

DRAFT ORDINANCE 2026-
AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE
152.130-135 ENFORCEMENT AND REVIEW

WHEREAS North Carolina General Statute 160D-605 and 160D-701 requires that zoning regulations shall be made in accordance with a Comprehensive Plan; and

WHEREAS the Board of Commissioners finds that the proposed text amendments to the Unified Development Ordinance regarding referenced above to be consistent with the Town of Swansboro CAMA LAND USE Plan updated January 22, 2019, and amended August 28, 2023.

NOW BE IT ORDAINED by the Town of Swansboro Board of Commissioners that the Town Unified Development Ordinance be amended.

TITLE XV: LAND USAGE
CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE
§ 152.130-135 ENFORCEMENT AND REVIEW

ENFORCEMENT AND REVIEW

§ 152.130 COMPLAINTS REGARDING VIOLATIONS.

Whenever the administrator receives a ~~written, signed~~ complaint alleging that a violation of this chapter (or state law subject to enforcement by the Town) has occurred, he shall investigate the complaint, and take whatever action is warranted is reasonably determined to be warranted, including an appropriate investigation of relevant facts and applicable ordinance provisions. The Administrator will provide a timely response to the complaining party regarding ~~and inform the complainant in writing~~ what actions have been or will be taken: in response to the complaint.

(Ord. 2005-O3, passed 3-15-2005)

§ 152.131 ~~PERSONS LIABLE.~~ ENFORCEMENT PROCEDURE; NOTICE OF VIOLATION

~~The owner , tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.~~

(A) Generally. Any use or condition of property, or other act or omission constituting a violation of this chapter, shall be actionable by the Town in accordance with applicable provisions of this Chapter. Any action taken by the Town in the enforcement of its land use and land development regulations shall be non-exclusive, and the Town reserves the right to pursue cumulatively or in the alternative all remedies available under applicable legal authority.

(B) Parties Responsible. The property owner, tenant, or occupant of the property where a violation occurs, and/or any builder, contractor, agent, or other party or individual who participates in, assists, directs, creates, or maintains any use of or condition on property, or that is otherwise in violation of the provisions of this Chapter, may be held responsible for such violation and be subject to the remedies provided for in this Chapter.

(C) Informal Notice of Violation. Excepting violations which pose a substantial and immediate threat of bodily harm or property damage, the Town will, upon determining that a violation has occurred, make reasonable efforts to provide informal notice by telephone, email, or otherwise to

the property owner and/or other responsible party, that a violation has occurred. Such informal notice will generally describe the use, condition, act, or omission constituting the violation, and the measures required to correct the violation.

(D) *Formal Notice of Violation ("NOV")*. After giving informal notice of the violation, or reasonable attempts at same, the Administrator may in his or her discretion issue a formal Notice of the Violation (NOV). Such NOV shall be in writing and state upon its face the specific use, condition, act, or omission constituting the violation, citing the applicable provision(s) of this Chapter. The notice of violation shall also be posted on the property in accord with applicable law. The NOV shall advise that the Administrator's decision or order may be appealed to the Board of Adjustment pursuant to G.S. § 160D-405.

The NOV shall also specify the measures which must be taken to comply with the relevant Code provisions, including a time period which, in the discretion of the Administrator, is a reasonable period for correcting the violation. Following issuance of the NOV, the period for correcting the violation shall typically not exceed fifteen (15) days; provided however, the Administrator may, in his or her reasonable discretion, and based upon the scope of correction measures required, specify a longer correction period. The NOV shall also state that, if the owner or other responsible party fails to correct the violation(s) within the time period specified in the NOV, then the owner or other responsible party may, in accordance with N.G.S 160A-175, be subject to a civil penalty, with the initial amount of such civil penalty being \$50 per day, with each day's violation constituting a separate offense.

(Ord. 2005-O3, passed 3-15-2005)

§ 152.132 PROCEDURES UPON DISCOVERY OF VIOLATIONS. CIVIL PENALTIES FOR VIOLATIONS

(A) ~~When staff determines work or activity has been undertaken in violation of an adopted development regulation or other local development approval, a written notice of violation will be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may also be posted on the property.~~ *Imposition of Civil Penalties; Notice.* Civil Penalties for violation(s) as provided above will be assessed upon the Administrator's determination that the use, conditions, acts, or omissions constituting the violation of this Chapter have continued to exist, and reasonably sufficient corrective measures have not been taken to correct such violation(s). The Administrator shall provide notice of the Town's assessment of civil penalties by personal delivery, first class mail or email to the property owner and/or other responsible party, specifying the amount of the daily penalty, and the date upon which the assessment of civil penalties will commence. Such Notice of Civil Penalties shall also state upon its face the specific violation(s) for which the penalties are being assessed and shall inform the offender that failure to pay the penalties within the prescribed time shall subject the offender to a civil action in the nature of debt for the penalties, plus interest and the costs of the action to be taxed by the court. The Notice of Civil Penalties shall provide that the property owner or responsible party may "clear" the assessed civil penalties by mailing the Notice of Civil Penalties, together with full payment for such penalties, to 601 W. Corbett Avenue, Swansboro, North Carolina 28584, or by personal payment at Swansboro Town Hall (address). As used in this section, the word "cleared" shall mean either: payment of the penalties in full or arrangement with the Administrator for payment or settlement of the penalties, and satisfactory correction of those uses, conditions, actions, or omissions constituting the violation(s).

(B) ~~The written notice of violation shall state what action the Administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed~~

~~to the Board of Adjustment pursuant to G.S. § 160D-405.~~ Additional Civil Penalty. Following issuance of the NOV and the Notice of Civil Penalties, should the use, condition, acts, or omissions constituting the violation(s) continue and, as determined by the Administrator, reasonable corrective measures shall not have been made, then additional civil penalties for each successive day's violation(s), totaling \$100 per day, may be assessed. Notice of such additional civil penalties shall be provided in accord with the procedures as outlined in Subsection (A.), above.

(C) ~~Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in § 152.133.~~ Settlement of Claim for Civil Penalties. The Administrator is hereby authorized to negotiate and accept payment in full and final settlement of the claim or claims, right or rights of action which the Town may have to enforce and collect civil penalties for violation(s), subject to the express condition that the use, condition, act, or omission giving rise to the violation(s) is/are abated or otherwise corrected in full. Further, the authority granted above to the Administrator is limited to those circumstances at which accrued civil penalties are \$1,500 or less.

(D) ~~Whenever any work or activity is undertaken in substantial violation of any state or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved by personal delivery, electronic delivery, or first class mail. A stop work order may be appealed pursuant to G.S. § 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.~~ Other Remedies for Violations Reserved. In addition to the remedy of civil penalties (and foregoing procedures for imposition of such civil penalties) the Town reserves all its rights and options for enforcement of its ordinances under applicable statutes, including without limitation, the right to commence civil actions for collection of civil penalties, equitable relief, including mandatory or prohibitory injunctions, and actions for summary abatement, as allowed by law.

(E) (Ord. 2005-O3, passed 3-15-2005; Am. Ord. 2021-O3, passed 5-24-2021)

§ 152.133 CIVIL PENALTIES; AVAILABILITY OF REMEDY. ORDER TO STOP WORK OR ACTIVITY

~~(A) Generally. Any act or omission constituting a violation of this chapter shall subject the offender to a civil penalty in the amount of \$50 to be recovered by the town in a civil action in the nature of a debt or as otherwise provided herein or by statute if the offender fails to pay the penalty within 48 hours after the receipt of a citation of a violation.~~

~~(B) Citation contents. Any citation issued pursuant to this section may contain such information as the Administrator deems appropriate, and shall at least:~~

~~(1) State upon its face the specific violation(s) being cited and the amount of the penalty for each specific violation if such penalty or penalties is/are paid within 48 hours after the issuance of the citation;~~

~~(2) Notify the offender that a failure to pay the penalty or penalties within the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty or penalties plus any additional penalties assessed pursuant to this section or otherwise, together with interest and the costs of the action to be taxed by the court;~~

~~(3) Provide that the offender may answer the citation by mailing the citation and the stated penalty or penalties to 601~~

~~W. Corbett Avenue, Swansboro, North Carolina 28584, or may pay the amount at the Town Hall, corner of W. Corbett Avenue and Church Streets, Swansboro, North Carolina; and~~

~~(4) State that the penalty or penalties must be cleared with the Administrator, Town Hall within 48 hours of the issuance of the citation. The notice shall further state that court action may be taken if the violation citation is not cleared within 48 hours after the issuance of the citation. As used in this section, the word "cleared" shall mean either:~~

~~(a) Payment of the penalty or penalties in full;~~

~~(b) Arrangement for payment of the penalty or penalties in full and correction of the violation(s); or~~

~~(c) A prima facie showing to the Administrator that the citation was received as a result of mistake, inadvertence, or excusable neglect.~~

~~(C) Settlement of civil claim. The Administrator is authorized to accept payment in full and final settlement of the claim or claims, right or rights of action which the town may have to enforce such penalty by civil action in the nature of debt only if the act(s) or omission(s) which gave rise to the violation(s) is/are abated or otherwise made lawful.~~

~~(D) Additional civil penalty. If any penalty or penalties prescribed by this section is/are not cleared within 48 hours after issuance of a citation therefore, then beginning on the third day after issuance of such citation, an additional penalty of \$50 per day violation shall be imposed until each respective cited violation is cleared and either abated, or otherwise made lawful. The imposition of additional civil penalties as provided herein shall be subject to the terms of division (E) of this section.~~

~~(E) Continuing violations. After the initial 48-hour period after issuance of a citation, each day's continuing violation shall be a separate offense, but no civil penalty shall be levied against the same person for the same continuing violation at the same location more than once unless the Administrator or his designee has delivered a written notice by personal service or by registered or certified mail, return receipt requested, to the person responsible for such violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period within which corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time will result in the assessment of additional civil penalties and other enforcement action. If, after the allotted time period has expired and after the hearing of any appeal, the corrective action has not been completed, the civil penalty shall be assessed in the amount of \$100 per day of continuing violation.~~

~~(F) Continuing violations a misdemeanor. Violation of any provisions of this chapter or any of the codes incorporated therein by reference, and violation of any stop work order issued by the Administrator or his or her designee shall be a misdemeanor.~~

In addition to any other measures or remedies for enforcement of the provisions of this chapter, the Town may issue orders to stop work, activities, or uses as provided herein. , whenever any work or activity is undertaken on property is taking place which constitutes a substantial violation of this chapter (or state law subject to enforcement by the Town) or which endangers life or property in substantial violation of any state or local law, or in a manner that endangers life or property, staff the Administrator may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work property owner or other responsible party engaged in the work or activity, or use and shall state the specific work or activity ordered to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the and to the owner of the property involved of any permit or other development approval, the party

responsible for the work or activity constituting the violation, and/or to the property owner, if a different party by personal delivery, electronic delivery, or first-class mail. A stop-work order The Administrator shall certify to the Town's file the timing, content and delivery of the Order. The Order to stop the work or activity may be appealed pursuant to G.S. § 160D-405. No further work or activity constituting the violation shall take place in violation of a stop-work order pending a ruling on the appeal. Violation of a stop-work order shall constitute a Class 1 misdemeanor, so long as the order remains in effect. In addition to any other remedies, measures, or sanctions for violations, violation of an order to stop unlawful work or activities shall constitute a Class 1 misdemeanor in accordance with applicable statutes.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2016-O11, passed 9-13-2016)

§ 152.134 DEVELOPMENT APPROVAL/PERMIT REVOCATION.

(A) In addition to any other remedial measures or enforcement actions initiated by the Town, A zoning, sign, special use, conditional zoning district permit, or land improvement a permit for development or construction, or any other action constituting a development approval under applicable statutes or ordinances of the Town may be revoked by the Town permit issuing authority (in accordance with the provisions of this section) if the permit or development approval recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit issuing board Town.

(B) The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice of hearing, in the review and approval of any revocation of that approval. Before a special use or conditional zoning district any development approval or permit may be revoked, all of the notice and hearing and other requirements of § 152.064 through 152.070 shall be complied with. A notice of revocation of any development approval shall be delivered to the recipient. The notice shall inform the permit recipient of the development approval of the alleged grounds for the revocation and shall be delivered in accordance with applicable statutory requirements.

(C) Before a zoning, land improvement, or sign permit may be revoked, the Administrator shall give the permit recipient ten days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations. If the permit is revoked, the Administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

(D) No person party may continue to make use of land property or buildings in the manner authorized by any zoning, sign, special use, or conditional zoning district permit permit or development approval after such permit or approval has been revoked in accordance with this chapter.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2014-O9, passed 4-15-2014)

§ 152.135 JUDICIAL REVIEW. (RESERVED)

(A) Every decision of the Board of Commissioners granting or denying a special use or conditional zoning district permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Onslow County by proceedings in the nature of certiorari.

(B) The petition for the writ of certiorari must be filed with the Onslow County Clerk of Court within 30 days after the later of the following occurrences:

~~(1) A written copy of the board's decision has been filed in the office of the planning department;
and~~

~~(2) A written copy of the board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.~~

~~(C) A copy of the writ of certiorari shall be served upon the Town of Swansboro.~~

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2014-O9, passed 4-15-2014)

This Ordinance shall be effective upon adoption.

Adopted by the Board of Commissioners in regular session, _____, 2026.

William Justice, Mayor

Attest:

Alissa Fender, Town Clerk