



## **TOWN OF KURE BEACH NOTICE OF PUBLIC HEARINGS**

Notice is hereby given that the Kure Beach Town Council will hold two, separate Public Hearings at Town Hall on Tuesday, December 17, 2013, as follows:

### **Public Hearing #1**

TIME: 6:00 p.m., or soon thereafter

PURPOSE: to receive public comments on a proposed amendment to the Code of Ordinances to add to Chapter 19 Zoning, Article III District Regulations, Division 1 Generally, a new Section 19-84 titled K Avenue Mixed-Use Overlay District.

EXPLANATION: this new ordinance outlines a Mixed-Use Overlay District on K Avenue from 3<sup>rd</sup> to 7<sup>th</sup> Avenues. Mixed-use allows for commercial activity for properties abutting K Avenue. Allowed uses would be a mixture to include housing, retail, offices, commercial and civic, by Special Use Permit. The purpose is to provide development consistent with the Town's Land Use Plan.

### **Public Hearing #2**

TIME: Immediately following Public Hearing #1

PURPOSE: to receive public comments on a proposed amendment to the Code of Ordinances to revise Chapter 19 Zoning, Article VI Signs, Section 19-378 Illumination.

EXPLANATION: this would revise the current ordinance for commercial buildings to add prohibiting bare light sources visible from the outside of a building, except for holiday lighting permitted from Thanksgiving through the 15<sup>th</sup> of January of the next year.

Copies of the proposed draft ordinances are on file in the office of the Deputy Town Clerk for viewing and can be found under Town News on the Town's website at [www.townofkurebeach.org](http://www.townofkurebeach.org).

All interested persons are encouraged to attend the hearings. If you are unable to attend the meeting, you may submit your comments in writing to Town Hall, c/o Town Clerk, 117 Settlers Lane, Kure Beach, NC 28449.

Nancy Hewitt, Deputy Town Clerk

Posted 11/22/13

**PROPOSED MIXED-USE  
OVERLAY DISTRICT**



KURE BEACH  
PLANNING & ZONING COMMISSION

Meeting Date: 11-6-13  
Agenda Item# IV. A

Present to Town Council on:  
Date: 11-19-13

PLANNING AND ZONING COMMISSION  
CONSISTENCY STATEMENT  
N.C. Gen. Stat. 160A-383

(To be read into the record as a motion, seconded, and voted upon)

- This recommendation is consistent with the objectives and policies of the Town of Kure Beach Land Use Plan adopted by Town Council September 27, 2006 (Adopted and Certified by Coastal Resources Commission November 17, 2006)
- This recommendation applies to Section \_\_\_\_\_ Part \_\_\_\_\_ of the Town of Kure Beach Land Use Plan
- Consideration of recommended text amendment to The Town of Kure Beach Code, Chapter 19 Zoning, Art. III / DIV. 1 Sec. 19  
NEW NUMBERED SECTION (19-84)
- This recommendation applies to the John Sawyer Architects B1 District Study (HPA 2007)

The Planning and Zoning Commission considers its recommendation to be reasonable and in the public interest based on the following:

1. Offer overlay District to provide development consistent with the K.B. Land Use Plan,
2. To allow commercial activity along K Ave to develop mixed use area that is safe, comfortable and attractive to pedestrians
3. To reinforce streets as public places that encourage pedestrian and bicycle travel

Therefore, the Planning and Zoning Commission requests Town Council's consideration of the above recommendation.

Attest:

\_\_\_\_\_  
Craig Galbraith, Chairman  
Planning and Zoning Commission

**P&Z RECOMMENDATION:**

**PROPOSED NEW SEC. 19-84**

**K Avenue Mixed-Use Overlay District**

**Definition:** Overlay districts or zones are established to define certain subareas within which development is subject to restrictions over and above those applicable to the underlying district. Within these overlay districts, any development that occurs must be in compliance not only with the regulations applicable to the underlying district but also with the additional requirements of the overlay district. The "K Avenue Mixed Use Overlay District" (referred to hereinafter as the "Overlay District") is such a district. Overlay districts are not required to be mapped on the official zoning map if the description of such zones in the zoning ordinance is sufficient to define their extent and application to specific properties.

**A. Purpose and Intent of the Overlay District:**

1. To provide for development consistent with the Town of Kure Beach Land Use Plan adopted in 2006;
2. To allow commercial activity along K Avenue to provide a link between the Commercial District and a commercial area in the interior of the town that is zoned as neighborhood business and is in close proximity with key buildings such as the Town Hall and Fire and Police Stations;
3. To allow a mixture of complementary land uses that may include housing, retail, offices, commercial services and civic uses, to create economic and social vitality;
4. To provide for the development of commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;
5. To reinforce streets as public places that encourage pedestrian and bicycle travel.

**B. Relationship With Underlying District:** The Overlay District is an overlay mixed use district zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. In circumstances where the underlying zone is silent, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.

**C. Geographic Boundaries of District:** The K Avenue Mixed Use Overlay District shall include and consist of lots the entire length of K Avenue between Third Avenue and Seventh Avenue. A condition of applying for a special use permit under the provisions of the Overlay District is that any privately owned parking area intended to serve the subject project shall be subject to the provisions of the permit (whether said parking is located in the Overlay District proper or not).

**D. Uses Allowed in the Overlay District (by Special Use Permit Only):**

1. Churches and other places of worship, including parish houses and Sunday schools;
2. Colleges, schools, public libraries, public museums, art galleries, and other public buildings;
3. Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on within the premises.
4. Customary home occupations.
5. Miscellaneous retail (See Section 19-1 of the Town Code for definition).
6. Light food service (primarily counter service); seating for no more than 15 customers.

**E. The following requirements and restrictions shall apply to the Overlay District:**

**1. SIGNS:**

Signs in the Mixed Use area should be small, relatively unobtrusive and compatible with the neighborhood. Towards this end, the following shall apply to the Overlay District:

a) All regulations described in Sections 19-370 to 19-383 apply to the Overlay District.

b) In addition, the following regulations apply:

1. Commercial signs may only be used in conjunction with an actual commercial activity occurring on the premises.

2. A commercial sign may only be attached to the first floor of the building. Such attachment may either be flush or projecting.

3. Only one commercial sign is allowed for each building

4. Any lighting for the commercial sign must be external. No internally lit signs are allowed in this district. Lighting shall only be allowed during the hours of operation for the business. Lighting for exterior signs must only illuminate the sign, and may not "spill over" to neighboring residences.

5. The total area of the commercial sign shall not exceed 6 square feet

6. It is encouraged that any commercial sign be attractive, and artistic, such as a carved wooden sign.

7. As defined in Sec. 19-374, no exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries are allowed. This includes tube lighting, strong lighting, LED lighting, or typical holiday lighting. Exceptions to this are typical holiday lighting and decorations which contain no commercial message.

8. Temporary "A" frame signs, or menu boards must be approved by the Town of Kure Beach Planning & Zoning Commission, to ensure that safety will be maintained, and that a reasonable time frame for use is established.

**2. LANDSCAPING and HARDSCAPING:**

Landscaping or hardscaping of property between the street curb and buildings promotes and enhances a comfortable pedestrian scale and orientation. It encourages pedestrian use of the area.

The following design standards shall apply to development in the Overlay District:

a) Landscaping

1. All usable open space, such as pedestrian walkways, separations between buildings, yard areas and common recreation areas should be landscaped and provided with an underground irrigation system, or an alternative equivalent system.
2. Trees and plants indigenous to southeastern North Carolina are recommended.

b) Walls and Fences

1. A four-foot high solid wall or fence should be constructed along the property line of any lot where construction of any residential/commercial mixed-use development is adjacent to property zone and /or used for residential purposes.
2. Chain-link, barbed-wire, razor-wire and spikes are prohibited.

c). On-site Tree Preservation

1. All species of mature oak trees should be preserved and integrated into the project design unless it is shown to be infeasible. Mature trees are defined as trees having a diameter of 30 inches or greater at a height of 4.5 feet above adjacent ground.
2. Removal of mature trees must be approved by the Building Inspector, to ensure that the circumstances present at the property warrant removal of the tree(s).

**3. BUFFERING:**

a) Shielding AC:

1. In order to keep a harmonious look, HVAC units shall be in the back or side and concealed with landscaping or lattice, unless it can be shown that the same is not feasible. If the same is not feasible, additional screening may be required.

b) Shielding trash:

1. Outside trash and garbage receptacles shall be no closer than five (5) feet from adjoining property lines.
2. There shall be minimum visibility of outside trash and garbage receptacles from the street; all reasonable efforts in this regard shall be made, taking into account the following:

(Criteria for the type of screening to be used):

- The amount and size of receptacles shall be appropriate in light of the occupancy of the building.
- If enclosed, screening material should be consistent with the building.
- Recycling should be controlled such as minimize spillover.
- Dumpsters should be on a concrete pad so they can be washed, and should be screened from neighboring properties.

**4. LIGHTING:**

- a) A detailed lighting plan shall be submitted with preliminary drawings.
- b) Parking lot lights shall be shielded down, with the lights being not more than ten feet high.
- c) Commercial entrance lights shall be shielded down and directed at the entrance to the property.
- d) Flood and security lights shall be shielded and aimed such as to not create glare on adjoining properties.
- e) Accent lighting shall be low voltage and aimed at the objects to be accented only.
- f) All lighting shall be installed and aimed to minimize light trespassing across property lines.

- g) Restrictions:
  - \* No lighting shall be aimed toward public streets causing public safety hazards.
  - \* No laser lights are allowed.
  - \* No search lights for advertising are allowed.

**F. Application:** An applicant for a use permitted in the Overlay District must apply for a Special Use Permit from the Town of Kure Beach and follow the process described in Code Section 19-82 & 19-83. Staff will review the application to ensure that it is complete, as to the provisions above and the special use requirements. Although an application may be complete, i.e. all of the requirements set out in the ordinance have been addressed, the Planning and Zoning Commission or Town Council may place additional requirements or conditions on the proposal through the special use process.

**SECTION 19-1**  
**GENERAL ZONING**

To use for reference

Kure Beach, North Carolina, Code of Ordinances >> PART II - CODE >> Chapter 19 - ZONING >>  
ARTICLE I. - IN GENERAL >>

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**ARTICLE I. - IN GENERAL**

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Sec. 19-1. - Definitions.

Sec. 19-2. - Rules of construction.

Sec. 19-3. - Short title.

Sec. 19-4. - Purpose and authority.

Sec. 19-5. - Interpretation purpose and conflict.

Sec. 19-6. - Effects on rights and liabilities under existing zoning ordinance.

Secs. 19-7—19-25. - Reserved.

**Sec. 19-1. - Definitions.**

The terms for allowable uses are listed in this section of Kure Beach's Zoning Ordinance and the extracts of the 1987 Standard Industrial Classification Manual (SIC), presented in Appendix A, will be used to determine a uses classification.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building and use* shall mean a subordinate building, the use of which is incidental to that of a principal building on the same parcel. (See sections 19-322 and 19-326)

*Agriculture* (8811) shall mean noncommercial farms, including horticulture, floriculture, dairying, livestock and poultry. No farms shall be operated for commercial purposes, nor shall there be farms for piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption of persons residing on the premises.

*Alley* shall mean a public or private thoroughfare, which affords only a secondary means of access to abutting property.

*Alterations* shall mean any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls, or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered or reconstructed.

*Apartment* shall mean any building or portion thereof used as a multifamily dwelling for the purpose of providing a complete rental dwelling unit may share means of egress.

*Awning* shall mean a roof like projection which extends from a building to shelter passerby from the weather. The sides of an awning, canopy, or marquee shall be open except for necessary supports, planting boxes and signs.

*Balcony.* An open platform projecting from the wall of a building usually supported by brackets and enclosed by a railing.

*Barrier* shall mean curbs, walls, fences, or similar protective and located to protect public right-of-way and devices designed adjoining properties.

*Basement* shall mean a story partly underground but having at least sixty (60) percent of its height above the average level of the adjoining ground.

*Beach* shall mean a stretch of land, either public or private, along the Atlantic Ocean starting within the town's jurisdiction, up to first row of vegetation or structure.

*Block* shall mean the length of street between two (2) street intersections.

*Board* shall mean the board of adjustment.

*Boardinghouse* shall mean rooming house as defined herein.

*Billboard* shall mean any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from such display. (See definition of sign below).

*Buffer* shall mean an area or means of separating two (2) adjacent areas. The design, composition, height, and location of such facilities shall be approved by the town zoning enforcement officer.

*Buffer strip* shall mean an area or means of separating two (2) adjacent areas. The design, composition, height and location shall be approved by the zoning enforcement officer. The buffer strip shall be a solid fence, wall, or a planted strip composed of deciduous and or evergreen trees spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs spaced not more than five (5) feet apart, which shall be established and maintained in perpetuity by the owner of property whenever required under the terms and provisions of this chapter.

*Building* shall mean a structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars and trailers. All provisions of building area will apply to term building. The term building shall be construed as if followed by the words or part thereof.

*Building area* shall mean the aggregate of the maximum horizontal cross section area of a lot on which building is permitted. No portion of a building will extend over the allowed building area except for the eaves of a structure which may extend eighteen (18) inches. All accessories to the structure will be considered part of the building.

*Building, front line of* shall mean that face of the principal building nearest the front line of the lot, facing the road.

*Building, height of* shall mean the vertical distance from the mean elevation of the finished grade of the building site, (the land area immediately below said building) to the highest point of the roof.

*Building inspector* shall mean the officer or other designated authority charged with the administration and enforcement of the building code or his duly authorized representative or agent.

*Building line* shall mean a line, which established the minimum allowable horizontal distance between the lot line and the nearest portion of any structure on the lot. (See yard requirements)

*Building permit* shall mean permission granted by the building inspector for the erection, relocation, reconstruction or structurally altering any building.

*Building, principal* shall mean a building in which is conducted the main or principal use of the lot on which said building is situated.

*Cellar* shall mean a story having more than forty (40) percent of its height below the average level of the adjoining ground.

*Certificate of compliance* shall mean a certificate that a premise conforms to provisions of the zoning ordinance and building code and may be used or occupied.

*Club* shall mean an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, social or the like.

*Collector street* shall mean a collector street as identified in the thoroughfare plan for the town.

*Common areas and facilities* shall mean those areas of a housing project and of a property upon which it is located within the jurisdiction of this ordinance that are for the use and enjoyment of the owner of family units located in the project. The areas may include the land, roofs, main walls, elevators, staircases, lobbies, halls, parking space, and community facilities. Community facilities are noncommercial recreational facilities such as a club house, swimming pool, tennis court or beach access for the exclusive use and enjoyment of the owners of family units located in the project.

*Common party walls* shall mean a wall, used jointly by two (2) parties under easement agreement, erected upon a line separating two (2) parcels of land, each of which is a separate real estate entity.

*Common open space* shall mean open areas, the use of which is shared by all tenants and/or property owners, as distinguished from space designated for their private use.

*Condominium* shall mean a system of individual fee ownership of complete dwelling units in a multiunit structure, whose ownership is not time shared, combined with joint ownership or common areas of the structure and land.

*Deck.* An open, unroofed porch or platform extending from or in near proximity from a house or other building.

*District* shall mean a portion of the incorporated and/or extra-territorial area of the town within which certain regulations and requirements or variances or combinations thereof apply under the provisions of this chapter. (See section 19-76, the Kure Beach zoning districts.)

*Dome.* A large hemispherical roof or ceiling.

*Dwelling* shall mean a building designed for or used by one (1) or more families for residential purposes.

*Dwelling modular* shall mean a movable or portable dwelling constructed to be transported as a unit and designed to be placed upon a permanent foundation.

*Dwelling, multifamily* shall mean a building or portion thereof used or designed as a residence for three (3) or more families having complete independent dwelling units.

*Dwelling, pre-fab* shall mean a dwelling constructed from standardized sections fabricated beforehand for shipment and quick assembly.

*Dwelling, single-family* shall mean a detached building designed for occupancy exclusively by one (1) family. A mobile home or trailer is not included in this definition, regardless of the degree of permanence of its attachment to the land.

*Dwelling, two-family* shall mean a building designed for or occupied exclusively by two (2) families having complete independent dwelling units.

*Dwelling unit* shall mean one (1) or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

*Established grade* shall mean the elevation of the street grade as fixed by the town.

*Expenditure* shall mean a sum of money paid out in return for some benefit or to fulfill some obligation.

*Extraterritorial area* shall mean that land beyond the corporate limits extending for a distance of up to one (1) mile in all directions as delineated on the official zoning map for the town.

*Family* shall mean one (1) or two (2) persons or parents related by blood, marriage, or operation of law together with their lineal descendants, ascendants and/or adopted children and including the domestic employees thereof who occupy the whole or part of a dwelling unit and further comprise a single housekeeping unit, as distinguished from a group occupying a boardinghouse, rooming-house, hotel or motel.

*Fire escape* shall mean a fireproof stairway down an outside wall to help people escape from a burning building.

*Flammable and combustible substances* shall mean substances which will ignite easily and burn freely.

*Flood* shall mean a temporary rise in stream flow that results in water overtopping its banks and inundating areas adjacent to the watercourse.

*Floodplain* shall mean the relatively flat area or low land adjacent to the channel of a river, stream or watercourse, lake or other body of standing water which has been or may be covered by floodwater.

*Floodproofing* shall mean a combination of structural provisions, changes or adjustments to properties and/or structures subject to flooding primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings.

*Flood protection elevation* shall mean the elevation to which structures and uses regulated by this chapter are required to be elevated or flood proofed. This elevation is shown on the official Flood Hazard Boundary Map (FHBM).

*Garage, private* shall mean an area of the building whose primary purpose is the storage of private vehicles.

*Gazebo*. A freestanding, roofed structure open on the sides.

*Gross floor area* shall mean the total floor space within the exterior walls of the main structure on all floors of floor space devoted to a particular use including the space occupied by such supporting facilities as storage areas, work areas, toilets, hallways, stairways, mechanical equipment and the like.

*Home occupation* shall mean an occupation for gain or support conducted only by members of the immediate or extended family residing on the premises, provided use conducted entirely within a dwelling which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and provided that no article is sold or offered for sale except such as may be produced by members of the family residing on the premises. And that no display of products nor any advertising of any nature shall be visible from the street.

*Hotel (7011)* shall mean a building intended or designed to be used as tourist lodgings which are rented to short term transients where a general kitchen and dining room are provided within the building or in an accessory building. Typical hotel services must be offered including daily linen and maid service, and receipt and disbursement of keys and mail by the attendant at the desk in the lobby or office, for the occupants of the hotel. No hotel facility shall be converted to or used as a multifamily residential dwelling. (See tourist lodgings)

*Industry group No.* (a broad description of an industry), and

*Industry No.* (a more specific breakdown of an industry) are used for brevity at the end of a definition extracted from SIC.

*Industry group No. 653, Industry number 6531* Real estate agents and managers: Establishments primarily engaged in renting, buying, selling, managing, and appraising real estate for others.

*Industrial No. 7999* shall be acceptable for the following: Amusement and recreation; bath houses; independently operated bathing beaches; public bingo parlors; bridge clubs; bridge instruction; card rooms; golf courses, miniature; operation of golf driving ranges; golf professionals not operating retail stores; golf-pitch and put; gymnastics instruction; handball courts; (except membership clubs); judo instruction; karate instruction, lifeguard service.

*Loft*. A room or storage area within a sloping roof or attic.

*Lot* shall mean a parcel of land whose boundaries have been established by some legal instrument such as a deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public road crosses a parcel of land otherwise characterized as a lot by this definition, the land on each side of the public road shall constitute a separate lot.

*Lot, corner* shall mean a lot at the junction of and abutting upon two (2) or more streets. (See section 19-325).

*Lot, depth of* shall mean the mean horizontal distance between the front and rear lot lines.

*Lot, double frontage* shall mean any interior lot having front-ages on two (2) more or less parallel streets as distinguished from a corner lot.

*Lot, front of* shall mean the front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot the narrower side fronting on the street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two (2) or more streets, the lot shall be considered to front on that street on which the greatest number of lots front, or if unplatted, on that which the greatest number of lots front, or if unplatted, on that street on which the greatest number of buildings have been erected.

*Lot, interior* shall mean a lot other than a corner lot.

*Lot lines* shall mean the lines bounding a lot as herein defined.

*Lot, reversed corner* shall mean a corner lot which does not front on the same street with the interior lots on the same side.

*Lot, through* shall mean lot, double frontage as defined herein.

*Lot of record* shall mean a parcel of land, the dimensions of which are shown on a recorded plat on file with the New Hanover County Register of Deeds.

*Lot width* shall mean the mean horizontal distance between the side lot lines measured at right angles to the depth.

*Major thoroughfares* shall mean the thoroughfare plan for the Town of Kure Beach.

*Manufacturing* shall mean the making of goods and articles by hand or by machinery with a division of labor.

*Manufactured/Mobile home:* A manufactured/mobile home shall mean a moveable or portable dwelling, a doublewide, consisting of a multi-sectional residential structure of two (2) or more sections with seven hundred fifty-six (756) sq. ft. minimum area constructed or manufactured in an off site manufacturing facility for installing or assembling on the building site bearing a seal certifying that it was built in compliance with the Federal Manufactured Housing and Construction and Safety Standards, and built after June 15, 1976, meeting all electrical, plumbing and safety standards as required by code. The tongue, axles, transporting lights and removable towing apparatus shall be removed after placement on the lot with the required anchoring and a continuous, permanent masonry wall, with no openings, except for required ventilation and access installed under the home after placement on the lot and before occupancy.

*Manufactured/Mobile home park:* shall mean a parcel of land, at least three (3) acres or more, which has been planned and improved for the placement of two (2) or more manufactured homes for dwelling purposes.

*Manufactured home space/Lot:* shall mean a parcel of land occupied or intended to be occupied by one (1), and only one (1) manufactured home for the exclusive use of the occupants of said manufactured home. Manufactured home space shall also mean a parcel of land in a

manufactured home park described above, provided with the necessary utility connections, patio, and other appurtenances necessary for the erection thereon of only one (1) manufactured home, and for the exclusive use of the occupants of said-manufactured home. This definition shall also apply to mobile home spaces.

*Miscellaneous equipment rental and leasing (7359)* shall be acceptable for the following: Electronic equipment rental and leasing, furniture rental and leasing; party supplies rental and leasing; musical instruments rental and leasing, rental and leasing of dishes, silverware and tables; television rental and leasing; hand tool rental and leasing; video recorder and player rental and leasing.

*Mobile home* shall mean a movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which may include one (1) or more components that can be retracted for transporting purposes and subsequently expended for additional capacity, or two (2) or more units separately transportable but designed to be joined into one (1) integral unit, as well as a portable dwelling composed of a single unit.

*Mobile home lot* shall mean a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

*Mobile home park* shall mean any premises used or intended to be used or occupied by two (2) or more mobile homes, anchored in place or supported by a foundation or other stationary supports, together with automobile parking space, utility structures, and other required facilities incidental thereon. This definition shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection or sale.

*Motel (7011)* shall mean a building intended or designed to be used as tourist lodgings which are rented to short term transients where a general kitchen and dining room are not required. (See tourist lodgings)

*Municipality* shall mean the Town of Kure Beach.

*Nonconformity, dimensional* shall mean a nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

*Nonconforming lot* shall mean a lot existing at the effective date of this ordinance from which this section was derived or any amendment to it and not created for the purpose of evading the restrictions of this chapter that cannot meet the minimum area or lot width requirements of the district in which the lot is located.

*Nonconforming project* shall mean any structure, development, or undertaking that is incomplete at the effective date of this ordinance from which this section was derived and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

*Nonconforming situation* shall mean a situation that occurs when, on the effective date of this ordinance from which this section was derived or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable

to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land in such matters as density and setback requirements is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

*Nonconforming use* shall mean a nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. For example, a commercial office building in a residential district may be a nonconforming use. The term also refers to the activity that constitutes the use made of the property. For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.

*Obstruction* shall mean any material body that impedes the natural flow of air, water, moving objects, vision and/or frequencies.

*Off-street loading* shall mean loading space located on the same lot as the principal use, shall mean parking spaces located on the same lot as the principal use. (See parking-remote)

*On-street loading* shall mean loading space located on public property near or adjacent to principal business.

*On-street parking* shall mean parking spaces located on public streets.

*Open porch* shall mean a porch open except for wire screening. A porch shall not be considered open if enclosed by either a permanent or detachable glass sash.

*Ordinance* shall mean this ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

*Parking-remote* shall mean parking space provided on any land within one thousand (1,000) feet of the main entrance to a principal use.

*Parking area, gross* shall mean the total area provided for the off-street parking of automobiles, including parking stalls and the necessary driveway access space thereto. Walkways, planting strips, and other landscaped areas shall not be counted as gross parking space.

*Parking, combination space* shall mean a lot used for parking that is shared by at least two (2) parties.

*Parking space* shall mean the off-street and on-street space available for the parking of motor vehicles.

*Pergola*. A structure consisting of parallel colonnades supporting an open roof of girders and cross rafters.

*Planning and zoning commission* see G.S. sections 160A-360 through 160A-362 and Code section 2-41 et seq.

*Porch*. A covered area adjoining an entrance to a building and usually having a separate roof.

*Principal use* shall mean the primary purpose of function that a parcel serves or is intended to serve.

*Professional* shall mean a person with four (4) years of college or four (4) years in an institute of higher learning with a degree in a field related to the profession. (For example, a doctor, lawyer, architect, etc.)

*Professional, general* shall mean any occupation, which is not of a professional nature.

*Public buildings* shall mean any building or structure meant to benefit the general public and from which the town derives a franchise tax or other form of annual revenue other than property tax or privilege tax. (Sec. 19-81)

*Public notice* shall mean notification to the public according to the general statutes as specified for public bodies and types of meetings or hearings.

*Recreation* shall mean any form of play, amusement, or relaxation.

*Recreation, commercial* shall mean any form of play, amusement, or relaxation used for monetary gain.

*Recreation, commercial indoor* shall mean any form of play, amusement or relaxation used for monetary gain conducted within an enclosed structure.

*Recreation, commercial outdoor (7999)* shall mean any form of play, amusement or relaxation used for monetary gain not conducted within an enclosed structure.

*Residence* shall mean a dwelling that is used for long term occupancy (i.e., single family homes, two (2) family homes, multifamily units, townhouses and condominiums) as distinguished from tourist lodgings.

*Retail, apparel and accessory stores (5611)* shall mean stores primarily engaged in selling new clothing, shoes, hats, underwear, and related articles for personal wear and adornment. Furriers and custom tailors carrying stocks of materials are included. All industry group numbers in this major retail group are acceptable as retail stores for Kure Beach's zoning.

*Retail, building materials, hardware and garden supply (5231 and 5251)* shall mean establishments primarily engaged in selling lumber and other building materials; paint, glass, and wallpaper; hardware; lawn and garden supplies. Only industry group no.'s 5231 and 5251 are acceptable as retail stores for Kure Beach's zoning.

*Retail, eating (5812) and drinking places (5813)* shall mean establishments selling prepared foods and drinks for consumption on the premises, and also lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption.

*Retail, food stores* shall mean stores primarily engaged in selling food for home preparation and consumption. Only industry group no.'s (5411, 5441, 5451, and 5461) are acceptable as retail food stores for Kure Beach's zoning.

*Retail, general (5331)* shall mean establishments engaged in selling of retail merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of the goods.

Retail

*Retail, general merchandise stores* shall mean stores, which sell a number of lines of merchandise such as dry goods, apparel and accessories, furniture and home furnishings, small wares, hardware, and food. Only industry group no. 5399 is acceptable as retail stores for Kure Beach's zoning.

*Retail, home furniture, furnishings, and equipment stores* (5712, 5722, and 5731) shall mean stores selling goods used for furnishing the home, such as furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances. Only industry group no.'s (5712, 5722, and 5731) are acceptable as retail stores for Kure Beach's zoning.

*Retail, miscellaneous* shall mean retail stores that are not found in other major groupings (drug and proprietary stores; liquor stores; used merchandise stores; sporting goods stores; book stores; stationery stores; jewelry stores; hobby, toy and game shops; camera and photographic supply stores; gift, novelty and souvenir shops; luggage and leather goods store, sewing, needlework, and piece goods stores; florists; tobacco stores; optical goods store). Industry numbers that are acceptable as retail stores for Kure Beach's zoning are: (5912, 5921, 5932, 5941, 5942, 5943, 5944, 5945, 5946, 5947, 5948, 5949, 5961, 5992, 5993, and 5995.)

*Roominghouse* (7021) shall mean a tourist lodging that rents single rooms and which may have a common kitchen, living room and bath. (See tourist lodgings)

*Setback* shall mean the distance required to obtain the front side, or rear yard open space provisions of this chapter in order to provide for runoff control, health, safety, firefighting, free flow of air and adequate off-street parking.

*Service station* (5541) shall mean an establishment used for the servicing of automobiles, including the sale of gasoline, oil, grease, and minor accessories and washing and polishing, but excluding the sale of automobiles, body repairing and painting.

*Sign* shall mean any words, lettering, numerals, parts of letters, or numerals, figures, phrases, sentences, emblems, devices, trade names or trademarks by which anything is made known, including any surface, fabric or other material or structure designed to carry such devices, such as are used to designate or attracts attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are exposed to public view, and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit.

*Spire*. A steeply pointed roof termination to a tower.

*Stable, private* shall mean a stable with capacity for not more than two (2) horses, provided, however, that a private stable may exceed a two-horse capacity if the premises whereon such stable is situated contains an area of not less than two thousand (2,000) square feet for each horse accommodated, provided, however, this chapter shall not be construed to repeal, alter, or amend any ordinance of the town relating to the maintenance of animals or livestock within the corporate limits.

*Stand*, as it relates to allowable business uses for the purpose of Kure Beach's Zoning Ordinance, shall mean the same as building with all the building code regulations and setbacks applied to said stand. (It will be a stand in name only.)

*Story* shall mean that part of a building comprised between a floor and the floor or roof next above.

*Story, half* shall mean a story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

*Street* shall mean a public road, which affords the principal means of access to abutting property including avenue, place, way, drive, land, boulevard, highway, road, and any other thoroughfare except an alley.

*Street line* shall mean the street line is the dividing line between the street and the lot, as established by the town.

*Structures* shall mean anything constructed or erected, the use of which requires location on the land including freestanding billboards, signs and fences. The term structure shall be construed as if followed by the words, or part thereof.

*Tourist lodgings* (7011) shall mean a building containing rooms designed to be used for the most part as sleeping accommodations for tourist/vacationers or short term transients (i.e., hotel, motel, boardinghouse, roominghouse and bed breakfast) as distinguished from a residential dwelling. No more than five (5) percent of the individual units shall be occupied for more than ninety (90) continuous days by the same occupant. The individual unit will be no larger than four hundred twenty-five (425) square feet in size (exclusive of bathroom, closet and balcony areas). Any unit exceeding four hundred twenty-five (425) square feet in size will meet the dimensional and parking requirements of residential units section 19-331 and section 19-339. A tourist lodging will have one (1) water meter and one (1) electric meter. Individual metering is prohibited.

*Town buildings and facilities* shall mean those buildings and facilities that are owned and operated by the town for the health and welfare of the town. (Sec. 19-80)

*Town council* shall mean the mayor and members of the governing body of the town.

*Townhouse* shall mean an individually owned single family dwelling unit constructed in a series or group of attached units with lot line wall or property lines separating such units.

*Trailer* shall mean any vehicle, house car, camp car, or any portable or movable vehicle on wheels, skids, roller, or blocks either self-propelled or propelled by any other means, which is used or designed to be used for residential, living, sleeping, commercial or utility purposes, but not including mobile vehicles primarily designed for the transportation of goods.

*Travel park* (7033) shall mean an area intended and equipped for the temporary parking of vehicles and tents designed for travel, recreational and vacation dwellings

*Travel trailer* shall mean any vehicle or structure designed to be transported and intended for human occupancy as a dwelling for short periods of time, and containing limited or no kitchen or bathroom facilities. Travel trailers shall include the following:

- (1) House trailer which shall mean a vehicular, portable structure built on a wheel designed to be towed by a self-propelled vehicle for use as a temporary dwelling for travel, recreational and vacation uses, having a body length not exceeding thirty-two (32) feet when equipped for road travel.
- (2)

Pick-up coach which shall mean a portable structure for use as a temporary dwelling for travel, recreational and vacation uses, designed to be mounted on a truck chassis for transportation, and to be used for a temporary dwelling while either mounted or dismantled.

- (3) Motor home which shall mean a portable, temporary dwelling to be used for travel, recreational and vacation uses, constructed as an integral part of a self-propelled vehicle.
- (4) Camping trailer which shall mean a folding structure manufactured of metal, wood, canvas and/or other materials, mounted on wheels and designed for travel, recreational and vacation uses.
- (5) Self-contained travel trailer which shall mean a travel trailer which can operate independent of connections to sewer, water and electrical systems. It contains a water-flushed toilet, lavatory, shower and kitchen, all of which are connected water storage and sewage holding tanks located within the unit.
- (6) Dependent trailer which shall mean a travel trailer which does not have a flush toilet, a lavatory, bath or shower.

*Use* shall mean the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

*Variance* shall mean a modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which a variance is granted.

*Warehouse* shall mean a building where wares, or goods, are stored, as before distribution to retailers, or are kept in reserve, in bond, etc.

*Way* shall mean a street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicle.

*Widow's walk.* A railed observation platform usually atop a coastal house.

*Yard* shall mean an open space on the same lot with a building (primary and accessory), unoccupied and unobstructed from the ground upward except by trees, shrubbery, or screen walls or fences as otherwise provided or required in this chapter. The minimum allowable depth or width of a yard shall be determined by a line parallel to or following the curvature of the property line a constant distance there from.

*Yard, front* shall mean a yard across the full width of the lot, extending from the front line of the nearest building on the lot to the front line of the lot.

*Yard, rear* shall mean a yard across the full width of the lot, as measured from the furthest rear point of the principal building to the rear line of the lot.

*Yard, side* shall mean a yard across the full width of the lot, extending from the side line of the principal building on the lot to the side line of the lot.

*(Ord. of 8-19-03; Ord. of 11-20-07; Ord. of 4-15-08; Ord. of 3-17-09)*

*Cross reference— Definitions and rules of construction generally, § 1-2.*

## **Sec. 19-2. - Rules of construction.**

- (a) Words used in the present tense include the future. The words "used for" include the words "intended for." Words used in the singular number include the plural number and words in the plural number include the singular number. The word "lot" includes the word "plot." The word "structure" includes the word "building." The word "shall" is mandatory and not directory.
- (b) The term "Town of Kure Beach" shall have the same meaning as the term City of Kure Beach and the extraterritorial jurisdiction.

*(Ord. of 8-19-03)*

*Cross reference— Definitions and rules of construction generally, § 1-2.*

### **Sec. 19-3. - Short title.**

This chapter shall be known as the "Zoning Ordinance of the Town of Kure Beach and its Extraterritorial Jurisdiction," and the map herein adopted by reference which is on file in the town clerk's office is identified by the title, "Zoning Map of the Town of Kure Beach and its Extraterritorial Jurisdiction," and shall be known as the "Zoning Map."

*(Ord. of 8-19-03)*

### **Sec. 19-4. - Purpose and authority.**

- (a) The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They are designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.
- (b) The provisions of this chapter are adopted under authority granted by the General Assembly of the State of North Carolina, particularly G.S. chapter 160A, article 19, part 3.

*(Ord. of 8-19-03)*

### **Sec. 19-5. - Interpretation purpose and conflict.**

In interpreting and applying the provisions of this chapter they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties. Where this chapter imposed a greater restriction upon the use of buildings or premises or upon the height of buildings, or request larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this chapter shall govern, provided nothing in the chapter shall be construed to amend or repeal any ordinance of the town relating to maintenance or keeping of horses or livestock or other animals within the corporate limits.

*(Ord. of 8-19-03)*

### **Sec. 19-6. - Effects on rights and liabilities under existing zoning ordinance.**

This chapter in part carries forward by reenactment some of the provisions of the zoning ordinance of the town enacted in prior years. It is not the intention to repeal but rather to reenact and continue in force without interruption such existing provisions, so that all rights and liabilities that have occurred there under are preserved and may be enforced. The enactment of this amendment shall not effect any action, suit, or proceeding instituted or pending. All provisions of the zoning ordinance of the town. enacted in prior years which are not reenacted herein are hereby repealed.

*(Ord. of 8-19-03)*

**Secs. 19-7—19-25. - Reserved.**

# DEFINITION OF RA-2 RESIDENTIAL DISTRICT

This is the current zoning for K  
Avenue from 3<sup>rd</sup> to 7<sup>th</sup> Avenues

Kure Beach, North Carolina, Code of Ordinances >> PART II - CODE >> Chapter 19 - ZONING >>  
ARTICLE III. - DISTRICT REGULATIONS >> DIVISION 4. - RA-2 RESIDENTIAL DISTRICT >>

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## DIVISION 4. - RA-2 RESIDENTIAL DISTRICT

Sec. 19-151. - Purpose.

Sec. 19-152. - Permitted uses.

Sec. 19-153. - Dimensional requirements.

Sec. 19-154. - Modification to required lot area and required yards.

Sec. 19-155. - Parking requirements.

Sec. 19-156. - Signs.

Secs. 19-157—19-165. - Reserved.

### **Sec. 19-151. - Purpose.**

The RA-2 district is composed of certain quiet, low density residential sections of the community plus certain open areas where similar residential development appears likely to occur as indicated by the land development trend and for the housing of seasonal tourists. The regulations of this district are intended to discourage any use which because of its character would substantially interfere with the development of single- and two-family residences in the districts and which would be detrimental to the quiet residential nature of the areas included within this district.

*(Ord. of 8-19-03)*

### **Sec. 19-152. - Permitted uses.**

The following are the permitted uses in the RA-2 district:

- (1) One- and two-family dwellings;
- (2) Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on in their respective residences (80-11, 21, 31, 41, 42, 43, 49; 8711, 12, 21; 8111);
- (3) Customary home occupations, such as dressmaking, music teaching, preserving, home cooking and laundering, but not including beauty parlors, provided that such occupation shall be engaged in only by residents on the premises, and not more than the equivalent of the area of one (1) floor shall be used for such occupations, that no display of products nor any advertising of any nature shall be visible from the street and that no accessory building shall be used for such home occupations;
- (4) Churches and other places of worship, including parish houses and Sunday schools (8661);
- (5) Colleges, schools, public libraries, public museums, art galleries, and other public buildings (8211, 8221, 8231, 8412); (S)
- (6) Accessory buildings to permitted uses, provided that no accessory building shall be rented or occupied. Provided further, that accessory buildings shall be constructed at time or following construction of the main building. Noncommercial recreational facilities, such as, clubhouse, swimming pools, and tennis court.

*(Ord. of 8-19-03; Ord. of 4-19-11, § 5)*

### **Sec. 19-153. - Dimensional requirements.**

The following dimensional requirements shall apply to all uses in the RA-2 district unless other requirements are stated herein:

- (1) Minimum required lot area shall be five thousand (5,000) square feet;
- (2) Minimum required mean lot width shall be fifty (50) feet;
- (3) Minimum required front yard shall be twenty (20) feet;
- (4) Minimum required side yard shall be five (5) feet;
- (5) Minimum required rear yard shall be ten (10) feet.

*(Ord. of 8-19-03)*

### **Sec. 19-154. - Modification to required lot area and required yards.**

- (a) A dwelling together with its accessory buildings may be erected on a lot or plot having less than five thousand (5,000) square feet provided the same existed under one (1) ownership, this to include heirs at law or legators, by virtue or a recorded plat or deed in the office of the register of deeds of New Hanover County prior to the original passage of this requirement in January 1961.
- (b) The following modification to required lot area and required yards shall apply in this case:
  - (1) Front yards shall have no modification in front yards;
  - (2) Rear yards shall have no modification allowed to required rear yards.

*(Ord. of 8-19-03)*

### **Sec. 19-155. - Parking requirements.**

Parking shall be provided as required in sections 19-334 through 19-339.

*(Ord. of 8-19-03)*

### **Sec. 19-156. - Signs.**

The regulations and requirements for signs in this district shall conform to the Sign Code, Article VI of this chapter.

*(Ord. of 8-19-03)*

### **Secs. 19-157—19-165. - Reserved.**

**PROPOSED REVISION OF  
ILLUMINATION ORDINANCE  
FOR COMMERCIAL BUILDINGS**



KURE BEACH  
PLANNING & ZONING COMMISSION

Meeting Date: 11-6-13  
Agenda Item# C

Present to Town Council on:  
Date: 11-19-13

PLANNING AND ZONING COMMISSION  
CONSISTENCY STATEMENT  
N.C. Gen. Stat. 160A-383

(To be read into the record as a motion, seconded, and voted upon)

\_\_\_\_\_ This recommendation is consistent with the objectives and policies of the Town of Kure Beach Land Use Plan adopted by Town Council September 27, 2006 (Adopted and Certified by Coastal Resources Commission November 17, 2006)

\_\_\_\_\_ This recommendation applies to Section \_\_\_\_\_ Part \_\_\_\_\_ of the Town of Kure Beach Land Use Plan

Consideration of recommended text amendment to The Town of Kure Beach Code, Chapter 19 Zoning, Art. VI signs Sec. 19-378

\_\_\_\_\_ This recommendation applies to the John Sawyer Architects B1 District Study (HPA 2007)

The Planning and Zoning Commission considers its recommendation to be reasonable and in the public interest based on the following:

1. To curtail new trend of display of bright lights around windows, buildings, signs
2. To add clarification to Sec. 19-378 in order to prevent the rays of illumination from being cast on neighboring buildings
3. \_\_\_\_\_

Therefore, the Planning and Zoning Commission requests Town Council's consideration of the above recommendation.

Attest:

\_\_\_\_\_  
Craig Galbraith, Chairman  
Planning and Zoning Commission

**CURRENT:**

Sec. 19-378. Illumination.

Illumination devices such as, but not limited to, flood or spot lights shall be placed and shielded to prevent the rays of illumination from being cast upon neighboring buildings, pedestrians in public rights-of-way, and/or vehicles approaching from either direction.

**PROPOSED RECOMMENDATION:**

Sec. 19-378. Illumination.

Illumination devices such as, but not limited to, flood or spot lights shall be placed and shielded to prevent the rays of illumination from being cast upon neighboring buildings, pedestrians in public rights-of-way, and/or vehicles approaching from either direction. (Ord. of 8-19-03)

Bare light sources (including but not limited to festive light strands, incandescent, fluorescent, high intensity discharge, LED, fiber optics and neon) used to outline property lines, open sales areas, roof lines, doors, windows the edges of walls or any other area of the building or property visible from outside the building are prohibited, except for holiday lighting permitted from Thanksgiving through January 15<sup>th</sup> of the new year.

**Sec. 19-370. - Intent.**

The purpose of the following sign requirements is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment and enhance community development. The sign ordinance applies to the incorporated town limits unless otherwise identified. It applies to commercial buildings in all zones.

*(Ord. of 11-16-10)*