Ordinances*.

2.3.6 STAFF

2.3.6.1 The Department of Community Development shall serve as the professional staff for each of the Boards. The Department of Community Development shall appoint a recording secretary to serve the Boards. The secretary shall keep minutes of all proceedings of the commission, which minutes shall be a summary of all proceedings before the boards, attested to by a majority of the members of the commission voting. In addition, the secretary shall maintain all records of the meetings, hearings and proceedings, the correspondence of the boards.

Figure 2.3 Relationship between the Local Planning Boards, the Joint Planning Commission, and the Governing Boards



2.4 JOINT PLANNING COMMISSION

2.4.1 ESTABLISHMENT AND PURPOSE

Pursuant to the authority in NCGS 160D-103 this Ordinance shall be known and may be cited as the Unified Development Ordinance (hereinafter “the Ordinance”). This Ordinance may also be known and may be referred to as the “UDO.”

In addition to the individual, local planning boards as established in Section 2.3 of this Ordinance, Lee County e, Town of Broadway and City of Sanford shall establish and maintain a joint Planning Commission. All members appointed to a Planning Board shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160D-309.

An appointed board member shall not vote on any legislative or advisory decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

The purpose of this joint planning commission is to provide additional guidance to all three governing bodies regarding certain matters of land use administration. More specifically, this joint Commission will review and provide recommendations to the local Planning Boards and Governing Bodies regarding:

- Any and all proposed amendments to this Unified Development Ordinance;
- Multi-jurisdictional land use plans or other similar long-range planning documents

2.4.1.1 SCOPE OF APPROVAL

As an advisory board, the decisions of the Joint Planning Commission are recommendations that shall be transmitted to all three local Planning Boards and to the Governing Bodies for their review and final decision. Pursuant to the same authority as set forth in NCGS §160D-301 the Joint Planning Commission shall serve in the same advisory capacity as the Local Planning Boards, except that the Joint Planning Commission will review only multi-jurisdictional issues. The Joint Planning Commission shall not review site specific requests, such as individual requests for rezoning or preliminary subdivision plat reviews (see Figure 2.3).

2.4.2 MEMBERSHIP AND APPOINTMENT

2.4.2.1 The Joint Planning Commission shall be composed of nine (9) regular members as follows:

- (2) *Lee County Commissioners* (Chairman and one additional member)
- (2) *City of Sanford Council members* (Mayor and one additional member)

- (2) *Town of Broadway Commissioners* (Mayor and one additional member)
- (3) *Chairman of each Local Planning Board*

Note: The additional member from each Council or Commission shall be appointed by that respective Governing Body.

2.4.2.2 The Manager for each of the three jurisdictions shall serve as ex-officio members of the joint planning commission.

2.4.2.3 At an annual organizational meeting, the members of the Joint Planning Commission shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting. The chairperson shall be in charge of all proceedings before the commission, and may take such action as shall be necessary to preserve order and the integrity of all proceedings before the commission.

2.4.3 MEETINGS, HEARINGS, AND PROCEDURE:

2.4.3.1 No meeting of the Joint Planning Commission may be called to order, nor may any business be transacted by the Commission, without a quorum consisting of a majority of the appointed membership of the Commission. The chair shall be considered for the purpose of establishing a quorum and shall act as a voting member. All actions shall require the concurring vote of a majority of the members of the Commission.

2.4.3.2 The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by any of the three Governing Bodies, the chair of the Commission, a majority of the members of the Commission or the Department of Community Development.

2.4.3.3 If a matter is postponed due to lack of a quorum, the chair of the Commission shall continue the meeting to the next commission meeting. The recording secretary shall notify all members of the date of the continued meeting and also shall notify all parties.

2.4.4 STAFF

The Department of Community Development shall serve as the professional staff of the Commission. The Department of Community Development shall appoint a recording secretary to serve the Commission. The secretary shall keep minutes of all proceedings of the commission, which minutes shall be a summary of all proceedings before the commission, attested to by a majority of the members of the commission voting. In addition, the secretary shall maintain all records of commission meetings, hearings and proceedings, and the correspondence of the commission.

2.5 GOVERNING BODIES

The County Commissioners of Lee County, the City Council of the City of Sanford, and the Board of Commissioners of the Town of Broadway shall have the following powers and duties:

- To initiate, adopt, and amend a Comprehensive Plan.
- To initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;
- To review recommendations of the Planning Commission and make final decisions on applications for amendments to the text of this Ordinance.
- To hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning Commission has been submitted pursuant to NCGS § 160D-604.
- To render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance.
- To take such other action not otherwise delegated, as the County Commissioners of Lee County, City Council of the City of Sanford, and the Board of Commissioners of the Town of Broadway may deem desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

2.6 HISTORIC PRESERVATION COMMISSION (CITY OF SANFORD ONLY)

2.6.1 ESTABLISHMENT OF HISTORIC PRESERVATION COMMISSION

2.6.1.1 There is hereby established a City of Sanford Historic Preservation Commission (“commission”) under the authority of Chapter 160D, Article 9, Part 4 of the North Carolina General Statutes.

2.6.1.2 The commission shall consist of at least seven members appointed by the City Council of the City of Sanford. All members shall reside within the territorial jurisdiction of the city. All members of the commission shall have demonstrated special interest, experience or education in history, architecture, archaeology, or related fields. The commission may appoint advisory bodies and committees as appropriate. All members appointed to the Historic Preservation Commission shall, before entering their duties, qualify by taking an oath of office as required by NCGS 160D-309.

2.6.1.3 Members of the commission shall serve terms of three years. Terms shall be staggered. A member may be reappointed by the City Council for no more than two consecutive full terms unless such limit is waived by the City Council. The duties of the commission shall be as follows:

- Undertake an inventory of properties of historic, pre-historic, architectural and/or cultural significance.
- Recommend to the City Council areas to be designated by ordinance as "historical districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "landmarks".
- Recommend to the City Council that the designation of any area as an historic district, or part thereof, or designation of any building, structure, site area or object as a landmark, be revoked or removed for cause.
- Conduct an educational program with respect to historic districts and landmarks within its jurisdiction.
- Cooperate with the state, federal, and local government in pursuance of the purposes of this division: to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest. The City Council, or the commission when authorized by the Council, may contract with the state or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.
- 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 express consent of the owner or occupant thereof.
- Prepare and recommend the official adoption of an historic preservation element as part of the city comprehensive plan.
- Acquire by any lawful means the fee or any lien including 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 the same, and to exchange or dispose of the property by public or private sale, and to recommend to the City Council alternatives related to

the same, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

- Restore, preserve, and operate historic properties.
- 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.
- Review and act on proposals for (1) exterior alteration, relocation, demolition of landmarks or (2) exterior alteration, relocation, demolition, or new construction of properties within historic districts. Historic preservation districts shall be governed in accordance with the standards of Section 4.12 of this Ordinance. Prior to any official action, the Historic Preservation Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the commission's resolutions, proceedings, and actions. The commission shall also prepare and adopt principles and standards related to preservation for altering, restoring, constructing, moving, or demolishing properties designated as landmarks or within historic districts. A Commission member shall not vote on any legislative or advisory decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Commission member shall not vote on any matter if the landowner of the property or the applicant for a decision is a person with whom the member has a close familial, business, or other associational relationship.

2.6.1.4 In ruling on any applications for preservation certificates of appropriateness the Historic Preservation Commission shall follow standard procedures for quasi-judicial proceedings.

2.6.1.5 Appeals of administrative decisions regarding historic preservation may be made to the Historic Preservation Commission. Decisions of the Commission shall be appealed to the City of Sanford Board of Adjustment, and then to superior court pursuant to NCGS 160D-1402.