



To the Honorable Council  
City of Norfolk, Virginia

June 25, 2019

From: George M. Homewood, FAICP, CFM, Planning Director *g*

Subject: **CITY PLANNING COMMISSION**, for a text amendment to the City's *Zoning Ordinance* to amend parts of the demolition process in the Historic and Cultural Conservation Zoning Districts.

Reviewed:

Wynter C. Benda, Chief Deputy City Manager

Ward/Superward: Citywide

Approved:

Douglas L. Smith, City Manager

Item Number: **PH-4**

- I. **Staff Recommendation: Approval.**
- II. **Planning Commission Recommendation:** By a vote of **4 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** A text amendment to modify the exemption from Certificate of Appropriateness (COA) requirements currently in place for emergency demolition of unsafe structures in Historic and Cultural Conservation Zoning Districts, clarifying how structures are to be deemed unsafe, who is to be notified, and how notification may take place.
- IV. **Applicant: City Planning Commission**
- V. **Description:**
  - The process requiring COAs for demolitions has been used sparingly, but notable cases have occurred in recent years requiring re-evaluation of the process.
  - Specific concerns were raised over the way in which a building was determined to be unsafe, over who is to be notified, and over the notification process itself.
  - The ARB voted to recommend the amendment in its present form on April 22, 2019
- VI. **Historic Resources Impacts:**  
N/A
- VII. **Public Schools Impacts:**  
N/A

Staff contact: Jeremy Sharp at (757) 823-1087, [jeremy.sharp@norfolk.gov](mailto:jeremy.sharp@norfolk.gov)

Attachments:

- Proponents and Opponents
- Staff Report to CPC dated May 23, 2019 with attachments
- Ordinance

## MEMORANDUM

TO: The Honorable City Council

Douglas L. Smith, City Manager

REVIEWED: Wynter C. Benda, Chief Deputy City Manager

Jeremy Sharp, AICP, Zoning Administrator, City Planning

CC TO: Adam Melita, Deputy City Attorney

FROM: George M. Homewood, FAICP, CFM, Director, City Planning

SUBJECT: Text Amendments to Revise Historic Demolition Process

DATE: June 21, 2019

On the June 25, 2019 Public Hearing Agenda, City Council will be reviewing a request by the City Planning Commission to amend the exemption from Certificate of Appropriateness (COA) requirements for emergency demolition of unsafe structures in Historic and Cultural Conservation Zoning Districts. The intent of these amendments is to clarify how structures are to be deemed unsafe, who is to be notified, and how notification may take place.

The current zoning regulations regarding demolition of historic structures date to 2014 and remained largely intact through the drafting of the new ordinance adopted in 2018. The process requiring COAs for demolitions has been used sparingly, but notable cases have occurred in recent years requiring re-evaluation of the process. Specifically, concerns have been raised over the way in which a building was determined to be unsafe, who is to be notified, and the notification process itself. The proposed text amendments will clarify each of those elements. They will also create a new rule limiting any demolition only to that portion of the structure that is determined unsafe. The amendments are the result of nearly six months of work on the part of staff and the Architectural Review Board (ARB). The ARB voted to recommend the amendment in its present form on April 22, 2019. City Planning Commission voted on May 23, 2019 to recommend approval of the amendment as presented.

*Staff contact: Jeremy Sharp at (757) 823-1087, [jeremy.sharp@norfolk.gov](mailto:jeremy.sharp@norfolk.gov)*

## **Proponents and Opponents**

### **Proponents**

Stephen E. Sigmon  
420 W. Bute Street  
Norfolk, VA 23510

Greta Gustavson  
421 W. Bute Street  
Norfolk, VA 23510

Karen Reynes  
401 Warren Crescent  
Norfolk, VA 23507

### **Opponents**

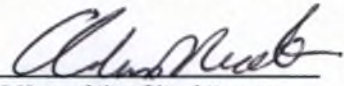
None



RAP

Form and Correctness Approved:

Contents Approved: 

By   
Office of the City Attorney

By   
DEPT.

NORFOLK, VIRGINIA

**ORDINANCE No.**

AN ORDINANCE TO AMEND THE NORFOLK ZONING ORDINANCE SO AS TO IMPROVE THE PROCESS FOR PROVIDING NOTICE OF A DEMOLITION RELATED TO AN UNSAFE OR DANGEROUS BUILDING WITHOUT A CERTIFICATE OF APPROPRIATENESS IN ANY HC (HISTORIC AND CULTURAL CONSERVATION) ZONING DISTRICT OR OVERLAY DISTRICT.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That section 2.4.10.B(2) of the Norfolk Zoning Ordinance, addressing activities in HC (Historic and Cultural Conservation) zoning districts and overlay districts that are exempt from the requirement of a certificate of appropriateness, is hereby amended and reordained so as to add a specific, improved process for providing notice that an unsafe or dangerous building or portion of a building is required to be demolished. The new text shall read as set forth in "Exhibit A," attached hereto.

Section 2:- The Council hereby finds that this zoning text amendment is required by public necessity, convenience, general welfare, or good zoning practice.

Section 3:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:  
Exhibit A (2 pages)

## Exhibit A

### 2.4.10. CERTIFICATE OF APPROPRIATENESS

...

#### B. APPLICABILITY

...

#### (2) Exemptions

...

#### (c) Demolition of Unsafe or Dangerous Building


The demolition of any structure or any portion of a structure that has been determined by either the Code Official, designated under the Property Maintenance Code of the Uniform Statewide Building Code (USBC), or the Fire Marshal to be an unsafe building that constitutes a hazard and must be removed in order to remedy the unsafe condition(s). No structure or portion of a structure shall be ordered to be removed other than that which is necessary to eliminate all unsafe conditions on the property. For purposes of this provision, the term "unsafe building" shall have the same definition as that term is defined in the USBC. Except in cases where there is an immediate danger that any portion of the unsafe structure may collapse or fall and endanger human life, no demolition shall commence until all of the following have occurred:


- (i) The owner of the structure is given notice and advised of the right to appeal the Code Official's decision in the manner required by the applicable provisions of the USBC.
- (ii) The owner of every property within 300 feet of the property upon which the structure is located and the highest elected officer (e.g. president) of the civic league that represents the area in which the subject property is located, if any such civil league exists, are provided a written notice that includes the following:
  - (A) The address or location of the property.
  - (B) A summary of the unsafe condition(s).

- (C) The decision of the Code Official, including an identification of each structure or portion of a structure this is required to be removed.
  - (D) Any right of appeal provided for under the applicable provisions of the USBC.
- (iii) Each member of the ARB is informed, by electronic mail, about the location of the property and the decision of the Code Official, including an identification of each structure or portion of a structure this is required to be removed.
- (iv) Each notice required by this subsection, above, shall be sent by the ZA as soon as practicable but in no case later than three (3) business days after the date that the structure is determined to be an unsafe building that constitutes a hazard and must be removed.



**City Planning Commission Public Hearing: May 23, 2019**

Executive Secretary: George M. Homewood, FAICP, CFM 

Staff Planner: Jeremy E. Sharp, AICP 

Staff Report	Item No. 1	
Applicant	City Planning Commission	
Request	Zoning Text Amendment	Text amendments to Section 2.4.10, "Certificate of Appropriateness" of the <i>Norfolk Zoning Ordinance</i> to amend parts of the demolition process in the Historic and Cultural Conservation Zoning Districts.

**A. Summary of Request**

This request will amend the exemption from Certificate of Appropriateness (COA) requirements currently in place for emergency demolition of unsafe structures in Historic and Cultural Conservation Zoning Districts, clarifying how structures are to be deemed unsafe, who is to be notified, and how notification may take place.

**B. Plan Consistency**

- The "Preserving Our Heritage" chapter of *plaNorfolk2030* includes an outcome calling for an increased number of historic resources to be protected.
  - Under that outcome is an action discouraging work in historic districts without a COA and another action calling for further steps to be taken to prevent demolition by neglect in historic areas.
- The proposed text amendments are intended to ensure the completion of those actions, making the proposal consistent with *plaNorfolk2030*.

**C. Zoning Analysis**

- The current zoning regulations regarding demolition of historic structures date to 2014, remaining largely intact through the drafting of the new ordinance adopted in 2018.
  - The regulations adopted in 2014 created the Architectural Review Board (ARB) and significantly altered the processes surrounding historic properties, including proposed demolitions of historic structures.
- The process requiring COAs for demolitions has been used sparingly, but notable cases have occurred in recent years requiring re-evaluation of the process.
  - Specifically, concerns were raised over the way in which a building was determined to be unsafe, over who is to be notified, and over the notification process itself.
- The ARB has begun evaluating draft language in December 2018, and spent the following several months preparing a final draft that could be recommended for adoption.
  - The ARB voted to recommend the amendment in its present form on April 22, 2019.



**D. Mobility Impacts**

N/A

**E. Public Schools Impacts**

N/A

**F. Environmental Impacts**

N/A

**G. AICUZ Impacts**

N/A

**H. Surrounding Area/Site Impacts**

N/A

**I. Payment of Taxes**

N/A

**J. Civic League**

The proposed text amendments were developed in cooperation with residents of the affected historic districts, particularly Ghent and West Freemason.

**K. Communication Outreach/Notification**

Legal notification was placed in *The Virginian-Pilot* on May 9 and May 16.

**L. Recommendation**

Staff recommends that the Zoning Text Amendment request be **approved**.

**Attachments:**

Proposed text

# Exhibit A

## 2.4.10. CERTIFICATE OF APPROPRIATENESS

...

### B. APPLICABILITY

...

#### (2) Exemptions

...

##### (c) Emergency Demolition of Unsafe or Dangerous Building

The ~~emergency~~-demolition of any structure or any portion of a structure that has been determined by either the Code Official, designated under the Property Maintenance Code of the Uniform Statewide Building Code (USBC), or the Fire Marshal to be an unsafe building that constitutes a hazard and must be removed in order to remedy the unsafe condition(s). No structure or portion of a structure shall be ordered to be removed other than that which is necessary to eliminate all unsafe conditions on the property. For purposes of this provision, the term "unsafe building" shall have the same definition as that term is defined in the USBC. Except in cases where there is an immediate danger that any portion of the unsafe structure may collapse or fall and endanger human life, no demolition shall commence until all of the following have occurred:~~which is in such a dangerous, hazardous or unsafe condition that it has been ordered demolished by the Building Commissioner or the Fire Marshal when they have determined that such condition could reasonably be expected to cause death or serious physical harm.~~

(i) The owner of the structure is given notice and advised of the right to appeal the Code Official's decision in the manner required by the applicable provisions of the USBC.

(ii) The owner of every property within 300 feet of the property upon which the structure is located and the highest elected officer (e.g. president) of the civic league that represents the area in which the subject property is located, if any such civic league exists, are provided a written notice that includes the following:

(A) The address or location of the property.

(B) A summary of the unsafe condition(s).

(C) The decision of the Code Official, including an identification of each structure or portion of a structure this is required to be removed.

(D) Any right of appeal provided for under the applicable provisions of the USBC.

(iii) Each member of the ARB is informed, by electronic mail, about the location of the property and the decision of the Code Official, including an identification of each structure or portion of a structure this is required to be removed. ~~The Building Commissioner or Fire Marshal, as appropriate, shall notify the ZA about the demolition of the structure and the ZA shall notify the chairperson of the ARB and any other interested person as soon as practicable after such a determination has been made by the Building Commissioner or Fire Marshal.~~

(+)(iv) Each notice required by this subsection, above, shall be sent by the ZA as soon as practicable but in no case later than three (3) business days after the date that the structure is determined to be an unsafe building that constitutes a hazard and must be removed.



## Williams, Sherri

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**From:** Homewood, George  
**Sent:** Monday, May 20, 2019 11:28 AM  
**To:** Nathaniel McCormick  
**Cc:** emilybirknes@gmail.com; mcspencer408@gmail.com; Karen Reynes (kreynes@aol.com); Paige Rose (pjuretic@yahoo.com); Williams, Sherri; Sharp, Jeremy  
**Subject:** RE: Ghent Neighborhood League Comments to City Planning Commission

Thanks Nat. We will share this with the Planning Commission and City Council.

**George M Homewood, FAICP CFM**  
Director of City Planning  
City of Norfolk

757.664.4770 (direct)  
757.620.3630 (mobile)

**From:** Nathaniel McCormick <nmccormick@nrha.us>  
**Sent:** Monday, May 20, 2019 9:59 AM  
**To:** Homewood, George <George.Homewood@norfolk.gov>  
**Cc:** emilybirknes@gmail.com; mcspencer408@gmail.com; Karen Reynes (kreynes@aol.com) <kreynes@aol.com>; Paige Rose (pjuretic@yahoo.com) <pjuretic@yahoo.com>  
**Subject:** Ghent Neighborhood League Comments to City Planning Commission

\*\*\* This is an EXTERNAL email. Please exercise caution. \*\*\*

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Dear Mr. Homewood:

This email is to provide comments from the Ghent Neighborhood League regarding the proposed zoning text amendment for section 2.4.10 "Certificate of Appropriateness," scheduled for discussion at the May 23 City Planning Commission Public Hearing.

While we fully understand emergency and public safety situations that may impact the demolition process, the GNL strongly supports the objectives of better communicating proposed demolitions with historic district residents and stakeholders and preventing unnecessary demolitions of contributing historic structures. We encourage CPC to adopt this proposed amendment.

Thank you for your consideration of our input.

Sincerely,

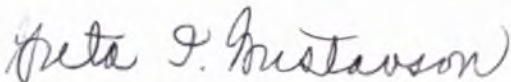
Nat McCormick  
Ghent Neighborhood League  
Chairman, Project Review Committee

**City Planning Commission Public Hearing**  
**May 23, 2019**  
**Re: Text Amendment to Section 2.4.10**

Good afternoon. My name is Greta Gustavson and I reside at 421 W. Bute Street in Norfolk. I have been a resident and home owner in the W. Freemason Historic District for 42 years and have had the honor of being on the City's Architectural Review Board since its inception in 2014. Prior to that appointment, I served on the Historic and Architectural Preservation Committee (HAPC) which crafted the current zoning for local historic districts. To this day, I still recall the meeting when emergency demolition was added. I cringed but sincerely hoped that utilization of that ordinance would never be needed.

Sadly, on December 17, 2016, a fire, suspected to be arson, damaged one of our contributing structures. However, it was 20 months later, in mid-August, 2018, before the building was deemed to be a danger and was ordered to be demolished. Because of an injunction filed in behalf of the civic league, demolition was delayed. The demolition occurred on October 30, 2018. This single fire totally altered the neighborhood because it affected the one remaining intersection in West Freemason that was anchored by contributing structures on all four corners spanning 100 years from approximately 1800 to 1900.

Although many events came into play during the time following the fire and the actual demolition order, the most outstanding one in my mind was that the current ordinance did not identify who the parties were who should be notified other than the owner and the chair of ARB. It is my belief, and that of the Architectural Review Board, that the proposed text amendment corrects those problems and offers a clearer understanding of the action other affected property owners may take. We are in support of the text amendment as presented; however, we most sincerely hope it never has to be used.



Greta Gustavson  
May 23, 2019