

Draft Ordinance

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 NCGS 160D-605 also states that when adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan; and

WHEREAS the Board of Commissioners finds that the proposed text amendment is consistent with the current Comprehensive Plan, specifically the CAMA Land Use Plan, Land Use Compatibility, Create Zoning Standards that Enhance the Function and Appearance of the Gateway Corridor; and Implementation Recommendations and Strategies, Other Community Priorities, Enhance Appearance and Maintain Small Town Coastal Character, and considers the action taken to be reasonable and in the public interest.

NOW BE IT ORDAINED by the Town of Swansboro Board of Commissioners that the Unified Development Ordinance is amended as follows:

TITLE XV: LAND USAGE

CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE

§ 152.484 DEMOLITION.

(A) An application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure, or site within the district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Swansboro Historic Preservation Commission may negotiate with the owner and with other parties in an effort to find means of preserving the building. If the Swansboro Historic Preservation Commission finds that the building has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

(B) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied, except in cases where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(C) If the Historic Preservation Commission or Planning Board has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Board of Commissioners, the demolition or destruction of

any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Commission or Planning Board for a period of up to 180 days or until the Board of Commissioners takes final action on the designation, whichever occurs first.

§ 152.485 DEMOLITION BY NEGLECT

Demolition by Neglect (DBN) shall mean and include the failure by the owner or such other person who may have legal possession, custody, and control of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant features), either designated as an historic landmark or found to have historic significance, to keep the exterior features free of decay, deterioration, and structural defects, in order to ensure that the same shall be preserved. The term “demolition by neglect” shall also include the failure of such owner or other person having such legal possession, custody, and/or control, to repair, upon written request by the Town of Swansboro Historic Preservation Commission on behalf of the Town of Swansboro, such exterior features as are found to be deteriorating, or to correct any condition contributing to deterioration, including, but not limited to, the following defined and prohibited conditions of neglect and defect:

1. Deterioration of exterior walls, foundations, or other vertical supports that cause leaning, sagging, splitting, listing, or buckling.
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that cause leaning, sagging, splitting, listing, or buckling.
3. Deterioration of external chimneys causing leaning, sagging, splitting, listing, or buckling.
4. Deterioration or crumbling of exterior plasters or mortars.
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
6. Defective protection or lack of weather protection for exterior walls and rood coverings, including lack of paint, or weathering due to lack of paint and/or other protective coverings.
7. Rotting holes, and other forms of decay.
8. Deterioration of exterior stairs, porches, handrails, windows, and door frames, cornices, entablatures, wall facings, and architectural details that cause the delamination, instability, loss of shape and form, or crumbling.
9. Heaving, subsidence, or cracking of sidewalks, steps or pathways.
10. Deterioration of fences, gates, and/or accessory structures.
11. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

§ 152.486 PROCEDURAL REMEDIES WHEN DEMOLITION BY NEGLIGENCE IS DETERMINED

1. Applicants must provide a sealed report from a structural engineer who has inspected the site and consult with the Town Planner who will consult with NC State preservation office on the submittal and ask for additional information if needed as well as the Town Building Official and Town Engineer.
2. The report must contain a breakdown of the structural integrity of the building including the roof, walls floors, windows, doors, and foundation. A detailed description of each structural component that needs work must be provided with the remedy for repair along with documentation that the component is 50% or more structurally unsound.
3. If water infiltration is occurring an engineer must provide a sealed site plan showing solutions to the stormwater issue. The calculations will be reviewed by the Town's Engineer.
4. Submit 2 sealed sets of building plans and a site plan along with any exhibits that are needed for the review. The Town staff will work through the review process prior to taking the recommended drawings and exhibits to the Swansboro Historic Commission for consideration of a COA to facilitate and document the corrective action needed.

§ 152.4857 COMPLIANCE AND ENFORCEMENT.

(A) Compliance with the terms of the certificate of appropriateness shall be enforced by the Administrator and when appropriate by the Board of Commissioners. The discontinuance of work or the lack of progress toward achieving compliance with a certificate of appropriateness for a continuous period of six months shall be deemed a failure to comply with the certificate of appropriateness, and, without further action, the certificate of appropriateness shall be null and void. In addition to any other remedy provided by this chapter or by law, this chapter may be enforced in the same manner and violations hereof are punishable according to the procedures and penalties for violations of the zoning ordinance and town codes. In case any building, structure, site, area or object within the Historic District is about to be demolished, whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed except in compliance with the ordinance, the Town Board, the Commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal; to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such a building or structure.

(B) Additionally, nothing contained in this ordinance shall prohibit, impair, or limit in any way, the power of the Town of Swansboro to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic District in violation of the provisions of this chapter. The enforcement of any remedy provided herein shall not prevent the enforcement of other remedy or remedies provided herein or in other ordinances or laws. (See G.S. §§160A-175 and 160A-389).

(C) When Demolition by Neglect (DBN) properties have been identified and added to the DBN List, the general steps, actions, decision points, and owner's needed responses when receiving notice of violation from the Town Planner is as follows:

1. A completed DBN complaint form is submitted to the Planner and stamped with the received date and initials. Staff may fill out the complaint form based on email or phone call from a complaint. Email or regular mail is preferred, however if a phone call is received the Town Planner will respond by email and email should be sent to the complainer and the HPC. The Planner will report to the HPC at the next regular meeting.
2. Within 14 days following receipt of the DBN complaint, a status report of the complaint investigation and actions taken is mailed to the complainant and, if warranted, the property owner is notified of the violation. The complaint investigation is reported to the HPC at its next regular meeting if there is a basis for complaint. The Town Planner is the responsible party to prepare and present the reports to HPC.
3. If there is a basis for complaint, the property owner in violation has thirty calendar days to respond to the documented violation(s) contributing to demolition by neglect. The property owner may respond by phone, email or in writing. A follow-up shall be sent in the event the property owner responds by phone. A copy of that email shall be sent to the HPC within two business days of the call. The Planner shall maintain a record of communication with the property owner. The Town Planner is the responsible party to prepare and present the reports to HPC.
4. If the property owner fails to respond or to address the violation(s) by the required deadline, The Town Planner will report Town enforcement action at the next HPC meeting.
5. The HPC evaluates the staff notification of the DBN findings for a property and determines whether to proceed with further action.

§ 152.4868 MUNICIPALLY OWNED PROPERTY.

(A) Municipally owned property will be subject to the same regulations as privately owned property if located within the Historic District.

(B) If consideration is being made for possible town acquisitions of historic property, the Swansboro Historic Preservation Commission should provide input in all stages of planning on the usefulness of the acquisition. However, acquisition and restoration of historic property should remain the domain of private enterprise whenever possible.

This Ordinance shall be effective upon adoption.

Adopted by the Board of Commissioners in regular session, (Month) (Day), 2022.

Attest:

Alissa Fender, Town Clerk

John Davis, Mayor