



PLANNING & ZONING COMMISSION AGENDA

REGULAR MEETING

Tuesday, January 14, 2020 @ 7:00 pm

CALL TO ORDER – Chairman Galbraith

ADOPTION OF AGENDA

APPROVAL OF MEETING MINUTES:

- December 4th, 2019 Regular Meeting

PUBLIC COMMENTS

OLD BUSINESS

1. Presentation by intern(s)
2. Graffiti Ordinance (Galbraith)
3. Legislative update and recommendations (Eldridge)
4. *Consideration of text amendments to Chapter 10, Section 10 (Generally), Chapter 10, Section 20 (Parking Rules), and Chapter 13, Section 60 (Removal of Obstructions and Encroachments) regarding Public Right-of-Ways (Eldridge)

NEW BUSINESS

1. Light Pollution ordinance and Dark Sky regulations (Garceau)

MEMBER ITEMS

ADJOURNMENT

**TOWN OF KURE BEACH
ORDINANCE 10.10.010**

NOW THEREFORE, be it ordained by the Council of Town of Kure Beach, in the State of North Carolina, as follows:

SECTION 1: **AMENDMENT** "10.10.010 Generally" of the Town of Kure Beach Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

10.10.010 Generally

- A. *Definitions.* For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Driveway. An area allowing ingress and egress to private residences that is not open to public vehicular traffic.

Intersection. The lateral edge of roadway lines of two or more streets or highways which join one another at any angle regardless whether one such street or highway crosses the other.

Motorcycle. A vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including, motor scooters, and motor-driven bicycles but excluding tractors and utility vehicles equipped with an additional form of device designed to transport property, three-wheeled vehicles while being used by law-enforcement agencies, electric assisted bicycles, and mopeds.

Moped. A non-passenger vehicle, other than a motor-driven bicycle or electric assisted bicycle, that has two or three wheels, no external shifting device, a motor that does not exceed fifty (50) cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than thirty (30) miles per hour on a level surface. The motor may be powered by electricity, alternative fuel, motor fuel, or a combination of each.

Owner. A person holding legal title to a vehicle. For the purposes of this article, the lessee of a vehicle shall be considered the owner of the vehicle.

Park. The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of loading or unloading.

Passenger vehicle. Registered golf carts, motorcycles, and four-wheel vehicles, including pick-up trucks, panel trucks, and vans which do not exceed ten thousand (10,000) pounds, which are not used in a delivery or freight business and/or to carry passengers for a fee.

Property-hauling vehicles.

- (a) Vehicles used for the transportation of property.
- (b) Semitrailers. Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.
- (c) Trailers. Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle.

Public right-of-way. A strip of land acquired for or dedicated to public transportation purposes over which is constructed a street or highway and which includes areas adjacent thereto which may be used for, without limitation, sidewalks, planting strips, traffic circles, utilities, and/or medians.

Standing. Any stopping of a vehicle, whether occupied or not.

Street/highway. The entire width of a roadway between property or right-of-way lines when any part thereof is open to the use of the public for the purpose of vehicular traffic.

Vehicle. Every device in or upon which any person or property may be transported or drawn upon a street or highway excepting devices moved by human power or used exclusively upon stationary rails or tracks provided that, for the purpose of this chapter, a bicycle, moped, or a ridden animal shall be deemed a Vehicle but shall not be deemed a passenger vehicle.

(Ord. of 6-25-18(1))

B. *Obedience To Police.* No person shall refuse to comply with any lawful order or direction of a police officer. (Ord. of 6-25-18(1))

C. *Civil Penalty For Violations*

- (a) Any owner or operator of a vehicle violating the provisions of this article shall be subject to a civil penalty in the amount of twenty-five dollars (\$25.00) for each violation; provided that an owner or operator of a vehicle illegally parking in a designated handicapped parking space in violation of KBC 10.10.020 subparagraph J shall be subject to a civil penalty in the amount of two hundred and fifty dollars (\$250.00).

- (b) In the event a vehicle is towed and impounded under this subparagraph, post-hearing notice requirements, the owner's right to a probable cause hearing on the towing, redemption of the vehicle, and the sale and disposition of unclaimed vehicles shall be as set forth in G.S. Chapter 20, Article 7A and the provisions of KBC 8.08.080 through KBC 8.08.110.

(Ord. of 6-25-18(1))

AFTER AMENDMENT

10.10.010 Generally

- A. *Definitions.* For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Driveway. An area allowing ingress and egress to private residences that is not open to public vehicular traffic.

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- (c) Trailers. Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle.

Public right-of-way. A strip of land acquired for or dedicated to public transportation purposes over which is constructed a street or highway and which includes areas adjacent thereto which may be used for, without limitation, sidewalks, planting strips, traffic circles, utilities, and/or medians. Private property does not extend to the street edge.

Standing. Any stopping of a vehicle, whether occupied or not.

Street/highway. The entire width of a roadway between property or right-of-way lines when any part thereof is open to the use of the public for the purpose of vehicular traffic.

Vehicle. Every device in or upon which any person or property may be transported or drawn upon a street or highway excepting devices moved by human power or used exclusively upon stationary rails or tracks provided that, for the purpose of this chapter, a bicycle, moped, or a ridden animal shall be deemed a Vehicle but shall not be deemed a passenger vehicle.

(Ord. of 6-25-18(1))

B. *Obedience To Police.* No person shall refuse to comply with any lawful order or direction of a police officer. (Ord. of 6-25-18(1))

C. *Civil Penalty For Violations*

(a) Any owner or operator of a vehicle violating the provisions of this article shall be subject to a civil penalty in the amount of twenty-five dollars (\$25.00) for each violation; provided that an owner or operator of a vehicle illegally parking in a designated handicapped parking space in violation of KBC 10.10.020 subparagraph J shall be subject to a civil penalty in the amount of two hundred and fifty dollars (\$250.00).

(b) *Generally.* The owner or operator of any vehicle who has been notified of a violation of this article may, within the time specified in the notice, present himself or herself by mail or in person with the notice or ticket at the police department and answer the violations noted thereon by voluntarily paying the civil penalty specified on the notice or ticket. Any vehicle owner/operator receiving a notice or ticket hereunder shall be permitted to pay the civil penalty without contesting the violation by appearing in person at the Town of Kure Beach, 117 Settlers Lane, Kure Beach, NC 28449 within fifteen (15) days of issuance of the notice or ticket.

**TOWN OF KURE BEACH
ORDINANCE 10.10.020**

NOW THEREFORE, be it ordained by the Council of Town of Kure Beach, in the State of North Carolina, as follows:

SECTION 1: **AMENDMENT** "10.10.020 Parking Rules" of the Town of Kure Beach Municipal Code is hereby *amended* as follows:

B E F O R E A M E N D M E N T

10.10.020 Parking Rules

A. *Parking In General And Manner Of Parking*

- (a) Passenger vehicles shall be parked only in designated parking spaces excepting property owners and lessors in the town's residential districts who shall be permitted to park their vehicles, without time restrictions, on the unpaved portion of the public right-of-way abutting their front yard and within the front yard setback of the property they own or lease in accordance with the applicable provisions of KBC 15.
- (b) Passenger vehicles when parked in designated spaces for parallel parking shall be so parked that the curbside wheels of the vehicle shall not be more than twelve (12) inches from the curb.
- (c) Passenger vehicles when parked in designated spaces for diagonal parking shall be so parked that the vehicle's front wheels are immediately adjacent to the curb or parking bumper.
- (d) Passenger vehicles shall be parked in designated parking spaces such that the overall dimensions of the vehicle shall be entirely within the parking space as designated.
- (e) Violations of this subparagraph shall subject the offender to the imposition of a civil penalty as provided for in KBC 10.10.010 subparagraph C.
- (f) The prohibitions in this article shall not apply to emergency and public service vehicles whose operators are performing services for which they are responsible not shall these prohibitions apply to vehicles belonging to or operated by employees of third-party vendors under contract with the town to provide a public service.
(Ord. of 11-15-16(2); Ord. of 6-25-18(1); Ord. of 6-25-18(2))

B. *Non-Passenger Vehicles.* Only passenger vehicles shall be permitted to park in the town's designated parking spaces and all other vehicles, including property-hauling vehicles, are prohibited from parking in the designated spaces. (Ord. of 6-25-18(1))

C. *Designation Of Parking Spaces, Areas, And Zones*

- (a) The public works department shall, when authorized and directed to do so by town council, lay off and designate by appropriate signage and markings, parallel and diagonal parking spaces, limited parking spaces, reserved parking spaces, handicapped parking spaces, loading zones, and no parking areas.
- (b) Parallel and diagonal parking spaces shall be marked on the ground and each space shall not exceed twenty (20) feet in length.
(Ord. of 6-25-18(1))

- (l) On any part of a public right-of-way except by passenger vehicles in designated parking spaces or as otherwise provided for herein.
(Ord. of 6-25-18(1); Ord. of 6-25-18(2))

I. *Beach Access Parking.* It shall be unlawful for any person to park or leave standing in any public beach access parking area any passenger vehicle between the hours of 1:00 a.m. and 5:00 a.m. between the months of April 1 and October 1 of each year on the following beach access areas:

1342	Fort Fisher Blvd. S.	Ocean Dune
643	Fort Fisher Blvd. S.	E Avenue
541	Fort Fisher Blvd. S.	F Avenue
443	Fort Fisher Blvd. S.	G Avenue
343	Fort Fisher Blvd. S.	H Avenue
227	Fort Fisher Blvd. S.	I Avenue
139	Fort Fisher Blvd. S.	J Avenue
334	Fort Fisher Blvd. S.	N Avenue

(Ord. of 6-25-18(1))

A F T E R A M E N D M E N T

10.10.020 Parking Rules

A. *Parking In General And Manner Of Parking*

- (a) Passenger vehicles shall be parked only in designated parking spaces excepting property owners and lessors in the town's residential districts who shall be permitted to park their passenger vehicles, without time restrictions, on the unpaved portion of the public right-of-way abutting their front yard and within the front yard setback of the property they own or lease in accordance with the applicable provisions of KBC 15. Property owners must keep the unpaved portion of the right-of-way abutting their front yard clear of any obstacles, impediments, plantings, or structures. Property owners are specifically prohibited from barricading or roping off any portion of the right-of-way or posting signage therein. The only items permitted in the unpaved portion of the right-of-way are mailboxes.
- (b) Passenger vehicles when parked in designated spaces for parallel parking shall be so parked that the curbside wheels of the vehicle shall not be more than twelve (12) inches from the curb.
- (c) Passenger vehicles when parked in designated spaces for diagonal parking shall be so parked that the vehicle's front wheels are immediately adjacent to the curb or parking bumper.
- (d) Passenger vehicles shall be parked in designated parking spaces such that the overall dimensions of the vehicle shall be entirely within the parking space as designated.
- (e) Violations of this subparagraph shall subject the offender to the imposition of a civil penalty as provided for in KBC 10.10.010 subparagraph C.

**TOWN OF KURE BEACH
ORDINANCE 13.02.060**

NOW THEREFORE, be it ordained by the Council of Town of Kure Beach, in the State of North Carolina, as follows:

SECTION 1: **AMENDMENT** "13.02.060 Removal Of Obstructions And Encroachments" of the Town of Kure Beach Municipal Code is hereby *amended* as follows:

B E F O R E A M E N D M E N T

13.02.060 Removal Of Obstructions And Encroachments

Upon a report that there are obstructions or encroachments on any of the streets, sidewalks, wharves or other public places in the town, the town shall give written notice to any person causing such obstruction or encroachment to remove same immediately. Upon the owner's failure to remove such obstruction the town shall order such obstruction or encroachment removed. Any person refusing or failing to remove such obstruction or encroachment within ten (10) days after such notice from the town shall be subject to a civil penalty for each day such obstruction or encroachment shall continue after notification for its removal. Each day such obstruction is continued after the limit fixed for such removal shall constitute a separate and distinct offense.

(Code 1973, § 23-20)

A F T E R A M E N D M E N T

13.02.060 Removal Of Obstructions And Encroachments

Upon a report that there are obstructions or encroachments on any of the streets, sidewalks, public right-of-ways, wharves or other public places in the town, the town shall give written notice to any person causing such obstruction or encroachment to remove same immediately. Upon the owner's failure to remove such obstruction the town shall order such obstruction or encroachment removed. Any person refusing or failing to remove such obstruction or encroachment within ten (10) days after such notice from the town shall be subject to a civil penalty for each day such obstruction or encroachment shall continue after notification for its removal. Each day such obstruction is continued after the limit fixed for such removal shall constitute a separate and distinct offense.

(Code 1973, § 23-20)



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 4, 2019 @ 7:00 pm

The Kure Beach Planning and Zoning Commission (P&Z) held its regular meeting on Wednesday, December 4, 2019. A quorum of members was present and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

Chairman Craig Galbraith
Member Bill Moore
Member David Garceau
Member Kenneth Richardson
Member Robert Young

P&Z MEMBERS ABSENT

STAFF PRESENT

Mandy Sanders, Town Clerk
Beth Chase, Deputy Town Clerk

CALL TO ORDER

Chairman Galbraith called the meeting to order at 7:00 pm.

APPROVAL OF AGENDA

MOTION – Member Richardson made a motion to approve the agenda as presented
SECOND – Member Garibay
VOTE - Unanimous

APPROVAL OF MEETING MINUTES:

1. November 6, 2019 Regular Meeting

MOTION – Member Garceau made a motion to approve the meeting minutes for November 6, 2019
SECOND – Member Garibay
VOTE- Unanimous

OLD BUSINESS

1. Presentation by intern(s)

Gloria Abbotts stated:

- Based on the meeting last month the Town has already done a lot towards being green
- Currently working on a green audit of the Town
- Met with Building Inspector Batson, Recreation Director Keely and Chairman Dennis Panicali from SLABP Committee
- At the February meeting will have the green audit complete for review



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 4, 2019 @ 7:00 pm

2. Graffiti Ordinance

MOTION-Chairman Galbraith made a motion to table this item to the January agenda

SECOND- Member Richardson

VOTE- Unanimous

NEW BUSINESS

1. Accept Robert Young's resignation from the P&Z Commission

MOTION – Chairman Galbraith made a motion to accept the resignation of Robert Young from the P&Z Commission

SECOND – Member Richardson

VOTE- Unanimous

2. Interview P&Z Alternate Robert Rhoads

- Currently lives at 117 4th Ave N
- Lived in Kure Beach for the past year and a half
- Spent 20 years as a project manager in Pennsylvania
- Prior to being a project manager he was a sales consultant and systems engineer
- Thought he would apply to help improve the community and offer any input that might be relevant

INTERVIEW QUESTIONS AND ANSWERS:

1. Does he have an engineer degree?
2. Where did he receive his degree?
3. What were his duties as a project manager?
4. After living here for the past year and a half, does he have any ideas he would like to see improved in the Community?
5. Has he been involved in your previous communities?

Robert Rhoads answered he has a Bachelor of Science in Electronic Engineering Technology. He received the degree from The Capital Institute of Technology in Maryland. His duties as a project manager were to review specifications, purchase orders, and also worked with other departments to make sure the project was on time and in budget. He does not have anything currently he would change about the Town. He has not been involved in any previous communities.

3. Interview P&Z Alternate Kathleen Zielinski

- Lives at 714 Settlers Lane
- Lived in Kure Beach for the past 5 years
- Volunteered for the Community Center Committee until hired into the Building Inspections Department
- Assistant to Building Inspector John Batson and served as the secretary for the P&Z Commission and Clerk to Board of Adjustment



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 4, 2019 @ 7:00 pm

- Now that she is away from Town employment she saw the opportunity to volunteer in this position and has the background to help contribute to the Town
1. Now that she is no longer employed by the Town what areas does she see that could be improved?
 2. How long has she lived here?
 3. Where did she move from?

Kathleen Zielinski stated the Town is doing a great job and nothing comes to mind. She noticed the Town has created the Historic Preservation Commission and if chosen to serve will spend time getting caught up on the Commission. She has lived here for 5 years and is originally from New York.

4. Light Pollution ordinance and Dark Sky regulations

MOTION- Member Garceau made a motion to table this agenda item to the January meeting

SECOND- Member Moore

VOTE- Unanimous

5. Legislative update and recommendations

Attorney Eldridge stated:

- Not too much to report on tonight but it is a working progress
- Town Council approved PZC and Attorney Eldridge to move forward reviewing the legislative changes that are currently effective and the new chapter 160D which will become effective a year from this January
- Given the authorization was on November 20 and the Thanksgiving Holiday only just begun the review of part one which are the current changes
- There are probably 3 of 4 that will concern the Commission and are relevant to look at and need to cross check the code to see if any amendments are necessary for that
- Not aware of any current applications that these new changes would impact so it is a working progress and will bring back more detail the report and recommendations on part one the currently legislative changes
- Also wanted to mention the legislative changes are now not as simple as they use to be and the language is more complicated
- Spend the next 30 days reviewing and will figure out if any code amendments are necessary and will make those recommendations and proceed as instructed

Chairman Galbraith stated the Commission has had several discussions regarding how the Commission needs to change the activities or businesses that are allowed in the various districts because of the court case. Need to make the language consistent. His recommendation is for the Commission to review the list of prohibited uses in each district.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 4, 2019 @ 7:00 pm

Attorney Eldridge commented the Chairman is talking about supplementing the provision in the zoning chapter of prohibited uses. We have eliminated the problematic language and the Town is effectively using that provision of prohibited uses. The Town is okay in respect to the legal ruling but the point the Chairman has made consistently is adding to the list of prohibited uses.

6. Right of Way Obstructions

Member Richardson gave a presentation on Right of Way Obstructions. Said presentation is herein incorporated as part of these minutes.

Member Richardson stated:

- Had a meeting with the Parking Committee and at the meeting Building Inspector Batson brought up an issue that is becoming more of a concern regarding the right of way
- First two pictures on the presentation is what a right away should look like
- The rest of the photos show residents have put boulders and stakes to keep people from parking in the right away
- Building Inspector Batson wants the Commission to tighten up the ordinances regarding the right of ways
- Spoke with the Mayor and he supported this item

Commissioner Whitley commented 23 certified letters have gone out regarding this issue.

Attorney Eldridge stated:

- Member Richardson has identified the problems
- The Town regulations allows the property owner to park on the unpaved portion of the right of way
- A problem that is emerging from this is vehicles are being parked in those spaces that are not the property owner
- Member Richardson drafted a Right of Way definition
- Town Council may want to more expressively provide a prohibition against construction in the right of way but don't need to include in the right of way language
- ROW is currently defined in Chapter 10.10.010 of Code: Public right-of-way
- Obstructions in ROW covered in Chapter 13.02.60: Removal Of Obstructions And Encroachments. Upon a report that there are obstructions or encroachments on any of the streets, sidewalks, wharves or other public places in the town, the town shall give written notice to any person causing such obstruction or encroachment to remove same immediately
- These provisions can be tweaked for greater clarity such as, for example, including a reference to property lines in the definition for public right-of-way. In 13.02.60, "public right-of-way" could be substituted for "streets," a reference could be made to Chapter 10's ROW definition, and express prohibitions against owners roping off or barricading within the ROW could be included.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 4, 2019 @ 7:00 pm

- Tweaking 13.02.60 as noted above should be sufficient for owner purposes. In the event of non-owner related “construction or maintenance vehicles parking in the ROW of private residences,” it may be sufficient to ticket them for parking illegally.
- Recommend against regulating, in the definitions themselves, permissible and non-permissible actions. Definitions define and do not regulate. If it is decided to expressly regulate permissible and non-permissible actions with respect to ROW’s, then recommend doing so in express provisions as suggested above.
- Amending Chapter 15 (the new number for the Zoning Chapter) may not be necessary since obstructions are a ROW issue and apparently do not concern property owner’s actions on their property.

MOTION- Chairman Galbraith made a motion for Planning & Zoning Attorney Eldridge to proceed with the appropriate recommended amendments to Chapter 10 and Chapter 13 regarding the amendments on Right of Way

SECOND- Member Richardson

VOTE- Unanimous

7. Rescheduling January 1, 2020 meeting

MOTION – Chairman Galbraith made a motion to reschedule the January 1, 2020 meeting to January 14, 2020 at 7:00 p.m.

SECOND – Member Richardson

VOTE- Unanimous

~~MEMBER ITEMS~~

MOTION- Member Garceau made a motion to recommend to the Town Council Kathleen Zielinski as the alternate member of the P&Z Commission

SECOND- Member Moore

VOTE- Unanimous

ADJOURNMENT

MOTION – Member Richardson made a motion to adjourn the meeting at 7:51 p.m.

SECOND – Member Moore

VOTE- Unanimous



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 4, 2019 @ 7:00 pm

ATTEST: _____
Mandy Sanders, Town Clerk

Craig Galbraith, Chairman

NOTE: These are action minutes reflecting items considered and actions taken by Planning and Zoning Commission. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under government>agendas&minutes.