



PLANNING & ZONING COMMISSION AGENDA

REGULAR MEETING

Tuesday, February 11, 2020 @ 6:30 pm

CALL TO ORDER – Chairman Galbraith

ADOPTION OF AGENDA

APPROVAL OF MEETING MINUTES:

- January 14th, 2020 Regular Meeting

PUBLIC COMMENTS

OLD BUSINESS

1. Graffiti Ordinance (Galbraith)
2. *Legislative update and recommendations (Eldridge)
3. Light Pollution ordinance and Dark Sky regulations (Garceau)
4. *Prohibited Uses (Galbraith)

NEW BUSINESS

1. *Oath of Office for Kathleen Zielinski as alternate member

MEMBER ITEMS

ADJOURNMENT

**TOWN OF KURE BEACH
ORDINANCE 15.02.010**

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

SECTION 1: **AMENDMENT** "15.02.010 Definitions" 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

15.02.010 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 KBC 15.44.010 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 KBC 15.36.040 and KBC 15.36.070)

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; provided that, however, the term "building" shall not mean nor be construed so as to include a container. The term "building" shall be construed as if followed by the words or part thereof.

Building area 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; provided that, however, the term "building" shall not mean nor be construed so as to include a container. The term "building" shall be construed as if followed by the words or part thereof.

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.

Container shall mean any standardized shipping container used for intermodal freight transport. Also known as cargo or freight container, ISO or intermodal container, and shipping, sea or ocean container.

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 KBC 15.08.010)

Dome. A large hemispherical roof or ceiling.

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.

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.

Habilitation/rehabilitation facility means a place providing care, treatment, habilitation, or rehabilitation of, or other services to the mentally ill, the developmentally disabled, or substance abusers.

Halfway house means a place for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses.

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.

Homeless shelter means temporary housing available to individuals and families experiencing homelessness.

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 KBC 15.36.060).

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. §§ 160A-360 through 160A-362 and KBC 15.04.010 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. (KBC 15.08.070)

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.

Religious institution means a church, mosque, synagogue, temple or other place of religious worship.

Religious annex means a building associated with a religious facility that is maintained and used by a religious organization in accordance with its doctrines, practices, or regulations. A religious annex and its use shall not be considered nor construed to constitute an accessory building and use.

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, 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 between the minimum building line and the street right-of-way line 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. In the event there is not a street right-of-way involved, then the property line shall be used in establishing the setback.

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 KBC 15.36.120 and KBC 15.36.220. 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. (KBC 15.08.060)

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:

- A. 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.
- B. 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 dismounted.
- C. 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.
- D. 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.
- E. 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.
- F. 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, screen walls, fences, ground level decks and walkways, or as otherwise provided for or required under this chapter.

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 11-20-07; Ord. of 4-15-08; Ord. of 3-17-09; Ords. of 5-17-16; Ord. of 2-20-18; Ord. of 12-18-18)

Cross reference(s)—Definitions and rules of construction generally, KBC 1.04.010.

AFTER AMENDMENT

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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 KBC 15.36.040 and KBC 15.36.070)

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 any structure used or intended for supporting or sheltering any use or occupancy. ~~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; provided that, however, the term "building" shall not mean nor be construed so as to include a container. The term "building" shall be construed as if followed by the words or part thereof.~~

Building area 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; provided that, however, the term "building" shall not mean nor be construed so as to include a container. The term "building" shall be construed as if followed by the words or part thereof.

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.

Container shall mean any standardized shipping container used for intermodal freight transport. Also known as cargo or freight container, ISO or intermodal container, and shipping, sea or ocean container.

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

Development shall mean any of the following: the construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; the excavation, grading, filling, clearing, or alteration of land; the subdivision of land as defined in G.S. 160A-376; or the initiation of substantial change in the use of land or the intensity of the use of land.

Development Permit shall mean an administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including, but not being limited to any of the following: zoning permits; site plan approvals; special use permits; variances; certificates of appropriateness; plat approvals; development agreements; building permits; subdivision of land; state agency permits for development; driveway permits; erosion and sedimentation control permits; and sign permits.

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 KBC 15.08.010)

Dome. A large hemispherical roof or ceiling.

Dwelling shall mean a building that contains one or two dwelling units used, intended, or designed to be used, rented, leased, let or hired out to be occupied for living 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 a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

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.

Habilitation/rehabilitation facility means a place providing care, treatment, habilitation, or rehabilitation of, or other services to the mentally ill, the developmentally disabled, or substance abusers.

Halfway house means a place for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses.

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.

Homeless shelter means temporary housing available to individuals and families experiencing homelessness.

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.

Land development regulation shall mean any State statute, rule, regulation, or local ordinance affecting the development or use of real property, including any of the following: unified development ordinance; zoning regulation and zoning map; subdivision regulation; erosion and sedimentation control regulation; floodplain or flood damage prevention regulation; stormwater control regulation; wireless telecommunication facility regulation; historic preservation regulation; or housing code.

Landowner shall mean any owner of a legal or equitable interest in real property including heirs, devisees, successors, assigns, and the personal representatives of such owners. A landowner may allow a person holding a valid option to purchase the real property to act as his agent or representative for the purpose of submitting a proposed site specific development plan for approval.

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 KBC 15.36.060).

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)

Multi-phased development shall mean a development containing 25 acres or more that is both submitted for development permit approval to occur in more than one phase and is subject to a master development plan with committed elements showing the type and intensity of use of each phase.

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. §§ 160A-360 through 160A-362 and KBC 15.04.010 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. (KBC 15.08.070)

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.

Religious institution means a church, mosque, synagogue, temple or other place of religious worship.

Religious annex means a building associated with a religious facility that is maintained and used by a religious organization in accordance with its doctrines, practices, or regulations. A religious annex and its use shall not be considered nor construed to constitute an accessory building and use.

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, 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 between the minimum building line and the street right-of-way line 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. In the event there is not a street right-of-way involved, then the property line shall be used in establishing the setback.

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.

Site specific development plan shall mean a plan submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels and including: the approximate boundaries of the site; significant topographical and other natural features effecting development on the site; the approximate location of proposed buildings, structures, and other improvements on the site; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. For purposes of this Chapter, approved site specific development plans which would establish a vested zoning right prior to the issuance of a building permit include subdivision plats and special use permits. A variance, in and of itself, or a sketch plan that fails to describe with reasonable certainty the type and intensity of use, shall not constitute a site specific development plan.

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 KBC 15.36.120 and KBC 15.36.220. 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. (KBC 15.08.060)

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:

- A. 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.
- B. 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 dismounted.
- C. 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.
- D. 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.
- E. 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.
- F. 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.

Vested right shall mean the right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

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, screen walls, fences, ground level decks and walkways, or as otherwise provided for or required under this chapter.

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 11-20-07; Ord. of 4-15-08; Ord. of 3-17-09; Ords. of 5-17-16; Ord. of 2-20-18; Ord. of 12-18-18)

Cross reference(s)—Definitions and rules of construction generally, KBC 1.04.010.

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Commissioner John Ellen	_____	_____	_____	_____
Commissioner Allen Oliver	_____	_____	_____	_____
Commissioner David Heglar	_____	_____	_____	_____
Commissioner Joseph Whitley	_____	_____	_____	_____
Mayor Craig Bloszinsky	_____	_____	_____	_____

Presiding Officer

Attest

Craig Bloszinsky, Mayor, Town of Kure Beach

Mandy Sanders, Town Clerk Town of Kure Beach

**TOWN OF KURE BEACH
ORDINANCE 15.06.020 REZONING**

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

SECTION 1: **AMENDMENT** “15.06.020 Rezoning Applications” 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

15.06.020 Rezoning Applications

A rezoning application may be initiated by a reviewing or decision-making board of the town or by an owner or prospective vendee of the subject property and by an authorized agent of the owner or prospective vendee. In the event an applicant is an organization, including but not limited to corporations, limited liability companies, and partnerships, then the application shall include a written statement identifying the organization, its legal status, and the name and address of each person/entity owning a ten percent (10%) or greater share thereof.

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

15.06.020 Rezoning Applications

~~A rezoning application may be initiated by a reviewing or decision-making board of the town or by an owner or prospective vendee of the subject property and by an authorized agent of the owner or prospective vendee.~~ In the event an zoning applicant is an organization, including but not limited to corporations, limited liability companies, and partnerships, then the application shall include a written statement identifying the organization, its legal status, and the name and address of each person/entity owning a ten percent (10%) or greater share thereof.

B. No amendment to the Town’s zoning regulations or map shall be initiated nor shall the same be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment unless the down-zoning amendment is initiated by the Town.

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Commissioner John Ellen	_____	_____	_____	_____
Commissioner Allen Oliver	_____	_____	_____	_____
Commissioner David Heglar	_____	_____	_____	_____
Commissioner Joseph Whitley	_____	_____	_____	_____
Mayor Craig Bloszinsky	_____	_____	_____	_____

Presiding Officer

Attest

Craig Bloszinsky, Mayor, Town of
Kure Beach

Mandy Sanders, Town Clerk Town of
Kure Beach

**TOWN OF KURE BEACH
ORDINANCE 15.08.075**

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

SECTION 1: **ADOPTION** “15.08.075 Vested Rights” of the Town of Kure Beach Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

15.08.075 Vested Rights (Non-existent)

AFTER ADOPTION

15.08.075 Vested Rights(*Added*)

A. A vested right shall be established upon the valid approval of a site specific development plan following notice and public hearing by the Town. A vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the approved plan; such a plan deemed approved as of the effective date of the Town’s action or ordinance relating thereto. The Town shall not require a landowner to waive any vested rights as a condition of developmental approval.

B. Except as set forth in sub-section C herein, a vested right shall remain vested for a period of two (2) years and the vesting shall not be extended by any amendments or modifications to the site specific development plan unless expressly provided for by the Town.

C. The Town may provide that developmental rights shall be vested for a period exceeding two (2) years but not exceeding five (5) years where extended vesting is warranted, in consideration of all relevant circumstances, by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions.

D. A vested right shall terminate at the end of the vesting period with respect to buildings and uses for which no valid building permit application has been filed.

E. Nothing herein shall prohibit the Town from revoking the original approval of the site specific development plan for failure to comply with the terms and conditions of the approval or with the provisions of this Chapter.

F. A vested right is not a personal right and shall attach to and run with the property such that all successors to the landowner who obtained the original approval shall be entitled to exercise the rights obtained under that approval.

G. A vested right precludes any zoning action by the Town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property except:

1. With the written consent of the landowner;
2. Upon findings, by ordinance and after notice and a public hearing, that hazards on or in the immediate vicinity of the property, if uncorrected, pose a serious threat to public health, safety, and welfare if development were to proceed as set forth in the approved plan;
3. To the extent the landowner is compensated for all costs, expenses, and losses the landowner incurred;
4. Upon findings, by ordinance and after notice and a public hearing, that the landowner intentionally supplied inaccurate information or made material misrepresentations which made a difference in the Town approving the site specific development plan; or
5. Upon the enactment or promulgation of a State or federal law or regulation precluding the development contemplated under the approved site specific development plan. In such an event, the Town may modify the affected provisions of the approved plan upon finding, by ordinance and after notice and a public hearing, that the change in State or federal law has a fundamental effect on the approved plan.

H. A landowner claiming a statutory or common law vested right may submit information to and request a determination from the Town's Zoning Officer as to whether such a vested right exists. The landowner may appeal that determination to the Town's Board of Adjustment which shall review the question of whether the vested right exists de novo.

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Commissioner John Ellen	_____	_____	_____	_____
Commissioner Allen Oliver	_____	_____	_____	_____
Commissioner David Heglar	_____	_____	_____	_____
Commissioner Joseph Whitley	_____	_____	_____	_____
Mayor Craig Bloszinsky	_____	_____	_____	_____

Presiding Officer

Attest

Craig Bloszinsky, Mayor, Town of

Mandy Sanders, Town Clerk Town of

**TOWN OF KURE BEACH
ORDINANCE 15.08.076**

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

SECTION 1: **ADOPTION** “15.08.076 Permit Choice Rule” of the Town of Kure Beach Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

15.08.076 Permit Choice Rule (Non-existent)

AFTER ADOPTION

15.08.076 Permit Choice Rule(*Added*)

A. In the event an applicant submits a development permit application for any type of development and an ordinance, land development regulation, or rule is amended or changed between the time that application is submitted and a decision on the application is made, the applicant may choose which adopted version of the ordinance, land development regulation, or rule shall apply to the permit and use of the building, structure, or land indicated on the application.

B. In the event the permit applicant chooses the version of the ordinance, land development regulation, or rule that was applicable at the time the permit application was submitted, then the applicant shall not be required to await the outcome of a proposed amendment to said ordinance, land development regulation, or rule prior to acting on the development permit.

C. In the event an applicable ordinance, land development regulation, or rule is amended after a development permit is wrongfully denied or after an illegal condition is imposed, then the applicant may choose which adopted version of the ordinance, land development regulation, or rule shall apply to the permit and use of the building, structure or land indicated on the application.

D. Amendments to land development regulations shall not be applicable or enforceable without the written consent of the landowner regarding the following:

1. Buildings or uses of buildings and land for which a development permit application has been submitted and issued in accordance with the Permit Choice Rule.

2. Subdivisions of land for which a development permit application has been submitted and issued in accordance with the Permit Choice Rule.

- 3. An established vested right that remains valid and unexpired.
- 4. A vested right established under the terms of an authorized development agreement.
- 5. A multi-phased development which shall be vested for the entire development with the land development regulations then in place at the time site plan approval was issued for the initial phase of the development. A vested right established for a multi-phased development shall remain vested for a period of seven (7) years from the time site plan approval was issued for the initial phase of the multi-phased development.

E. In the event multiple development permits are required to complete the development, the permit applicant may choose the version of each of the applicable land development regulations then in place at the time the application for the initial development permit was submitted. This provision applies only to subsequent permit applications filed within eighteen (18) months after the date on which the initial permit application was approved. For the purposes of this subsection, an erosion and sedimentation control permit or a sign permit shall not be considered an initial development permit.

F. In the event a permit application is placed on hold at the request of the applicant for a period of six (6) months or more, or in the event an applicant fails to respond to comments or provide additional information reasonably requested by the Town for a period of six (6) months or more, the application review shall be discontinued and the land development regulations in effect at the time the application process is renewed shall be applied to the application.

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL

	AYE	NAY	ABSENT	ABSTAIN
Commissioner John Ellen	_____	_____	_____	_____
Commissioner Allen Oliver	_____	_____	_____	_____
Commissioner David Heglar	_____	_____	_____	_____
Commissioner Joseph Whitley	_____	_____	_____	_____
Mayor Craig Bloszinsky	_____	_____	_____	_____

Presiding Officer

Attest

Craig Bloszinsky, Mayor, Town of Kure Beach

Mandy Sanders, Town Clerk Town of Kure Beach

**TOWN OF KURE BEACH
ORDINANCE 15.08.080**

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

SECTION 1: **AMENDMENT** "15.08.080 Special Use Permits" 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

15.08.080 Special Use Permits

It is the intention of the town council to create a list of special uses that may be allowed in several zoning districts where those uses would not otherwise be acceptable without appropriate conditions or safeguards. By means of controls exercised through special use permit procedures established below the council can delineate the areas of concern connected with each special use. Permitted special uses are identified with an "S"; i.e., a special use is designated to show that there is something unique about the business and would require special conditions placed upon them. Those businesses are identified with an "(S)".

Procedures:

- A. Applications for special use permits shall be processed, considered and voted upon by the town council after a public hearing and after the planning and zoning commission review and make recommendations. Hearings shall be conducted in the same manner as required in KBC 15.12, amendments, except that the town council shall follow quasi-judicial procedures. The planning and zoning commission in recommending approval may include conditions which assure that the proposed use will be harmonious with the area and will meet the intent of this ordinance.
- B. Special use permit applications shall only be submitted by the property owner(s), or their duly authorized agent. Upon receiving the recommendations of the planning and zoning commission and holding a public hearing, the town council may grant or deny the special use permit. The special use permit, if granted shall include such approved plans as may be required. In granting the special use permit the council shall make the following findings:
 - 1. That the use will not materially endanger the public health or safety if located where proposed and approved;
 - 2. That the use meets all required conditions and specifications;
 - 3. That the use will not substantially injure the value of adjoining property, or that the use is a public necessity; and

4. That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and other plans for the area.
- C. In granting a special use permit the town council may recommend and impose more restrictive requirements and conditions that it may deem necessary to address the impacts expected to be generated by the use and to assure its conformity with the ordinance and other development plans. Where appropriate, such conditions may also include requirements that street and utility rights-of-way be dedicated to the public and that provisions be made for recreational space and facilities. If the special use permit is denied, the council shall enter the reasons for its action in the findings. Applicants must wait six (6) months after the date of denial to file a new application for the same property.
 - D. Unless expired or discontinued, any special use permit shall be perpetually binding upon the property unless substantially changed or amended as provided for in this section, or until a use otherwise permitted in the zoning district is established. Special use permits shall become null and void after two (2) years unless use of the property has begun and/or a foundation inspection has been approved.
 - E. The planning and zoning commission is authorized to approve minor changes in the approved plans for a special use permit as long as they are in harmony with the requirements and conditions of the original special use permit. Such approval shall not be granted should the proposed revisions cause or contribute to:
 1. Any change in the character of the development.
 2. [Reserved.]
 3. Any increase in intensity of use such as square footage, number of dwelling units, or site coverage.
 4. [Reserved.]
 5. Substantial changes to traffic circulation or access.
 6. [Reserved.]
 7. Any reduction in the approved setbacks.

Other changes and amendments of a special use permit require the approval of the town council and shall be handled as a new application.

- F. If the owner fails to comply with the plans or any conditions approved by the town council, or if for any reason any condition imposed pursuant to this section is found to be illegal or invalid, such special use permit shall thereupon immediately become null and void and of no effect.

(Ord. of 3-18-08(1); Ord. of 4-19-11, § 3)

AFTER AMENDMENT

15.08.080 Special Use Permits

It is the intention of the town council to create a list of special uses that may be allowed in several zoning districts where those uses would not otherwise be acceptable without appropriate conditions or safeguards. By means of controls exercised through special use permit procedures established below the council can delineate the areas of concern connected with each special use. Permitted special uses are identified with an "S"; i.e., a special use is designated to show that there is something unique about the business and would require special conditions placed upon them. Those businesses are identified with an "(S)".

Procedures:

- A. Applications for special use permits shall be processed, considered and voted upon by the town council after a public hearing and after the planning and zoning commission review and make recommendations. Hearings shall be conducted in the same manner as required in KBC 15.12, amendments, except that the town council shall follow quasi-judicial procedures. The planning and zoning commission in recommending approval may include conditions which assure that the proposed use will be harmonious with the area and will meet the intent of this ordinance.
- B. Special use permit applications shall only be submitted by the property owner(s), or their duly authorized agent. Upon receiving the recommendations of the planning and zoning commission and holding a public hearing, the town council may grant or deny the special use permit. The special use permit, if granted shall include such approved plans as may be required. In granting the special use permit the council shall make the following findings:
 1. That the use will not materially endanger the public health or safety if located where proposed and approved;
 2. That the use meets all required conditions and specifications;
 3. That the use will not substantially injure the value of adjoining property, or that the use is a public necessity; and
 4. That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is located and in general conformity with the comprehensive plan and other plans for the area.

- C. In granting a special use permit the town council may recommend and impose more restrictive requirements and conditions that it may deem necessary to address the impacts expected to be generated by the use and to assure its conformity with the ordinance and other development plans. Where appropriate, such conditions may also include requirements that street and utility rights-of-way be dedicated to the public and that provisions be made for recreational space and facilities. Such conditions shall not, however, include requirements for which the Town does not have statutory authority to regulate or which the courts have held to be unenforceable by municipalities including, without limitation, taxes, impact fees, building design elements for any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, driveway-related improvements in excess of those set forth in G.S. 136-18(29), or other unauthorized limitations on development or use of land. If the special use permit is denied, the council shall enter the reasons for its action in the findings. Applicants must wait six (6) months after the date of denial to file a new application for the same property.
- D. Unless expired or discontinued, any special use permit shall be perpetually binding upon the property unless substantially changed or amended as provided for in this section, or until a use otherwise permitted in the zoning district is established. Special use permits shall become null and void after two (2) years unless use of the property has begun and/or a foundation inspection has been approved.
- E. The planning and zoning commission is authorized to approve minor changes in the approved plans for a special use permit as long as they are in harmony with the requirements and conditions of the original special use permit. Such approval shall not be granted should the proposed revisions cause or contribute to:
1. Any change in the character of the development.
 2. [Reserved.]
 3. Any increase in intensity of use such as square footage, number of dwelling units, or site coverage.
 4. [Reserved.]
 5. Substantial changes to traffic circulation or access.
 6. [Reserved.]
 7. Any reduction in the approved setbacks.

Other changes and amendments of a special use permit require the approval of the town council and shall be handled as a new application.

- F. If the owner fails to comply with the plans or any conditions approved by the town council, or if for any reason any condition imposed pursuant to this section is found to be illegal or invalid, such special use permit shall thereupon immediately become null and void and of no effect.

(Ord. of 3-18-08(1); Ord. of 4-19-11, § 3)

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Commissioner John Ellen	_____	_____	_____	_____
Commissioner Allen Oliver	_____	_____	_____	_____
Commissioner David Heglur	_____	_____	_____	_____
Commissioner Joseph Whitley	_____	_____	_____	_____
Mayor Craig Bloszinsky	_____	_____	_____	_____

Presiding Officer

Attest

Craig Bloszinsky, Mayor, Town of
Kure Beach

Mandy Sanders, Town Clerk Town of
Kure Beach



**TOWN OF KURE BEACH
PLANNING & ZONING COMMISSION**

PZC Meeting Date: 02/11/2020

PZC Agenda Item No.: 3

**ZONING CONSISTENCY STATEMENT
N.C.G.S. 160A-383**

X Consideration of the following proposed text amendments to Chapter 19 *Zoning* of the Town of Kure Beach Code (hereinafter "Town Code"):

1. 15.02.010 *Definitions*;
2. 15.06.020 *Rezoning Applications*;
3. 15.08.075 *Vested Rights*;
4. 15.08.076 *Permit Choice Rule*; and
5. 15.08.080 *Special Use Permits*.

X The proposed text amendments are CONSISTENT WITH the objectives/policies of the Town of Kure Beach Land Use Plan ("LUP").

X The proposed text amendments are CONSISTENT WITH Part 3, Section 2 of the LUP.

The proposed text amendments are NOT CONSISTENT WITH Part _____, Section _____ of the LUP.

The Planning and Zoning Commission ("Commission") requests Town Council's consideration and adoption of Staff's proposed text amendments to Chapter 15 of the Town Code which are attached hereto and incorporated herein by reference. The proposed amendments conform those sections of the code to currently effective legislative changes.

The Commission finds that adopting the amendments will be reasonable and in the public interest inasmuch as they are consistent with the community goals, set forth in Part 3, Section 2 of the LUP, of preserving environmental attributes, providing for the "harmonic adaptation" of built uses in close proximity to one another, and minimizing impacts on man-made and natural areas; all of which further public health, safety, and welfare.

Based on these findings, the Commission recommends that Town Council adopt the proposed text amendments.

**TOWN OF KURE BEACH
PLANNING AND ZONING COMMISSION:**

Craig Galbraith, Chairman



*O*ATH OF OFFICE
Planning and Zoning Commission

I, Kathleen Zielinski, swear that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina not inconsistent therewith, and that I will faithfully discharge my duties as an alternate Member of the Planning and Zoning Commission for the Town of Kure Beach, so help me God.

Kathleen Zielinski, Member

Date: _____

Mandy Sanders, Town Clerk



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Tuesday, January 14, 2020 @ 7:00 pm

The Kure Beach Planning and Zoning Commission (P&Z) held its regular meeting on Tuesday, January 14, 2020. 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 Moore made a motion to add discussion of prohibited uses under new business to the agenda and approve the agenda as amended

SECOND – Member Richardson

VOTE - Unanimous

APPROVAL OF MEETING MINUTES:

- December 4th, 2019 Regular Meeting

MOTION – Member Richardson made a motion to approve the meeting minutes for December 4, 2019

SECOND – Member Gareacu

VOTE- Unanimous

OLD BUSINESS

1. Graffiti Ordinance

Chairman Galbraith commented he presented a model example of an Graffiti Ordinance several months ago. This isn't currently a pressing issue for the Town but he will bring a recommendation for a graffiti ordinance forward in the future.

MOTION- Member Moore made a motion to table this until the next P&Z meeting

SECOND- Member Gareacu

VOTE- Unanimous



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Tuesday, January 14, 2020 @ 7:00 pm

2. Legislative update and recommendations

Attorney Eldridge stated:

- This presentation tonight doesn't include the new Chapter 160D amendments which will not become effective until next January
- Presentation tonight only concerns those amendments that are currently effective
- The current amendments generally fall into 4 statutory groups providing for Zoning Land Development, Subdivisions, Building and Inspections and Quasi-Judicial Procedures
- Focusing tonight on the currently effective legislative changes to the Land Development and Subdivision related provisions
- Attorney will cover the changes to the quasi-judicial statutory provision in a memorandum to the Board of Adjustment during a training session later this month
- Attorney will also provide if needed a brief memorandum of any applicable legislative changes to the Building Inspections Department
- In the Attorney's opinion, several of the legislative changes to the Land Development and Subdivision statutes require text amendments to the Town Code
- Third Party Down-Zoning- GS 160A-384(a) amended to prohibit 3d party down-zoning without owners' consent; The Town can down-zone without owners' consent; owner can petition for down-zoning property.
- Conditions Imposed on Special Use Permits- GS 160A-381(c) amended to prohibit conditions imposing taxes, impact fees, building design elements (except for commercial and multi-family housing), and driveway-related improvements exceeding those in GS 160A-307 for approved special use permits.
- Small Houses- Amends GS 160A-382 to prohibit zoning regulations from including a minimum square footage requirement for one- and two-family residential dwellings which Town Code does not require (so no amendment is needed)
- Permit Choice Rule- GS 160A-360.1 amended to expand the scope of the Permit Choice Rule (once an application for a "development permit" is submitted, if the applicable rules change before the permit is issued, then the applicant may choose whether the application is reviewed under the old or new rules).
- Vested Rights- GS 160A-385 amended to broaden and clarify types of statutory vested rights. Duration periods for such rights also clarified.
- Need input from PZC and Building Inspector Batson as to whether the Code should be amended to cover the Permit Choice Rule and Vested Rights. Consensus was to include such amendments
- Land Development- Town Code cannot use definitions of building, dwelling, dwelling unit, bedroom, or sleeping unit inconsistent with those in State Building Code



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Tuesday, January 14, 2020 @ 7:00 pm

Building Inspector Batson stated that he would like amendments covering the Permit Choice Rule and Vested Rights changes to be included in the Code to help avoid surprises to developers and landowners. He agrees with the Attorneys recommendations.

CONSENSUS- The Commission agreed with the recommendations Attorney Eldridge has suggested and instructed the Attorney to begin drafting the text amendments. Attorney Eldridge stated that he would attempt to bring forth those amendments next month although the assignment may spill over to the following month.

3. 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

Attorney Eldridge stated:

- Member Richardson brought this item forward and presented draft language to the PZC Commission at the December meeting
- Building Inspector Batson's comments regarding the initial draft language were included in December agenda packet
- Attorney used Building Inspector Batson's comments in drafting recommended text amendments
- Amendments needed to be clarify clarification on where the right of way ended with respect to the property line and to abate impermissible
- Encroachments into the right away such as, for example
- Roping off and barricading sections of the unpaved portions of the right-of-way
- PZC discussed last month and recommended text amendments are included in the agenda packet

Building Inspector Batson commented the recommended text amendments are exactly what he was looking to include in the code.

MOTION – Member Garceau made a motion to recommend the changes to the Town Council 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

SECOND – Member Richardson

VOTE- Unanimous

Chairman Galbraith commented he couldn't find a list from another Town regarding Prohibited Uses that have been specified. He is going to pick the B1 district and come up with a list of items to bring forth at the next month's meeting.

Attorney Eldridge commented the commission keep in mind that the discussion concerns the uses of property and to make sure that the list of prohibited uses does not "drill down too deep" and avoids First Amendment issues.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Tuesday, January 14, 2020 @ 7:00 pm

MOTION- Member Richardson made a motion to table Prohibited Uses to the February agenda

SECOND- Member Moore

VOTE-Unanimous

NEW BUSINESS

1. Light Pollution ordinance and Dark Sky regulations

Member Garceau gave a presentation on Light Pollution and Dark Sky regulations which is hereby incorporated into the minutes.

Member Moore stated to include this on the February meeting agenda for follow up discussion.

MEMBER ITEMS

MOTION- Member Moore made a motion to reschedule the February meeting from February 4, 2020 to February 11, 2020

SECOND- Member Richardson

VOTE- Unanimous

ADJOURNMENT

MOTION – Member Moore made a motion to adjourn the meeting at 8:32 p.m.

SECOND – Member Gareacu

VOTE- Unanimous

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>planning and zoning.