



TOWN COUNCIL MINUTES

REGULAR MEETING

Monday, February 20, 2022 @ 6:00 p.m.

The Kure Beach Town Council held its regular meeting on Monday, January 18, 2022 at 6:00 p.m. The Town Attorney was present and there was a quorum of Council members present.

COUNCIL MEMBERS PRESENT

Mayor Craig Bloszinsky
MPT Allen Oliver
Commissioner John Ellen
Commissioner David Heglar
Commissioner Dennis Panicali

COUNCIL MEMBERS ABSENT

STAFF PRESENT

Police Chief – Mike Bowden
Fire Chief – Ed Kennedy
Recreation Director – Nikki Keely
Building Inspector – John Batson
Code Enforcement Officer – Bethany White
Town Clerk – Mandy Sanders
Deputy Town Clerk – Beth Chase
Public Works Director – Jimmy Mesimer
Finance Officer – Arlen Copenhaver

Mayor Bloszinsky called the meeting to order at 6:00 p.m. and Commissioner Ellen gave the invocation and Pledge of Allegiance.

APPROVAL OF CONSENT AGENDA ITEMS

1. Accept the resignation of Harry Humphries from Board of Adjustment
2. Appoint Allen Krum and Greg Germain to the Bike/Ped Committee as full members
3. Approve dissolving the Land Use Plan Committee and the Parking Committee
4. Approve the revised FY 22-23 Fee Schedule to reflect the changes to the paid parking program approved by Town Council at the January 18, 2023 meeting. These changes are a start date of March 15th and increasing the fee for a Non-Resident/Property Owner Seasonal Permit to \$225
5. Approve Little Pink Houses of Hope/The Island Men to use the Ocean Front Park Pavilion on Wednesday, April 26, 2023 from 9am until 3pm at no cost
6. Approve waiving paid parking enforcement for the day of Friday, May 12, 2023 for the Cape Fear Disabled Sportsman's Fishing Tournament
7. Approve closing Atlantic Avenue to vehicle traffic between K and L Avenue from the early morning hours through 5 p.m. on Saturday, April 29, 2023 for the Spring Festival and allow for the participation of food trucks and vendors during the event hours on Saturday, April 29, 2023 and waive paid parking enforcement for the day of Saturday, April 29, 2023



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8. Minutes:

- January 18, 2023 Regular
- January 18, 2023 Legislative Hearing
- January 10, 2023 Special Meeting

MOTION- Commissioner Ellen made a motion to approve the Consent agenda as presented

SECOND- Commissioner Heglar

VOTE- Unanimous

ADOPTION OF THE AGENDA

MOTION- MPT Oliver made a motion to approve the agenda as presented

SECOND- Commissioner Ellen

VOTE- Unanimous

PUBLIC COMMENTS

Gilbert resident at 309 Fort Fisher Blvd N stated his concern tonight is the post office, first he is very pleased with the staff at the post office but the issue he has is interacting with the truck drivers that deliver the mail to the post office. The loud commercial truck blocks M Avenue 3 times a day, 6 times a week. He is seeking help from Town Council to address this issue.

Mayor Bloszinsky asked have you spoken to the postmaster? He will address this issue with the Police Chief Bowden as it sounds like a safety concern.

Gilbert commented no he has not as he did not know where to start the conversation.

Amy Parvis 208 Largo Way presented Town Council with the informational packet from the 2023 Annual Council Retreat.

Judy Larrick resident at 645 Settlers Lane read a letter hereby incorporated into the minutes.

Town Clerk Sanders read a letter hereby incorporated into the minutes.

PRESENTATIONS

None.



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DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Bike/Ped Committee

Approve Resolution R23-02 in Support of 2023 Year of the Trail

Bike/Ped Committee Chairperson Linquist read her monthly update for the Bike/Ped Committee that is hereby incorporated into the minutes.

MPT Oliver commented he recommends approving the resolution as submitted by the Committee.

Commissioner Ellen commented he sent other members of Council a memo regarding his concerns regarding the resolution.

Commissioner Heglar stated is there a deadline for this resolution? Chairperson Linquist stated in her update that Town Council recommended Town Council include Dow Rd, but it was required to be included in the feasibility study. He thinks it is important Town Council makes it clear the will of Council. He is fine if this is not signed tonight unless there is a timeline he does not understand but he is willing to work on the one paragraph that is of concern and include the requirement of Town Council in the resolution.

MPT Oliver stated there is no deadline but the State asked municipalities to pass for the year of the trail. He thinks the way the resolution is currently written is fine and serves its purpose but amend the grammatical errors Commissioner Ellen found. It is very clear the Town is using the feasibility study, that grant the Town received and the grant application included the requirement of the motion that was passed that night is covered. This resolution has nothing to do with the grant but just mentions the Town is studying through the feasibility study the extension.

MOTION- Commissioner Heglar made a motion to table the approval of Resolution R23-03 to the March Council agenda

SECOND- Commissioner Ellen

VOTE- For- Mayor Bloszinsky, Commissioner Ellen, Commissioner Heglar, Commissioner Panicali, Against- MPT Oliver

2. Shoreline Access and Beach Protection

Chairperson Jackson stated working on updating the beach signs. Public Works Department is very efficient so thank you to that department for helping the Committee.



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3. Stormwater Committee

Chairperson Mitchell stated at the last Committee meeting the Committee established its officers as follows: Chair- Tracy Mitchell, Vice Chair – Jay Stuart, and the Secretary – Pasty O'Reilly. The Committee is collectively working on a master pat map of stormwater permitting areas for the HOAs.

DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Police Department

- Discussion of Town Ordinance regarding Park Hours for Joe Eakes Park

Police Chief Bowden commented at a Coffee with the Mayor park hours was mentioned. He is requesting approval from Town Council to work with Attorney Eldridge on drafting an ordinance to address the Park Hours.

Attorney Eldridge commented if Town Council wants to develop a set of rules to be enforced Town Council needs to do a Park and Recreation ordinance.

MOTION- Commissioner Ellen made a motion to authorize Police Chief Bowden to work with Attorney Eldridge on drafting a Park and Recreation ordinance

SECOND- Commissioner Heglar

VOTE- Unanimous

2. Recreation Department

Recreation Director Keely stated thank you to Public Works, Fire Department and Police Department for helping with the Polar Plunge. It was the best event the Special Olympics has ever had for this event.

DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Planning and Design for the Fort Fisher / K Avenue Intersection Improvements

MPT Oliver commented the Town is at the point to select an engineering firm through DOT's process. There were four firms that submitted. He is requesting authority to negotiate a contract with WitherRavenel the top scoring firm for the Fort Fisher/ K Avenue Intersection Improvements. If negotiations fall through, then to work with Summit.



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MOTION- Commissioner Ellen made a motion to authorize MPT Oliver to work with Attorney Eldridge and Finance Officer Copenhaver to negotiate a contract with WitherRavenel for the FortFisher / K Avenue Intersection or Summit if the negotiation falls through with WitherRavenel

SECOND- Commissioner Heglar

VOTE- Unanimous

2. Continued Discussion of Parking Request for Pleasure Island Disc Golf Club

Mayor Bloszinsky stated Recreation Director Keely presented Town Council with the information requested last month. Most of the club members that use the disc golf course and help keep it clean are from over the bridge. There were 3 members from Kure Beach and 13 from Carolina Beach and the rest from over the bridge. The important thing to remember is if these members did not help maintain the course it would fall to the Public Works Department to maintain it. He thinks it would be fine to approve the members to play disc golf and maintain the course without paying the parking fee for the 6 Sundays a year.

Commissioner Heglar stated need to give Recreation Director Keely authority to give the members coupons codes but Town Council needs to set a limit on the number.

MOTION- Commissioner Heglar made a motion to authorize Recreation Director Keely to provide Pleasure Island Disc Golf Club with parking codes for the first Sunday of the month tournament

SECOND- MPT Oliver

VOTE- Unanimous

MOTION- Commissioner Heglar made a motion to approve 20 parking codes for each tournament for Pleasure Island Disc Golf Club

SECOND- Commissioner Ellen

VOTE- Unanimous

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Extension of Smart Moves Consulting contract for CAMA Grant Application for Beach Access Grant at L Avenue #140 and Guard Shack #99

MPT Oliver stated at the annual retreat Town Council talked about applying for a CAMA grant and having Smart Moves do the grant application. There is a pre grant application deadline at the end of April. He is requesting Town Council to extend the contract with Smart Moves Consulting and decide on which beach access area to apply. He is recommending L Avenue.



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Attorney Eldridge commented on the contract to have it amended to make a clear reference it is an amendment to the original contract.

Commissioner Panicali asked why do you think the Town is risking receiving grant funding for applying for then more than one? Can the Town prioritize?

MPT Oliver commented he is not sure, but he would be glad to ask this question. He knows there is limited amount of funds and areas that have applied for multiple sites have not been given grants in the past. Smart Moves Consulting will do whatever Town Council decides.

Commissioner Panicali stated he is fine with L Avenue being the first priority but if MPT Oliver can ask Smart Moves Consulting to prioritize the two beach accesses with L Avenue as the main priority and the Guard Shack as the second priority.

MOTION- Commissioner Heglar made a motion to approve amending the Smart Moves Consulting contract to apply for the Access Grant at L Avenue #140 as the main priority and the Guard Shack #99 as the second priority

SECOND- Commissioner Ellen

VOTE- Unanimous

2. Proposed Text Amendments for Criminal Enforcement of KBC Provisions

Attorney Eldridge reviewed the Criminal Enforcement amendments presented in the agenda packet that is hereby incorporated into the minutes.

MOTION- Commissioner Heglar made a motion to approve Approved Proposed Text Amendments for Criminal Enforcement of KBC Provisions as presented and directed Attorney Eldridge and Finance Officer Copenhaver to work on aligning the fee schedule and the ordinances

SECOND- Commissioner Ellen

VOTE-Unanimous

MAYOR UPDATES

None.

COMMISSIONER ITEMS

None.



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CLOSED SESSION

MOTION- Commissioner Heglar motion to go into Closed Session for Attorney-Client Privilege per (GS 143-318.11(a)(3))

SECOND- Commissioner Panicali

VOTE- Unanimous

MOTION- MPT Oliver made a motion to return to open session 9:14 p.m.

SECOND- Commissioner Ellen

VOTE- Unanimous

ADJOURNMENT

MOTION- MPT Oliver made a motion to adjourn the meeting at 9:15 p.m.

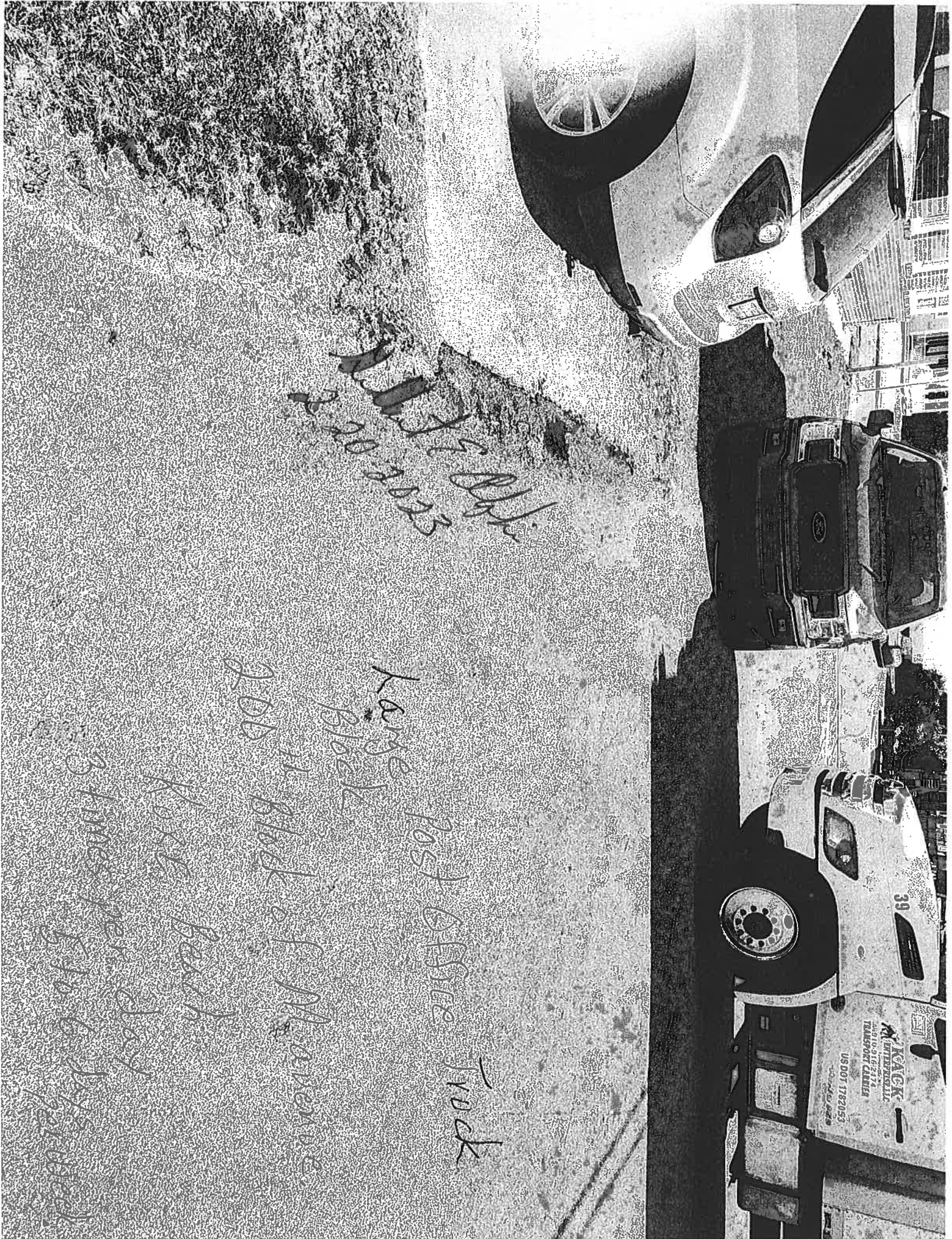
SECOND- Commissioner Panicali

VOTE- Unanimous

ATTEST: Mandy Sanders, Town Clerk

Craig Bloszinsky, Mayor

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



Apply for
2000

Post Office Truck

Large
Block

Block of M. Avenue

Kore Beach

3 times per day

5:00 & 6:00

KAGK
TRANSPORT CLERK
US DOT 1762053

39

TO: KB Town Council

Feb. 20, 2023

Re: "Year of the Trail" Resolution

Tonight the Bike/Ped Committee is asking Council to approve Resolution R23-02, A Resolution of the Town of Kure Beach Supporting the 2023 Year of the Trail.

We support much of this Resolution, including that "natural beauty is critical to its residents quality of life, and economic wellbeing" which also explains Settler's Ln residents opposition to a bike trail behind our homes in an environmentally critical maritime forest which should instead be protected.

We also support the Resolution that states that KB is "part of the Eastcoast Greenway and uses State and Local roads to connect the Island Greenway to FF Historic Site, FF State Park, Aquarium and FF Ferry" and therefore already accomplishes the goal of connecting the Greenway to Southern end of Pleasure Island and the Ferry.

However, I'm here tonight to ask Council to change the second from last Whereas and add the words: "AS WELL AS THE FEASIBILITY OF AN OFF-ROAD PATH IN THE RIGHT OF WAY OF DOW ROAD" which Council agreed for the feasibility study in January, and also eliminate the words "by extending Pleasure Island Greenway".

Therefore that Article would read:

WHEREAS, THE Town of Kure Beach and the Eastcoast Greenway Alliance is committed to enhancing Bicycle and Pedestrian Safety to the Fort Fisher Ferry Landing by receiving a NCDOT Grant to study Feasibility of the Greenway extension "as well as the Feasibility of an Off-Road Path in the Right of Way of Dow Road."

Judy Larrick

645 Settlers Lane

910-458-3574

Mandy Sanders

From: John Kuntz <jpk28449@gmail.com>
Sent: Monday, February 13, 2023 8:33 AM
To: kbbikepedcommittee@gmail.com; Mandy Sanders; Craig Bloszinsky; Allen Oliver; David Heglar; Dennis Panicali; John Ellen
Subject: Island Greenway

We can all agree that as Pleasure Island continues to grow in population and as a destination for attractions such as our beaches, the aquarium, and the expanding Fort Fisher museum that vehicular traffic is only becoming greater and greater.

As a result healthy alternative modes of getting around the island (bicycling and walking) are only becoming more perilous on our crowded roadways in a time when we should be encouraging such activities. Therefore the need for expanding the Island Greenway into Kure Beach and out to Fort Fisher becomes a safety issue first and foremost. Fort Fisher Blvd. is flat out dangerous for walkers and cyclists especially for our youth. We cannot allow a handful of home owners to dominate the discussion for an Island Greenway that is clearly in the interest of the community at large! The fact of the matter is that homeowners who currently live near the Island Greenway in Carolina Beach have had no problems or complaints that I am aware of. In fact the value of their homes has only increased having the Greenway nearby. What we need is a referendum vote on the need for an expanded Greenway to put the issue in the proper perspective.

Respectfully,

John Kuntz

- Like

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- Like

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- Reply
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Good evening Honorable Mayor Blozinsky, Mayor Pro Tem Oliver, commissioners, staff and guests,

Tonight I have 6 very exciting things to speak to you about.

1-First, I would like to thank you for approving Allen Krum and Greg Germain as full members to our committee. Our committee is definitely a working committee and we also want to thank the many other neighbors who also offered to help. We are hoping that many of them who were not chosen will join us in our volunteer work as we fulfill our strategic plan . EDUCATION is high on our list and we need lots of helpers. Please, anyone who would like to help us, email our committee website at kbbikepedcommittee@gmail.com.

2-That education component includes everyone from our police chief to the youngest resident. We met with Chief Bowden and Detective Bailey to look at a program presented by BikeWalkNC for Bicycle Friendly Drivers, beginning with Police Departments and then for the general public. Until people driving motorized vehicles and people on bikes and people walking can learn how to respectfully coexist with etiquette, our roadways will remain dangerous. One of our committee's goal is to educate drivers, pedestrians and people on bikes to be aware of each other. Almost 100 years ago our society become car-centric and infrastructure was created mainly for cars, but now, because of the Complete Streets Policy in NC, our State requires safe corridors providing accessible and functional transportation to all travelers, including vulnerable ones on foot or human powered devices. We would like to have a booth at Kure-Ous to share out committee work.

3-With Education in mind and May being BIKE MONTH we would like to have a our second Pop-Up Traffic Garden, Saturday May 20th here at the parking lot of town hall. CB had a bike rodeo in November. A Traffic Garden is different than a bike rodeo. A bike rodeo teaches children skills in maneuvering on a bicycle. They get instructions on proper helmet fitting and the ABC's AirBrakesChain of bike maintenance. A Traffic Garden is different because we do all that but, the course is a miniature world of streets. Kids ride bikes, trikes, big wheels, scooters and anything else they bring along and we teach them about road safety and interactions. Last year our course had a roundabout and several crosswalks and even a bad dog that sometimes ran into the crosswalk. The kids learn what to do when these situations arrive and they are encouraged to stay and play on the course as long as they like. May we have approval to set this as our date?

4-The Terry Benjey Bicycling Foundation will help us with the Pop-Up Traffic Garden again this year. This organization gets \$ from the Cape Fear Cyclists

hearing the direction our state is heading. To respect time for everyone, I sent to staff to be included in the minutes. Any questions?

Respectfully,

Mo Linquist, chairperson, KB Bike Ped committee

**TEXT AMENDMENTS REGARDING CRIMINAL ENFORCEMENT
OF KBC PROVISIONS**

(For Town Council)

NOTE 1: The General Assembly amended G.S. § 160A-175 to provide that a “*violation of a [town] ordinance may be a misdemeanor...as provided by G.S. 14-4 only if the [town] specifies such in the ordinance.*” Thus considered, criminalized enforcement of code provisions should specifically reference the criminal punishment which is accomplished, as discussed in Note 2 below, by having the ordinance reference the criminal punishment set forth in G.S. § 14-4.

The amendments to G.S. § 160A-175 also decriminalized certain local ordinances. *See, e.g., id.* (b1)(1) (no ordinance adopted under Chapter 160D may impose a criminal penalty except for those ordinances related to unsafe buildings).

In pertinent part, the following text amendments conform the code to these G.S. § 160A-175 amendments.

NOTE 2: The General Assembly also amended G.S. § 14-4 to provide as follows:

(a) Except as provided in subsection (b) or (c) of this section, if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district..., he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).

(c) A person may not be found responsible or guilty of a local ordinance violation punishable pursuant to subsection (a) of this section if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following:

- (1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.*
- (2) The person provides proof of a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance.*

Reference is made to subsection (a) above limiting the maximum criminal fine to \$50.00 unless the ordinance expressly specifies a greater amount up to \$500.00. KBC 1.08.010.A, the code’s general criminal penalty provision, meets this requirement as does 2.10.110.B, the criminal penalty provision for violating an emergency

declaration's prohibition or restriction, by specifically referring to G.S. § 14-4 when a code provision provides for criminalized enforcement but does not specify, as the amendments to G.S. § 160A-175 require, the criminal punishment. There are also a few code provisions which, in accordance with G.S. § 14-4(a), do specify criminal fines greater than \$50.00 and therefore do not require anything more than syntactical revisions.

In pertinent part, the following text amendments conform the code to these G.S. § 14-4 amendments.

PROPOSED TEXT AMENDMENTS.

The proposed text amendments below are set forth in red.

5.02.020 Drinking Malt Beverages And Unfortified Wine On Public Streets

- A. It shall be unlawful for any person to consume or drink any malt beverages, liquor or ~~unfortified~~ wine on the public streets in Kure Beach by persons who are not occupants of motor vehicles and on property owned, occupied or controlled by the Town of Kure Beach; excepting, therefore, the Kure Beach Community Center which will operate under the general policy provisions for the rental of the Kure Beach Community Center adopted by the Kure Beach Town Council, and a copy of the policy will be on hand for review in the front office of town hall.
- B. It shall be unlawful for any person to possess an open container of malt beverage and unfortified wine on the public streets in Kure Beach by persons who are not occupants of motor vehicles and on property owned, occupied or controlled by Kure Beach.
- C. It shall be unlawful for any person to possess malt beverages and unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events unless specifically authorized by the town council of the Town of Kure Beach and the North Carolina State Board of Alcohol Control Regulations when applicable.

For the purposes of this subparagraph, an open container means a container whose seal has been broken or a container other than the manufacturer's unopened original container. As provided by G.S. § 18B-102(a), possession or consumption of alcoholic beverages is unlawful except as authorized by the ABC Law.

~~Any person who shall violate this section shall be punished as provided in G.S. § 18B-300.~~

- D. Penalty. Any person ~~violating the provisions of this section who shall violate these sections in KBC 5.02~~ shall be subject to a civil citation ~~in the amount of fifty dollars (\$50.00) for the first offense as set forth in authorized under KBC 1.08.020 and for a second offense shall be punished as provided in G.S. § 18B-302.1.~~

6.02.010 Unlawful Assemblies

Any two (2) or more persons who shall assemble together, or being assembled, shall act in concert to do any unlawful act with force and violence, against the property of the town or the person or property of another or against the peace or to the terror of others or who shall make any movement or preparation therefore and every person present at such meeting who shall not endeavor to prevent the commission or perpetration of such unlawful act shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

6.02.020 Injuring, Etc, Property

- A. It shall be unlawful for any person to deface any building fence, sign, lamppost or other property, belonging to the town or to property holders of the town, by cutting, breaking, daubing with paint or other substances, hitching horses or other animals or in any manner defacing or tearing or injuring the same.
- B. No person shall willfully destroy, injure, carry away, break, or deface any ornament, street sign, lamp, railing, fixture, gate, seat, bench, swing, fountain, tools, machinery or structure, pull any flowers or cut or injure in any way any tree, shrub, plant, vine or any other property belonging to the town within or upon any of its streets, plazas or parks. This Part shall not apply to the employees or officers of the town actually and necessarily engaged in the discharge of the duties of their office or employment.
- C. A person violating this section shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

6.02.030 Injuring Apparatus Or Property Of Fire Department

Except as otherwise provided, any person who shall injure, break, destroy, deface or carry away any of the apparatus, equipment or implements belonging to the fire department shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

6.02.040 Discharging BB Guns, Etc

It shall be unlawful for any person to shoot any BB gun, air rifle, air gun, air pistol, gas pistol or gas gun within the town. Nothing herein shall be construed to prohibit licensed shooting galleries for BB guns at indoor shooting ranges that have met the safety regulations set forth by the National Rifle Association and that such shooting range or gallery is at all time under the supervision of a qualified instructor. A person violating this section shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

6.02.050 Discharging Firearms

It shall be unlawful for any person to fire a gun, rifle, pistol or other firearm within the town except in case of self-defense or necessity. This section shall not apply to an officer lawfully discharging his duty. Nothing herein shall be construed to prohibit trap shooting at such places and under such conditions as may be approved by the Town Council. A person violating this section shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

6.02.060 Human Waste

It shall be unlawful for any person to urinate or deposit any human waste on any street, right-of-way, lot, public vehicular areas, beach or premises, except in an approved sanitary facility.

~~Violation of this section will subject the offender to a misdemeanor and a fine of fifty dollars (\$50.00)~~ A person violating this section shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

6.02.070 Possession Of Weapons To Include Handguns Prohibited On Town Property

- A. It shall be unlawful for any person willfully and intentionally to carry concealed about his or her person any bowie knife, dagger, sling shot, loaded cane, metallic knuckles, razor, shuriken, stun gun, handgun, or other deadly weapon of like kind in Kure Beach Town-owned buildings, their appurtenant premises, or recreational areas.
- B. This prohibition shall not apply to any person exempted from concealed carry permit requirements under N.C.G.S. 14-269(b), or any person, firm, corporation, or other combination of individuals specifically permitted by the Kure Beach Town Council to possess weapons on Town property.
- C. A conspicuous notice shall be posted at each entrance to any Town property set forth in subsection (1) indicating: "Possession or carrying of weapons to include concealed handguns is prohibited within this building."
- D. Weapons to include concealed handguns possessed in violation of this section are hereby declared to be contraband. The Chief of Police or his designee shall seize and hold such weapons, including concealed handguns, for disposal pursuant to established law.
- E. This section does not apply to an ordinary pocket knife carried in a closed position. As used in this ordinance, "ordinary pocket knife" means a small knife, designed for carrying in a pocket or purse, that has its cutting edge and point entirely enclosed by its handle, and that may not be opened by a throwing, explosive, or spring action.
- F. Any person violating the provision of subsection ~~(a)~~ ~~A herein of this ordinance~~ shall be guilty of a Class 2 misdemeanor and shall be fined not more than \$200.00 ~~to~~ for the first offense. A second or subsequent offense is punishable as a Class ~~+~~ H felony, as ~~subscribed~~ ~~prescribed~~ under N.C.G.S. § 14-269(c).

7.14.020 Universal Stormwater Management, General Provisions

E. Enforcement and Violations

2. *Remedies and penalties.* The remedies and penalties provided for violations of this section, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.
 - a. *Remedies.*
 - 1) *Withholding of certificate of occupancy.* The stormwater administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
 - 2) *Disapproval of subsequent permits and development approvals.* As long as a violation of this section continues and remains uncorrected, the stormwater administrator or other authorized agent may withhold, and the board of adjustment may disapprove, any request for permit or development approval or authorization provided for by this section for the land on which the violation occurs.
 - 3) *Injunction, abatements, etc.* The stormwater administrator, with the written authorization of the town council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this section. Any person violating this section shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
 - 4) *Correction as public health nuisance, costs as lien, etc.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. § 160A-193, the stormwater administrator, with the written authorization of the town council, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
 - 5) *Stop work order.* The stormwater administrator may issue a stop work order to the person(s) violating this section. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work

order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

- b. *Civil penalties.* Violation of this section may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within thirty (30) days after notice of the violation is issued by the stormwater administrator. Civil penalties may be assessed up to the full amount of penalty to which town is subject for violations of its USMP stormwater permit.

~~c. *Criminal penalties.* Violation of this section may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.~~

8.06.030 Burning Trash, Papers, Rubbish, Garbage And Other Materials

- A. No person, firm or corporation shall burn any trash papers, rubbish or garbage out of doors anywhere in the town, except as hereinafter provided. This section shall not prohibit the use of an outdoor fire for cooking or for human warmth and comfort.
- B. No person, firm or corporation shall kindle or maintain any bonfire or rubbish fire of waste materials from construction or demolition of buildings or structures by burning on the premises or in the immediate vicinity.
- C. No person, firm or corporation shall kindle or maintain any open fire or authorize any such fire to be kindled or maintained on any private land without first having obtained permission from the fire department. The burning of refuse or materials that smolders or gives off noxious odors is prohibited.
- D. The chief of the fire department or his designee may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fire hazardous.
- E. The burning of leaves, brush or pine straw that is permitted shall be at least fifteen (15) feet from any structure and the fire shall be constantly attended by a competent person until such fire is extinguished; that it shall be required before any fire is ignited that there shall be a water hose with sufficient water to control such fire and before leaving the area of the fire, water shall be applied to the burned area in sufficient quantity to assure it is extinguished. The burning shall be between 8:00 a.m. and 6:00 p.m. and shall not create a nuisance.
- F. While recognizing that open burning contributes to air pollution, the town is aware that certain types of open burning may reasonably be allowed in the public interest. Therefore, the following types of open burning are permissible as specified if burning is not prohibited by laws and regulations of governmental entities having jurisdiction. The authority to conduct open burning under the provisions of this does not excuse or exempt any person from complying with all applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction even though the open burning is conducted in compliance with this section. Permissible open burning is:

1. Fires purposely set for the instruction and training of fire-fighting personnel when conducted under the supervision of:
 - a. Kure Beach Fire Department.
 2. Fires purposely set to forest lands for forest management practices acceptable to the division of forestry and the necessary governmental units.
 3. Camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort.
 4. Open burning for land clearing or right-of-way maintenance in areas other than those zoned solely residential or used primarily for residential purposes, if the following conditions are met:
 - a. Prevailing winds at the time of burning shall be away from any city or town or built-up area, the ambient air of which may be significantly affected by smoke, fly-ash, or other air pollutants from the burning;
 - b. The location of the burning shall be at least one thousand (1,000) feet from any dwelling located in a predominantly residential area other than a dwelling structure located on the property on which the burning is done;
 - c. The amount of dirt on the material being burned shall be minimized;
 - d. Heavy oils, asphaltic materials, item containing natural or synthetic rubber, or any materials other than plant growth shall not be burned;
 - e. Initial burning shall generally begin only between the hours of 9:00 a.m. and 3:00 p.m., and no combustible material shall be added to the fire between 3:00 p.m. on one (1) day and 9:00 a.m. on the following day, except that deviation from these hours of burning may be granted by the air pollution control agency having jurisdiction. The owner or operator of the open burning operation shall be responsible for obtaining written approval for burning during periods other than those specified above in this part.
- G. The provisions of this section are severable, and if any sentence, section or other part of this section should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.
- H. Any person, firm or corporation violating any provision of this section shall be guilty of a misdemeanor and ~~be fined punished or fined in the discretion of the court as by law provided as set forth in G.S. § 14-4.~~

9.04 DOGS

9.04.050 Penalty

Any person ~~violating the provisions of this article who shall violate these sections in KBC 9.04~~ shall be subject to a civil citation in the amount of ~~one hundred fifty dollars (\$150.00) seventy-five dollars (\$75.00) for the first offense.; second offense shall subject the offender to a misdemeanor charge as by law prescribed.~~ A person violating the provisions of this article a second time shall be guilty of a class 3 misdemeanor and fined one hundred dollars (\$100.00).

11.02.040 Permits

E. Public Access to and From Beach; Permits

1. No person or owner of any property abutting the project easement line to the Atlantic Ocean shall create a path or cause to be created a path for access across the grass on any point upon the berm or dune to gain access to the beach; excepting therefrom, any existing public access points established or approved walkovers across the berm or dune, whether public or private.
2. Any person desiring to have access from his/her property abutting the project easement line, may apply for a permit for the purpose of constructing a walkover according to the plans and specifications established by the existing laws for such purpose.
- ~~3.~~ Any person or owner of property abutting the project easement line to the Atlantic Ocean as recorded in the Register of Deeds Office of New Hanover County, North Carolina, who shall violate this subsection ~~shall be subject to civil penalties under KBC 1.08.020., or any person who shall be found upon the berm or dune destroying the vegetation thereon charged with a misdemeanor under KBC 1.08.010 or be subject to civil penalties under KBC 1.08.020. Each violation of this subsection shall constitute a separate offense for which a charge shall be made against such violator.~~
4. This subsection shall become effective immediately upon its passage.

13.14 RECREATION

13.14.010 Generally

13.14.020 Beach

13.14.010 Generally

A. *Skating*. It shall be unlawful for any person by use of roller skates, skateboards, scooters, whether motorized or not, to skate or travel upon, over or across any public street, sidewalk or park within the town as follows:

1. East of and including Fort Fisher Boulevard (U.S. 421);
2. Along the right-of-way of "K" Avenue;
3. Upon any or all municipal parks within the town;
4. Between sunset and sunrise, including public vehicular areas.

Mo-peds, as defined by state law, shall be excepted from this subparagraph.

B. *Playing Softball, Etc, On Streets*. No person shall engage in playing softball, baseball or football upon the public streets of the town.

C. *Penalty*. Any person violating this section of the article shall be responsible for an infraction and required to pay a penalty of ~~subject to a~~ of twenty-five dollars (\$25.00) ~~infraction~~ for the first offense.; ~~second offense shall subject the offender to a misdemeanor charge as by law prescribed~~ A person violating the provisions of this section a second time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

13.14.020 Beach

A. *Sleeping On Beach After Midnight Prohibited*. It shall be unlawful for any person to sleep on the beach strand within the town after 12:00 midnight.

B. *Nude Bathing Prohibited*. It shall be unlawful for any person being naked or insufficiently clothed thereby causing improper exposure of his or her person to bathe or swim in the Atlantic Ocean or sunbathe within the boundaries of the town limits or being so naked or insufficiently clothed to bathe or swim in any other public or exposed place within the town jurisdiction. Thong bathing suits or similar attire are specifically prohibited.

C. *Surfing and Swimming*

1. It shall be unlawful for any person to use a surfboard or any like instrument or board for surfing or propelling themselves within the bathing areas adjacent to the town while:
 - a. Within 250 feet north and 250 feet south of the Kure Beach Pier at all times;
 - b. Without having the surfboard attached to the user by means of a surf leash or shock cord at all times;
 2. Excluded from this subparagraph are surf mats, boogie boards, rafts or any other instrument reasonably considered to be incapable of causing injury to another person.
 3. It shall be unlawful for any person riding a surfboard to operate his surfboard in a reckless manner that may cause injury to another person. It shall at all times be the responsibility of those riding surfboards to take proper caution to insure the safety of swimmers and other surfers.
 4. There shall be no prearranged or scheduled tournaments or contests unless approved by council.
 5. It shall be unlawful for any person to swim within 100 feet north and 100 feet south of the Kure Beach Pier at all times. Life Guards may adjust these safe swimming distances depending on daily conditions.
- D. *Violation.* Any person violating ~~who shall violate this sections~~ the provisions of ~~subsection C~~ shall be subject to a civil citation in the amount of twenty-five dollars (\$25.00) for ~~the~~ first offense. ~~;~~ ~~second offense, shall subject offender to a misdemeanor charge as by law prescribed.~~ A person violating the provisions of this subsection a second time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.
- E. *Leaping From Commercial Fishing Piers Prohibited.* It shall be unlawful for any person to jump, dive, leap or in any way propel his or her body from any commercial fishing pier within the town at any time. Any person so convicted under this subparagraph shall be ~~guilty of a Class 3 misdemeanor, fined two hundred and fifty dollars (\$250.00), and may be imprisoned in accordance with North Carolina's criminal code. or imprisoned for not more than thirty (30) days or both in the discretion of the.~~ guilty of a Class 3 misdemeanor, fined two hundred and fifty dollars (\$250.00), and may be imprisoned in accordance with North Carolina's criminal code.
- F. *Litter, Glass and Alcoholic Beverages Prohibited On Beach*
1. It shall be unlawful for any person to litter by throwing, placing or leaving, or causing to be placed or left temporarily or permanently, any trash, refuse, garbage, paper or cups on the beach strand within the municipal limits located

east of Atlantic Avenue from the north and running with the banks thereof to the south of the town limits, except and unless such trash, refuse, garbage, paper or cups is placed in a designated location or container for removal by a specific garbage or trash service collector.

2. It shall be unlawful for any person to carry upon the beach strand any glass containers used for refreshment purposes.
 3. It shall be unlawful for any person to consume any type of alcoholic beverage upon the beach strand designated hereinabove.
 4. *Penalty.* ~~Any person violating the provisions of this subparagraph shall be subject to a one hundred fifty dollars (\$150.00) infraction for the first offense; second offense shall subject the offender to a misdemeanor charge as by law prescribed~~ Any person violating ~~who shall violate this sections~~ the provisions of this subsection F shall be subject to a civil citation in the amount of twenty-five dollars (\$25.00) for the first offense. ~~; second offense, shall subject offender to a misdemeanor charge as by law prescribed.~~ A person violating the provisions of this subsection a second time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.
- G. *Boat Or Jet Ski.* Boat or jet skis are defined as a vessel or watercraft of any type or size specifically designed to be self-propelled, whether by engine, sail, oar, paddle, or other means, which is used to travel from place to place by water.
- H. *Prohibited.* It shall be unlawful for any person to operate or pilot a boat or jet ski inside the area three hundred (300) feet eastward from the mean high water mark of the Atlantic Ocean or elsewhere along the public beaches within the area from the northern boundary line of Kure Beach, North Carolina to its southern boundary line in a manner as to create a hazard to others; excepting, it shall be lawful to launch such craft from the beach and land as long as there are no bathers in the area closer than fifty (50) feet to such craft.
- I. *Violation.* Any person violating the provisions of ~~subparagraphs~~ subsections G and H ~~herein~~ shall be subject to a civil citation in the amount of twenty-five dollars (\$25.00) for the first offense. ~~; second offense, shall subject the offender to a civil citation in the amount of fifty dollars (\$50.00)~~ A person violating the provisions of those subsections a second time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.
- J. *Beach Renourishment Trespassing.* Because of the inherent dangers of construction and equipment involved in the beach renourishment project known as "Beach Renourishment Carolina Beach Vicinity—Area South Project," it shall be unlawful for any person to trespass into the posted temporary construction barricade on the beach and no one shall be allowed to surf or swim in the area between the temporary barricades which would be eastward of the beach if the barricades were extended eastward. The area shall be posted by order of the Kure Beach Police Department.

K. *Disregarding Public Access To And From Beach; Penalty.* Any person who shall be found upon the berm/dune of the town who is not upon an existing public access point ~~on~~ or an established or approved walk over, and who is trampling or destroying the vegetation thereon, shall be subject to a civil citation in the amount of one hundred dollars (\$100.00) for the first offense. ~~;~~ A person violating the provisions of this subsection a second time shall be guilty of trespassing as by law prescribed.

L. *Fire On Beach*

1. Any type of fire including outdoor grills on the sand dunes on or east of the CAMA easement line is prohibited on the beach within the town to prevent potential fire hazards and or hazards to the general public.
2. Any person violating this provision shall be subject to a civil citation in the amount of one hundred dollars (\$100.00) for the first offense and a ~~;~~ second offense shall subject the offender to a civil citation in the amount of two hundred dollars (\$200.00). A person violating the provisions of this subsection a third time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

M. *Beach Vitex Prohibited*

1. Because of the invasive non-native plant known as Beach Vitex has been found to exist on the beach, and because Vitex grows prolifically which kills native plants such as sea oats and bitter panicum which protects the integrity of the beach berm, and because Vitex is unfriendly to nesting sea turtles and birds dependant upon this habitat, it shall be unlawful for any person to plant Beach Vitex on the beach and the existing Vitex shall be removed when notified by the code enforcement officer as specified by the eradication progress filed in the office of the code enforcement office.
2. Any person violating ~~this provision~~ the provisions of this subsection shall be subject to a civil citation in the amount of one hundred dollars (\$100.00) for the first offense and a ~~;~~ second offense shall subject the offender to a civil citation in the amount of two hundred dollars (\$200.00). A person violating the provisions of this subsection a third time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

N. *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subparagraph except when the context clearly indicates a different meaning:

Beach means the area of sand that extends landward from the mean low water line to the stable line of natural vegetation.

Beach equipment means any apparatus or paraphernalia that is designed or manufactured for use, or is actually used, on the beach or in adjacent tidal waters. Examples include without limitations: chairs, lounges, umbrellas, cabanas, tents, horseshoes and stakes,

sailboats, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, rafts, flotation devices, beach toys, baskets, bags, towels, coolers, other personal effects and equipment used by concessionaires, such as tables, podiums, booths or storage boxes. Beach equipment shall not include municipal trash containers, signage or structures placed by a governmental agency, items placed by a bona fide conservation agency or organization (such as signs or protection devices for turtle nests or equipment approved for use by duly licensed concessionaires).

O. Placement Of Beach Equipment

1. Unless allowed by a specific provision of this Code, or unless it is in the active use and personal presence of the owner or a permitted user, beach equipment must be removed by its owner or permitted user from the beach between the hours of 7:00 p.m. to 8:00 a.m. year-round, and placed in a lawful location. All personal items and beach equipment unattended and remaining on the beach between the aforementioned hours will be classified as abandoned property and will be removed and disposed of by the town.
2. A business that rents beach equipment shall abide by all rules and regulations pertaining to the license that has been issued and must adhere to the installation and removal policies as outlined in subparagraph O,1 of this section.
3. All beach equipment shall be at least fifteen (15) feet from any marked or staked sea turtle nest or dune vegetation.
4. No beach equipment may be placed within a twenty-five-foot perimeter of an emergency access or any public beach access.

P. Penalty. Any person who shall violate ~~this article~~ the provisions of subsection O herein shall be subject to a civil penalty which may be issued by the police department, or by the chief and or assistant fire chief of the fire department for the first offense in the amount of fifty dollars (\$50.00), and in the amount of one hundred dollars (\$100.00) for the second offense. A person violating the provisions of this subsection a third time shall be guilty of a misdemeanor and fined as set forth in G.S. § 14-4.

Q. Temporary Structures. Tents, canopies and other membrane structures having an area in excess of two hundred (200) square feet shall not be erected, operated, or maintained for any purpose on public or private property without first obtaining a permit from the building inspector, New Hanover County Fire Inspector, and, if applicable, the CAMA officer. Tents will only be allowed to be erected for a maximum of three (3) days. Tent companies must procure a privilege license and provide proof of liability insurance. If tent is erected upon oceanfront dune, restoration of dune vegetation and sand must be performed to the state it was prior to the tent erection. If permittee fails to restore dune vegetation and sand to the satisfaction of the building inspector, the town will perform restoration and bill permittee to full costs thereof. Erection atop dunes is prohibited. All oceanfront uses of tents must be barricaded to prevent foot traffic outside pathway to and

perimeter of the tent. Tents are expressly prohibited east of the Army Corps of Engineers' beach renourishment line. Placement of tent must be approved by the building inspector. If application is submitted to the building inspector for review seven (7) days prior to the event, the permit fee shall be two hundred fifty dollars (\$250.00). Any application submitted to the building inspector less than seven (7) days prior to the event, the permit fee shall be five hundred dollars (\$500.00).

~~R. *Restoration Of Beach.* When any part of the beach strand shall be disturbed, dug up or taken up for any purpose, the person doing the same shall immediately upon the completion of such purpose, and as fast as practical during the accomplishment thereof, return the beach sand to the condition which existed prior to the excavation. Any person violating this subparagraph subsection shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00).~~

R. *Restoration Of Beach.*

1. Anyone disturbing, digging up, or taking up any part of the beach shall restore the sand to its natural condition before leaving the beach and no later than 30 minutes prior to sunset as stated by the National Weather Service.
2. Because they risk contravening the Safety and Conservation Standards set forth in sub-subsection T below, holes dug on the beach shall not exceed 5 feet in width and 16 inches in depth at the hole's lowest point and shall be attended by a responsible adult at all times until filled in and the sand restored to its natural state.
3. Any person violating the provisions of this subsection shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00).
4. Authorized personnel, including members of the Pleasure Island Sea Turtle Project, Town employees performing work on the beach, and others approved by the Town shall be exempt from the application of this section.

S. *Beach Safety And Conservation Standards Policy.* It is the policy of the town to encourage and promote the recreational use of its beach while protecting human safety and conserving and sustaining the sensitive ecosystems of the beach including, but not being limited to, the stabilizing system of sand dunes, sea turtle nesting sites, the nests and young of local and migratory bird species, and the habitats of other maritime plant and wildlife communities. In achieving the purposes of this policy, all actions not otherwise provided for in this Code which occur on or are requested to occur on the beach, including the frontal dune, beach strand, and prohibited areas, shall be evaluated by pertinent department heads under and conform to the safety and conservation standards set forth below.

T. *Safety And Conservation Standards.* The following safety and conservation standards shall be used to evaluate the occurrence of actions on the beach not otherwise provided for in the Code. In conforming to these standards, all such actions shall not:

1. Pose a direct or indirect threat to human safety.
2. Impede, obstruct, disrupt, or hinder the provision of law enforcement, ocean rescue, and other emergency services.
3. Unreasonably interfere with the public's use and enjoyment of the beach by emitting loud, disturbing, or unnecessary noise or by discharging fuel or other hazardous materials onto the beach surface or in ocean waters.
4. Involve a vehicle being operated on the beach at night which, for purposes of this subparagraph, shall be construed to mean the time from one (1) hour before sunset to one (1) hour after sunrise.
5. Have the potential of damaging the system of sand dunes.
6. Have the potential of damaging or destroying vegetation.
7. Have the potential of damaging or destroying sensitive maritime ecosystems.
8. Have the potential of increasing beach erosion.
9. Have the potential of resulting in the harassment, injury, and/or death of local or migratory bird species or their young.
10. Have the potential of resulting in the harassment, injury, and/or death of sea turtle eggs and/or hatchlings.
11. Have the potential of resulting in the harassment, injury, and/or death of adult female sea turtles attempting to nest on the beach.

In addition, any such actions shall comply with all applicable federal, state, and local statutes, codes, regulations, rules, policies, and ordinances.

- U. *Exceptions.* The provisions of this section do not apply to authorized personnel performing designated functions including, without limitation, the following: policing and maintaining the beach; ocean rescue and other emergency services; code enforcement; and beach nourishment projects. The town may also close the beach or restrict activities thereon to eliminate or reduce an immediate threat to human or habitat safety during a state of emergency, natural disaster, or other unforeseen circumstances.