

ORDINANCE 2023-O1
AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE
DEMOLITION BY NEGLECT AND ENFORCEMENT

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 amendment to the Unified Development Ordinance regarding demolition by neglect to be consistent with the Town of Swansboro CAMA LAND USE Plan updated January 22, 2019.

NOW BE IT ORDAINED by the Town of Swansboro Board of Commissioners that the Town Unified Development Ordinance be amended including renumbering section starting with Section 152.485 through Section 152.488 to add a new Demolition by Neglect section.

TITLE XV: LAND USAGE
CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE

§ 152.485 DEMOLITION BY NEGLECT.

Demolition by Neglect ("DBN") shall mean and include the failure to keep the exterior features of any historic building and/or structures free of decay, deterioration, and structural defects in order to ensure that the same shall be preserved. The owner or such other person who may have legal possession, custody, and control of any building or structure on the DBN List (hereafter defined) is hereafter called an "Offender". Such historic buildings and structures subject to this DBN provision include walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant features, either designated as an historic landmark or found to have historic significance. DBN shall also include the failure of such Offender to repair such exterior features as are found to be deteriorating, or to correct any condition contributing to deterioration, including, but not limited to, the following:

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 roof 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.

The Town Planner at his or her sole discretion may declare a person or entity as an Offender under this section. The Town Planner shall add any such Offenders and their properties to a list (the "DBN List") and proceed according to the provisions in § 152.487.

§ 152.486 PROCEDURAL REMEDIES WHEN DEMOLITION BY NEGLECT IS DETERMINED.

Offenders, at the Town Planner's discretion, may be required to:

1. Provide a sealed report from a structural engineer who has inspected the site and consult with the Town Planner who will consult with the N.C. State Historic Preservation Office on the submittal and ask for additional information if needed as well as the Town Building Official and Town Engineer. 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.

2. If water infiltration is occurring, provide a sealed site plan from an engineer showing solutions to the stormwater issue. The calculations will be reviewed by the Town's Engineer.

3. Submit two 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.

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

1. A completed DBN complaint form is submitted to the Town 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 Town Planner will report to the HPC at the next regular meeting.

2. The Town Planner shall investigate any complaint. Within 14 days following receipt of the DBN complaint, the Town Planner shall send a status report of the complaint investigation and actions taken to the complainant and, if warranted, send a notice of violation to the Offender. The Town Planner shall report the complaint investigation to the HPC at its next regular meeting if there is a basis for complaint.

3. If the Town Planner determines there is a basis for the complaint, the Offender has thirty calendar days to respond to the notice of violation documenting violation(s) contributing to the DBN. The Offender may respond by phone, email or in writing. The Town Planner shall send a follow-up email in the event the Offender responds by phone. The Town Planner shall send a copy of that email to the HPC within two business days of the call. The Town Planner shall maintain a record of communication with the Offender. The Town Planner is the responsible party to prepare and present the reports to the HPC.

4. If the Offender fails to respond or to address the violation(s) by the required deadline, the Town may take all action allowed under this Ordinance or other applicable law related to code enforcement. The Town Planner shall report any Town enforcement action at the next HPC meeting.

§ 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, March 13, 2023.

John Davis, Mayor

Attest:

Alissa Fender, Town Clerk

ND:4868-9267-3102, v. 1