



Metropolitan Nashville and Davidson County

Historic Zoning Review

Nashville, TN
January 23, 2025

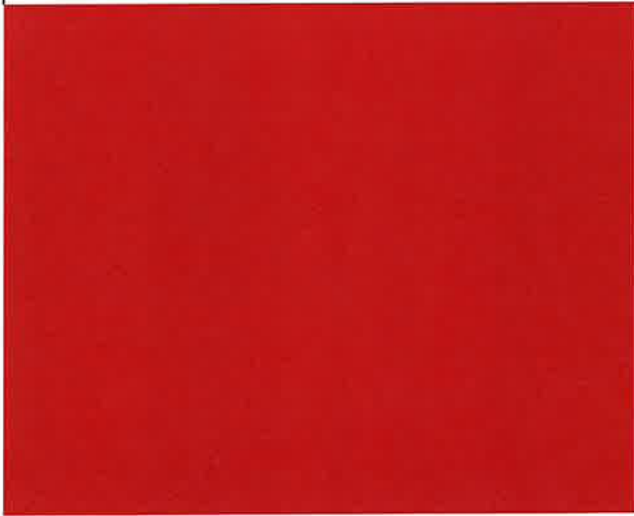


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1. Executive Summary

Attracting almost 17 million visitors and their more than \$10.5 billion in spending annually, Nashville is one of the leading tourism destinations in America.¹ Nowhere else offers the abundance of live music and related entertainment options within a small, walkable area exhibiting such historic charm. Many believe that the historic ambience of Nashville is central to its attractiveness and must be maintained and enhanced for the city to continue to thrive. As one local preservationist put it, “Historic preservation is about remembering past while working together to create a better future.”

However, when it comes to how historic considerations are regulated – both in downtown areas like Broadway and Second Avenue and in neighborhoods like Belmont-Hillsboro and Cherokee Park – there is much dispute. Metro Historic Preservation (Historic) is comprised of two commissions which guide historic preservation efforts, the Metro Historical Commission (MHC) and the Metro Historic Zoning Commission (MHZC). The former has primarily an education and direct preservation function, while the latter is tasked with regulating historic preservation efforts on private property located within Metro’s historic preservation zoning overlays.

This evaluation is primarily focused on historic zoning functions and the MHZC – and by extension the broader public policy issues they may impact. Certain activities, such as the management of cemeteries or partnerships with friends’ groups, or general activities that fall under the purview of the MHC were *not* the focus of this evaluation.² In addition to the recommendations within this report, Metro should evaluate these functions together from an operational perspective, consistent with its general approach to process and management improvements government-wide.

An active historic preservation function is never without controversy. In Nashville’s case, the MHZC and its staff inevitably exercise significant professional judgment working to implement and enforce federal historic preservation standards that are incorporated in municipal regulations and applied to discrete local cases. Maintaining a building’s historic appearance inevitably limits some economic uses of the building or requires that more be spent to achieve the desired economic use of that building. These conflicts between historic preservation efforts and economic and technical considerations play out in Nashville just as surely as they do in communities around the country.

In the course of our work, we interviewed over twenty (20) individuals with a diversity of perspectives and insight into the process that the MHZC uses to regulate historic preservation efforts. Additionally, we reviewed local historic preservation process-related documents and articles. Of those with whom we spoke, very few think that Metro’s current historic preservation process is working well, especially as it relates to the downtown historic zoning overlays. While there is always a healthy tension in a productive regulatory process, the degree of frustration is extensive and has led to serious efforts in the state legislature to preclude Historic’s authority over the Broadway and Second Avenue areas. **Thus, change is required if historic preservation is to be maintained as a significant priority in these areas that are central to Nashville’s character.**

Ultimately, our findings suggest that the single-function regulatory approach to historic preservation that is implemented by Historic is not the best model going forward. The departmental independence and strong leadership of Historic during the preceding decades was important for preservation to have an effective voice contributing to the community development process. **However, we propose that Metro now**

¹ [Strong Tourism Results Continue to Drive Nashville’s Economic Success | Visit Nashville TN \(visitmusiccity.com\)](#)

² See Appendix A for a more extensive list of Historic’s functions.

consider re-organizing the MHZC and associated staff within the Metro Planning Department (Planning) where the MHZC's statutory regulatory functions can operate more effectively within the broader context of the multiple development-related priorities that Planning assesses and balances as it regulates Metro Nashville's growth while maintaining its character. We also recommend further study be devoted to the matter of the organizational location of the MHC, as there are considerations both for keeping it within Historic Preservation or moving it under Planning, as well.

Beyond this significant structural recommendation, we present several attendant opportunities for consideration (see Section 7.1), including:

- Re-evaluating the MHZC's traditional approach to overlays, including revisiting the underlying assumptions around authority, interpretation and enforcement of regulations, and interactions with stakeholders.
- Considering how the recently released Advisory Council on Historic Preservation (ACHP) guidance on housing and historic preservation can be adapted to Metro Nashville and promote the use of historic buildings to alleviate the housing shortage, including changes to zoning codes to support additional infill in historic areas.
- Increasing stakeholder involvement when a change to regulatory interpretation is being considered.

2. Report Methodology

HDR Engineering, Inc.'s (HDR) Mike Brink, Stephanie McCullough, and Haleigh Tieken (we) developed this Historic Preservation Efforts Review (Review). The Review was commissioned by the Metro Codes and Building Safety Department (Codes) Director Bill Herbert and the Executive Director of the Metropolitan Nashville-Davidson County Planning Department (Planning) Lucy Alden Kempf. These offices have overseen other process improvements related to permitting and resourcing during the last five years. This report is a continuation of that work.

We were engaged to study Metro's historic preservation efforts, including policy, process, and organizational elements. Our work focused on Metro's Department of Historic Preservation (Historic), which is comprised of the staff and volunteer commission members of the Metro Historical Commission (MHC) and the Metro Historic Zoning Commission (MHZC). This forward-looking Review has been developed with the intent to identify opportunities for future improvements. All parties interviewed are working in good faith to fulfill their commitments to the organizations that they represent. Without exception, we found whom we interviewed to be helpful, professional, and open to improvement.

In drafting this Review, we reviewed documents, made site visits, performed research, and conducted interviews (Table 2-1). We relied on original documentation (hard copy and online) and information provided in interviews. The scope of the Review did not allow us to interview more individuals beyond the number conducted. Additionally, while the Review primarily focuses on two downtown historic zoning overlays – Broadway and Second Avenue – we also consider aspects of the historic preservation function that impact the many neighborhood overlays.

HDR Engineering, Inc. is not a law firm. Nothing in this document should be considered as legal interpretation or advice. The implementation of the opportunities and recommendations discussed herein will require further legal review and consideration prior to implementation.

Table 2-1: Parties Interviewed

#	Individual	Organization	Title
1	Almon, Joseph	Metro Nashville Fire Department	Supervisor Plan Review Section
2	Bell, Menie	Metro Historic Zoning Commission	Chairperson
3	Bonnell, Mitzi	Metro Nashville Fire Department	Assistant Fire Marshal
4	Clements, Kirk	Nashville Underground	Attorney
5	Cross, Tom	Metro Law Department	Deputy Director
6	Dodd, Will	Metro Codes	Metro Council Liaison/Public Information Officer
7	Eanes, Andrea	Metro Nashville Fire Department	Fire Inspector
8	Figlio, Michael	Metro Nashville Fire Department	Assistant Fire Marshal
9	Hobbs, Barrett	Proprietor	Cumberland Hospitality Group
10	Joslin, Bobby	Joslin and Son Sign Co.	President
11	Milligan, Lisa	Metro Planning	Assistant Director, Land Development
12	Mirenda, Kayla	Joslin and Son Sign Co.	Vice President
13	Pham, Cate	Metro Law Department	Attorney
14	Reed, Sam	Jigsaw	Partner
15	Roberts, Ann	Metro Historical Commission	Former Executive Director (Retired)
16	Sloan, Doug	Thompson Burton, PLLC	Attorney
17	Smith, Matt	Metro Historic Zoning Commission	Member, Metro Planning Commission Representative
18	Smith, Steve	Tootsie's Entertainment	Owner
19	Stewart, Cyril	Cyril Stewart, AIA, and Metro Historic Zoning Commission	Principal and MHZC Vice Chairperson
20	Tibbs, Brian	Moody Nolan	Managing Partner, Nashville Office
21	Walker, Tim	Historic Preservation	Executive Director
22	Williams, Joni	Metro Planning	Assistant Director, Urban Design
23	Zeigler, Robin	Metro Historic Zoning Commission	Historic Zoning Administrator

While Metro's regulations governing development and historic preservation are unique, it is helpful to understand how other comparable communities in the region and nationwide address similar development-related issues. Therefore, we attempted to solicit input related to the subdivision regulation and performance bonding processes from willing community executives.

Additionally, we researched historic preservation efforts in the cities of Memphis, Knoxville, San Antonio, Charlotte, and New Orleans. Finally, we monitored recent developments in the national conversation on historic preservation efforts that is currently occurring at the federal level.

An earlier draft of this review has been reviewed with some Metro employees for accuracy.

3. Overview of Metro Historic Preservation Efforts

3.1 The Purpose of Historic Preservation in an Urban Context

Historic preservation in the United States can be traced back to the 1850s with the efforts to preserve Washington’s Headquarters State Historic Site in Newburgh, New York. Modern preservation efforts are a result of work during the Great Depression, with the creation of Heritage Documentation Programs administered by the National Park Service. In 1933, the Historic American Buildings Survey (HABS) provided work for unemployed draftsmen, architects, and photographers, and 12,000 places were documented through this effort.

After World War II, the United States experienced a population boom, and combined with the rise of car culture, the Federal Government began to establish programs to address the decline in urban housing as families with means began to move to the suburbs. The Housing Act of 1949 was passed to help address the deterioration of housing in cities. Funding was provided to cities for “slum clearance,” which often resulted in the wholesale demolition of blocks for public and private development. By 1966, half of the places documented as part of the HABS were destroyed or damaged beyond repair.³

The significant loss of buildings listed on the HABS led to the creation of the National Historic Preservation Act of 1966, establishing a national policy to address preservation efforts.

3.2 Department of Historic Preservation

The Metro Department of Historic Preservation (commonly referred to as “Historic”) is comprised of the staff supporting the MHC and the MHZC. The MHC is primarily an education and advocacy entity, working to, “[D]ocument history, save and reuse buildings, and make the public more aware of the necessity and advantages of preservation in Nashville and Davidson County, Tennessee.”⁴ The MHC is described in greater detail in Section 3.3.

The MHZC is a regulatory body implementing Metro’s historic preservation regulations in the distinct types of overlay districts established in Metro Nashville. The MHZC reviews applications and approves preservation permits within historic and conservation overlay districts established by the Metro Council. Permits involve instances of new construction, alterations, additions, repairs, and demolition.⁵ The MHZC is described in greater detail below, in Section 3.4.

3.2.1.1 Departmental Budget and Expenditures

Historic’s budget and expenditure data in recent years is presented in Table 3-1.

Table 3-1: Annual Historical Commission Expenditures

Year	General Fund Budget	Historical Commission Grant Fund	Totals	Full Time Equivalent Employees (FTEs)
FY2023	\$1,642,100	\$112,100	\$1,750,200	14
FY2024	\$1,946,200	\$88,900	\$2,035,100	15.49
FY2025	\$1,958,300	\$71,700	\$2,030,000	15.49

³ National Park Service, “What is Historic Preservation?”

⁴ Historic Preservation | Nashville.gov

⁵ Ibid.

A breakdown of expenditures is included below.

Table 3-2: Annual Historic Expenses by Category

Expense	FY 2023	FY 2024 (estimated)	FY 2025 (estimated)
Personnel Services	\$1,317,324	\$1,723,800	1,723,800
Utilities	11,441	18,000	18,000
Professional and Purchased Services	340	6,700	6,700
Travel Tuition and Dues	10,185	14,900	23,100
Communications	28,346	14,100	14,100
Repairs and Maintenance Services	0	200	200
Internal Service Fees	91,700	100,200	100,200
Other Expense	77,157	68,300	72,200
TOTALS	\$1,536,493	\$1,946,200	\$1,958,300

3.2.2 Departmental Staff

The Historic staff is led by Executive Director Tim Walker, who has served in the position for 28 years. He reports to and serves at the pleasure of the MHC.

The Historic staff is distributed in support of the two constituent commissions as follows.

Table 3-3: Historic Staffing Plan

Title	Number of Staff	Supports MHC	Supports MHZC
Executive Director	1	X	X
Historic Zoning Administrator	1		X
Davidson County Historian	1	X	
Office Manager and Financial Officer	1	X	X
Historic Zoning Planner	4		X
Historic Zoning Specialist	1		X
Special Programs	1	X	
Historic Zoning Inspector	1		X
Historic Preservationist 1	3	X	
Archaeologist	1	X	
Nashville City Cemetery Site Manager	1	X	

3.3 Metro Historical Commission

“The Metropolitan Historical Commission is a municipal historic preservation agency working to document history, save and reuse buildings, and make the public more aware of the necessity and advantages of preservation in Nashville and Davidson County, Tennessee. Created in 1966, the commission consists of fifteen citizens appointed by the mayor.”⁶

⁶ <https://www.nashville.gov/departments/historic-preservation>

The MHC locates, collects, and preserves historical material considered relevant to the history of Davidson County. Recently, the organization hired an archaeologist to document and preserve the heritage of the County.⁷

3.3.1 Legal Foundation

The MHC has its foundation in federal and state law, as well as in the Metro municipal code.

FEDERAL LAW

[Public Law No. 89-665](#) – the National Historic Preservation Act (NHPA) – established a national preservation program and procedures to identify and protect historic resources. The NHPA requires that historic structures that will be affected by federal projects or federally funded projects be documented to standards established by the Secretary of the Interior.

The term “historic preservation” includes the protection, rehabilitation, and restoration of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, or culture.⁸ The NHPA created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices.

[Section 106](#) (54 U.S.C. §306108), deemed as the review process for the NHPA, ensures and holds federal agencies accountable to consider the effects of federally licensed or funded activities on historic properties that are listed or eligible for listing on the National Register.

Section 110 requires all federal agencies to establish, along with the Secretary of Interior, their historic preservation programs for the identification, evaluation, and protection of historic properties. It also charges each agency to ensure the full integration of historic preservation in all ongoing programs with the designation of Federal Preservation Officer to coordinate the agency’s historic preservation activities.

STATE LAW

The [Tennessee Historical Commission](#) (THC) is the State Historical Preservation Office (SHPO) for the state and consists of state and federally mandated programs for promoting historic preservation and history. The THC is an independent state agency, associated with the Tennessee Department of Environment and Conservation (TDEC). The agency’s mission is to protect, preserve, interpret, maintain, and administer historic places. The THC’s board is made up of 20 members.

METRO NASHVILLE LAW

[Chapter 2.128 of the Metro Municipal Code](#) (Metro Code) establishes the Historical Commission as “a commission dedicated to the preservation, promulgation, and promotion of an accurate historical knowledge of Davidson County.” Additional sections describe the appointment and term of office for members, the commission’s authority, the role of the executive director, and its powers and duties.

3.3.2 Board Organization

BOARD

The MHC board consists of 15 members who serve four-year terms without compensation. Ten members are appointed by the Mayor and confirmed by a majority vote of the Metro Council. Five members are elected by a majority vote of the entire Metropolitan Council. Vacancies are filled for the balance of the unexpired term (Table 3-4).

⁷ Additional detail is provided in Appendix A to this document.

⁸ [The National Historic Preservation Act and The National Park Service: A History \(Appendix A\) \(nps.gov\)](#)

Table 3-4: Members of the Metropolitan Historical Commission

Individual	Term Complete	Appointed By
Dr. C. William (Bill) McKee	8/10/2025	Mayor
Dr. Celso T. Castilho	8/10/2025	Council
E. Menie Bell ⁹	8/10/2025	Mayor
Dr. Jane Landers	8/10/2025	Mayor
Laura Rost ¹⁰	1/29/2026	Mayor
Dr. Don Cusic	2/3/2026	Mayor
Dr. Marisa Richmond	8/10/2026	Mayor
Dr. Clay Bailey III	8/10/2026	Mayor
James A. Hoobler	8/10/2026	Mayor
Linda T. Wynn ¹¹	8/10/2026	Mayor
Larry Woods	8/10/2026	Mayor
E. Thomas Wood	8/1/2027	Council
Dr. Erica R. Hayden	8/1/2027	Council
Sandra M. Parham	8/1/2027	Council
John A. Bridges	8/1/2027	Council

3.3.3 Role and Processes

Historical preservation is an important part of the development and growth process. The MHC collects and preserves historical material relevant to the history of Davidson County. The MHC arranges for the purchase and preservation of materials and creates educational opportunities for the public. A non-comprehensive list of some of the MHC's functions is as follows.

MANAGE THE HISTORICAL MARKER PROGRAM

Metro's historic marker program was established soon after the Commission itself, in 1967. Subjects permitted to be commemorated with a historic marker include persons, places, structures, or events having local importance. Whenever possible, the subject should have significance in the broader sense of Nashville and Tennessee history. Historical significance is generally determined for items associated with events that occurred at least 50 years prior, however the MHC can make exceptions. Metro has about 70 historic landmarks.

MAINTAIN INVENTORY OF HISTORIC PROPERTIES

The MHC is the creator and steward of the inventory of historic properties. The inventory was created, and items were initially documented over 50 years ago. Areas are resurveyed every five to ten years. The resurvey is usually completed in conjunction with Metro Planning while updating the 14 community plans.

HELP TO PROTECT METRO'S HISTORIC PROPERTIES

The MHC supports local property owners in the process of nominating properties to the National Register of Historic Places or seeking other levels of designation as historically sensitive properties. Specific levels include:

1. Listed on the National Register (NR).
2. National Register Eligible (NRE) but not listed on the federal standard
3. Worthy of Conservation (WOC)
4. Other pre-1865 buildings

⁹ Representative to the Metro Historic Zoning Commission.

¹⁰ Vice Chair of Board.

¹¹ Chair of Board.

While historic preservation work is not unique among our peers, according to Historic staff members, this type of historical commission organization (as a stand-alone Department) is rare among major cities. With about 11,000 protected properties, Historic staff members report that their informal survey efforts indicate that among large cities in the Southeast, only Charleston, SC; Savannah, GA; and New Orleans, LA have more designated historic properties.

EDUCATE THE PUBLIC

MHC staff educate the public on the various historical treasures within Metro boundaries, conducting events and trainings, publishing a newsletter, and developing various brochures and booklets.

3.3.4 Supporting Organizations

Metro Historic Commission partners with several agencies, nonprofits, and other organizations in its work to preserve Nashville's history. The work of these organizations serves as valuable support to historical preservation efforts in Nashville, much like the multimodal transportation advocacy groups support the mission of the Nashville Department of Transportation and Multimodal Infrastructure in creating equitable access throughout the city. The list below includes several examples.

NASHVILLE HISTORICAL FOUNDATION

Founded in 2012, the Foundation is committed to help the MHC achieve its mission and goals. This nonprofit friends' group helps to identify, protect, study, and interpret the rich history of Nashville through volunteerism and fundraising for special projects.¹² Funds raised by the foundation help with historic studies and reports, structure assessments, and the development of tours and lesson plans, among other benefits.

NASHVILLE CITY CEMETERY ASSOCIATION

Another volunteer/nonprofit organization, the Nashville City Cemetery Association (NCCA) works with MHC and the Metro Board of Parks and Recreation to restore the cemetery and increase awareness through public participation. The NCCA sponsors special tours that are often free to the public in addition to fundraising activities to support maintenance and research.

HISTORIC NASHVILLE INC.

Historic Nashville, Inc. was established in 1968, two years after the creation of the MHC. The membership organization's mission is to "promote and preserve the historic places that make Nashville unique."¹³ It brings attention to endangered properties through its annual Nashville Nine listing; properties are nominated by the public for consideration. It is uncertain how many buildings that have appeared on the list remain. The nonprofit also manages the Preservation Easement Program, which allows property owners to grant the rights to a property's façade to HNI for protection and provides the opportunity for the property owner to pursue tax benefits. Lastly, the organization coordinates tours of historic properties for members and the public.

PRESERVATION SOCIETY OF NASHVILLE

The newest organization in support of preservation efforts in Nashville, the Preservation Society of Nashville's (PSN), was founded to protect and champion Nashville's unique stories, neighborhoods, and architecture through education, advocacy, and historic preservation. PSN distinguishes itself from other agencies in its goal to educate and advocate for historic preservation, particularly with developers.

¹² <https://mhcnashville.org/about1/>

¹³ <https://www.historicnashvilleinc.org/about-us>

3.4 Metro Historic Zoning Commission

3.4.1 Legal Foundation

STATE

Key components of Tennessee's laws regarding historic zoning¹⁴ include:

- Empowering the legislative body of any county or municipality to establish districts or zones, and to regulate the construction, repair, alteration, rehabilitation, relocation, or demolition of any building or structure in a historic zone in accordance with conditions and procedures outlined in the code.
- Directing the local legislative body to create a historic zoning commission of no less than five (5) and no more than nine (9) members.
- Authorizing the historic zoning commission to review the construction, alteration, rehabilitation, relocation, or demolition of any building, structure, or other improvement on real property, whether privately or publicly owned, which is situated in a historic district or zone, and for which a permit is not required.
- Establishing that review guidelines shall be consistent with regulations and standards adopted by the secretary of the interior pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. § 470 et seq.), applicable to the construction, alteration, rehabilitation, relocation, or demolition of any building, structure or other improvement situated within a historic district which has been certified by the Secretary of the Interior as a registered historic district.
- Identifying as warranting historical regulation a geographically definable area that possesses a significant individual structure or a concentration, linkage, or continuity of sites, buildings, structures, or objects that are united by past events or aesthetically by plan or physical development. These zones must meet one or more of the following criteria:
 - It is associated with an event that has made a significant contribution to local, state, or national history.
 - It includes structures associated with the lives of persons significant in local, state, or national history.
 - It contains structures or groups of structures that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.
 - It has yielded or may be likely to yield archaeological information important in history or prehistory.
 - It is listed in the National Register of Historic Places.

LOCAL

[Chapter 17, Article IX](#) of Metro's Code of Ordinances established the Historic Zoning Commission, the qualifications of its membership, powers, and duties, in 1974. The Metro Historic Zoning Commission (MHZC) is a Certified Local Government (CLG) through the State Historic Preservation Office (SHPO), the Tennessee Historical Commission was established through the 1980 and 1992 amendments to the National Historic Preservation Act. The "Historic Zoning" Commission defines the different Metro Council-established historic overlays in Metro Nashville that protect historical building styles and sites of historic value through the management of sites and historic zones.

¹⁴ Tennessee Code Title 13, Chapter 7, Part 4 (2023) - HISTORIC ZONING :: 2023 Tennessee Code :: US Codes and Statutes :: US Law :: Justia

3.4.2 Board Organization

COMMISSION

The MHZC is a nine-member commission comprised of Davidson County residents that oversees exterior work in historic zoning districts. They are appointed by the mayor, confirmed by the Metro council, and serve five-year staggered terms. Members do not receive compensation for their service.

The Historic Zoning Commission membership (Table 3-5) includes:

- One registered architect.
- One member of the Metro Planning Commission.
- One member representing the Historical Commission.
- Four members selected from the community.
 - Two of whom reside in a historic overlay district.
- Two additional members, each of whom must be one of the following:
 - A property owner who owns property to which the Downtown Code applies, and the property is either listed on the National Register of Historic Places or is within a historic overlay district.
 - A person whose principal place of business is located in the area to which the Downtown Code applies, and whose property is either listed on the National Register of Historic Places or is within a historic overlay district.
 - A person having a business interest in property within the area to which the Downtown Code applies and is either listed on the National Register of Historic Places or is within a historic overlay district.

Table 3-5: Current members of the Metro Historic Zoning Commission

Individual	Term Complete	Appointed By	Category
Ben Mosley	6/1/2025	Mayor	Registered Architect
E Menie Bell ¹⁵	6/30/2025	Mayor	Historical Commission
Elizabeth Mayhall	6/1/2026	Mayor	Property - DTC National Register
Christopher Cotton	6/1/2027	Mayor	Property - DTC National Register
Elizabeth Cashion	6/1/2027	Mayor	Community
Dr. Learotha Williams, Jr.	6/1/2027	Mayor	Community
J. Cyril Stewart ¹⁶	6/1/2027	Mayor	Resident - Historic Overlay District
David Price	4/1/2028	Mayor	Resident - Historic Overlay District
Matthew C. Smith	8/31/2028	Mayor	Planning Commission Representative

3.4.3 Roles and Processes

TYPES OF OVERLAYS¹⁷

The Historic Zoning Commission regulates changes to properties within the geographic overlays adopted by the Metro Council. There are six types of overlays, which are defined as follows.

Historic Landmark (HL) Overlay

¹⁵ Chair

¹⁶ Vice Chair

¹⁷ Apply for Historic Zoning Overlay | Nashville.gov

A Historic Landmark Overlay is for an individual property or “campus” of special significance and is the most restrictive of the historic zoning overlays. The MHZC keeps a list of historic landmark overlays.

Historic Landmark Interiors (HI) overlay

A Historic Landmark Interiors Overlay applies to an individual property that has had all or parts of the interior spaces protected with design review. The building may or may not be a historic landmark; this tool is typically used for public spaces in civic buildings. Per zoning code, it is defined as the public interior space of a building or structure of high historical, cultural, and architectural value; where alteration, demolition or destruction would constitute an irreplaceable loss to the quality and character of Nashville and Davidson County, and meets one of the following criteria:

- The historic landmark interior is associated with an event that has made a significant contribution to local, state, or national history.
- It is associated with the lives of persons significant in local, state, or national history.
- It embodies the distinctive characteristics of a type, period, or method of construction.
- It is a historic landmark.
- It is listed or is eligible for listing in the National Register of Historic Places.

Historic Landmark Signage (HS) Overlay

A historic landmark signage overlay authorizes a historic sign where the associated building is not a historic landmark.

Historic Preservation (HP) Zoning Overlay

A historic preservation zoning overlay provides protection for a neighborhood or district by regulating exterior alterations. These districts are defined as geographical areas that possess a significant concentration, linkage, or continuity of sites, buildings, structures, or objects that are united by past events or aesthetically by plan or physical development, which meet one of the following criteria:

1. The district is associated with an event that has made a significant contribution to local, state, or national history.
2. It includes structures associated with the lives of persons significant in local, state, or national history.
3. It contains structures or groups of structures that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.
4. It has yielded or may be likely to yield archaeological information important in history or prehistory.
5. It is listed or is eligible for listing in the National Register of Historic Places.

Historic Preservation Overlay Districts¹⁸

1. Broadway
2. Downtown
3. Edgefield
4. Germantown
5. Marathon Village
6. Second Avenue
7. Tanglewood

¹⁸ [Metro Historic Zoning Commission District Boundaries and Design Guidelines | Nashville.gov](#)

8. Woodland-in-Waverly

Historic Bed and Breakfast (HB) Overlay

This type of overlay allows for a use that might not otherwise be available. Alterations to buildings in this overlay follow the neighborhood conservation zoning overlay design guidelines. In the zoning code it is defined as a building or structure containing three or fewer furnished guest rooms for pay within a private, owner-occupied, historically significant structure. Meals may be provided to overnight guests, and the maximum stay for any guest shall be fourteen consecutive days. An historic bed and breakfast homestay must meet one or more of the following criteria:

- a. The historic bed and breakfast homestay is associated with an event that has made a significant contribution to local, state, or national history.
- b. It is associated with the lives of persons significant in local, state, or national history.
- c. It embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic value.
- d. It is listed or is eligible for listing in the National Register of Historic Places.

Neighborhood Conservation (NC)¹⁹

A neighborhood conservation zoning overlay is the least restrictive type and only provides guidance for new construction, additions, demolitions or moving of structures. A list is included in the following Table 3-6.

Table 3-6: Neighborhood Conservation Overlays

Belmont-Hillsboro	Lockland Springs-East End
Hillsboro-West End	Maxwell Heights
Belle Meade Links Triangle	Park & Elkins
Blakemore PUD	Richland-West End
Bowling House District	Richland-West End Extension
Cherokee Park	Salemtown
Eastdale	South Music Row
Eastwood	Waverly-Belmont
Edgehill	Whitland
Elmington	Woodlawn West
Greenwood	Haynes Heights
Inglewood Place	Haynes Manor
Kenner Manor	Lathan-Youngs

There are regulatory consistencies across different overlays that belong to the same class of overlay, but each overlay has its own specific guidelines. Recent efforts have standardized some of the language applicable to specific overlays within a common class of overlay, but other neighborhoods have opted out of the standardization effort, such as Belmont-Hillsboro.

Where there is conflict, historic regulations supersede the base zoning requirements for a particular area. State law and Metro code indicate that Historic considerations take precedence over the base planning overlay.

¹⁹ [Metro Historic Zoning Commission District Boundaries and Design Guidelines | Nashville.gov](https://www.metro-nashville.gov/transportation-and-infrastructure/planning-and-zoning/historic-zoning-commission-district-boundaries-and-design-guidelines)

ESTABLISHING AN OVERLAY

The process of exploring and establishing an overlay is driven by those who live in the affected areas. The MHZC recommends the following steps:²⁰

1. Contact the area’s councilmember to confirm support
2. Contact MHZC to ensure the area qualifies
3. Schedule and host an informational meeting and invite MHZC to present
4. Organize to inform the affected neighbors
5. Obtain an architectural resource survey
6. Host at least one meeting on the topic
7. Keep the neighborhood informed
8. Solicit volunteers to speak at public meetings with the MHZC, Planning Commission, and Council (the required public meetings)
9. Secure the necessary funding for the architectural resource survey, the notice requirements, and the application fee

MHZC and the Planning Commission make recommendations to the Metro Council, which must approve the overlay.

PERMITTING PROCESSES

For structures located in an overlay, preservation permits are required for the following types of work (Table 3-7).²¹

Table 3-7: Types of Overlay Projects Requiring Permits

Type of Work	Landmark	Landmark Interior	Landmark Signage	Historic Preservation	Conservation/Historic B&B
New construction of primary building	X			X	X
New construction of accessory building	X			X	X
Addition	X			X	X
Demolition (in-whole or in-part)	X	X		X	X
Relocation of a building	X			X	X
Construction of appurtenances	X			X	X
Signage	X		X	X	
Exterior repairs and alterations	X			X	
Interior repairs and alterations		X			

The high-level permit process is as follows:

1. Applicant meets with MHZC staff for initial review.
2. Applicant submits application for permit.

²⁰ [Neighborhood expectations.pdf \(nashville.gov\)](#)

²¹ [Handbookrevised2023.pdf \(nashville.gov\)](#)

3. Applicant provides notice to property owners within 250 feet of the property.
4. MHZC staff prepares MHZC meeting agenda.
5. MHZC staff researches and writes recommendation on application.
6. Applicant participates in MHZC public meeting where permit determination is made. Both staff and applicant present, and public comments are taken. Applicants present for ten minutes and are allowed a two-minute rebuttal.
7. (If desired) applicant or member of the public may appeal the MHZC decision to the Chancery Court of Davidson County or Circuit Court of Davidson County.
8. Applicant submits application for necessary permits from Metro Codes, if required.
9. Applicant schedules required inspections and approvals as construction proceeds.

MHZC staff members report that they receive regular comments that the MHZC simply “rubberstamps” the MHZC staff’s recommendations. To provide a better overview, the staff compiled meeting minutes from 2022 to August 2024 to represent and clarify figures surrounding commission decisions.

As reported by MHZC staff, the compiled meeting minutes²² indicate that:

- Approximately 24% of the time on average, motions are revised or completely changed by the MHZC from the staff recommendation.
- Approximately 6% of applications are disapproved at the MHZC stage (this does not include administrative applications).

Overall, according to the MHZC staff, almost 65% of applications result in administrative permits that receive final decisions by the commission each month.

COMPLIANCE ACTIVITIES

Property owners within overlays whose properties violate permit terms or whose properties do not have the proper permit are subject to hearing before the MHZC. The MHZC has discretion of the violations it pursues. Issues are normally addressed through the following process:

1. A member of the public notifies the MHZC of a potential issue.
2. An MHZC staff member comes out to verify the issue.
3. The MHZC staff member analyzes the issue relative to the historic requirements of the overlay.
4. For situations in which the property is compliant with the historic requirements of the overlay, the MHZC staff member may recommend issuance of a retroactive permit.
5. For situations in which the property is non-compliant, the staff seeks to work with the property owner to achieve a workable solution that is compliant prior to referring for MHZC review.
6. For those instances in which agreement cannot be reached, MHZC staff issues a summons to the property owner to attend an MHZC review.
7. If the MHZC determines that the issue is not in compliance, then an order for removal is issued, usually to be completed with 60-90 days.

It is at the MHZC level that compliance with Metro’s historic preservation regulations is reviewed and enforced. If, after the hearing, the property owner remains out of compliance, further notices of non-compliance are issued by the MHZC . A property owner’s failure to respond to such notices may result in the issuance of a civil warrant and legal action. An accounting of all legal actions over the past five years (since 2019) is as follows in Table 3-8.

²² Information provided by Robin Zeigler via e-mail, 8/27/2024.

Table 3-8: MHZC Legal Actions since 2019

	Broadway Historic Preservation Overlay	Other Historic Preservation Overlays	Neighborhood Conservation Overlays
Appeals to Chancery Court	3	1	6
Commission Decision Upheld	2	1	5
Commission Decision Reversed	0	0	1
Pending	1	0	0
Appeals to Court of Appeals	0	0	2
Commission Decision Upheld	0	0	1
Commission Decision Reversed	0	0	0
Pending	0	0	1

Ann Mikkelson of the Metro Law Department provides corporate counsel services to the Historical Commission and the Historic Zoning Commission. When litigation services are involved, Cate Pham of the Metro Law Department manages the process.

Cases on appeal can take years to resolve. One on-going case dates to 2013.

4. Local Perspectives

Our interviews and document review generated many pages of input and notes. The following sections are an attempt to summarize the key points conveyed or otherwise concluded.

4.1 *Historic's Justifications*

HDR interviewed several Historic staff, volunteer commission members, and other local preservationists. A summary of their perspectives is provided below:

- They are professionals committed to the practice of historic preservation, individually and collectively possessing extensive subject matter expertise.
- Their departmental independence has enabled the organization to have a strong voice in local preservation matters, more so than similar functions in many other cities.
- They are sometimes perceived as an obstacle to growth when historic preservation should be viewed as a vehicle for it.
- They are seeking to collaborate with property owners, to get to “yes.” They offer direction and advice to property owners that takes many forms.
- The goal is correction, not punishment. It is very much their norm to work collaboratively with property owners. For the most part, people support the overlays and are willing to work with Historic. Most applications do not require full consideration by the MHZC. Approximately 65% of applications result in administrative permits that receive a final decision from the commission each month.
- When projects go to the MHZC with a recommendation of disapproval, it is only after extensive work and the applicant ultimately deciding they want to ask for what they want.
- They are flexible to the point of leniency. If you compare Historic to the work of similar historic preservation organizations in other cities, they feel like they are very lenient, especially downtown.
- Going to court is a last resort – they believe that they give people too much time to comply.
- When they go to court, Historic’s actions are generally upheld.
- They are innovative. They continually try to re-examine the way that they are managing not just downtown but all overlay districts. Recently there have been efforts to rationalize the guidelines across the overlays, but each overlay still has its own few idiosyncrasies.
- There is a lot of misunderstanding and misinformation concerning the impact of the overlays as it relates to property values.
- The conservation overlays have been enormously helpful in preserving the character of the 26 participating neighborhoods. Before the establishment of the overlays, these neighborhoods were very much at risk.
- They feel organizationally isolated and seek more integration with other Metro agencies. Some interviewees feel that the only time Historic’s input on major development-related issues is heard is when Historic takes initiative with other Metro agencies.
- However, they feel that they work well with other Metro departments.
- They look to specialize and to upgrade their organization’s skills, such as recently bringing an archaeologist on staff.
- They have also focused on specializing staff. Before, most staff members did all functions – plan reviews, inspections, and calls. Now they have one person taking all calls. There is one dedicated inspector. The rest of the staff does site plan reviews.
- Relations between the staff and the commissions they support are positive. Current and former commission members uniformly praise the knowledge and professionalism of the support staff.

- They are open to growth that respects historic priorities.
- They are responsive to overlay stakeholders. MHZC commissioners have an obligation to the neighborhood to ensure that the standards of the overlay are maintained. While some might see the MHZC's actions as "inflexible," the commissioners and staff believe that they are working with clear guidelines.
- Every district is so different that providing a general design plan book would not be possible. They tried to do this for outbuildings, but it could not be accomplished given public pushback.
- They are concerned about precedent. "Giving in" on historic preservation standards leads only to more challenges. "Whatever we give in on, they want more."
- They have significant ideas to improve their processes that they are working to implement.
- They are frustrated at "losses." The perceived increase in losses sustained by Historic is driven by:
 - Value of the land – people want to maximize their return.
 - More developers, small and large, are applicants versus homeowners trying to do simple things.
 - People want a lot more for their houses – size, amenities, etc. – and are pushing the envelope.
- Some recognize that the viability of the downtown Historic Preservation Overlay Districts (such as Broadway and Second Avenue) is in doubt. Economic drivers such as the demand for development and property values has made preservation discussions difficult.
- They are positive contributors to issues that cross multiple Metro departments. For example, Historic supported the creation of and contributed to Metro's Detached Auxiliary Dwelling Unit (DADU) legislation, which has been a useful tool to promote the right sort of development.
- They are publicly oriented, doing nothing without public involvement.

4.2 Critiques of Historic

Historic must work with other Metro agencies and private sector applicants to accomplish its preservation objectives. Among those interviewed, the following themes emerged:

- Encouraging adaptive reuse is not seemingly a part of Historic's priorities and isn't readily apparent when working through an issue with staff.
- Singlemindedness. Their purpose is to preserve at least the façade of a building that is consistent with a snapshot in time. That is the only goal. There is no balancing with other competing public priorities. Rather, historic preservation considerations could be handled by the zoning administrator, along with other development-oriented regulatory concerns.
- Historic is not willing to pursue trade-offs, even when it makes sense to achieve ultimate preservation priorities.
- People have reached the point of frustration with Historic that they have demolished buildings that could have otherwise been preserved.
- Overreach. There are specific limits on the National Historic Register (NHR) buildings. However, Historic extends the NHR requirements to other buildings that are not restricted by the downtown overlay on the basis of "context." The idea of "context" provides Historic with almost unlimited discretion and is used to put in place more formal, binding rules.
- Historic is more aggressive on "edge cases" and "gray areas" than other Metro departments. They take a very prescriptive approach.
- They live in the weeds. Staff members think their job is to focus on the minutiae. They exhibit a lack of proportionality – everything is a deal-killer.

- They are organizationally isolated and difficult to work with. Historic does not communicate nor collaborate especially well with other Metro agencies.
- Historic should be involved earlier in the planning and design process. They should be in preliminary discussions with developers, like Planning is. That is the stage in which Historic considerations are best considered; they must get ahead of the process. However, Historic's current organizational separation means that they are not involved in those early discussions to the extent they should.
- Historic preservation may be a component of good urban design, but the current organizational separation means that it is often not practically included in the mix of urban design priorities under consideration.
- Historic's requirements can conflict with other Metro departments' directions, such as the Fire Marshal, and there is no real adjudication mechanism for those conflicts.
- They are overly concerned with precedent instead of letting the particulars of the situation govern.
- They are reluctant to collaborate and to give helpful guidance. They do not exhibit a problem-solving mindset.
- The regulations are overly complicated and are lacking in standardization across overlays.
- They are improperly focused on temporary things, like placement of tents, temporary lighting, and temporary signage in the downtown Historic Preservation Overlay Districts and are expanding their role in this area. Historic has begun signing off on tents within the last calendar year. This seems to extend beyond their authority.
- They are anti-growth. Neighborhoods are fighting growth/gentrification through the historic overlay process. The overlay often functions as a de facto homeowners' association (HOA).
- Their judgments about what historic elements of a building must be maintained are ultimately subjective.
- Historic needs to hire an additional architect or someone with a strong urban design background who can be an effective advocate in conversations with developers.
- The MHZC is inflexible and insensitive to business considerations. Their rulings can substantially impact the economic viability of a building.
 - Historic relies on the Department of Interior's "rules," which are by that organization's admission only "concepts."
 - They pick arbitrary periods of time that serve as their basis to enforce appearance standards.
 - They mandate that everyone's neon signs must be the same size and of the same character. Some believe that this is not within their purview.
 - Historic has a particular vision of how Broadway should look; they are legislating by taste.
- The MHZC lacks sufficient business representation and perspectives. They use their authority to create costly and time-consuming new processes without stakeholder input. For example, the new sign permit process, requires that notice be sent to every neighbor within every 250 feet. The process is unwieldy and time-intensive, taking up to six to nine months.
- They demonstrate no willingness to involve the stakeholders before implementing a new regulation.
- They overstep their jurisdiction. Where something is not explicitly permitted, it is forbidden.
- The language in their overlays is hard to decipher.
- Some decisions place homeowners in an extremely difficult position financially. Missing "by inches" can result in required changes costing tens of thousands of dollars.
- The culture of Planning is completely different than Historic. Planning is focused on balancing multiple values to achieve a result in the overall best interest of the City from a design perspective.

4.3 Summary of Perspectives

- Historic preservation is an important part of Nashville's charm and a continuing priority for the Nashville community.
- There is significant and seemingly increasing friction between Historic and regulated private parties. The status quo is unacceptable.
- While most of our discussions centered on the downtown Historic Preservation Overlays like Broadway and Second Avenue, there are also preservation-related issues in the neighborhoods that create much frustration and additional cost for property owners.
- Both Historic and the parties that they regulate feel like they are "losing." Historic staff members think they are being too flexible, and the regulated parties feel like Historic is being completely inflexible.
- Historic's single-purpose function and organizational separation from other Metro agencies limits its staff and commission members' perspectives and does not appear to advance collaborative solutions with regulated private parties.
- The Department of Interior (DOI) standards are high-level and explicitly meant to be interpreted in light of economic and technical feasibility, but Historic does not explicitly concede this and uses them to give their interpretations the force of law. The courts have generally supported that approach.
- There is no real mechanism for adjudication when there is preservation-related conflict across Metro agencies on development projects.

5. Review of Other Communities

An assessment of peer cities indicates some variability in the way that different historic preservation operations function. The peer research conducted considered factors like the interaction between historic and other government groups, types of guidelines, positions on growth, the historic organization, and processes. These factors characterize the way historic preservation forms a community in terms of growth and design guidelines.

5.1 Knoxville

The City of Knoxville and Knox County each have their own separate designated historic zoning commissions. The Knoxville Historic Zoning Commission (KHZC) falls under the Knoxville Planning Department.²³ The commission has nine members with a chair and vice-chair appointed by the Mayor of Knoxville and the Knoxville City Council.

Knoxville's Historic Zoning Commission's responsibilities consist of reviewing applications for the Certificate of Appropriateness (COAs) in the overlays, designation of new overlays, and considering nominations to the National Register of Historic Places. A professional planner is employed by Planning to maintain conformity with citywide guidelines when processing applications for COAs. The Historic Zoning Commission is also expected to review design guidelines, review properties, as well as assist in reading reports and projects prepared by Planning. The Commission holds the broad powers to request detailed construction plans and related data appropriate to the overall approval review process along with the ability to issue or deny certificates.

To integrate preservation, both Knox County Historic Zoning and Knoxville's Historic Zoning Commission gather for joint meetings to discuss the current state of historic preservation across the area.

5.2 Memphis

The Memphis Landmarks Commission (MLC) was created by Ordinance No. 2276 and was passed by the Memphis City Council on July 15, 1975. The MLC is listed as a part of the City's Division of Planning and Development.²⁴

The Landmarks Commission is composed of nine members. The Zoning Administrator from the Division of Planning and Development serves as the Executive Secretary of the MLC and there are two staff preservation planners listed. Property owners within a historic district seeking building permits for exterior work must receive a Certificate of Appropriateness (COA) from the MLC.

Memphis currently has 18 local historic districts. It does not appear that much of Beale Street is included in a historic district.

5.3 San Antonio

San Antonio's Historic and Design Review Commission falls under the Office of Historic Preservation (OHP), an independent agency.²⁵ This is similar to Metro Nashville's configuration. OHP reviews exterior modifications and repairs per the City's UDC for:

- Historic districts
- Individual landmarks
- Public facilities/right of way

²³ [Historic Preservation | Knoxville-Knox County Planning \(knoxplanning.org\)](#)

²⁴ [Memphis Landmarks Commission | DEVELOP 901](#)

²⁵ [About the Historic and Design Review Commission \(HDRC\) - City of San Antonio](#)

- Properties determined eligible for historic designation
- Demolitions
- Downtown zoning
- River Improvement Overlays (RIO)
- Viewsheds/Mission Protection Overlay District

The Historic Design and Review Commission (HDRC) is comprised of eleven members appointed by the City Council and reviews projects that are associated with exterior changes to landmarks or within one of the City's local historic districts listed above. Projects that meet the requirements are granted a Certificate of Appropriateness.

Notable elements of San Antonio's approach include:²⁶

- Creation of a second commission called the HDRC Compliance and Technical Advisory Board that deals primarily with violation cases.
- Development of design guidelines as well as a unified development code are important tools to promote compliance with the requirements.
- Resolution of conflict with other City departments involves leadership discussions and involvement of the City Manager's office if required.

5.4 Charlotte

The City of Charlotte has eight local historic districts distributed throughout the City. All eight are primarily residential areas.²⁷

Charlotte's Historic District Commission (HDC) was established in 1976 by the Charlotte City Council according to the provisions of the North Carolina General Statutes that are now codified as North Carolina general statute sections 160D-303 and 160D941. Charlotte's Historic District Commission has twelve members, and its mission ensures the development and renovation of the area remains consistent with the personality and features within the historic districts while preservation stays at the forefront of focus.

The Historic District Commission falls under the Charlotte Planning, Design, and Development Department. According to state statutes 160D-842 (2) and the City of Charlotte Unified Development Ordinance, the Charlotte Historic District can make suggestions for the areas to be designated by ordinance and considered as "Historic Districts." The HDC also holds the role of analyzing and reporting on the historical and archaeological importance of buildings and structures within city boundaries.

5.5 New Orleans

New Orleans and Nashville have a similar level of annual tourists, at around 16 – 18 million. Like Nashville, New Orleans has entertainment areas located in and enhanced by a unique historical context. New Orleans' approach to history preservation approach significantly differs from that of Nashville, however.

New Orleans has three separate regulatory commissions governing distinct areas of the City:

- The Vieux Carre (French Quarter) Commission is the agency within the City of New Orleans government that protects, preserves, and maintains the distinct architecture and historic character of the Vieux Carré Historic District.²⁸ The VCC operating today is a state-enabled city agency that was formally established in 1936.

²⁶ Answers taken from survey responses from the Director of the HDRC.

²⁷ [Historic District - City of Charlotte \(charlottenc.gov\)](http://charlottenc.gov)

²⁸ [About Us - VCC Foundation](http://vccfoundation.org)

- The New Orleans Historic District Landmarks Commission (HDLC) regulates about 14 neighborhood historic districts.
- The Central Business District Historic District Landmarks Commission (CBD HDLC) regulates four districts located within the Central Business District.

The empowering legislation for the HDLC and the CBD HDLC specifically lists, among other priorities, the intent to “strengthen the city’s economic base by the stimulation of the tourist industry” and “to foster economic development.” Such legislation also specifies the role of the City’s Department of Safety and Permits as empowered to assist in making all enforcement-related inspections.²⁹ Issuance of a COA from the appropriate commission is necessary before the issuance of a permit from the Department of Safety and Permits to complete exterior work in the regulated areas. Notably, the commissions do not have jurisdiction over the color that the exterior of a building is painted.³⁰

Finally, the 21 National Register districts within the City are regulated by the State Historic Preservation Office in Baton Rouge.

5.6 Peer Research Conclusions

Of the communities researched, three have different historic preservation configurations than Metro Nashville. In Knoxville, Memphis, and Charlotte, the historic preservation is housed within the planning departments.³¹ Generally, these cities have significantly fewer historic preservation staff and areas of protection. They generally do not have major commercial areas – like Broadway and Second Avenue - that fall within the purview of historic preservation.

San Antonio is the most like Metro Nashville in configuration. It has an independent historic preservation department and historically major commercial areas (such as the Riverwalk) regulated by the agency and its commission.

New Orleans takes the independent regulatory model but has at least three local and one state entity separately overseeing regulatory matters in different areas of the City versus a single entity regulating all historic districts. Additionally, some items (like paint color) are specifically excluded from the commission’s purview.

²⁹ [2024-07-30 15-Chapter-84.pdf \(nola.gov\)](#)

³⁰ [HDLC - Topics - Frequently Asked Questions - City of New Orleans \(nola.gov\)](#)

³¹ Additionally, in Chattanooga, the Historic Zoning Commission is housed within the Land Development Office within the Department of Public Works. [Historic Planning and Zoning | Chattanooga.gov](#)

6. Additional Context

6.1 Continuing Debate at the Federal Level

The friction regarding the implementation of historic preservation standards that Nashville is experiencing is far from unique. Stakeholders in the historic preservation process from around the country have raised concerns about how the Department of Interior's Standards of Rehabilitation have been implemented. Consider the following:

"One repeated theme is that the application and interpretation of federal historic preservation standards are often stricter than the standards themselves require, undermining the confidence of private parties in the regulatory process and actually hindering preservation itself. Based on the analyses and comments, it is apparent that the public policy goals of economic growth, environmental sustainability, equity, and indeed effective historic preservation itself may be thwarted by outdated applications and interpretations of the federal historic preservation standards."³²

– From p. 2 of the "Report and Recommendations on the Application and Interpretation of Federal Historic Preservation Standards," delivered to the Advisory Council on Historic Preservation (March 1, 2024)

The chair of the Advisory Council on Historic Preservation (ACHP) herself has stated:

"But when applied too rigidly and without regard to the needs of communities, they become yet another source of red tape and an obstacle in efforts to expand housing, retrofit buildings for energy efficiency, and spur economic growth."³³

– Sara C. Bronin in *The Hill*, 5/8/2024

Clearly, there is impetus among preservationists and other interested parties for change in the way that historic preservation is practiced across the country. There is an acknowledgement that the strict application of standards can exceed what the federal standards themselves require, and that doing so can and does undermine the achievement of other, equally valid public policy objectives.

6.2 MHZC Application of the Federal Standards

Notably, the Secretary of the Interior's Standards for the Treatment of Historic Properties specify that "the standards will be applied taking into consideration the economic and technical feasibility of each project." No such reference to "economic and technical feasibility" considerations is included in the MHZC's Historic Landmark Zoning Overlays document.³⁴

6.3 Efforts to Amend State Law

The Broadway Entertainment Association (BEA) has worked with Tennessee state legislators in an attempt to amend state law to substantially limit the authority of "any historic zoning commission or any historic zoning law, rule, review guideline or regulation" in an area or areas designated as a "Tourist Destination Zone." Specific exclusions listed in the draft regulation include, "lighting, TVs, monitors, signs,

³² [Report Final \(achp.gov\)](#)

³³ [Feds' historical preservation rules desperately need an update \(thehill.com\)](#)

³⁴ [Landmark 2020 FINAL.pdf \(nashville.gov\)](#)

speakers, any electronic devices, mechanism or equipment, weatherization such as seasonal canopies, heaters, tents or any other aspect of a building." This would essentially exempt the Broadway area from any local government regulatory authority based on historic considerations. The language also provides broad authority for the fire marshal or similar government official to overrule any decision by a historic zoning commission related to such projects.

While this law did not pass in 2023, several interviewees indicate that it will be revived in a subsequent legislative session if no resolution of the ongoing issues between the MHZC and Broadway stakeholders is found.

6.4 Risk of Removal from the National Register

There is a benefit for property owners in National Register Historic Districts (NRHD). Listing enables property owners to become eligible for tax incentives for the rehabilitation of historic properties that adhere to historic preservation standards and to apply for certain grants.³⁵

Interviewees report that the threat of "removal from the National Register of Historic Districts" is sometimes invoked as a means of justifying a particular determination by the MHZC or its staff. This can happen, though the Broadway District itself, given its establishment before December 13, 1980, may only be removed when the property has ceased to, "[M]eet the criteria for listing in the National Register because the qualities which caused it to be originally listed have been lost or destroyed, or such qualities were lost subsequent to the nomination and prior to listing."³⁶

However, we could find no comparable example of an entire historic district being removed from the National Register. We did find a list of 42 properties that had lost their designation as National Historic Landmarks as of December 18, 2024.³⁷

Thus, it is unclear whether the de-listing of an entire district has occurred. Considering the general federal discussion on problems and constraints with the current approach to historic preservation and the likely future direction of the incoming administration, it seems unlikely that the Department of the Interior would move in the direction of a more rigorous interpretation involving the removal of well-used, popular, and economically vital areas wholesale from the NRHD.

³⁵ [Microsoft Word - Value of Historic District Status in Georgia January 2019 - Rev2.docx \(gsu.edu\)](#)

³⁶ [eCFR :: 36 CFR 60.15 -- Removing properties from the National Register.](#)

³⁷ [withdrawn - National Historic Landmarks \(U.S. National Park Service\) \(nps.gov\)](#)

7. Opportunities for the Future

Having established that all parties are seeking to do their jobs well, it is important to understand whether there are opportunities to improve the reconciliation of historic preservation and other public priorities in Metro Nashville’s public and private development processes.

7.1 Ideas for Change

The interviews and research conducted indicate that the current regulatory model is not working to the benefit of the stakeholders. As mentioned previously, both the regulators and the regulated feel like they are always “losing.” And it is the perception of many of the stakeholders we interviewed that the level of conflict seems to be increasing.

Preserving Nashville’s unique sense of place is essential to maintaining its charm and the accompanying economic growth. Sensitivity to historic preservation is a major part of that effort. However, the question remains as to whether the current means of balancing historic preservation considerations with “economic and technical feasibility”³⁸ is the best path going forward, especially in the most contentious areas of Nashville’s Broadway and Second Avenue Historic Districts (B/2).

When looking at changes to the status quo, a range of options are possible (Table 7-1). These ideas – developed from the interviews and research – are not necessarily mutually exclusive (though some are), and several can be considered for selection and implementation.

Table 7-1: Ideas for Historic Preservation Changes

Potential Alterations to Historic’s Personnel, Organization, or Process	Fundamental Changes to Historic’s Oversight of Overlays	Reorganizing Historic Completely
Change Historic’s leadership.	Exempt the tourist district from Historic’s regulatory authority completely (HB473 approach).	Eliminate the Department of Historic Preservation and move Historic’s functions (MHC and MHZC) into the Planning Department.
Add additional business representation to the MHZC.	Bring the B/2 overlays under Planning for historical preservation purposes while retaining the Department of Historic Preservation.	Maintain the MHC within the Department of Historic Preservation but move MHZC into the Planning Department.
Undertake the process to change/liberalize the regulation of the B/2 overlays.	Create a separate Historic commission specifically tasked to oversee historic preservation regulation within the B/2 overlays (such as New Orleans’ separate CBD HDLC) that is focused on the specific regulatory issues impacting the area.	
Review and streamline certain permit approval processes, such as for signage.	Reduce Historic to a “monitor and report” role on the B/2 overlays while granting regulatory authority to Planning.	

³⁸ The Secretary of the Interior’s Standards for the Treatment of Historic Properties - Technical Preservation Services (U.S. National Park Service) (nps.gov)

Better define and/or constrain the purview of and/or limit of Historic's authority (e.g., paint colors, tents).	Re-evaluate the MHZC's traditional approach to overlays, including revisiting the underlying assumptions around authority, interpretation, and enforcement of regulations, and interactions with stakeholders.	
Develop processes to increase stakeholder involvement when a change to regulatory interpretation is being considered.		
Create more explicit historic preservation guidance around issues of "economic and technical feasibility," such as with demolitions.		
Explicitly subordinate Historic considerations to Fire Marshal issues. For example, "the fire marshal shall have the discretion to override any decision by any historic zoning commission."		
Implement a formal "margin of error" factor into Historic's deliberations on its standards, such as a Planning's "20 percent discretion."		
Create a separate body/commission to deal with violations.		
Consider how the recently released ACHP guidance on housing and historic preservation can be adapted to Metro Nashville and promote the use of historic buildings to alleviate the national housing shortage, including changes to zoning codes to support additional infill in historic areas. ³⁹		
Develop standardized design guidelines as well as a unified development code to promote compliance with the requirements.		
Hire an architect within MHZC to better engage in early development conversations.		
Develop a plan for strategic coordination of MHC with its support network/partnering agencies.		

³⁹ [Housing and Historic Preservation | Advisory Council on Historic Preservation](#)

This effort does not represent a full legal analysis of the possibilities and constraints, but a conceptual review. **Further legal and other research is required to refine these ideas for ultimate implementation.**

7.2 Potential Benefits of Moving MHZC into the Department of Planning

The foundational recommendation from this analysis is that there are significant potential benefits from moving – at least – the MHZC into the Planning Department. The Planning Executive Director could oversee the MHZC and staff, but the MHZC would function separately from the Planning Commission. A similar existing example is the Housing Commission’s role within Planning as a separate entity.

Benefits will not simply materialize from the organizational change but is a first step to securing them. Such benefits may include the following.

7.2.1 Improvements in Reconciling Preservation and Growth Priorities

Metro Nashville’s continuing robust growth and the community’s consideration for historic preservation priorities can likely be better reconciled. Relocating the MHZC, and potentially the MHC, under Planning would likely advance this cause and reduce the siloed preservation activity. Except for San Antonio, all the other communities researched have their historic preservation function situated within a larger organizational context instead of as a separate department.⁴⁰

As noted by a national expert in redevelopment:

“This conversation must extend beyond traditional preservationists and include those in finance, affordable housing, community development, sustainability, and other fields. Let’s consider new opportunities for impact, confront uncomfortable truths about where we may be falling short, and be vigilant in our efforts to find and embrace creative new tools for preservation. The future of historic places may well depend upon it.”

- Patrice Frey, Former President and CEO of Main Street America and Former Director of Sustainability and the National Trust for Historic Preservation⁴¹

Bringing together preservationists with other Metro development professionals in Planning and elsewhere can likely create collaboration and synergy that increases the achievement of common goals of appropriate growth in Nashville that is respectful of the community’s heritage, especially in infill areas where redevelopment is occurring. Several interviewees from different perspectives emphasize the imperative for Historic to work closely with the Planning Department on the Downtown Code and urban design matters generally. That is best achieved within a single department and under the leadership of a single executive. Doing so can promote the earlier introduction of historic preservation into the discussions that developers are having with Metro, enabling proactive consideration and better outcomes for all interested parties.

Planning is used to “living in the gray” and reconciling competing interests through the give-and-take of negotiation to achieve agreement and to optimize multi-benefit solutions. Finding further means of incentivizing developers to achieve productive reuse of historic structures could result from applying Planning tools in the cause of historic preservation.

⁴⁰ Other examples of the inclusion of the historic preservation function in a multi-purpose department include Charleston, SC (Mayor’s Office of Resilience and Sustainability) and Savannah, GA (Metropolitan Planning Commission).

⁴¹ [Why Historic Preservation Needs a New Approach | National Trust for Historic Preservation](#)

Finally, incorporating historic preservation considerations into Planning's specific plan (SP) process could be of value. Such inclusion could be facilitated by the suggested organizational change.

7.2.2 Achieving Process Efficiencies

Moving the MHZC into Planning could also simplify the process of securing necessary approvals for homeowners, builders, and developers. This would not happen simply by moving the MHZC into Planning but could also be achieved by reviewing the plan review and approval processes to find ways to streamline steps and/or eliminate redundancies. Improved coordination of MHZC staff with zoning and codes activities is possible.

It is likely that a few staffing efficiencies could also be identified. For example, there may be opportunities to leverage the Codes building inspectors more effectively, with whom Planning staff regularly coordinate, in conducting preservation-related inspections. Making use of Planning's grant-writing and graphic design resources could also benefit Metro's historic preservation efforts.

Finally, as the City's permitting consolidation and technology improvements continue, there could be efficiencies if the MHZC and staff were located within Planning.

7.3 Next Steps

Presenting a detailed plan for transferring the MHZC to Planning is beyond the scope of this engagement. However, several considerations are as follows:

- A determination will need to be made – supported by further analysis – concerning the status of the MHC, its support staff, and its functions. For example, there may be an appropriate location within Planning's long-range planning division for the MHC, where they could be valuable in addressing concerns about the loss of character in local development. Several interviewees emphasized the importance of continued collaboration between the MHC and the MHZC. There are, however, also Historic functions – like the cemetery and archaeologist function – that may not belong in Planning.
- Approval by the Metro Council is necessary, and changes to the Metro Code would be required to accommodate the move. Further legal research and coordination is necessary to develop the appropriate legislation. Also, building the case for the change and engaging stakeholders on the reasoning for such a move will be required.
- An effort should be made to consider the range of options presented in Section 7.1 and to determine which have merit. Adopting them as the MHZC relocates to Planning and soon after could convey that this is not simply a matter of organizational shuffling, but part of a broader change to the way that Metro accomplishes historic preservation. Effectively implementing selected options will require the development of a roadmap.

Appendix A.

Some of the Historic's functions include, but are not limited to:

- Manage and maintain the Nashville City Cemetery;
- Support friends' groups of city-owned historic properties;
- Work with and support history and preservation-related non-profits in Davidson County;
- Serve as the advisor to the city on preservation matters;
- Advise and assist Metro departments/agencies with their historic resources including archaeological resources;
- Work with Nashville Convention and Visitors Corp to increase heritage tourism through publications, tours, and programming;
- Support history and historic preservation-related programs including the annual Nashville Conference on African American History and Culture in conjunction with TSU, May's Preservation Awards, and other educational programming;
- Work with Davidson County Historian to support history-related public programs;
- Apply for history and historic preservation-related grants to assist in the assessment of historic resources, and advance of understanding of the city's history;
- Partner with the Nashville Historical Foundation to manage/maintain Nashville Sites, a mobile-friendly website that provides themed tours of Nashville and lesson plans for teachers; and
- Manage and maintain the survey list of Davidson County Cemeteries and work with the public to maintain and protect them.



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