



AGENDA

Town of Kure Beach Planning and Zoning Commission

Wednesday, April 7, 2021

A meeting of the Planning and Zoning Commission will be held Wednesday, April 7, 2021 in the Council Chambers commencing at **6:30 PM**.

Page

1. CALL TO ORDER

2. ADOPTION OF THE AGENDA

3. ADOPTION OF MINUTES

- 3 - 7 3.1. March 3, 2021 Regular Meeting
[2021-03-03 - PCZ Minutes](#)

4. PUBLIC COMMENT

5. OLD BUSINESS

- 5.1. Underground Utilities Update (Richardson)
- 5.2. Land Use Plan Update (Galbraith) Remind Everyone LUP Survey is available on the Town's website
- 8 - 63 5.3. 160 D Update (Eldridge)
[memo.pzc re 160D rewrite.\(for 4.7.21 pzc\)](#)
[ptas.160D.chapter 11](#)
[ptas.160D.chapter 14](#)
- 64 - 84 5.4. Continued discussion on proposed text amendments to the following sections of Chapter 15 Zoning of the Town of Kure Beach Code and on the zoning map amendment for the proposed Downtown Preservation Overlay District overlaying the existing B-1 Business District. (Eldridge)

- 15.08.100 Overlay District
- 15.08.110 K Avenue Mixed-Use Overlay District
- 5.08.120 Downtown Preservation Overlay District
- 15.08.040 District Regulations

[proposed text amendments.historic district.v 2\(for council\)](#)

[ptas.15.08.040.v 2.\(for council\)](#)

[Design Standards.Final.Version 5.Redline.\(for Council\)](#)

6. NEW BUSINESS

7. ADJOURNMENT



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:30 pm

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday, March 3, 2021 at 6:30 pm. A quorum of members was present, and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

Chairman Craig Galbraith
Member Kathleen Zielinski
Member Tony Garibay (VIA Phone conference)
Member James Dugan

P&Z MEMBERS ABSENT

Member Kenneth Richardson

STAFF PRESENT

Mandy Sanders, Town Clerk
John Batson, Building Inspector

CALL TO ORDER

Chairman Galbraith called the meeting to order at 6:35 p.m.

MOTION: Member Zielinski made a motion to excuse Member Richardson from tonight's meeting.

SECOND: Member Dugan

VOTE: Unanimous

ADOPTION OF AGENDA

MOTION- Member Zielinski made a motion to adopt the agenda as presented.

SECOND- Member Dugan

VOTE- Unanimous

APPROVAL OF MEETING MINUTES:

- February 3, 2021 Regular Meeting

MOTION- Member Dugan made a motion to approve the February 3, 2021 minutes as presented.

SECOND- Member Zielinski

VOTE- Unanimous

PUBLIC COMMENTS

None

OLD BUSINESS

1. Underground Utilities Update

MOTION: Member Dugan made a motion to table Underground Utilities Update.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:30 pm

SECOND: Member Zielinski

VOTE: Unanimous

NEW BUSINESS

1. Interview Alternate Member Applicants

Chairman Galbraith gave a brief introduction of the job of Alternate to the Planning and Zoning Commission.

- Byron Ashbridge

Moved to Kure Estates in 2012 part time and is now here full time.

Recently bought ocean front home

Created oversized sign for Kure Estates parking area and was able to change ordinance through PZC

Has 20 years with Bank of America, left to join a Business Franchise

Looking for professional business opportunities and volunteer opportunities

Wants to contribute more to this town.

Member Garibay asked:

What was your role in Bank of America?

What brought you to Kure Beach?

Mr. Ashbridge responded:

- Regional management and transitioned into operations roles
- Planned Outer Banks trip and a hurricane cut off access and they changed vacation plans to Kure Beach. Had never heard of Kure Beach before ended up coming back several times and wanting to buy property.

Member Dugan asked:

We are not a decision-making board. Town Council makes the ultimate decisions. It can be difficult to be working on project for years and is not accepted by Council. How would you feel about getting shut down on an idea?

Mr. Ashbridge responded:

- Understands role is not decision making.
- Wants to get more involved and have influence in decisions.

Member Galbraith asked:

What are the major planning issues for Kure Beach?

What do you think Kure Beach can do better?

Mr. Ashbridge responded:

- Parking issue
- Encourage fewer rental activities

Member Zielinski asked:

What does "Through citizen and business engagement" mean?

Mr. Ashbridge responded:



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:30 pm

- Encourage feedback, have conversations, and be open.

- Joseph Barlock

Purchased a home in Kure Beach 6 years ago but has been a permanent resident for 1 year

Went to the University of Mississippi

Entire career has been in the utility industry. Started with TBA, worked with Con Ed in NY, became part of Entergy in NY, then worked with PSE&G in NJ

Is now completely retired

Worked with City Councils and Planning and Zoning in NY and NJ

Understands this is an advisory committee and is familiar and used to that

Member Zielinski asked:

Have you had an opportunity to go through Chapter 15 in our Code of Ordinances?

Mr. Barlock responded:

He has started going through it but is not familiar with it yet.

Chairman Galbraith asked:

What do you see as the major planning issues?

What is it about Kure Beach that has attracted you here?

Mr. Barlock responded:

- Erosion, water conservation, and stormwater
- Kure Beach is a family atmosphere. Quiet community

Member Garibay asked:

What can we do in Kure Beach to better utility?

What would be some things you would like to see this organization tackle?

Mr. Barlock respond:

- Improve reliability by improving redundancy
- No complaints, need to review ordinances.
- Beach is important, conservation and stormwater

Member Dugan asked:

What would concern you the most about the area and Kure Beach

Mr. Barlock responded:

- Power lines, wind is a big concern for utilities

Member Zielinski asked:

What do you mean by redundancy?

Mr. Barlock responded:

- If one circuit trips out, can loop into another



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:30 pm

- Paul Fagan

Lived in Kure Beach since 2006

Retired in 2017 and moved here permanently from Raleigh

University of Georgia

Accounting Major, became salesman at IBM

Looking for chance to make a difference for the Town now that he has time

Has skills in leadership, teambuilding and collaborating, working towards goals

Member Dugan asked:

Do you feel reasonably comfortable accepting rejection?

What do you see as biggest factor as far as outside influences and changing the community?

Mr. Fagan responded:

- Yes. Being told no as salesman is just another day. Has lots of experience with rejection.
- What drew us to Kure Beach was gaining a community after buying a home. Important that we commit ourselves to preserving what is so special. Family community. Sacred pillars hold community together.

Member Galbraith asked:

What do you see as major issues that we need to address in the future? What is it that we have done well?

This is volunteer activity. How do you feel about working in a volunteer activity?

Mr. Fagan responded:

- Kept true to soul of family-oriented beach community
- Leaders continue to listen to what citizens want and try hard to deliver. He would like to be a part of that.
- Stay true to the LUP.
- Traveled a lot and watched the joy his father got out of volunteering for Town Council in the town he grew up
- Feels all should participate in civil duty if able.

Member Zielinski asked:

On your application you were HOA board member for Kure Estates, any zoning issues while on that board and why were you on it for only one year.

Mr. Fagan responded:

- Asked to be on it as an intermittent member until they could vote on a new one. Was currently serving on one in Raleigh at the same time
- No zoning issues at the time.

Member Galbraith recommends Paul Fagan due to his level of volunteering

Member Zielinski recommends Joseph Barlock because Planning and Zoning experience and utilities and stormwater

Member Dugan recommends Joseph Barlock based on experience

Member Garibay recommends Joseph Barlock due to experience and knowledge for utilities. Could be crucial to providing guidance in future projects.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, March 3, 2021 @ 6:30 pm

MOTION: Member Zielinski Made a motion to recommend to council Joseph Barlock as alternate member of the Planning and Zoning Commission.

SECOND: Member Dugan

VOTE: Unanimous.

2. Land Use Plan Survey Discussion (Galbraith)

Continued from PZC meeting. Survey is hereby incorporated into the minutes.

Chairman Galbraith - Will send changes and recommendations on Word document to Town Clerk Sanders.

Chairman Galbraith commented that he feels that being a member of HOA board is possibly a conflict of interest to being on the Planning and Zoning Commission.

Attorney Eldridge commented that conflict of interest is simple, but appearance is a greyer area. Need to look at procedures. They can be recused on certain matters that have an apparent conflict.

ADJOURNMENT

MOTION: Member Garibay made a motion to adjourn at 7:40 p.m.

SECOND: Member Zielinski

VOTE: Unanimous

ELDRIDGE LAW FIRM, P. C.

ATTORNEY AND COUNSELOR AT LAW

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MEMORANDUM

TO: KURE BEACH PLANNING AND ZONING COMMISSION
FROM: JAMES E. ELDRIDGE
DATE: APRIL 6, 2021
RE: 160D REWRITE

- ❖ Chapter 160D rewriting of the Code has begun.
- ❖ The rewrite specifically impacts KBC Chapters 11 (Building and Inspections “B/I”), 14 (Subdivision Regulation), and 15 (Zoning).
- ❖ There will also be a new Chapter 12...why?
 - 160D consolidates and reorganizes existing statutes without making many substantive changes to those statutes.
 - Examples of this approach include:
 - Consolidating city and county planning and development regulations into one chapter.
 - Employing new definitions for various planning and development regulations. Discuss examples.
 - Unifying and locating in one place those definitions which impact various other articles like B/I, Subdivision Regulations, and Zoning.
 - Unifying and locating in one place the various planning and development approval processes.
 - Unifying and locating in one place provisions governing the appealing of various planning and development decisions.

- ❖ In this respect, 160D appears more geared to a UDO which consolidates B/I, Subdivision, and Zoning regulations in one chapter whereas Town Code utilizes a multi-chapter approach. Hence the new Chapter 12.
- ❖ With respect to syntax, citations, and references, the entire Code is impacted but those clean-up chores can wait until we conform Chapters 11, 14, and 15.
- ❖ Timeline for July 1, 2021 deadline:
 - PZC reviews the proposed text amendments to Chapters 11 and 14 in April and Chapters 12 and 15 in May.
 - Council conducts public hearing on all Chapter 11, 14, 12, and 15 text amendments in May.
 - Council adopts the 160D text amendments to Chapters 11, 14, 12, and 15 in June.

Review proposed 160D text amendments to Chapters 11 and 14.

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

11 BUILDINGS AND BUILDING REGULATIONS

[11.02 ADMINISTRATION](#)

[11.04 FIRE LIMITS](#)

[11.06 FIRE CODE](#)

[11.08 BUILDING CONSTRUCTION STANDARDS](#)

[11.10 MINIMUM HOUSING CODE](#)

[11.12 NUMBERING OF BUILDINGS](#)

[11.14 FENCES](#)

[11.16 MOVING BUILDINGS](#)

[11.18 SWIMMING POOLS](#)

[11.20 OCEANFRONT DECK ENCROACHMENT](#)

Cross reference(s)—Animals, KBC 9; dogs prohibited from running at large in the town, KBC 9.04.010; fire protection and prevention, KBC 2.12; garbage and trash, KBC 7.18; motor vehicles and traffic, KBC 10; nuisances, KBC 8; parks and recreation, KBC 13.14; streets, sidewalks and other public places, KBC 13; utilities, KBC 7; zoning, KBC 15.

State law reference(s)—Building inspection, G.S. § 160AD-411 et seq.; state building code and building code council, G.S. § 143-136 et seq.; warrants to conduct inspections, G.S. § 15-27.2; fire limits, G.S. § 160A-435 et seq.; minimum housing standards, G.S. § 160AD-441 et seq.; fire escapes, G.S. § 69-8 et seq.; contractors, G.S. Ch. 87; public building contracts, G.S. § 143-128 et seq.; manufactured housing and mobile homes, G.S. § 143-143.8 et seq.; North Carolina Code Officials Qualification Board, G.S. § 143-151.8 et seq.; enforcement of building code insulation and energy utilization standards, G.S. § 143-151.26 et seq.; technical ordinances, G.S. § 160AD-76; inspection of buildings for fire hazards, G.S. § 69-4; regulating and licensing businesses, trades, etc., G.S. § 160AD-194.

11.02 ADMINISTRATION

[11.02.010 Building Commissioner](#)

[11.02.020 Building Inspectors](#)

[11.02.030 Definitions](#)

[11.02.035 Alternate Inspection Method for Component or Element](#)

[11.02.038 Conflicts of Interest](#)

[11.02.040 Permits](#)

11.02.010 Building Commissioner

- A. *Established.* The ~~town council~~**Town Council** does hereby establish the office of ~~building commissioner~~**Building Commissioner** whose position shall be filled by one of the ~~council~~**Council** members as elected by the ~~town council~~**Town Council** immediately following the swearing in ceremonies. The ~~building commissioner~~**Building Commissioner** shall serve for a term of two (2) years. (Ord. of 1-18-83, § 1)
- B. *Duties.* The duties of the ~~building commissioner~~**Building Commissioner** shall be to bring to the attention of the ~~building inspector~~**Building Inspector** any infractions or violations of the ~~town~~**Town** ordinances and building code pertaining to zoning and construction, demolition, alterations or repairs of structures within the jurisdiction of the ~~town~~**Town**. (Ord. of 1-18-83, § 3)

State law reference(s)—Public officers, G.S. § 128-1 et seq.

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KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

Charter reference(s)—Commissioner of public safety to be in charge of all ~~building inspector~~ **Building Inspectors**, § 8.

Cross reference(s)—Officers and employees, KBC 2.08.010 subparagraph A.

11.02.020 ~~Building Inspector~~ **Building Inspectors**

A. *Appointment.* A ~~building inspector~~ **Building Inspector** for the ~~town~~ **Town** shall be appointed by the ~~town~~ **Town council** **Council**. (Code 1973, § 6-6)

B. *Disposition Of Fees.* All fees collected by the ~~building inspector~~ **Building Inspector** under the authority of law and the provisions of this Code and other ordinances of the ~~town~~ **Town** shall be promptly paid by the ~~building inspector~~ **Building Inspector** to the treasurer of the ~~town~~ **Town**. (Code 1973, § 6-7)

~~C. *Powers, And Duties, and Responsibilities.* *Generally.* The ~~building inspector~~ **Building Inspector** shall have all of the powers, ~~and~~ **and** ~~duties, and responsibilities~~ **duties, and responsibilities** provided by the laws of the state, ~~including Chapter 160D, Articles 11 and 12, and~~ **including Chapter 160D, Articles 11 and 12, and** the provisions of this Code, and other ordinances of the ~~town~~ **Town** in the conduct of his/~~her~~ **her** official duties. (Code 1973, § 6-8)~~

~~C.~~ **State law reference(s)**—Duties and responsibilities, G.S. § 160A-412; building inspection, stop work orders, condemnation, G.S. § 160A-411 et seq.

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~~D.~~ **Reports.** The ~~building inspector~~ **Building Inspector** shall make regular reports as requested by the ~~town~~ **Town council** **Council**. (Code 1973, § 6-9)

~~D.~~ **State law reference(s)**—Records and reports, G.S. § 160A-433.

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~~E.~~ **Record Of Permits Issued.** The ~~building inspector~~ **Building Inspector** shall keep a record of all permits issued and of the statements upon which such permits are issued. (Code 1973, § 6-10)

~~E.~~ **State law reference(s)**—Records and reports, G.S. § 160A-433.

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F. *Right Of Entry.* The ~~building inspector~~ **Building Inspector** may enter at all reasonable times in buildings, structures or premises within the ~~town~~ **Town** for the purpose of inspecting the same and in the performance of his duties. (Code 1973, § 6-11)

G. *Altering Buildings.* No building shall be altered until it has been examined and approved by the ~~building inspector~~ **Building Inspector** as being in good and safe condition to be altered; as proposed; and alterations so made shall conform to the building laws in force. (Code 1973, § 6-12)

Cross reference(s)—Officers and employees, KBC 2.08.010 subparagraph A.

State law reference(s)—~~Building inspector~~ **Building Inspectors**, G.S. § 160A-411 et seq.; authority for city to designate county inspector as city inspector, G.S. § 160A-413.

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~~11.02.030 Definitions~~
11.02.030 Definitions

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

Definitions for the key terms in this Chapter are set forth in KBC 12.x.x.

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The following terms shall have, when used in this chapter, the meanings set forth below unless a different meaning clearly appears from the context:

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Building means any structure used or intended for supporting or sheltering any use or occupancy.
Development means 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 line means the line established by the town in accordance with 15A NCAC 07J.1300 representing the seaward most allowable location of oceanfront development whereby the vegetation line or measurement line shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line subject to the provisions of 15A NCAC 07H.0306(a)(2); "vegetation line," "measurement line," and "static vegetation line" being defined under 15A NCAC 07H.0305.
Dwelling means 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 unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
Governing body means the Town Council or Board of Commissioners of the Town of Kure Beach or vice versa.
Manufactured home or mobile home means a structure as defined in G.S. § 143-145(7).
Owner means the holder of the title in fee simple and every mortgagee of record.
Parties in interest means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.
Public authority means any housing authority or any officer who is in charge of any department or branch of the government of the town relating to health, fire, building regulations, or other activities concerning dwellings in the town.
Public officer means the officer or officers who are authorized by ordinance adopted hereunder to exercise the power prescribed by the Ordinance and the General Statutes of North Carolina.
Town or *city* means the incorporated Town of Kure Beach.

HISTORY

Adopted by Ord. 11-02-030 on 3/12/2020

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11.02.035 Alternate Inspection Method for Component or Element

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A. The Building Inspector shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of a building from a licensed architect or a licensed engineer provided all of the following apply:

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1. The submitted design or other proposal is under the valid seal of the licensed architect or engineer.
2. A field inspection of the installation or completion of a construction of the component or building element is performed by a licensed architect or a licensed engineer or by a person under the direct supervisory control of the licensed architect or engineer.
3. The licensed architect or engineer provides the Town with a signed written document certifying that the component or building element so inspected complies with the North Carolina Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings. The inspection certification required under this subdivision shall be provided electronically or by physical delivery and the Building Inspector shall promptly acknowledge receipt of the same by reciprocal means.

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KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

B. Upon the acceptance and acknowledged receipt of the signed written certification required under sub-subsection 3 above, the Town, its Building Inspections Department, and the Building Inspector shall be discharged and released from any and all liabilities, duties, and responsibilities imposed under Chapter 160D Article 11 or in common law from any claim arising out of or attributed to the component or building element for which the inspection certification was provided.

C. As used herein, the following definitions shall apply:

1. *Component* – Any assembly, subassembly, or combination of elements designed to be combined with other components to form part of a building or structure. Examples of a component include an excavated footing trench that does not contain any concrete.
2. *Element* – A combination of products designed to be combined with other elements to form all or part of a building component.
3. *Components and Elements* are not systems.

11.02.035 Conflicts of Interest

Staff members, agents, and contractors responsible for building inspections for the Town shall comply with KBC 12.x.x. No staff member of the Building Inspections Department shall be financially interested in or employed by an entity financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the Town's planning and development regulation jurisdiction, or any part or system thereof, or in the making of plans or specifications therefor, unless he/she is the owner of the building. No staff member of the Building Inspections Department, agent, or employee of a contractor responsible for building inspections for the Town shall engage in any work that is inconsistent with his/her duties or with the interest of the Town as determined by the Town.

The Town shall find a conflict of interest if any of the following apply:

1. If the individual, company, or employee of a company contracting to perform building inspections for the Town has worked for the owner, developer, contractor, or project manager of the project to be inspected within the last two (2) years.
2. If the individual, company, or employee of a company contracting to perform building inspections for the Town is closely related to the owner, developer, contractor, or project manager of the project to be inspected.
3. If the individual, company, or employee of a company contracting to perform building inspections for the Town has a financial or business interest in the project to be inspected.

11.02.040 Permits

A. Prerequisite ~~to~~ Construction, Repair, Replacement, Demolition, Remodeling, ~~And~~ Development

1. Except as provided in subparagraph B, no building construction, repairs, replacement, or remodeling; installation of driveways, parking lots, or other ground covering impervious surfaces, other construction, development, or demolition shall begin in the ~~town~~Town until a permit has been obtained from the ~~building inspector~~Building Inspector. This

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KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

subparagraph shall be applicable to all development on or abutting ocean beaches within the ~~town~~Town.

2. No permit shall be issued if the total square footage of the buildings and impervious ground covering surface will exceed sixty-five (65) percent of the lot; excepting therefrom, those structures located in the B-1 District or deemed commercial and within the established fire district of the ~~town~~Town.
3. Any commercial construction requiring review by the New Hanover County Building Safety Department pertaining to mechanical, electrical, plumbing, or fire permits shall be obtained in conjunction with a building permit being issued by the ~~town~~Town's ~~building inspector~~Building Inspector.
4. Any type of impervious surface across any ~~town~~Town right-of-way shall be limited to twenty-four (24) feet total.
5. No development shall occur seaward of the ~~town~~Town's development line except as allowed under 15A NCAC 07H.0309.
6. A building permit issued hereunder shall expire by limitation in six (6) months after the date of issuance if the work authorized under the permit has not been commenced. In the event the authorized work has been commenced but is discontinued for a period of twelve (12) months, the permit shall immediately expire. Any work authorized under a permit that has expired cannot be performed until a new permit has been issued.
7. After a building permit has been issued, there shall be no changes or deviations from the terms of the permit application, plans and specifications, or the permit, excepting such changes and deviations which are clearly permissible under the State Building Code, shall be made unless and until specific written approval of the proposed changes and/or deviations has been obtained from the Building Inspections Department.
8. The Building Inspector may revoke and require the return of any building permit by notifying the permit holder in writing and stating the reasons for the revocation. Building permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements fo any applicable State or local laws; or for false statements or misrepresentations made in obtaining the permit.
- 5-9. An owner or builder may appeal, in accordance with the provisions of KBC 12.x.x., from a stop work order involving the alleged violation of KBC Chapter 15 or the revocation of a building permit.

(Code 1973, § 6-17; Ord. of 12-17-91; Ord. of 4-10-96; Ord. of 6-19-01; Ord. of 5-15-07; Ord. of 3-21-17)

State law reference(s)—Permits, G.S. § 160A-D, 417.

- B. *Fees.* All building permit fees are on file in the ~~town~~Town eClerk's office. (Code 1973, § 6-18)

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KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS

(Proposed Text Amendments per 160D)

Cross reference(s)—~~Town~~Town clerk, KBC 2.08.030 subparagraph A; ~~town~~Town treasurer, KBC 2.08.040 subparagraph A.

State law reference(s)—Permit requirements, G.S. § 160-~~AD-417~~.

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- C. *Permits Applied ~~For~~ After Construction.* Any permit that is applied for after construction has begun, the fee for such permit shall be the established fee plus fifty dollars (\$50.00) or twice the established fee, whichever is greater. (Ord. of 5-18-93)
- D. *Clean Up Waste Material ~~And~~ Debris.* It shall be the responsibility of each person undertaking construction activity to make their own private arrangement for the removal or disposal of waste material and debris. Air-borne materials subject to wind distribution shall be containerized for safety and cleanliness. The general contractor or the person undertaking the construction activity shall be responsible for meeting the above requirements which shall be performed daily at the end of each work day to cleanse the surrounding public and private property of all building material, waste and debris generated by construction activity to the satisfaction of the ~~building inspector~~Building Inspector. (Ord. 96-1, 3-19-96)

Cross reference(s)—See KBC 13.02.010.

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 property which abuts 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 which abuts 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 sub~~section~~paragraph, or any person who shall be found upon the berm or dune destroying the vegetation thereon, shall be charged with a misdemeanor under KBC 1.08.010 or be subject to civil penalties under KBC 1.08.020. Each incident of violation of this sub~~section~~paragraph shall constitute a separate offense for which a charge shall be made against such violator.
4. This sub~~paragraph~~subsection shall become effective immediately upon its passage.
(Ord. of 6-17-97; Ord. of 7-20-99, exh. A)

Cross reference(s)—Motor vehicles on the beach strand, KBC 10.06.040 subparagraph A; disregarding public access to and from beach; penalty

F. *Special Events*

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS

(Proposed Text Amendments per 160D)

1. Definitions. The following terms shall have, when used in this section, the meanings set forth below unless a different meaning clearly appears from the context:

Beach strand: Area to include mean high tide line to the westward edge of the ~~town~~Town's beach renourishment easement line.

Event director: Person who is planning and running the event; also considered the spokesperson for the group.

Inspection: The inspection for litter, refuse, debris, garbage, left behind on any public area, and any dune area of a private oceanfront property after a special event takes place.

Loud noises: Noises of such frequency or volume as to annoy or disturb any citizen, and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boardinghouse or other type of residence.

Special ~~e~~Events ~~e~~Coordinator ("SEC"): Kure Beach ~~Building Inspector~~Building Inspector or designee.

2. Planned outdoor group activities, such as weddings, sporting events, meetings, organized entertainment or celebrations on Kure Beach public property require a special events permit, and must conform to the requirements below.
 - a. A permit application must be completed and submitted prior to any authorized event. After application is made, and the fees are paid, permission for the special event will be given in writing.
 - b. For any event, or at the discretion of the SEC, a two hundred fifty dollar (\$250.00) refundable deposit must be made in addition to the permit fees. Deposit will be refunded upon successful inspection of event location after event.
 - c. The event director will be responsible for sufficient parking for guests and must provide a parking schematic or written plan along with special event application.
 - d. Obstruction of any public beach right-of-way, parking area or public street is prohibited without ~~town~~Town councilCouncil approval.
 - e. Any tents, banners, stages, nets, etc. on public property, may not be set up more than twelve (12) hours prior to the activity, and must be removed within twelve (12) hours afterwards, and are required to procure a fire permit if tent is over two hundred (200) square feet.
 - f. Any amplified music within ~~Kure Beach~~the Town must be approved by the SEC. Any amplified music or PA system on the beach strand must be directed toward the ocean and away from any residences. The volume of the music must not create loud and disturbing noises. All noises (music, loudspeaker, etc.) must be terminated by 11:00 p.m. This ~~subparagraph~~sub-subsection will be enforced by the ~~Town~~Town of Kure Beach Police Department and/or other authorized ~~town~~Town personnel.

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- g. The event director will be responsible for litter pickup of public/private areas used. If activity is on the beach strand, any litter (boxes, etc.) that will not fit in cans must be removed from the beach strand. All food litter must be removed from the beach strand. All plastic and aluminum litter must be recycled; use of styrofoam and glass products for serving refreshments is prohibited. No balloons or plastic confetti may be used as part of any decorations placed on public property. All decorations (flowers, streamers, etc.) must be removed from the site immediately following the event. Litter subject to a two hundred fifty dollar (\$250.00) fine.
- h. For events with expected attendance of one hundred (100) people or more, portable toilets must be provided by the event director. Portable toilets may not be set up more than forty-eight (48) hours prior to the activity and must be removed within forty-eight (48) hours afterwards.
- i. Merchandise sales or donation solicitations by a person or group for the purpose of raising money for a charity or nonprofit group may only be conducted on public property with an approved special event permit. Information concerning nonprofit vending activities must be included in the special event permit application. "For-profit" vendors must be disclosed in the special event permit application and must be approved by ~~the Kure Beach Town~~Town Council. ~~If approved, vendors must purchase a privilege license from the Town of Kure Beach prior to the event.~~ Food vendors must also obtain a permit from the health department.
- j. ~~Town~~Town ordinance prohibits fires or cooking of any kind on the beach strand. No open flames are allowed on the beach strand including fireworks and tiki torches.
- k. ~~Town~~Town ordinance prohibits the consumption of alcoholic beverages of any kind on the beach strand or any public property.
- l. The event director will coordinate traffic and crowd control with the ~~Kure Beach~~ SEC.
- m. This subparagraph may be used in conjunction with any and all other applicable subparagraphs.

(Ord. of 3-20-12)

State law reference(s)—Permits, G.S. § 160AD-417; time limitations or validity of permits, G.S. § 160AD-418.

HISTORY
Amended by Ord. 11.02.040 on 3/12/2020

11.04 FIRE LIMITS

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(Proposed Text Amendments per 160D)

[11.04.010 No 1 Fire District - Boundaries](#)

Cross reference(s)—Fire protection and prevention, KBC 2.12; subdivisions, KBC 14; zoning, KBC 15.

State law reference(s)—Requirement that city establish fire limits, G.S. § 160A-D-435.

11.04.010 No 1 Fire District - Boundaries

In order to establish for a more uniform system of regulation in promoting and protecting the health, safety and welfare as well as the orderly growth within the community, the description hereinafter appearing shall be the amended fire district limits of the ~~town~~Town:

The primary fire district shall consist of the following property located within the B-1 district:

Block 9, Lots 10, 11, 12, & 13
Block 10, Lots 1, 21, & 22
Block 15, Lots 1, 2, 21, & 22
Block 16, Lots 10 & 11

(Ord. of 7-2-84, § 6-1; Ord of 10-16-84, § 6-1)

State law reference(s)—Fire districts, G.S. § 160A-D-435; restrictions within primary fire limits, G.S. § 160A-D-436.

11.06 FIRE CODE

[11.06.010 Adopted](#)

[11.06.020 Amendments](#)

State law reference(s)—Investigation of fires and inspection of premises, G.S. §§ 69-1 to 69-7; state volunteer fire department, G.S. §§ 69-14 to 69-25; safety precautions in hotels, G.S. §§ 69-26 to 69-38; power of the ~~town~~Town to restrict, regulate and prohibit the keeping, use, etc., of explosives, inflammable substances, etc., see G.S. § 160A-183.

11.06.010 Adopted

The International Fire Code, including appendices and the state amendments, as published by the International Code ~~Council~~Council, is hereby adopted as the code of the ~~town~~Town for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the ~~town~~Town and providing for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such International Fire Code, current edition, published by the International Code ~~Council~~Council, on file in the office of the fire chief as hereby referred to, adopted and made a part hereof as if fully set out in this section.

(Code 1973, § 10-1; Ord. of 5-15-2018)

State law reference(s)—Technical codes, G.S. § 160A-76.

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11.06.020 Amendments

A. Wherever the word municipality is used in the Fire Prevention Code, it shall be held to mean the ~~Town~~ **Town** of Kure Beach, North Carolina.

~~A.~~

B. Wherever the term corporation counsel is used in the Fire Prevention Code, it shall be held to mean the ~~town~~ **Town** attorney.

(Code 1973, § 10-1)

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

11.08 BUILDING CONSTRUCTION STANDARDS

[11.08.010 Adoption Of The International Building Code \(IBC\), The International Residential Code](#)

[\(IRC\), North Carolina State Building Code, Including Amendments And Appendix](#)

[11.08.020 Drainage Of Water From Buildings](#)

[11.08.030 Adoption Of North Carolina Uniform Residential Building Code, Including Amendments;](#)

[Area Of Jurisdiction](#)

[11.08.040 Supplemental District Regulations, Coastal Area Management Act](#)

State law reference(s)—Building inspection, G.S. § 160~~AD-411~~ **AD-411** et seq.; state building code and building code ~~council~~, G.S. § 143-136 et seq.; warrants to conduct inspections, G.S. 15-27.2; fire limits, G.S. § 160~~AD-435~~ **AD-435** et seq.; minimum housing standards, G.S. § 160~~AD-441~~ **AD-441** et seq.; fire escapes, G.S. § 69-8 et seq.; contractors, G.S. Ch. 87; public building contracts, G.S. § 143-128 et seq.; manufactured housing and mobile homes, G.S. § 143-143.8 et seq.; North Carolina Code Officials Qualification Board, G.S. 143-151.8 et seq.; enforcement of building code insulation and energy utilization standards, G.S. § 143-151.26 et seq.; technical ordinances, G.S. § 160A-76; inspection of buildings for fire hazards, G.S. § 69-4; regulating and licensing businesses, trades, etc., G.S. § 160A-194.

11.08.010 Adoption Of The International Building Code (IBC), The International Residential Code (IRC), North Carolina State Building Code, Including Amendments And Appendix

The International Building Code (IBC), the International Residential Code (IRC), Volume IC, North Carolina State Building Code Accessibility Code, the amendments and appendix pertaining thereto are hereby adopted by reference as the building code for the ~~town~~ **Town**, when same is filed in the office of the ~~town~~ **Town** building inspections department. It shall be unlawful for any person to fail, neglect, or refuse to comply with the provisions of such codes, amendments, and appendix thereto.

(Code 1973, § 6-23; Ord. of 9-23-03)

State law reference(s)—North Carolina State Building Code, G.S., § 143-138; state building code ~~council~~ and building code, G.S. § 143-136 et seq.; code officials qualification board, G.S. § 143-151.8 et seq.; municipal ~~building inspector~~ **Building Inspectors**, G.S. § 160~~AD-411~~ **AD-411**; violation of building code, G.S. § 143-138(h); plumbing and heating contractors, G.S. § 87-16 et seq.; statewide licensing of electricians and plumbers, G.S. § 109-91; technical ordinances, G.S. § 160A-76.

11.08.020 Drainage Of Water From Buildings

All gutters, pipes or leaders now used for conducting rainwater from buildings in the ~~town~~ **Town** or which may be hereafter constructed and used for such purposes, shall be so constructed that no runoff shall be allowed to flow upon the adjoining property owner; and that such flow of water shall be carried or

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directed to flow to a proper drainage area or into an appropriate storm drainpipe, whichever is most appropriate or efficient.

(Code 1973, § 6-3; Ord. of 9-29-87)

11.08.030 Adoption Of North Carolina Uniform Residential Building Code, Including Amendments; Area Of Jurisdiction

The North Carolina Uniform Residential Building Code, including all subsequent amendments thereto, prepared by the North Carolina ~~Building Inspector~~Building Inspectors' Association and the North Carolina State Building Code ~~Council~~Council, is hereby adopted by reference as the Uniform Residential Building Code for the ~~town~~Town when the same is filed in the office of the ~~town~~Town eClerk. It shall be unlawful for any person to fail, neglect, or refuse to comply with the provisions of such North Carolina Uniform Residential Building Code and amendments thereto.

(Code 1973, § 6-24)

State law reference(s)—Technical ordinances, G.S. § 160A-76.

11.08.040 Supplemental District Regulations, Coastal Area Management Act

Each application for a building permit shall include information as to the location of applicable areas of environmental concern. Prior to the issuance of a building permit, the code enforcement official shall certify that the proposed structure or facility is in accordance with the North Carolina Administrative Code, Title 15, Chapter 7, Subchapter 71, "State Guidelines for Areas of Environmental Concern."

(Ord. of 5-15-79)

State law reference(s)—Coastal Area Management Act, G.S. § 113A-100 et seq.

11.10 MINIMUM HOUSING CODE

- [11.10.010 Adopted](#)
- [11.10.020 Unsafe Building Condemned In Localities](#)
- [11.10.030 Action In Event Of Failure To Take Corrective Action](#)
- [11.10.035 Failure To Comply With Order; Enforcement](#)
- [11.10.040 Definitions](#)
- [11.10.050 Findings Of ~~Council~~Town Council](#)
- [11.10.060 Public Officer And Standards](#)
- [11.10.070 Additional Powers Of Public Officer](#)
- [11.10.075 Service of Complaints and Orders](#)
- [11.10.080 Remedies](#)
- [11.10.090 Emergency Condemnation](#)

Cross reference(s)—Fire protection and prevention, KBC 2.12; garbage and trash, KBC 7.18; nuisances, KBC 8; streets, sidewalks and other public places, KBC 13; subdivisions, KBC 14; utilities, KBC 7; zoning, KBC 15.

State law reference(s)—Minimum housing standards, G.S. § 160~~AD-441~~ et seq.; unfit dwelling criteria and standards, G.S. § 160~~AD-444~~; additional powers of public officers, G.S. § 160~~AD-448~~; supplemental nature of part, G.S. § 160A-450; liens, G.S. § 160A-443(6).

11.10.010 Adopted

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It is hereby found and declared pursuant to G.S. § ~~160A-D, 441~~ that the existence and occupation of dwellings in ~~this the town~~ Town that are unfit for human habitation are inimical to the welfare and dangerous and injurious to the health, safety and morals of the ~~people of this~~ residents of the town ~~Town,~~ and that a public necessity exists for the repair, closing or demolition of such dwellings. Whenever it is found that there exists in the Town dwellings that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the Town, the Town shall exercise its police powers to repair, close or demolish the dwellings in the manner herein provided.

The ~~town~~ Town ~~in addition~~ may by ordinance provide for the repair, closing or demolition of any abandoned structure which the ~~town~~ Town Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. Such ordinance, if adopted, may provide for the repair, closing or demolition of such structure pursuant to the same provisions and procedures as are prescribed herein for the repair, closing or demolition of dwellings found to be unfit for human habitation.

(Ord. of 8-20-91)

11.10.020 Unsafe Building Condemned In Localities

- A. ~~Residential building and nonresidential building or structure~~ Designation of unsafe buildings.
Every building that shall appear to the ~~inspector~~ Building Inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the ~~inspector~~ Building Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.
- B. Nonresidential building or structure. In addition to the authority granted in subparagraph A of this section, ~~an inspector~~ the Building Inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:
1. It appears to the inspector to be vacant or abandoned.
 2. It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities that would constitute a public nuisance.
- C. Building or structure declared unsafe. If ~~an inspector~~ the Building Inspector declares a nonresidential building or structure to be unsafe under subparagraph B of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this section, the term "community development target area" means an area that has characteristics of an urban progress zone under G.S. § 143B-437.09, a "nonresidential redevelopment area" under G.S. § 160A-503(10), or an area with similar characteristics designated by the ~~city council~~ Town Council as being in special need of revitalization for the benefit and welfare of its citizens.

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(Ord. of 11-16-10)

State law reference(s)—Similar provisions, G.S. § 160AD-426.

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11.10.030 Action In Event Of Failure To Take Corrective Action

If the owner of a building or structure that has been condemned as unsafe pursuant to this section under KBC 11.10.020 shall fail to take prompt corrective action, the ~~local inspector~~ Building Inspector shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service:

- A. That the building or structure is in a condition that appears to meet one (1) or more of the following conditions:
 - 1. Constitutes a fire or safety hazard.
 - 2. Is dangerous to life, health, or other property.
 - 3. Is likely to cause or contribute to blight, disease, vagrancy, or danger to children.
 - 4. Has a tendency to attract person(s) intent on criminal activities or other activities which would constitute a public nuisance.
- B. That a hearing will be held before the inspector at a designated place and time, no later than ten (10) days after the date of notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- C. That following the hearing, the ~~inspector~~ Building Inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten (10) days prior to the hearing and notice of the hearing is published in a newspaper having general circulation in the ~~city~~ Town at least once, not later than one (1) week prior to the hearing.

D. The Building Inspector shall make such order in writing, direct it to the owner of the building or structure, and require the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps within such period, not less than sixty (60) days, as the Building Inspector may prescribe; provided that the Building Inspector may prescribe such lesser period as may be feasible where he/she finds that there is imminent danger to life or other property.

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E. Any owner who has received an order under this section may appeal the order to Town Council by giving notice of the appeal in writing to the Building Inspector and to the Town Clerk within ten (10) days after the date on which the order was issued. In the absence of an appeal, the Building Inspector's order shall be deemed final. In the event of a timely appeal, Town Council

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shall hear the appeal in accordance with the provisions of KBC ~~12.x.x~~ and may affirm, modify and affirm, or revoke the order.

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(Ord. of 11-16-10)

11.10.035 Failure to Comply With Order; Enforcement

A. In the event the owner of a building or structure fails to comply with an order issued under KBC 11.10.030 that the owner did not appeal or fails to comply with an order from Town Council following a timely appeal, the owner shall be guilty of a Class 1 misdemeanor.

B. Whenever any violation is denominated as a misdemeanor under the provisions of this article, the Town, in addition to or in lieu of other remedies, may commence any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the subject building or structure.

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11.10.040 Definitions

The following terms shall have the meanings whenever used or referred to as indicated when used in this article unless a different meaning clearly appears from the context:

~~Town or city means the incorporated Town~~ Town of Kure Beach.

~~Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.~~

~~Governing body means the Town Council or Board of Commissioners of the Town~~ Town of Kure Beach or vice versa.

~~Manufactured home or mobile home means a structure as defined in G.S. § 143-145(7).~~

~~Owner~~ means the holder of the title in fee simple and every mortgagee of record.

~~Parties in interest~~ means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

~~Public authority~~ means any housing authority or any officer who is in charge of any department or branch of the government of the ~~town~~ Town relating to health, fire, building regulations, or other activities concerning dwellings in the ~~town~~ Town.

~~Public officer~~ means the officer or officers who are authorized by ordinance adopted hereunder to exercise the powers prescribed ~~by under this Article, the Ordinance and the General Statutes under Chapter 160D Articles 11 and 12 of the North Carolina General Statutes.~~

(Ord. of 8-20-91)

11.10.050 Findings Of ~~Council~~ Town Council

Upon the adoption of an ordinance finding that dwelling conditions of the character described in KBC 11.10.010 exists within the ~~town~~ Town, this article shall include the following provisions:

A. That a public officer be designated or appointed to exercise the powers prescribed by the ordinance.

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- B. That whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the ~~town~~ Town charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his/her own motion) that any dwelling is unfit for human habitation; the public officer shall, if his/her preliminary investigation discloses a basis for such charges:
1. Issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect; and
 2. A notice that a hearing will be held before the public officer (or his designated agent) at a place within the ~~town~~ Town in which the property is located fixed not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; and
 3. That the owners and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise, ~~and~~ give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- C. That if, after notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:
1. If the repair, alteration or improvement of the dwelling can be made at a reasonable cost not exceeding fifty (50) percent of the then current value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or
 2. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost not exceeding fifty (50) percent of the then current value of the dwelling requiring the owner, within the time specified in the order, to remove or demolish such dwelling.
- D. That, ~~if the~~ in the event an owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed and; ~~that the public officer~~ may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words:
- "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."
- Occupation of a building so posted shall constitute a misdemeanor. The duties of the public officer as set forth in this subsection shall not be exercised until Town Council shall have, by ordinance, ordered the public officer to proceed with effectuating the purpose of this article with respect to the subject property, which property shall be described in the ordinance. This ordinance shall be recorded in the New Hanover County Registry of Deeds and shall be indexed in the name of the property owner in the grantor index.
- ~~E.~~ That, ~~if the~~ in the event an owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in this subsection ~~KBC 11-10.060 and KBC 11-10.070~~ shall not be

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~~exercised until Town Council shall have, by ordinance, ordered the public officer to proceed with effectuating the purpose of this article with respect to the subject property, which property shall be described in the ordinance. This ordinance shall be recorded in the New Hanover County Registry of Deeds and shall be indexed in the name of the property owner in the grantor index. the governing body shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this article with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance.~~ No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. ~~The ordinance shall be recorded in the Office of the Register of Deeds in New Hanover County and shall be indexed in the name of the property owner in the grantor index.~~

E.

- F. That the amount of the cost of repairs, alterations or improvements, or vacating and closing or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessments provided in ~~the G. S. Article 10, Section 160A-216 et seq. Article 10 of Chapter 160A of the North Carolina General Statutes.~~ -If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.
- G. If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the ~~town~~ Town to remove such occupant as set out in G.S. § 160A-~~443(7)~~ 1203(8).

(Ord. of 8-20-91)

11.10.060 Public Officer And Standards

The public officer for the ~~Town~~ Town of ~~Kure Beach~~ shall be the ~~building inspector~~ Building Inspector who may determine that a dwelling is unfit for human habitation if he finds that conditions exist in the dwelling that render it dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the ~~town~~ Town. Defective conditions may include the following; defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; faulty and improper wiring; structural defects; uncleanliness. ~~This article is intended to give such powers to the public officer as he may derive from Part 6 Minimum Housing Standards of G.S. § 160A-441 et seq. and the town~~ Town adopts these statutes and incorporates them in this article as if fully set out herein ~~verbatim.~~

(Ord. of 8-20-91)

Cross reference(s)—Emergency condemnation, KBC 11.10.090.

11.10.070 Additional Powers ~~Of~~ Public Officer

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The ~~building inspector~~**Building Inspector** is hereby authorized to exercise any powers necessary or convenient:

- A. To investigate the dwelling conditions in the ~~town~~**Town** in order to determine which dwellings therein are unfit for human habitation;
- B. To administer oaths, affirmations, examine witnesses and receive evidence;
- C. To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the person in possession.
- D. To appoint and fix the duties of officers, agents, and employees necessary to carry out the purpose of the ordinances; and
- E. To delegate any of his functions and powers under the ordinance to other officers and other agents.

(Ord. of 8-20-91)

11.10.075 Service of Complaint and Orders

A. Complaints or orders issued by the public officer shall be served personally or by certified mail. When by certified mail, a copy of the complaint/order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused and the regular mail is not returned by the Post Office within ten (10) days after it was mailed. If regular mail is used, then a notice of the pending proceedings shall be posted in a conspicuous place on the subject premises.

B. If the identities of any owners or the whereabouts of person are unknown and cannot be reasonably ascertained by the public officer, or in the event the owners are known but have refused to accept service by certified mail and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons/entities may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time in which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the subject premises.

11.10.080 Remedies

Any appeals may be taken from any decision or order of the public officer and such appeals will be heard and determined by the Kure Beach ~~Zoning~~ Board of Adjustments as set out in G.S. § ~~160A-44605~~.

(Ord. of 8-20-91)

11.10.090 Emergency Condemnation

The ~~Town~~**Town** of Kure Beach is constantly threatened by hurricanes, cyclonic winds and severe oceanic erosion which threatens the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare or security as a result of severe fire, explosion, erosion, cyclonic winds, hurricanes or similar natural or accidental cause which is beyond the control of public or private agencies ordinarily responsible for the control or relief of such conditions; and

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KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

The ~~town~~Town is authorized under G.S. § 160A-1205~~444~~ to empower its ~~minimum housing inspector~~public officer to condemn any ~~building or structure if the officer finds or dwelling if he finds~~ that conditions exist in the dwelling ~~that rendering~~ it dangerous or injurious to the health, safety or ~~morals~~welfare of the occupants of the ~~dwelling, the occupants of neighboring dwellings, or other residents of the Town, dwelling, the occupants of neighboring dwellings, or other residents of the town~~Town.

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The ~~Town~~Town Council~~Council of the Town~~ of Kure Beach does hereby authorize and directs its ~~public officer~~ ~~minimum housing inspector~~ to ~~promptly immediately condemn~~ determine whether any dwelling is unfit for human habitation ~~and render unfit any dwelling or structure that he finds unfit or defective for human habitation~~ because of defects therein increasing hazards of fire, accident, or other calamity; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair or structural defects that are found to exist because of any hurricanes, cyclonic wind ~~events~~, or ocean erosion which caused or brought any of the above conditions to the ~~minimum housing inspector's~~public officer's attention and ~~to then proceed thereunder the applicable sections of this article to effectuate the Town's minimum housing code.~~ ~~appellate section of the minimum housing code shall apply.~~

(Ord. of 6-16-92)

11.12 NUMBERING OF BUILDINGS

- [11.12.010 Duty Of Owner To Place Number On Building](#)
- [11.12.020 When Building Considered Officially Numbered](#)
- [11.12.030 Base Lines For Numbering](#)
- [11.12.040 Method As To East-West Streets](#)
- [11.12.050 Method As To North-South Streets](#)
- [11.12.060 Location Of Odd And Even Numbers](#)
- [11.12.070 Change Of Individual Numbers](#)
- [11.12.080 Refusal To Comply](#)

Cross reference(s)—Fire protection and prevention, KBC 2.12; garbage and refuse, KBC 7.18; police, KBC 2.14; streets, sidewalks and other public places, KBC 13; subdivisions, KBC 14; utilities, KBC 7; zoning, KBC 15.

11.12.010 Duty ~~Of~~ Owner To Place Number On Building

It shall be the duty of the owner, agent or occupant of any house or building fronting on a street in the ~~town~~Town to properly display a number which has been assigned by the ~~town~~Town. The owner, agent or occupant of such house or building shall place such number in a conspicuous place thereon so that it may be plainly seen and observed from the street.

(Code 1973, § 23-51)

11.12.020 When Building Considered Officially Numbered

All houses shall be considered officially numbered when numbered in strict accordance and compliance with the plans and maps prepared by the ~~town~~Town prescribing the method of numbering buildings after adoptions by the ~~town~~Town ~~council~~Council.

(Code 1973, § 23-53)

11.12.030 Base Lines For Numbering

The Atlantic Ocean and K Avenue shall be base lines for the purpose of numbering houses and buildings.

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS

(Proposed Text Amendments per 160D)

(Code 1973, § 23-54)

11.12.040 Method ~~As~~ To East-West Streets

Each street running east and west or substantially in that course shall, for the purpose of numbering under this article, have its beginning at the edge of the Atlantic Ocean, numbers to begin at this initial point and to end at the western boundaries of the ~~town~~Town.

(Code 1973, § 23-55)

11.12.050 Method ~~As~~ To North-South Streets

Each street running north and south or substantially in that course shall for the purpose of numbering under this article begin at the north-south side of K Avenue, north and south from such initial point to the corporate limits of the ~~town~~Town.

(Code 1973, § 23-56)

11.12.060 Location ~~Of~~ Odd ~~And~~ Even Numbers

Even numbers shall be placed on the right-hand side of the street and odd numbers on the left-hand side of the street, going from the base lines named in KBC 11.12.030.

(Code 1973, § 23-57)

11.12.070 Change ~~Of~~ Individual Numbers

Individual numbers assigned as provided in this article may be changed by the ~~town~~Town council~~Council~~ as the necessity therefor may arise.

(Code 1973, § 23-58)

11.12.080 Refusal To Comply

Any owner, agent, or occupant of any house or building failing or refusing to comply with KBC 11.12.010 after receiving written notification from the ~~town~~Town giving them fifteen (15) days within which to comply with KBC 11.12.010; then and in that event, the code enforcement officer shall subject the offender, after due notice given hereinabove, to a civil penalty in the amount of fifty dollars (\$50.00) by the issuance of a civil citation which must be paid within seventy-two (72) hours after receipt of same and each day of any such violation continues shall constitute a separate offense for which a civil citation may be issued.

(Ord. of 9-18-90; Ord. of 10-19-00)

11.14 FENCES

11.14.010 Restrictions; Exemptions

Cross reference(s)—Barbed wire fences prohibited along any street of the ~~town~~Town, KBC 13.02.140; streets, sidewalks and other public places, KBC 13; subdivisions, KBC 14; zoning, KBC 15.

11.14.010 Restrictions; Exemptions

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS

(Proposed Text Amendments per 160D)

- A. Fences shall be defined as construction of any solid barriers or fence, including wire fences containing any type of webbing or weaving which creates a solid appearance, erected and designed for the purpose of privacy or designation of property lines. Any such type of fence constructed within the jurisdiction of the ~~town~~Town shall not exceed four (4) feet in height, provided that, however, a fence in the rear yard shall not exceed six (6) feet in height. For the purposes of this section, "rear yard" shall have the meaning ascribed to it in KBC 15.02.010, Definitions.
- B. A wire fence other than defined herein which is erected or constructed shall not exceed five (5) feet in height.
- C. This section shall apply to such barriers and fences which are constructed on or within five (5) feet of the side lines of property, or ten (10) feet of the rear of the owner's property line. It shall be unlawful for any person to erect, construct or maintain on any premises along any street of the ~~town~~Town, any barbed wire or barbed-wire fences.
- D. Fences further than five (5) feet of the side lines of property, or ten (10) feet of the rear of the owner's property line shall not exceed six (6) feet in height.
- E. Exemptions. This section shall not apply to any utility company or governmental agency which must maintain fences around their utility equipment and property, which are by nature enclosed to protect the general public from safety hazards and which are classified by law as an attractive nuisance.

(Ord. of 7-20-82, § 6-97; Ord. of 3-17-87; Ord. of 10-16-07(1); Ord. of 5-16-17(2))

11.16 MOVING BUILDINGS

[11.16.010 Requirements For Moving Buildings](#)

[11.16.020 Condition Of Building To Be Moved](#)

[11.16.030 Condition Of Building Before Occupancy Is Permitted](#)

[11.16.040 Permit Required For Moving Of Building](#)

[11.16.050 Permit Application](#)

[11.16.060 Appeal To Board Of Adjustment Upon Refusal Of ~~Building Inspector~~Building Inspector](#)

[11.16.070 Bond](#)

[11.16.080 Trimming Of Trees](#)

[11.16.090 Cutting Of Wires](#)

Cross reference(s)—Licensing, business regulations, KBC 5; motor vehicles and traffic, KBC 10; streets, sidewalks and other public places, KBC 13; subdivisions, KBC 14; utilities, KBC 7; zoning, KBC 15.

State law reference(s)—House moving, G.S. § 20-356 et seq.; compliance with municipal regulations, G.S. § 20-368.

11.16.010 Requirements ~~F~~or Moving Buildings

No building shall be moved from an area outside the ~~town~~Town limits or its extraterritorial jurisdiction to any lot or parcel of land within the corporate limits or its extraterritorial jurisdiction; except new modular unit construction. Any building moved within the corporate limits or its extraterritorial jurisdiction to another lot or parcel of land within the corporate limits or the extraterritorial jurisdiction of the ~~town~~Town shall conform completely to the North Carolina State Minimum Building Code and the ~~town~~Town's ~~building codes and requirements set forth in the town's zoning ordinance~~Code.

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KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

(Code 1973, § 23-62; Ord. of 7-19-83)

11.16.020 Condition ~~Of~~ Building To Be Moved

The ~~building inspector~~Building Inspector ~~will~~shall ensure that the building to be moved meets all building codes related to framing (rafters, studs, headers, and floor and ceiling joists), and sheathing before the building is moved. No building shall be granted a permit to be moved within the ~~town~~Town's corporate limits or its extraterritorial jurisdiction if it does not meet ~~state~~State and ~~town~~Town building codes, or if any of the framing timbers are damaged or deteriorated. The ~~building inspector~~Building Inspector ~~will~~shall examine a minimum of two (2) exterior inside walls to ensure framing conforms to the building code. The walls to be exposed will be selected by the ~~building inspector~~Building Inspector, but the work of exposing the framing will be accomplished by the owner of the building.

(Ord. of 7-19-83)

11.16.030 Condition ~~Of~~ Building Before Occupancy Is Permitted

The placement of the building shall meet all the requirements set forth in the ~~town~~Town's zoning ordinance~~Code~~. The building shall also be in compliance with all building codes related to such building. This shall include, but not be limited to, footing, tie down rods, framing, flooring, roofing, sheathing, plumbing, and electrical wiring. The exterior of the building (roofing and siding) shall be uniform and in good condition. The building shall be ready for occupancy within six (6) months from the time it is placed on the lot, if it is not ready within this time period it shall be condemned.

(Ord. of 7-19-83)

11.16.040 Permit Required ~~For~~ Moving ~~Of~~ Building

No person shall move, or assist in moving, any building through any street or over any paved sidewalk in the ~~town~~Town unless a written permit has been issued by the ~~building inspector~~Building Inspector. The ~~building inspector~~Building Inspector may refuse to grant a permit when, in his opinion after having examined the building to be moved, it is of such bulk or is of such weight as to constitute an undue hazard to the street pavements, curbs, signs, street plantings or other items within the public right-of-way.

(Code 1973, § 23-62; Ord. of 7-19-83)

11.16.050 Permit Application

Any person desiring a permit as required in this section shall file an application with the ~~building inspector~~Building Inspector. Such application shall describe the building intended to be moved, set out the route over which the building is to be moved and shall contain such other information as may be required by the ~~building inspector~~Building Inspector. Complete plans, specifications and drawings shall be submitted to insure that such building shall aesthetically be compatible with the surrounding neighborhood.

(Code 1973, §§ 23-63, 23-65; Ord. of 7-19-83)

11.16.060 Appeal To Board Of Adjustment Upon Refusal Of ~~Building Inspector~~Building Inspector

Upon refusal of the ~~B~~building ~~i~~nspector to issue any permit pursuant to this ~~article~~article, the applicant may ~~by notice filed with the building inspector within five (5) days after being notified of such refusal,~~ appeal such ~~action determination~~ to the ~~b~~Board of ~~a~~Adjustment in accordance with the provisions of G.S. 160D-405.

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS

(Proposed Text Amendments per 160D)

(Code 1973, § 23-64; Ord. of 7-19-83)

Cross reference(s)—Board of adjustment, KBC 15.04.010.

11.16.070 Bond

The ~~building inspector~~**Building Inspector** may require, as a prerequisite to the issuance of a permit pursuant to an application filed as provided in this article, that a satisfactory bond be filed, conditioned, among other things, that the permittee will pay any and all damages which may happen to any or all public and/or private property by such house mover, his agents, employees or workmen; and conditioned, that such permittee will save and indemnify and keep harmless the ~~town~~**Town** against all liabilities, judgments, costs and expense which may in any way accrue against the ~~town~~**Town** in consequence of the granting of such permit, and that such permittee will in all things strictly comply with the terms and conditions of his permit. In addition, the house mover ~~will~~**shall** be required to have adequate liability insurance.

(Code 1973, § 23-66; Ord. of 7-19-83)

11.16.080 Trimming Of Trees

No trees or shrubs in the public right-of-way plaza shall be trimmed without prior approval by the director of public works. Whenever it becomes necessary to trim trees or plaza planting in order to move a building along a street, the permittee shall do such trimming under the supervision of, and to the satisfaction of, the director of public works. Any trees broken or mutilated during the moving of a building shall be reshaped by trained personnel at the expense of the permittee and to the satisfaction of the director of the public works.

(Code 1973, § 23-67; Ord. of 7-19-83)

Cross reference(s)—Director of public works, KBC 2.08.050 subparagraph A.

11.16.090 Cutting Of Wires

Whenever it becomes necessary to cut wires, when any building is being moved along a street pursuant to a permit as required in this article, the permittee must, prior to the beginning of the movement, make satisfactory arrangements covering the cost of cutting and repairing such wires with the owning utility.

(Code 1973, § 23-68; Ord. of 7-19-83)

11.18 SWIMMING POOLS

[11.18.010 All Single-Family And Duplex/Multi-Family Residences](#)

[11.18.020 Subdivisions, Motels And Hotels](#)

[11.18.030 Requirements](#)

11.18.010 All Single-Family And Duplex/Multi-Family Residences

Single-family and duplex/multi-family residences in all zones, may install a swimming pool provided it meets the lot setbacks for that specific ordinance, including any CAMA setbacks for oceanfront lots and including a survey showing the location of the perpetual easement granted to the ~~Town~~**Town of Kure Beach, North Carolina**, for the Carolina Beach and vicinity. Area South Hurricane Wave and Shore Protection Project for beach renourishment, ~~and the~~**The** pool installation ~~must~~**shall comply with** ~~meet all~~ ~~of the requirements set forth in rules and regulations of the State of North Carolina defined in~~ 15A NCAC

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

18A section 2500, ~~and~~ G.S. § 130A-280 *et seq.*, the New Hanover County Board of Health rules in sections 8000 through 8008, and the ~~Codes of the Town of Kure Beach~~.

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(Ord. of 11-21-06; Ord. of 11-18-08)

11.18.020 Subdivisions, Motels And Hotels

Subdivisions, hotels and motels may install a commercial swimming pool in B-1, B-2, B-3, RB-1 and B4 zones and subdivisions with a common area which is included in their final ~~plot~~ plat approved by the ~~town~~ ~~Town Council~~ Council provided ~~if~~ the pool shall comply with the requirements set forth in 15A NCAC 18A section 2500, G.S. § 130A-280 *et seq.*, the New Hanover County Board of Health rules in sections 8000 through 8008, and the Town Code.

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~~meets all the rules and regulations of the State of North Carolina defined in 15A NCAC 18A section 2500 and general statutes 130A-280 through 130A-282, New Hanover County board of health rules in sections 8000 through 8008 and the codes of the Town of Kure Beach.~~

(Ord. of 11-21-06)

11.18.030 Requirements

- A. All the above pools must prior to permitting submit for review the pool plans showing the following information:
 - 1. Ownership providing documentation of such ownership by appropriate legal documents as documented in G.S. §§ 130A-280 through 130A-282.
 - 2. Submission of the pool site plans.

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~~B. All pools shall be fenced-in and provided with a deck area and shall comply with all the requirements set forth in 15A NCAC 18A section 2500, G.S. § 130A-280 *et seq.*, the New Hanover County Board of Health rules in sections 8000 through 8008, and the Town Code.~~

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~~C. Construction and operation plans including the water source, water quality testing, materials, depth and other dimensions, fencing, water treatment and chemical storage as set forth in 15A NCAC 18A.2500.~~

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~~B. All pools shall be fenced in and provided with a deck area and shall meet all the safety and building requirements as set forth by the State of North Carolina defined in 15A NCAC 18A section 2500 and G.S. §§ 130A-280 through 130A-282, New Hanover County board of health rules in sections 8000 through 8008 and the codes of the Town of Kure Beach.~~

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~~C. Construction and operation plans including the water source, water quality testing, materials, depth and other dimensions, fencing, water treatment and chemical storage as indicated in the North Carolina Codes 15A NCAC 18A.2500.~~

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(Ord. of 11-21-06)

11.20 OCEANFRONT DECK ENCROACHMENT

KBC CHAPTER 11 BUILDINGS AND BUILDING REGULATIONS
(Proposed Text Amendments per 160D)

[11.20.010 Oceanfront Deck Encroachment](#)

11.20.010 Oceanfront Deck Encroachment

No more than two hundred fifty (250) square feet of single-level, freestanding, uncovered deck, which does not include the walkway to the beach, and may not encroach more than fifteen (15) feet. This would apply to lots where the CAMA sixty-foot setback is within five (5) feet of the perpetual easement line. All proposed construction will also be subject to all CAMA guidelines. Should any encroachment extend into the Perpetual Beach Storm Damage Reduction Easement area granted to the ~~Town~~ of Kure Beach; then and in that event, it shall be subject to the terms of the easement and as such is subject to removal at the owner's expense. Such removal shall be at the discretion of the U.S. Army Corps of Engineers for beach renourishment purposes.

KBC CHAPTER 14 SUBDIVISION REGULATIONS
(Proposed Text Amendments per 160D)

14 SUBDIVISION REGULATIONS

[14.02 IN GENERAL](#)

[14.04 ADMINISTRATION](#)

[14.06 PLAT APPROVAL](#)

[14.08 CONTENTS OF PLAT](#)

[14.10 IMPROVEMENTS AND DESIGN STANDARDS](#)

[14.12 PLANNED RESIDENTIAL DEVELOPMENTS](#)

Cross reference(s)—~~Planning and zoning commission~~[Planning and Zoning Commission](#) established, KBC 2.06.010 subparagraph A; dogs prohibited from running at large in the ~~town~~[Town](#), KBC 9.04.010; fire district boundaries, KBC 11.04.010; minimum housing code, KBC 11.10.010; numbering of buildings required, KBC 11.12.010; fences, KBC 11.14.010; requirements for moving buildings, KBC 11.16.010; fire protection and prevention, KBC 2.12; obstructing hydrants prohibited, KBC 8.06.020; yard sales, KBC 5.04.020; peddling and soliciting prohibited in certain areas, KBC 8-81 et seq.; motor vehicles and traffic, KBC 10; nuisances, KBC 8; parks and recreation, KBC 13.14; utilities, KBC 7; zoning, KBC 15.

State law reference(s)—Planning and regulation of development, G.S. § 160A-360 et seq.; subdivision regulations, G.S. § 160A-371.

14.02 IN GENERAL

[14.02.010 Definitions](#)

[14.02.020 Interpretation](#)

[14.02.030 Title](#)

[14.02.040 Purpose](#)

[14.02.050 Authority](#)

[14.02.060 Jurisdiction](#)

[14.02.070 Prerequisite To Plat Recordation](#)

[14.02.080 Acceptance Of Streets](#)

[14.02.090 Thoroughfare Plans](#)

[14.02.100 Zoning And Other Plans](#)

[14.02.110 Penalties For Violation](#)

14.02.010 Definitions

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:

Alley shall mean a minor right-of-way privately or publicly owned, primarily for service access to the back or side of properties.

Block shall mean a piece of land bounded on one (1) or more sides by streets or roads.

Buffer strip shall mean a solid fence, wall, street, or a planted strip at least five (5) feet in width 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 setback line shall mean a line parallel to the front property line in front of which no structure shall be erected.

Corner lot shall mean a lot which abuts the right-of-way of two (2) streets at their intersection.

KBC CHAPTER 14 SUBDIVISION REGULATIONS

(Proposed Text Amendments per 160D)

Dedication shall mean a gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.

Double frontage lot shall mean a continuous through lot which is accessible from both streets upon which it fronts.

Easement shall mean a grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Half street shall mean a street whose centerline coincides with a subdivision plat boundary, with one-half the street right-of-way width being contained within the subdivision plat and also, any existing street to which the parcel of land to be subdivided abuts on only one side.

Lot shall mean a portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both.

Lot of record shall mean a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds of New Hanover County prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

Lot types:

Corner lot shall mean a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Interior lot shall mean a lot other than a corner lot with only one (1) frontage on a street.

Through lot or a double frontage lot shall mean a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Reversed frontage lot shall mean a lot on which the frontage is at right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

Single-tier lot shall mean a lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Open space shall mean an area, land and/or water generally lacking in manmade structures and reserved for enjoyment in its unaltered state.

Phase shall mean a stage in the development of a portion of contiguous parcels of land. Such phase shall be a part of a total project.

Planned unit development shall mean the planned unit development is a permitted use designed to provide for developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to effecting the long-term value of the entire development.

Plat shall mean a map or plan of a parcel of land which is to be or has been subdivided.

Private driveway shall mean a roadway serving two (2) or fewer lots, building sites or other division of land and not intended to be public ingress or egress.

KBC CHAPTER 14 SUBDIVISION REGULATIONS

(Proposed Text Amendments per 160D)

Private street shall mean an undedicated ~~and/or unaccepted~~ private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. § 136-102.6.

Recreation area or park shall mean an area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various manmade features that accommodate such activities.

Street shall mean a dedicated and accepted public right-of-way for vehicular traffic.

Types of streets:

Principal arterial shall mean a rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

Minor arterial shall mean a rural link in a network joining cities and larger ~~town~~Towns and providing intrastate and intercounty service at relatively high (55 mph) overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

Major collector shall mean a road which serves major intracounty travel corridors and traffic generators and provides access to the arterial system.

Minor collector shall mean a road which provides service to small local communities and links with locally important traffic generators with their rural hinterland.

Local road shall mean a local road serves primarily to provide access to adjacent land and for travel over relatively short distances.

Major thoroughfares shall mean major thoroughfares consist of Interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

Minor thoroughfares shall mean minor thoroughfares are important streets in the city system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through-traffic movement and may also serve abutting property.

Local street shall mean a local street is any link not a higher-order urban system and serves primarily to provide direct access to abutting land and access to higher systems. It offers the lowest level of mobility and through traffic is usually deliberately discouraged.

Cul-de-sac shall mean a cul-de-sac is a short street having but one end open to traffic and the other end being permanently terminated and a vehicular turn-around provided.

Frontage road shall mean a frontage road is a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

Alley shall mean a strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Expressway shall mean an expressway is a divided street or road which serves through traffic with full or partial control of access and generally with grade separations at intersections; however, infrequent at-grade crossings may be permitted.

Freeway shall mean ~~a freeway is~~ a divided street or road which serves through traffic with full control of access and with grade separations at intersections.

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(Proposed Text Amendments per 160D)

Subdivider shall mean any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development whether immediate or future and includes all division of land involving the dedication of a new street or a change in existing streets. The following is not included within this definition and is not subject to any regulations enacted pursuant to this chapter:

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the ~~town~~Town as shown in this chapter;
- B. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- C. The public acquisition by purchase of strips of land for the widening or opening of streets; and
- ~~D.~~ The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the ~~town~~Town as shown in this chapter.

~~E.~~ The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.

(Ord. of 9-15-81, §§ 501, 502; Ord. of 12-18-84)

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

14.02.020 Interpretation

For the purpose of this chapter, certain words shall be interpreted as follows:

~~The words used for shall include the meaning designed for.~~

The word *structure* shall include the word building.

The word *lot* shall include the words plot, parcel, or tract.

The word *shall* is always mandatory and not merely directory.

The words *may* and *should* ~~is directory~~ are discretionary and not mandatory.

(Ord. of 9-15-81, § 503)

14.02.030 Title

This chapter shall be known and may be cited as the subdivision regulations of the ~~Town~~Town of Kure Beach, North Carolina, ~~and its extraterritorial jurisdiction~~, and may be referred to as the subdivision regulations.

(Ord. of 9-15-81, § 101)

14.02.040 Purpose

The purpose of ~~this chapter~~ subdivision regulations is to establish procedures and standards for the ~~development and~~ subdivision ~~and development~~ of land within the ~~territorial~~ planning and development

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regulation jurisdiction of the ~~town~~Town. ~~It is further designed~~These regulations are further intended to provide for the orderly growth and development of the ~~town~~Town, for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities, ~~and of~~rights-of-way, ~~of~~and easements for street and utility purposes, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and ~~that~~ will create conditions essential to public health, safety, and ~~the general~~welfare. This chapter ~~further intends to~~ ~~is designed to further facilitate~~provide for the adequate provision of water and ~~sewerage~~sewer services and ~~to~~facilitate the ~~further~~resubdivision of larger tracts into smaller parcels of land.

(Ord. of 9-15-81, § 102)

14.02.050 Authority

This chapter is hereby adopted under the authority and provisions of the G.S. Chapter 160A, Article 819*, ~~Part 2~~of the North Carolina General Statutes.

(Ord. of 9-15-81, § 103)

14.02.060 Jurisdiction

The ~~subdivision~~ regulations contained herein, ~~as provided in G.S. Chapter 160A, Article 19,~~ shall govern each and every subdivision within the ~~town~~Town's ~~planning and development regulation jurisdiction, and its extraterritorial jurisdiction as shown on the official extraterritorial boundary map.~~

(Ord. of 9-15-81, § 104)

14.02.070 Prerequisite To Plat Recordation

After the effective date of the ordinance from which this chapter was derived, each individual subdivision plat of land within the ~~town~~Town's ~~planning and development regulation jurisdiction~~ shall be approved by the ~~town~~Town ~~council~~Council on recommendation of the ~~planning and zoning commission~~Planning and Zoning Commission.

(Ord. of 9-15-81, § 105)

14.02.080 Acceptance Of Streets

No street shall be maintained by the ~~town~~Town nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until such final plat has been approved, ~~by the town.~~

(Ord. of 9-15-81, § 106)

14.02.090 Thoroughfare Plans

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon the officially adopted thoroughfare plan of the ~~town~~Town, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter, except that the ~~town~~Town ~~council~~Council, on recommendation of the ~~planning and zoning commission~~Planning and Zoning Commission, may exempt, ~~to the extent legally permitted,~~ the subdivider from complying with those aspects of a thoroughfare plan which have become outdated, ~~to the extent permitted by law.~~

(Ord. of 9-15-81, § 107)

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14.02.100 Zoning And Other Plans

Proposed subdivisions must comply in all respects with the requirements of ~~the zoning ordinance~~KBC Chapter 15 ~~in effect in the area to be subdivided~~, and any other officially adopted applicable plans; ~~except that if a plan has become outdated, the town council may upon recommendation of the planning and zoning commission waive the compliance requirement with those aspects of the plan which are outdated, to the extent permitted by law.~~

(Ord. of 9-15-81, § 108)

14.02.110 Penalties For Violation

Any person who, being the owner or the authorized agent of the owner of any land located within the ~~territorial~~Town's planning and development regulation jurisdiction ~~of this chapter~~, thereafter subdivides his land in violation of this chapter or transfers or sells land by reference to, exhibition of, or any other use of plat showing a subdivision of the land before the plat has been properly approved under the terms of this chapter and recorded in the office of the New Hanover County Register of Deeds shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The ~~town~~Town, through its attorney or other official designated by the ~~town~~Town councilCouncil, may enjoin an illegal subdivision, transfer or sale of land by an action for ~~injunction~~injunctive relief. Further, violators of this chapter shall be subject, upon conviction, to a fine and/or imprisonment as provided by G.S. § 14-4. In addition, pursuant to G.S. § 160A-175, violations of this chapter shall subject the offender to a civil penalty. If a person fails to pay this penalty within ten (10) days after being cited for a violation, the ~~town~~Town may seek to recover the penalty by filing a civil action in the nature of debt. The ~~town~~Town may seek to enforce this chapter through any appropriate equitable action. The ~~town~~Town may seek to enforce this chapter through ~~injunction~~injunctive relief and an order of abatement. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense. The ~~town~~Town may seek to enforce this chapter by using any one ~~(+)~~ or a combination of the foregoing remedies.

(Ord. of 9-15-81, § 204)

State law reference(s)—Penalties for transferring lots in unapproved subdivisions, G.S. § ~~160A-375~~160D-807.

14.04 ADMINISTRATION

[14.04.010 Subdivision Administrator](#)

[14.04.020 Variances](#)

[14.04.030 Amendments](#)

[14.04.040 Abrogation](#)

[14.04.050 Vacation Of Plats](#)

[14.04.060 Resubdivision Procedures](#)

14.04.010 Subdivision Administrator

The ~~Townholder of the office of building inspector~~Building Inspector is hereby appointed *ex officio* as the ~~administrator~~Subdivision Administrator of this chapter.

(Ord. of 9-15-81, § 211)

14.04.020 Variances

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~~A. The town council may, on the recommendation of the planning and zoning commission, Kure Beach Board of Adjustment may authorize a variance from these subdivision regulations in accordance with the provisions of KBC 12.x.x regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the town council shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.~~

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~~B. No variance shall be granted unless the town council finds:~~

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- ~~1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.~~
- ~~2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.~~
- ~~3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.~~

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(Ord. of 9-15-81, § 206)

14.04.030 Amendments

- A. The ~~town~~~~Town council~~~~Council~~ may amend the terms of this chapter and may submit the proposed amendment to the ~~planning and zoning commission~~~~Planning and Zoning Commission~~ for review and recommendations.
- B. No amendment shall be adopted by ~~the governing body~~~~Town Council~~ until ~~they have~~~~it has~~ held a public hearing on the ~~question of the proposed~~ amendment. Notice of the ~~public~~ hearing shall be published in a newspaper of general circulation in the ~~Kure Beach~~ area ~~of the Town~~ at least once a week for two (2) successive calendar weeks prior to the hearing.

(Ord. of 9-15-81, § 207)

~~State law reference(s) Procedure for adopting or amending subdivision ordinances, G.S. § 160A-364.~~

14.04.040 Abrogation

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. of 9-15-81, § 208)

14.04.050 Vacation Of Plats

- A. Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument, to which a copy of such plat shall be attached, declaring ~~the same~~~~said plat~~ to be vacated.

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- B. Such an instrument shall be ~~approved~~reviewed by the same agencies as ~~approved~~reviewed the final plat ~~and is subject to approval by the Town Council which. The governing body~~ may reject any such instrument ~~which~~that abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.
- C. Such an instrument shall be executed, acknowledged, ~~or approved~~ and ~~upon approval~~, recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the ~~recording of the recorded~~ plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
- D. When lots have been sold, the plat may be vacated in the manner provided herein by all ~~the~~ owners of the lots ~~in such depicted on the~~ plat joining in the execution of such writing.

(Ord. of 9-15-81, § 308)

14.04.060 Resubdivision Procedures

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision.

(Ord. of 9-15-81, § 309)

14.06 PLAT APPROVAL

14.06.010 Generally

14.06.020 Procedure For Review Of Preliminary Plats For Subdivisions

14.06.030 Procedure For Review Of Final Plats For Subdivisions

14.06.040 Appeals of Decisions on Subdivision Plats

14.06.010 Generally

A. *Required*

- 1. No subdivision plat of land within the ~~town~~Town's planning and development regulation jurisdiction shall be filed or recorded until it has been submitted and approved pursuant to KBC 14.06.030 ~~subparagraph C.~~
- 2. The ~~R~~Register of ~~d~~Deeds shall not file or record a plat of a subdivision of land located within the ~~territorial~~planning and development regulation jurisdiction of the ~~town~~Town that has not been approved in accordance with these provisions, nor shall the ~~e~~Clerk of ~~s~~Superior ~~e~~Court order or direct the recording of a plat if the recording ~~would be in~~ conflicts with ~~these~~ ~~this~~ ~~subparagraph~~subdivision regulations.

(Ord. of 9-15-81, § 201)

State law reference(s)—Similar provisions, G.S. § ~~160A-272~~160D-803.

- B. *Statement by Owner.* The owner of ~~the~~ land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether ~~or not~~ any land shown

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thereon is within the ~~subdivision regulation jurisdiction of any city~~Town's planning and development regulation jurisdiction. (Ord. of 9-15-81, § 202)

- C. *Effect of Plat Approval on Dedications.* Pursuant to G.S. § ~~460A-374160D-806~~, the approval of a plat shall not be deemed to constitute or effect the acceptance by the ~~town~~Town or public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. ~~However, the town~~Town council~~Council~~ may by resolution accept any dedication ~~made to the public~~ of lands or facilities for streets, parks, ~~public~~ utility lines or other public purposes, when the lands or facilities are located within its subdivision-regulation jurisdiction. Acceptance of dedication of lands or facilities located within the ~~subdivision regulation~~Town's planning and development regulation jurisdiction but outside the corporate limits of a ~~town~~Town shall not place on the ~~town~~Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and a ~~town~~Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

State law reference(s)—Similar provisions, G.S. § ~~460A-374160D-806~~.

- D. *Plat Shall Be Required on Any Subdivision of Land.* Pursuant to G.S. § ~~460A-372160D-803~~, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place. (Ord. of 9-15-81, § 301)
- E. *Approved Prerequisite to Plat Recordation.* Pursuant to G.S. § ~~460A-372160D-803~~, no final plat of a subdivision within the ~~Town's planning and development regulation jurisdiction of the town~~ as established in KBC 14.02.060 shall be recorded by the ~~rR~~ register of ~~eD~~ Deeds of New Hanover County until it has been approved by the ~~town~~Town council~~Council~~ as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this chapter. (Ord. of 9-15-81, § 302)

14.06.020 Procedure For Review Of Preliminary Plats For Subdivisions

- A. *Required.* ~~For every~~Every subdivision within the planning and development regulation jurisdiction of the ~~town~~Town must have and submit a master plan, including drainage and the street plans, before the subdivider submits a preliminary plat which ~~must~~shall be reviewed by the ~~planning and zoning commission~~Planning and Zoning Commission before being ~~approved~~decided by the ~~town~~Town council~~Council~~, all of which shall occur before any construction or installation of improvements may begin. This subparagraph is consistent with the in compliance with the land use plan of the town~~the Town's approved Future Land Use Plan~~. (Ord. of 9-15-81, § 305.1; Ord. of 1-17-95; Ord. of 2-20-07(4))
- B. *Copies and Content.* A sufficient number of copies of the preliminary plat shall be submitted to the ~~administrator~~Subdivision Administrator at least fifteen (15) days prior to the ~~planning and zoning commission~~Planning and Zoning Commission meeting at which the subdivider desires the ~~planning and zoning commission to review~~ the preliminary plat to be reviewed. Preliminary plats shall ~~meet~~comply with the specifications ~~in~~set forth in KBC 14.08.010. (Ord. of 9-15-81, § 305.1; Ord. of 2-20-07)
- C. *Review by Other Agencies.* After having received the preliminary plat from the subdivider, the ~~subdivision administrator~~Subdivision Administrator shall submit a copy of the preliminary plat to the ~~eD~~ District ~~H~~ Highway ~~e~~ Engineer as to proposed streets, highways, and drainage systems. (Ord. of 9-15-81, § 305.2)

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D. Review Procedure

1. The ~~planning and zoning commission~~ Planning and Zoning Commission shall review the preliminary plat at or before its next regularly scheduled meeting ~~which~~that follows at least fifteen (15) days after the ~~subdivision administrator~~ Subdivision Administrator receives the preliminary plat and the comments from appropriate agencies.
2. The ~~planning and zoning commission~~ Planning and Zoning Commission shall recommend in writing approval or disapproval of each preliminary plat within forty-five (45) days of its ~~first~~ consideration of the plat. The ~~planning and zoning commission~~ Planning and Zoning Commission shall, in writing, may recommend approval, disapproval with recommended changes to bring the plat into compliance with these subdivision regulations, or disapproval with the reasons therefor.
3. ~~In the event the~~ The ~~planning and zoning commission~~ Planning and Zoning Commission ~~recommends disapproval of the plat or disapproval with recommended changes, it~~ shall retain one (1) copy of the plat and a copy of the written recommended changes and/or reasons for disapproval for its minutes. The ~~planning and zoning commission~~ Planning and Zoning Commission shall transmit its written recommendation to the ~~town~~ Town ~~council~~ Council through the ~~subdivision administrator~~ Subdivision Administrator. If disapproval is recommended, the subdivider may make the recommended changes and submit a revised preliminary plat to the ~~planning and zoning commission~~ Planning and Zoning Commission or ~~appeal the decision to the town council~~. If the ~~planning and zoning commission~~ Planning and Zoning Commission does not make a written recommendation within forty-five (45) days after ~~its first consideration of~~ considering the plat, the subdivider may apply to the ~~town~~ Town ~~council~~ Council for approval or disapproval. ~~If the planning and zoning commission recommends approval or the subdivider appeals to the town council, the town council~~ shall review and approve or disapprove the preliminary plat within forty-five (45) days after the recommendation of the ~~planning and zoning commission~~ Planning and Zoning Commission ~~or the appeal has been received by the subdivision administrator~~.
4. ~~If in the event~~ the ~~planning and zoning commission~~ Planning and Zoning Commission recommends approval of the preliminary plat, it shall transmit two (2) copies to the ~~town~~ Town ~~council~~ Council through the ~~subdivision administrator~~ Subdivision Administrator with its recommendation. If the ~~planning and zoning commission~~ Planning and Zoning Commission recommends disapproval of the preliminary plat, it shall transmit one (1) copy of the plat to the ~~town~~ Town ~~council~~ Council through the ~~subdivision administrator~~ Subdivision Administrator with its recommendation, ~~keep~~ retain one (1) copy for its minutes, and return one (1) copy to the subdivider with its recommendation.
5. ~~If in the event~~ the ~~town~~ Town ~~council~~ Council approves the preliminary plat, such approval shall be noted on two (2) copies of the plat. One (1) copy of the plat shall be retained by the ~~town~~ Town ~~council~~ Council for its minutes and one (1) copy of the plat shall be ~~given~~ provided to the subdivider.
6. If the ~~town~~ Town ~~council~~ Council disapproves the preliminary plat, it shall give the subdivider one (1) copy of its written reasons ~~for disapproval in writing~~ and one (1) copy of the plat, and shall instruct the subdivider concerning possible resubmission of a revised plat either to the ~~planning and zoning commission~~ Planning and Zoning Commission or to

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the ~~town~~Town ~~council~~Council if the noted deficiencies can be corrected without substantively changing the plat.

(Ord. of 9-15-81, § 305.3)

14.06.030 Procedure For Review Of Final Plats For Subdivisions

A. Preparation of Final Plat and Installation of Improvements

1. *Generally.* Upon approval of the preliminary plat by the ~~town~~Town ~~council~~Council, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangements for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as approved herein. No final plat will be accepted for review by the ~~planning and zoning commission~~Planning and Zoning Commission or the ~~town~~Town ~~council~~Council unless accompanied by written notice by the ~~town~~Town ~~clerk~~Clerk acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time. Such portion shall conform to all requirements of this chapter.

2. *Performance guarantees.*

a. Agreement and security required. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the ~~town~~Town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once the agreement is signed by both parties and the performance guarantee required herein is provided, the final plat may be approved by the ~~town~~Town ~~council~~Council if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide, as set forth below, performance guarantees to ensure the successful completion of the subdivision's improvements:

(1) Type. The type of performance guarantee shall be at the election of the developer and the term "performance guarantee" shall mean any of the following:

- (A) A surety bond issued by a company authorized to do business in this State.
- (B) A letter of credit issued by a financial institution licensed to do business in this State.
- (C) Another form of guarantee that provides security equivalent to that of a surety bond or letter of credit including cash, or other instruments readily convertible into cash, held in escrow under a written agreement with the financial institution designated as an official depository of the ~~Town~~Town.

(2) Duration. The duration of the performance guarantee shall initially be one (1) year unless it is determined that the scope of the work for the improvements requires a longer duration. In the event of a bonded obligation, the completion date shall be set one (1) year from the date of the bond

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issuance unless it is determined that the scope of the work requires a longer duration.

(3) Extension. In the event the improvements are not completed to the ~~Town/Town~~'s specifications and the current performance guarantee is likely to expire before the completion of the improvements, and provided the developer has demonstrated reasonable, good faith progress towards completing the improvements, the performance guarantee shall be extended or a new guarantee issued. Any such extension shall only be for the duration necessary for completing the improvements. The amount of any new performance guarantee shall include the total cost of all incomplete improvements and be determined as set forth below.

(4) Release. The performance guarantee shall be returned or released in a timely manner upon the ~~Town/Town~~'s acknowledgement that the required improvements have been completed to its specifications.

(5) Amount. The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the guarantee is issued. The ~~Town/Town~~ may determine the amount of the performance guarantee or use the developer's cost estimate. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials and shall be, where applicable, based on unit pricing. The additional twenty-five percent (25%) includes inflation and administrative costs regardless how such costs are denominated.

(6) Coverage. A performance guarantee shall only be used for completing the improvements and not for repairs or maintenance.

(7) Legal Rights. No person or entity shall have or claim any rights under or to any performance guarantee other than the ~~Town/Town~~, the developer, and the person/entity issuing or posting the guarantee on behalf of the developer.

3. Submission procedure.

a. The subdivider shall submit the final plat, so marked to the ~~subdivision administrator~~ ~~Subdivision Administrator~~ not less than fifteen (15) days prior to the ~~planning and zoning commission~~ ~~Planning and Zoning Commission~~ meeting at which time it will be reviewed. The final plat shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved, otherwise such approval shall be null and void, unless a written extension of this ~~limit~~ ~~limitation period~~ is granted by the ~~town/Town council~~ ~~Council~~ on or before the twelve (12) month anniversary of the ~~preliminary plat~~ approval.

b. The final plat shall be prepared ~~and sealed~~ by a surveyor or professional engineer licensed and registered to practice in the State of North Carolina. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements as set forth in G.S. § 47-30.

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c. A sufficient number of copies of the final plat shall be submitted. Two (2) copies of these shall be drawn in ink on linen or film suitable for reproduction. Three (3) copies shall be black or blue line paper prints. (Ord. of 9-15-81, § 306; Ord. of 2-20-07)

B. *Plat Requirements.* Final plats shall be of a size suitable for recording with the New Hanover County Register of Deeds and shall be at a scale of not less than one (1) inch equals two hundred (200) feet. Maps may be placed on more than one (1) sheet with appropriate match lines. Submission of the final plat shall be accompanied by a filing fee of twenty-five dollars (\$25.00) or fifty cents (\$0.50) per lot, whichever is greater. The final plat shall meet the specifications in KBC 14.08.010. (Ord. of 9-15-81, § 306)

C. *Certifications.* The following signed certificates shall appear on all five (5) copies of the final plat:

1. Certificate of ownership and dedication. I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the ~~Town~~Town of Kure Beach and that I hereby adopt this plan of subdivision and certify that it is with my free consent, establish~~s~~ minimum required lot square footage, ~~and~~ building setback lines, and dedicat~~e~~s all streets, alleys, walks, parks, and other sites and easements to public or private use as noted ~~thereon~~. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the ~~Town~~Town of Kure Beach Owners Date.

2. Certificate of survey and accuracy. I, _____, certify that this map (was drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in book _____, page _____, book _____, page _____, etc.) (other); that the error of closure as calculated by latitude and departures is 1: _____, that the boundaries not surveyed are shown as broken lines plotted from information found in book _____, page _____; that I certify that each lot or parcel of land shown hereon complies with the minimum five thousand (5,000) square feet requirement and that this map was prepared in accordance with G.S. § 47-30, as amended. Witness my hand and seal this _____ day of _____ A.D. 20____. Surveyor or engineer License or registration.

3. Certificate of approval of the design and installation of streets, utilities, and other required improvements. I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to ~~Town~~Town specifications and standards in the _____ subdivision or that guarantees the installation of the required improvements in the amount and manner satisfactory to the ~~Town~~Town of Kure Beach has been received, and that the filing fee for this plat, in the amount of \$ _____ has been paid.

	/s/
Date	Director of Public Works
	/s/

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Date	Town Town Clerk
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4. Certificate of approval for recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the ~~Town~~Town of Kure Beach, North Carolina, and that this plat has been approved by the Kure Beach ~~Town Council~~Council for recording in the office of the Register of Deeds of New Hanover County.

	/s/
Date	Director of Public Works
	/s/
Date	Building Inspector
	/s/
Date	Chairman of Commission <u>Planning and Zoning Commission</u>
	/s/
Date	Mayor of Kure Beach, North Carolina
	/s/
Date	Town Town Clerk of Kure Beach, North Carolina
	/s/
Date	Engineer

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(Ord. of 9-15-81, § 306; Ord. of 4-15-86; Ord. of 8-18-92; Ord. of 4-16-96)

D. *Commission Review Procedure*

1. The ~~planning and zoning commission~~ Planning and Zoning Commission shall review the final plat at or before its next regularly scheduled meeting which follows at least fifteen (15) days after the subdivision administrator receives the final plat and shall recommend approval or disapproval of the final plat within forty-five (45) days of ~~its first consideration of considering~~ the plat.
2. During its review ~~of the final plat~~, the ~~planning and zoning commission~~ Planning and Zoning Commission may appoint an engineer or surveyor to confirm the accuracy of the final plat if agreed to by the ~~town~~ Town Council. If substantial errors are found, the costs ~~of the surveyor/engineer~~ shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.
3. The ~~planning and zoning commission~~ Planning and Zoning Commission shall, in writing, recommend approval, disapproval with recommended changes to bring the plat into compliance ~~with these subdivision regulations~~, or disapproval with ~~the reasons therefor~~.
4. ~~If in the event~~ the ~~planning and zoning commission~~ Planning and Zoning Commission recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendation to the ~~town~~ Town Council through the ~~subdivision administrator~~ Subdivision Administrator.
5. ~~If in the event~~ the ~~planning and zoning commission~~ Planning and Zoning Commission recommends disapproval of the final plat, it shall retain one (1) copy of the plat for its minutes and return three (3) copies of the plat and its written recommendations to the subdivider and transmit one (1) copy of the plat and its written recommendation to the ~~town~~ Town Council through the ~~subdivision administrator~~ Subdivision Administrator.
6. ~~If in the event~~ the ~~planning and zoning commission~~ Planning and Zoning Commission recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter and resubmit same for reconsideration by the ~~planning and zoning commission~~ Planning and Zoning Commission ~~or appeal the decision to the town council~~.

(Ord. of 9-15-81, § 306)

E. ~~Town~~ Town Council *Review Procedure*

1. Failure of the ~~planning and zoning commission~~ Planning and Zoning Commission to make a written recommendation within forty-five (45) days shall constitute grounds for the subdivider to apply to the ~~town~~ Town Council for approval.
2. ~~If the planning and zoning commission recommends approval, or the subdivider appeals to the town council, the town~~ Town Council shall review and approve or disapprove the final plat within forty-five (45) days after the plat and recommendation has been received by the ~~subdivision administrator~~ Subdivision Administrator.

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3. ~~If the~~In the event ~~townTown councilCouncil~~ approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate: Certificate of approval for recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the ~~TownTown~~ of Kure Beach, North Carolina, and that this plat has been approved by the Kure Beach ~~TownTown CouncilCouncil~~ for recording in the office of the Register of Deeds of New Hanover County. ~~TownTown~~ Clerk Kure Beach, North Carolina _____ Date.
4. If the final plat is approved by the ~~townTown councilCouncil~~, the original tracing and one (1) print of the plat shall be returned to the subdivider. One (1) reproducible tracing and one (1) print shall be filed with the ~~townTown eClerk~~. One (1) print shall be returned to the ~~planning and zoning commission~~Planning and Zoning Commission for its records.
5. The subdivider shall file the approved final plat with the ~~register of deeds of~~New Hanover County Register of Deeds for recording within sixty (60) days after the date of ~~town council's~~ approval; otherwise, such approval shall be null and void.
6. If the final plat is disapproved by the ~~townTown councilCouncil~~, the reasons for such disapproval shall be stated in a writing, specifying the provisions of this chapter with which the final plat does not comply. One (1) copy of ~~such reasons~~this writing shall be retained by the ~~townTown councilCouncil~~ as part of its proceedings. One (1) copy shall be transmitted to the ~~planning and zoning commission~~Planning and Zoning Commission. One (1) copy of the two (2) reproducibles shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this chapter and resubmit same for reconsideration by the ~~townTown councilCouncil~~.
 (Ord. of 9-15-81, § 306)

14.06.40 Appeals of Decision on Subdivision Plats

Appeals of decisions on preliminary and final subdivision plats may be made in accordance with the provisions of G.S. 160D-1403.

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HISTORY

Amended by Ord. 14.06.030 on 3/12/2020

14.08 CONTENTS OF PLAT

14.08.010 Information To Be Contained In Or Depicted On Preliminary And Final Plats

14.08.010 Information To Be Contained In Or Depicted On Preliminary And Final Plats

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required.

	<i>Information</i>	Preliminary plat	Final Plat
(1)	Title block containing:		

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a.	Property designation	X	X
b.	Name of owner/developer	X	X
c.	Location, including town township, county and state	X	X
d.	Date or dates survey was conducted and plat prepared	X	X
e.	A scale of drawing in feet per inch listed in words of figures	X	X
f.	A bar graph	X	X
g.	Name, address, registration number and seal of the surveyor and engineer	X	X
(2)	A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	X	
(3)	Corporate limits, town township boundaries, county lines if on the subdivision tract	X	X
(4)	The names, addresses and telephone numbers of all owners, mortgages, registered surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	X	X
(5)	The registration numbers and seals of the professional engineers	X	X
(6)	North arrow and declination	X	X
(7)	The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown	X	X
(8)	The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings and the location of existing boundary lines of adjoining lands	X	X
(9)	The names of owners of adjoining properties and evidence of notification of adjoining property owners of proposed development by certified mail	X	X

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(10)	The names of any adjoining subdivisions of record or proposed and under review	X	X
(11)	Minimum building setback lines	X	X
(12)	The zoning classifications of the tract to be subdivided and adjoining properties	X	
(13)	Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X
(14)	Proposed lot lines, lot and block numbers and approximate dimensions	X	
(15)	The blocks numbered consecutively throughout the subdivision and the lots numbered consecutively throughout each block		X
(16)	Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site	X	
(17)	The exact location of the flood hazard, floodway and floodway fringe areas from the community's FHBM or other FIRM maps	X	X
(18)	The following data concerning streets:		
a.	Proposed streets	X	X
b.	Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
c.	Rights-of-way, location and dimensions	X	X
d.	Pavement widths	X	X
e.	Approximate grades	X	X
f.	Design engineering data for all corners and curves	X	X
g.	Typical street cross section	X	X

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	h.	Street names	X	X
(19)		For public streets which will be dedicated to the town <u>Town</u> , the subdivider must submit all street plans to the subdivision administrator for approval prior to preliminary plat approval. Where public streets are involved which will not be dedicated to a municipality, the subdivider must submit the following documents to the North Carolina department of transportation district highway office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station and vertical curve length on site plan layout; the district engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas	X	X
(20)		If any street is proposed to intersect with a state= m -maintained road, the subdivider shall apply for driveway approval as required by the North Carolina department of transportation, division of highways manual for driveway regulations. Evidence that the subdivider has obtained such approval	X	
(21)		The location and dimensions of all:		
	a.	Utility and other easements	X	X
	b.	Riding trails	X	X
	c.	Natural buffers	X	X
	d.	Pedestrian or bicycle paths	X	X
	e.	Parks and recreation areas	X	X
	f.	School sites	X	X
	g.	Areas to be dedicated to public use	X	X
	h.	Areas to be used for purposes other than residential with the purpose of each stated	X	X

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(22)	The future ownership (dedication for public use to governmental body, for owners to duly constituted homeowner's association, or for tenants remaining in subdivider's ownership) of recreation and open space lands	X	
(23)	The plans for utility layouts including:		
a.	Sanitary sewers	X	
b.	Storm sewers	X	
c.	Other drainage facilities, if any	X	
d.	Water distribution lines	X	
e.	Natural gas lines	X	
f.	Telephone lines	X	
g.	Electric lines		
h.	Illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves of the above utilities; or plans for individual water supply and sewage disposal systems	X	X
(24)	Profiles based upon mean sea level datum for sanitary sewers and storm sewers	X	
(25)	Site calculations including:		
a.	Acreage in total tract to be subdivided	X	
b.	Acreage in parks and other non-residential uses	X	
c.	Total number of parcels created	X	
d.	Acreage in the smallest lot in the subdivisions	X	
e.	Linear feet in streets	X	

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(26)	The name and location of any property or building within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	X	X
(27)	Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and set back line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curbed property lines that are not the boundary line of curbed streets. All dimensions shall be measured to the nearest one-tenth of a foot and all angles to the nearest minute		X
(28)	The accurate locations and descriptions of all monuments, markers and control points		X
(29)	A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established	X	
(30)	A copy of the erosion control plan approved by the land quality section, department of natural resources and community development	X	
(31)	Topographic map with contour intervals of no less than two (2) feet	X	
(32)	All certifications required in KBC 14.06.030 Part A et seq.		X
(33)	Existing flora mapped showing all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails. Trees, shrubs and grasses are to be preserved and protected during and after construction	X	
(34)	Boundaries of applicable Areas of Environmental Concern (AEC) in accordance with the State Guidelines for AEC's (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974	X	X
(35)	Soils classification	X	
(36)	Soiled waste collection plan	X	

(Ord. of 9-15-81, § 307)

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14.10 IMPROVEMENTS AND DESIGN STANDARDS

14.10.010 Required

14.10.020 Suitability Of Land

14.10.030 Name Duplication

14.10.040 Subdivision Design

14.10.050 Streets

14.10.060 Utilities

14.10.070 Buffering

14.10.080 Placement Of Monuments

14.10.090 Construction Procedures

14.10.100 Oversized Improvements

14.10.010 Required

Each new subdivision shall hereafter contain the improvements specified in this article, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider, unless other means of financing is specifically stated in this chapter. Land shall be dedicated in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this article.

(Ord. of 9-15-81, § 401)

14.10.020 Suitability Of Land

- A. Land which has been determined by the ~~building inspector~~ **Building Inspector** on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate the dangers.
- B. Areas that have been used for disposal of solid waste shall not be subdivided into building sites unless tests by the New Hanover County health department, a structural engineer, and a soils engineer determine that the land is suitable for the purpose proposed.
- C. The National Flood Insurance Program (44 CFR 60.3(e)) establishes minimum flood plain management standards for designated flood prone communities. The designated communities must regulate subdivision proposals and can require the developer to make any necessary revision to minimize the flood damage potential. For subdivisions in special flood hazard areas, the following standards are required:
 1. All subdivision proposals shall be consistent with the need to minimize flood damage;
 2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

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- D. All lots, structures and utilities shall comply with the applicable areas of environmental concern (AEC) standards, as amended, in accordance with the state guidelines for AEC's (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974.

E.

(Ord. of 9-15-81, § 402)

14.10.030 Name Duplication

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within New Hanover County.

(Ord. of 9-15-81, § 403)

14.10.040 Subdivision Design

A. *Blocks.*

- 1. Blocks shall not be less than four hundred (400) feet nor more than thirteen hundred twenty (1320) feet in length.
- 2. Block numbers shall conform to the ~~town~~Town street numbering system, if applicable.

B. *Lots.*

- 1. All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning ordinance. It is not sufficient merely for the average lot to meet zoning requirements.
- 2. Lots shall meet any applicable New Hanover County health department requirements.
- 3. Side lot lines shall be substantially at right angles to or radial to street lines.

C. *Water access areas.* All subdivisions adjoining water areas shall provide for public access to the water. A minimum access width of ten (10) feet shall be provided from the street right-of-way to the highwater mark of the ocean every block or one thousand (1,000) feet. These facilities shall be approved by and dedicated to Kure Beach, and shall be directly accessible to a state or city-maintained street or road. A minor variation in the specific location of the access may be allowed where topographic conditions or subdivision design can better accommodate the access at another location within the subdivision.

(Ord. of 9-15-81, § 404)

14.10.050 Streets

A. *Type of streets required.* All subdivision lots shall abut on a street. The design standards for streets within the ~~town~~Town's planning and development regulation - and its one (1) mile extraterritorial jurisdiction shall meet the minimum construction standards for subdivision roads as required by the ~~the~~Division of ~~the~~Highways, North Carolina ~~the~~Department of ~~the~~Transportation. The width of a public street terminating in a cul-de-sac shall not be less than forty (40) feet if the length of the terminating street and the cul-de-sac together are less than two hundred (200) linear

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feet. If the combined length of the terminating street and the cul-de-sac is two hundred (200) linear feet or longer, the width of the terminating street shall be fifty (50) feet.

- B. *Coordination and continuation of streets.* The proposed street layout within a subdivision should be coordinated with the existing street system of the surrounding area and where possible, existing principal streets shall be extended.
- C. *Access to adjacent properties.* Where, in the opinion of the ~~planning and zoning commission~~ Planning and Zoning Commission it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn-around shall be provided.
- D. *Private streets and reserve strips.* Private streets or reserve strips shall be prohibited within any platted subdivision.
- E. *Subdivision street disclosure statement.* The developer shall comply with G.S. § 136-102.6 which provides for a disclosure statement from the developer to the purchaser setting forth the status of the street on which the property is located. The disclosure statement shall also fully disclose the party or parties upon whom responsibility for construction and maintenance of such roads shall rest.
- F. *Marginal access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway.
- G. *Street names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the ~~planning and zoning commission~~ Planning and Zoning Commission.
- H. *Collector and minor street.* Collector and minor streets shall be so laid out that their use by through traffic will be discouraged.
- I. *Street name signs.* The subdivider shall be required to provide and erect street name signs to ~~town~~ Town standards at all intersections within the subdivision.
- J. *Half streets.* The dedication of half streets of less than sixty (60) feet for a state-maintained street or fifty (50) feet for municipal street at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development. However, a partial width right-of-way, not less than sixty (60) feet for a state-maintained street or fifty (50) feet for municipal street in width, may be dedicated when adjoining undeveloped property that is owned or controlled by the subdivider; provided that the width or a partial dedication be such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

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- K. *Dead end streets.* Permanent dead end streets shall not exceed thirteen hundred (1300) feet in length unless necessitated by topography.
- L. *Cul-de-sacs.* Permanent dead end streets with cul-de-sacs shall not exceed thirteen hundred (1300) feet in length unless necessitated by topography.

(Ord. of 9-15-81, § 405; Ord. of 10-17-90)

14.10.060 Utilities

A. *Water and sewer systems.*

- 1. Each lot in all subdivisions within the corporate limits of the ~~town~~Town shall be provided, at subdivider's expense, with an extension of the municipal water and sanitary sewer systems. Each lot in the ~~Town's~~Town extraterritorial ~~jurisdictional~~ area ~~of the town~~ shall be provided with an extension of the municipal water and sanitary sewer systems at the subdivider's expense if the lot is within five hundred (500) feet of the system.
- 2. Where a subdivision lot in the ~~Town's~~Town extraterritorial ~~jurisdictional~~ area lies more than five hundred (500) feet distant from the municipal water system and/or sanitary sewer system, the subdivider may, at his expense, extend the aforementioned systems to the subdivision; if approved by the ~~town~~Town ~~council~~Council. Water and sewer lines, connections and equipment in subdivisions connected to municipal water and/or sewer systems shall be in accordance with ~~town~~the standards ~~found in the Code of Kure Beach~~ set forth in the Town Code.

B. *Storm water drainage system.* The subdivider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in Handbook for the Design of Highway Surface Drainage Structures, 1973, subject to review by the consulting engineer, and:

- 1. No surface water shall be channeled or directed into a sanitary sewer.
- 2. Where feasible, the subdivider shall connect to an existing storm drainage system.
- 3. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designated to protect the proposed development from water damage.
- 4. Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding and designed to comply with the standards and specifications for erosion control of the North Carolina erosion and sedimentation control law and any locally adopted erosion and sedimentation control ordinance.
- 5. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.

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- C. *Underground wiring.* Where soil, water table, and other physiographical conditions permit, every effort will be made to provide underground electrical service in accordance with utility company policies.

(Ord. of 9-15-81, § 406)

14.10.070 Buffering

Whenever a residential subdivision is located adjacent to an office, institutional, commercial or industrial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these and the subdivision, the subdivider shall provide a buffer as defined in KBC 14.02.010. The width of the buffer shall be in addition to the lot area required by the zoning of Kure Beach. The buffer shall become part of the lot on which it is located.

(Ord. of 9-15-81, § 407)

14.10.080 Placement Of Monuments

Unless otherwise specified by this chapter, the Manual of Practice for Land Surveying as adopted by the North Carolina state board of registration for professional engineers and land surveyors, under the provisions of G.S § 89-16, shall apply when conducting surveys for subdivisions to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(Ord. of 9-15-81, § 408.1)

14.10.090 Construction Procedures

- A. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.
- B. No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this chapter until all the requirements of this chapter have been met.
- C. The administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator to provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

(Ord. of 9-15-81, § 408.2)

14.10.100 Oversized Improvements

The ~~town~~Town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the ~~town~~Town requires the installation of improvements in excess of the standards required in this chapter, including all standards adopted by reference, the ~~town~~Town shall pay the cost differential between the improvements required

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and the standards in this chapter. Such cost shall be reimbursed to the ~~town~~Town by future developments using these facilities.

(Ord. of 9-15-81, § 408.3)

14.12 PLANNED RESIDENTIAL DEVELOPMENTS

~~14.12.010 Authorized~~

14.12.020 Exceptions For Planned Developments

14.12.030 Single-Family Attached Residential Dwellings

~~14.12.010 Authorized~~

~~Where topography or other existing physical conditions are such that compliance with the requirements of this chapter would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would meet, the town council may vary the minimum requirements set forth herein; provided that such variation will not have the effect of nullifying the interest and purpose of these regulations. Where a variation is accepted the reasons for such shall be noted in the minutes of the planning and zoning commission.~~

~~(Ord. of 9-15-81, § 601)~~

14.12.020 Exceptions For Planned Developments

~~A.~~ The purpose of this article is to provide desirable open space in commonly owned areas, tree cover, recreation area, scenic vistas, and variety in development by allowing certain variations in lot sizes and design requirements, and the establishment of ~~town~~Townhouses and condominiums. In no case, shall the overall density of dwelling units be greater than that permitted by the applicable zoning requirements. Subject to the approval of the ~~town~~Town ~~council~~Council, the design standards as set forth in this chapter may be modified by the ~~planning and zoning commission~~Planning and Zoning Commission in the case of a plan and program for a planned development which may consist of offices, institutions, stores, industries, ~~town~~Townhouses, and residences or any desirable combination of these establishments which meet the requirements of the zoning ordinance. Proposed ownership of planned developments may be by one individual, partnership, corporation, cooperative, condominium or any desirable combination.

~~A.~~

B. A preliminary and final plat of a planned development shall be submitted pursuant to the provisions of this article in conformity with the following:

1. *Common open areas.* Common open areas shall be defined as areas for which use is shared by all tenants and/or property owners (i.e., recreational areas, landscaped areas, sidewalks) as distinguished from space designated for private use. Common open areas ~~will~~shall not include parking lots and roadways. All planned development shall contain commonly owned open land equal in area to twenty (20) percent of the entire development. In the event a development is planned in phases, each phase shall contain commonly owned open land equal in area to twenty (20) percent of each phase. Common areas shall be held in nonprofit corporate ownership by the owners of lots within the development. In consideration of the purpose served by a planned development, the title to such common areas or property shall be preserved to the perpetual benefit of the private properties in the development and shall be restricted against private ownership for any other purpose. The developer shall submit and, after approval by the ~~town~~Town ~~council~~Council, record a declaration of the covenants and restrictions that will govern the ownership, management and maintenance of the common areas.

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2. *Density.* Individual lot size may be varied, but the overall density of a planned development shall not exceed that permitted by the applicable zoning requirements.
3. *North Carolina Unit Ownership Act.* Before a declaration establishing a condominium or unit ownership development may be recorded, the declaration and plan shall be approved by the ~~town~~Town Council as a preliminary and final plat.
4. *Site plan.* Site plans for all planned development shall show the location of the buildings, streets, alleys, walks, parking areas, recreation areas, tree covers and planting. The site plan shall number and show the dimensions of all building sites and all streets and utility easements to be dedicated to the public. All areas on the site plan other than public streets, parking lots, easements or private building sites shall be shown and designated as common areas.
5. *Landscape plan.* A landscape plan for all planned development shall show all existing and proposed plant material. The plan shall indicate the size and type of existing plant material and the size and type of plants to be planted.
6. *Public access, easements and private party walls.* Building lots may abut or be provided with frontage on common areas, properly restricted through a property owners association to assure adequate access, if in the opinion of the ~~town~~Town Council, a public street is within an acceptable distance and would allow adequate community services. Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, as well as for parking, shall be granted to each owner of a residential site. All common walls between individual residences shall be party walls and provisions for the maintenance thereof and restoration in the event of destruction or damage shall be established.
7. *Utilities and improvements required.* All planned developments shall include public water and sewer utilities, sidewalks, paved streets and parking areas with curb and gutter where storm drainage is available, landscaping and any other improvements considered necessary by the ~~town~~Town Council.

(Ord. of 9-15-81, § 602)

14.12.030 Single-Family Attached Residential Dwellings

The following regulations shall apply to residential single-family attached dwellings:

- A. *Purpose:* To provide for residential single-family attached developments in the ~~Town of Kure Beach~~Town of Kure Beach by declaration of covenants and recorded plat(s) following approval by all applicable departments of the said ~~town~~Town, and to provide for conversion of certain other types of residential dwelling units to residential single-family attached units.
- B. *Definitions:*
 1. *Single-family attached development:* Two (2) to four (4) single-family dwelling units constructed in a series or group of attached units with property lines on the ground separating such units from other units and from common area. No unit shall be connected on more than two (2) sides by common walls with other units.

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- 2. *Residential single-family attached dwelling:* A dwelling unit designed for use by a single family. Units previously platted and approved as ~~town~~houses or condominiums may be converted to residential single-family attached units.
 - 3. *Vertically bounded units:* Condominium units bounded by solely vertical boundaries; "side-by-side" units.
- C. *Acreage requirement:* None.
- D. *Minimum setback requirements:* Those setbacks applicable to residential planned unit developments as provided for in **KBC 14.??**.
- E. Establishment of lots within single-family attached developments:
- 1. Vertically bounded units: Lot size is determined by the structure foundation, in that the lot may not exceed the perimeter of the structure foundation, and the lot shall be located immediately beneath such foundation.
- F. *Applicable building code:* All building codes applicable to the construction of residential ~~town~~houses shall be applicable to single-family attached dwellings. Conversion of any other type unit, such as previously constructed ~~town~~houses or condominiums, to single-family attached units requires the applicable departments of the ~~town~~Town be provided adequate evidence that the unit was built to the building code applicable at the time of construction for construction of ~~town~~houses to include an engineer-approved drawing, and if no such applicable code existed at the time of construction, ~~that~~ the unit was built to the building code applicable at the current time for construction of ~~town~~houses. In no event may less than all of the units in a development be converted.
- G. *Conversion of vertically bounded condominium units to single-family attached units:* A plat, or plats, conforming to the requirements of KBC 14.08, must be reviewed and approved as required by KBC 14.06 of these ordinances. Said duly approved plat(s) shall be recorded in the New Hanover County Registry prior to any conversion becoming effective. Prior to such recordation, the condominium regime shall be dissolved in accord with the provisions of G.S. § 47C-2-118 or 47A-16, as applicable.
- H. *Conversion of ~~town~~house units to single-family attached units:* ~~Town~~houses conforming with the provisions of this ordinance and those for ~~town~~house construction are deemed to be single-family attached units.
- I. *Miscellaneous applicable ordinances, codes and regulations:* In the absence of other clearly applicable ordinances, codes and regulations, those ordinances, codes and regulations applicable to platting and construction of ~~town~~houses shall apply. In the absence of ordinances, codes and regulations applicable to ~~town~~houses, the ordinances, codes and regulations applicable to platting and construction of planned unit developments shall apply.
- J. *Additional allowed housing type:* Housing unit types allowed by the ~~Kure Beach ordinances~~Town Code shall include single-family attached dwellings, a/k/a single-family attached units.
- K. *Approval of conversion conditional:* The approval of the conversion of condominium units to single-family attached units under this section is conditional, subject to the filing of an attorney-prepared certificate and the aforementioned engineer-approved drawing ~~that specifies~~specifying

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that the new HOA for the single-family attached complex is similar to the previous condominium HOA.

**PROPOSED TEXT AMENDMENTS DESIGNATING THE DOWNTOWN
PRESERVATION AND HISTORIC DISTRICT**

(For Council Consideration and Action)

15.08.100 K Avenue Mixed-Use Overlay District ~~Overlay Districts~~

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

15.08.110 K Avenue Mixed-Use Overlay District

A. *Purpose and intent of the ~~overlay district~~ K Avenue Mixed-Use Overlay District ("MUOD").*

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

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

C. *Geographic boundaries of district.* The ~~K Avenue mixed use overlay district~~ MUOD shall include and consist of lots the entire length of K Avenue between Third Avenue and Seventh Avenue. A condition of applying for a special use permit under the provisions of the overlay district is that any privately owned parking area intended to serve the subject project shall be

subject to the provisions of the permit (whether said parking is located in the ~~Overlay District~~ MUOD proper or not).

D. *Uses allowed in the ~~overlay district~~ MUOD (by special use permit only).*

1. Light retail (See retail, miscellaneous, KBC 15.02.010 for definition).
2. ~~L~~Light food service (primarily counter service); seating for no more than fifteen (15) customers.
3. Churches and other places of worship, including parish houses and Sunday schools.
4. Colleges, schools, public libraries, public museums, art galleries, and other public buildings.
5. Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on within the premises.
6. Customary home occupations.

E. The following requirements and restrictions shall apply to the ~~overlay district~~ MUOD.

1. *Residential component.* Each special use must contain a residential component in compliance with the NC Building Code and other applicable codes and regulations.
2. *Signs.* Signs in the mixed use area should be small, relatively unobtrusive and compatible with the neighborhood. Towards this end, the following shall apply to the ~~overlay district~~ MUOD:
 - a. All regulations described in KBC 15.40.010 to KBC 15.40.120 apply to the overlay district.
 - b. In addition, the following regulations apply:
 - (1) Commercial signs may only be used in conjunction with an actual commercial activity occurring on the premises.
 - (2) A commercial sign may only be attached to the first floor of the building. Such attachment may either be flush or projecting.
 - (3) Only one (1) commercial sign is allowed for each building.
 - (4) Any lighting for the commercial sign must be external. No internally lit signs are allowed in this district. Lighting shall only be

allowed during the hours of operation for the business. Lighting for exterior signs must only illuminate the sign, and may not "spill over" to neighboring residences.

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

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

(7) As defined in KBC 15.40.050, no exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries are allowed. This includes tube lighting, string lighting, LED lighting, or typical holiday lighting. Exceptions to this are typical holiday lighting and decorations which contain no commercial message.

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

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

The following design standards shall apply to development in the ~~overlay district~~ MUOD:

a. Landscaping.

(1) All usable open space, such as pedestrian walkways, separations between buildings, yard areas and common recreation areas should be landscaped and provided with an underground irrigation system, or an alternative equivalent system.

(2) Trees and plants indigenous to southeastern North Carolina are recommended.

b. Walls and fences.

(1) A four-foot high solid wall or fence should be constructed along the property line of any lot where construction of any residential/commercial mixed-use development is adjacent to property zone and /or used for residential purposes.

(2) Chain-link, barbed-wire, razor-wire and spikes are prohibited.

c. On-site tree preservation.

(1) All species of mature oak trees should be preserved and integrated into the project design unless it is shown to be infeasible. Mature trees are defined as trees having a diameter of thirty (30) inches or greater at a height of four and one-half (4.5) feet above adjacent ground.

(2) Removal of mature trees must be approved by the building inspector, to ensure that the circumstances present at the property warrant removal of the tree(s).

4. *Buffering.*

a. Shielding AC:

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

b. Shielding trash:

(1) Outside trash and garbage receptacles shall be no closer than five (5) feet from adjoining property lines.

(2) There shall be minimum visibility of outside trash and garbage receptacles from the street; all reasonable efforts in this regard shall be made, taking into account the following: (criteria for the type of screening to be used)

(A) The amount and size of receptacles shall be appropriate in light of the occupancy of the building.

(B) If enclosed, screening material should be consistent with the building.

(C) Recycling should be controlled such as minimize spillover.

(D) Dumpsters should be on a concrete pad so they can be washed and should be screened from neighboring properties.

5. *Lighting.*

a. A detailed lighting plan shall be submitted with preliminary drawings.

- b. Parking lot lights shall be shielded down, with the lights being not more than ten feet high.
- c. Commercial entrance lights shall be shielded down and directed at the entrance to the property.
- d. Flood and security lights shall be shielded and aimed such as to not create glare on adjoining properties.
- e. Accent lighting shall be low voltage and aimed at the objects to be accented only.
- f. All lighting shall be installed and aimed to minimize light trespassing across property lines.
- g. Restrictions:
 - (1) No lighting shall be aimed toward public streets causing public safety hazards.
 - (2) No laser lights are allowed.
 - (3) No search lights for advertising are allowed.
- h. Bare light sources (including, but not limited to, festive light strands, strands, incandescent, fluorescent, high intensity discharge, LED, fiber optics and neon) used to outline property lines, open sales areas, roof lines, doors, windows the edges of walls or any other area of the building or property visible from outside the building are prohibited, except for holiday lighting permitted from Thanksgiving through January 15th of the new year, unless approved as part of a planned lighting program. This section does not apply to a) security lighting with motion detection, b) emergency lighting and c) residential zones.

F. *Application.* An applicant for a use permitted in the ~~overlay district~~ MUOD must apply for a special use permit from the Town ~~of Kure Beach~~ and follow the process described in KBC 15.08.080 and KBC 15.08.090. Staff will review the application to ensure that it is complete, as to the provisions above and the special use requirements. Although an application may be complete, i.e. all of the requirements set out in this section have been addressed, the ~~Planning and Zoning Commission or~~ Town Council may place additional requirements or conditions on the proposal through the special use process.

15.08.120 Downtown Preservation Overlay District

A. *Purpose and Intent of the Downtown Preservation Overlay District (“POD”).*

1. Protecting and preserving, within the designated POD, important elements of the Town’s culture, history, and architecture.
2. Safeguarding the character and heritage of the POD by preserving the district as a whole and the properties therein which embody those important elements of the Town’s culture, history, and architecture.
3. Promoting the use and conservation of the POD for the education, pleasure, and enrichment of the residents of the district, the Town, and the State.
4. Stabilizing and enhancing property values within the POD which will improve the general health, safety, and welfare of the Town’s residents.

B. *Establishment of the POD.* The POD district is hereby established as a historic district overlaying the existing B-1 Business District, the extent and boundaries of which are as indicated on the Town’s official zoning map.

C. *Effect of the POD.* These POD regulations apply in combination with the underlying B-1 district regulations and all other applicable provisions of the KBC. In circumstances where the B-1 district regulations are silent or where the POD regulations conflict with the B-1 regulations, then the POD regulations shall be controlling.

D. *Allowed Uses.* All uses permitted in the B-1 district, whether by right or as a Special Use, shall be permitted in the POD district in accordance with the procedures established for such uses.

E. *Design Standards.* Buildings and structures within the POD shall comply with the Design Standards for the Kure Beach Downtown Preservation and Historic District (“Design Standards”).

F. *Certificates of Appropriateness.*

1. A **Certificate of Appropriateness** (“COA”) shall be required for any erection, alteration, restoration, relocation, demolition, or destruction of any exterior portion of any building, structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features), above-ground utility structure, or any type of outdoor advertising sign within the POD.
2. Where required, a COA shall be granted by the Kure Beach Historic Preservation Commission (“HPC”) prior to the issuance of a building permit and a building permit that is issued thereafter shall be in conformity with said COA.

G. Minor Work Excepted.

1. Nothing in this section shall be construed to prevent minor work on any exterior feature in the POD district. For the purposes of this section, “minor work” shall be interpreted and construed to mean ordinary maintenance, minor repairs, and other work which does not involve a substantial change in the design, material, or appearance of an exterior feature. Examples of such minor work are set forth in Sec. 3.2 of the Design Standards.

2. Minor work on exterior features within the POD may be administratively approved by the Town’s Building Inspector without a COA hearing before the HPC. The request for administrative approval of minor work shall be made to the Building Inspector in writing, describe the work to be performed, and show that the work complies with these standards. A dated letter approving or denying the request shall be issued by the Building Inspector to the applicant generally within two (2) business days after the date on which the Building Inspector received the request.

3. Appeals of administrative decisions for minor work shall be made in writing to the HPC and delivered to the commission’s Clerk within ten calendar (10) days after the date of the Building Inspector’s letter setting forth the administrative decision. The appeal shall be considered and acted upon by the HPC in a special or regular meeting conducted no earlier than ten (10) calendar days after the date on which the Clerk received the appeal. The HPC’s decision on the appeal shall be made in writing and delivered to the appellant, via personal delivery, electronic mail, or certified mail, return receipt requested, within ten (10) calendar days after the date of the hearing during which the appeal was taken.

H. COA Applications. Applications for a COA, and payment of any required fee, shall be made to the Building Inspector on forms available in the Building and Inspections Department no later than thirty (30) days before the date of the next regularly scheduled HPC meeting. Each application shall include sketches, drawings, photographs, specifications, descriptions, and/or other material describing the proposed work and how it complies with the Design Standards. Insufficient applications shall not be processed.

I. Staff Review and Report. The Building Inspector shall review each COA application under the Design Standards and the Review Criteria set forth in subsection L herein. Based upon the review, the Building Inspector shall provide a report on the COA application to the HPC. The Building Inspector may determine, based upon review of the application, that the proposed work constitutes minor work and may approve the same in the manner set forth in subsection G above.

J. Hearings and Notice.

1. The HPC shall follow quasi-judicial procedures in determining applications for COAs.
2. A notice of hearing shall be mailed to: i) the person or entity whose application is the subject of the hearing; ii) to the owner of the property if the owner is not the applicant; and iii) to the owners of all parcels of land abutting the subject property (“abutting” as used herein to be interpreted and construed as including those parcels directly across the street from the subject property).
3. The notice of hearing shall be deposited in the mail at least 10 days but not more than 25 days before the date of the hearing and within that same time period, notice of the hearing shall be posted on the subject property or on an adjacent street or right-of-way.
4. The HPC Clerk shall provide written certifications of the mailed and posted notice. The certifications shall become a part of the hearing record and shall be deemed conclusive in the absence of fraud.
5. The HPC Clerk shall transmit to the HPC all applications, reports, and written materials which are relevant to the matter being considered. These materials may also be distributed to members of the HPC prior to the hearing provided that at the same time they are distributed to the applicant and to the property owner if that person or entity is not the applicant. These administrative materials shall become part of the hearing record and may be provided in written or electronic form.
6. Objections to the inclusion or exclusion of administrative materials may be made before and at the hearing and shall be ruled on at the hearing.
7. The applicant, the Town, and any person or entity who would have standing to appeal the decision shall have the right to participate as a party at the evidentiary hearing and other witnesses may present competent, material, and substantial evidence that is not repetitive and is allowed by the HPC.
8. Objections concerning jurisdictional and evidentiary issues, including the timeliness of an appeal or the standing of a party, may be made to the HPC. The HPC Chair shall rule on any objection and the Chair’s rulings may be appealed to the full HPC which will decide the issue by a majority vote.

K. HPC Decision.

1. Provided a complete application for a COA is filed by the appropriate deadline, the HPC shall consider the application at its next regular meeting following the deadline.

2. The HPC shall review each COA application under the Review Criteria set forth in subsection L herein and take action to approve, approve with modifications, or deny the application.
3. Prior to taking final action on an application, the HPC shall make written findings of fact based upon the Review Criteria and Design Standards and indicating the extent to which the application is, or is not, compatible with the POD, the Review Criteria, and the Design Standards.
4. The HPC shall enter into the minutes of its meeting the findings of fact for the action taken.
5. The HPC shall make deliberate and render its decision in open session within a reasonable time and preferably during the meeting in which the application was considered heard.
6. The HPC's decision shall be set forth in writing, be based on the competent, material, and substantial evidence in the record, reflect the commission's determination of contested facts and their application to the Review Criteria and the Design Standards, be approved by majority vote by the HPC, and signed by the Chair.
7. The decision shall be effective on the date it is filed with the Town Clerk and shall be delivered within a reasonable time, via personal delivery, electronic mail, or certified mail, return receipt requested, to the applicant, the property owner if different from the applicant, and to any person or entity that submitted, before the effective date of the decision, a written request for a copy thereof. The person providing notice of the decision shall certify in writing that proper notice has been provided and the certification shall become a part of the hearing record and be deemed conclusive in the absence of fraud.

L. *Review Criteria.*

1. The regulations set forth herein and the Design Standards are intended to, insofar as is reasonable, ensure that the exterior portions of the buildings and structures within the POD shall be harmonious. However, it is not the intent of these regulations or the Design Standards to require the reconstruction or restoration of any buildings or structures, prohibit their demolition or removal, or impose any architectural style.
2. In determining COA applications, the HPC shall consider the historic and/or architectural significance of the building or structure under consideration, the exterior form and appearance of the proposed changes thereto, and the effect the proposed changes would have upon the other buildings and structures within the POD.

3. The HPC shall make no requirement except to prevent work that is incongruent with the POD.

4. COA Applicants shall consult the Design Standards which the Town will utilize in administering these regulations.

5. The HPC shall base its COA decisions concerning exterior form and appearance on the Design Standards and the following criteria:

- a. The setbacks, lot coverage, yards, orientation, and positioning of the building or structure;
- b. Materials, surface textures, and patterns;
- c. Architectural details;
- d. Roof shapes, forms, features, and materials;
- e. The proportions, shapes, positions, locations, and patterns of doors and windows;
- f. The general form and proportions of the buildings and structures; and
- g. Appurtenant features including, without limitation, walls and fences.

6. Nothing in the Review Criteria or in the Design Standards shall be interpreted or construed as preventing or restricting the authority to erect buildings to a height of 35 feet above ground level in accordance with N.C. Sess. Law 2006-126.

M. *Interior Arrangements Not Considered.* When determining COA applications, the HPC shall not consider the interior arrangement of the subject building(s) or structure(s).

N. *Relocation and Demolition.* Per N.C.G.S. § 160D-949, applications for a COA for the relocation, demolition, or destruction of a building or structure within the POD shall not be denied.

O. *Certain Changes Not Prohibited.* Nothing in these POD regulations or the Design Standards shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the POD that does not involve a change in design, material, or appearance thereof nor to prevent the construction, reconstruction, alteration, restoration, relocation, or demolition of any such feature that the Building Inspector shall certify in writing is required for public safety because of an unsafe or dangerous condition. Nothing in these regulations or the Design Standards shall be construed to prevent a property owner from making any use of his property that is not prohibited by any other law.

P. *Successive Applications.* In the event the HPC denies a COA, a new application affecting the same property may be submitted if substantial changes are made in the original plans for the proposed work on the building or structure.

Q. *Appeals.* The applicant or the property owner if different from the applicant, may appeal the issuance or denial of a COA to the Kure Beach Board of Adjustment in the nature of certiorari within thirty (30) days after the date of their receipt of the written notice of decision. Any other person or entity who would have standing to appeal the decision, and who received notice of the decision in accordance with sub-sub-section 7 of sub-section K herein, shall have thirty (30) days from the date they received the notice within which to appeal to the Board of Adjustment.

R. *Lapse of Approval.* All COAs shall expire one (1) year from the date of issuance. The HPC may grant an extension of up to one (1) year provided the commission finds that substantial progress has been made under the COA or that the recipient encountered unforeseen difficulties which caused the delay.

S. *Compliance.*

1. Failure to comply with a COA shall constitute a violation of KBC Chapter 15 and shall be enforceable as provided for under KBC 15.42.010 *Civil Penalty*.
2. The discontinuance of work or the lack of substantial progress under a COA for a period of one (1) year shall be considered as a failure to comply with the COA and the enforcement of any remedy under Chapter 15 shall not prevent the application of any other remedy or remedies available under the Town's Code of other statutes, ordinances, or rules.

PROPOSED TEXT AMENDMENTS TO KBC 15.08.040
(For Council Consideration and Action)

Current Text:

15.08.040 District Regulations

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. A use not specifically addressed by the zoning ordinance shall be expressly prohibited so as not to alter or endanger the purpose of the zoning pertaining to each district and to ensure that the original intent and purpose as specified in G.S. § 160A-383 is maintained.

More than one (1) permitted use can be located on a particular site or within a particular building. All uses on a particular site or within a particular building must be permitted. If a use is not on the permitted use table, it is then prohibited. In addition, KBC 15.08.050 also identifies specific uses with a particular SIC code that may be prohibited. If a proposed use cannot be classified into a normal SIC code, the senior zoning administrator shall classify it with the use in the table most similar to it. If the senior zoning administrator should determine that a use is not listed and is not similar to a use in the permitted use table, then said use is prohibited. A business in operation may not add another use to their existing operation that is not permitted.

Proposed Amendments.

15.08.040 District Regulations (Redline) (blackline draft follows on page 2).

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. ~~A use not specifically addressed by the zoning ordinance shall be expressly prohibited so as not to alter or endanger the purpose of the zoning pertaining to each district and to ensure that the original intent and purpose as specified in G.S. § 160A-383 is maintained.~~ More than one (1) permitted use ~~can~~may be located on a particular site or within a particular building.

~~More than one (1) permitted use can~~may be located on a particular site or within a particular building. All uses on a particular site or within a particular building must be permitted. If a use is not on the permitted use table, it is then prohibited. In addition, KBC 15.08.050 also identifies specific uses with a particular SIC code that may be prohibited. If a proposed use cannot be classified into a normal SIC code, the senior zoning administrator shall classify it with the use in the table most similar to it. Uses which are listed shall be liberally interpreted to include non-listed uses which have similar characteristics. A use that is not listed and that does not have characteristics similar to those of a listed use shall be interpreted as a use requiring a special use permit under the provisions of KBC 15.08.080 herein. ~~If the senior zoning administrator should determine that a use is not listed and is not similar to a use in the permitted use table, then said use is prohibited. A business in operation may not add another use to their existing operation that is not permitted.~~

PROPOSED TEXT AMENDMENTS TO KBC 15.08.040
(For Council Consideration and Action)

15.08.040 District Regulations (Blackline).

Within the districts as indicated on the zoning map, no building or land shall be used and no building shall be erected or altered which is intended or designed to be used in whole or part for any use other than those listed as permitted for that district. A building or the use thereof may be considered changed when its form of occupancy or operation is substantially changed beyond those permitted uses as specified within the designated districts. More than one (1) permitted use may be located on a particular site or within a particular building.

Uses which are listed shall be liberally interpreted to include non-listed uses which have similar characteristics. A use that is not listed and that does not have characteristics similar to those of a listed use shall be interpreted as a use requiring a special use permit under the provisions of KBC 15.08.080 herein.

DESIGN STANDARDS
KURE BEACH DOWNTOWN **PRESERVATION DISTRICT**



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ARTICLE I. PREFACE

The objective of the Kure Beach **Downtown Preservation District** (the “District”) is to safeguard the heritage of the Town of Kure Beach (“Town”) by preserving important elements of its culture, history, and architecture and by promoting the use and conservation of the District for the education, pleasure and enrichment of the residents of the Town, the region, and the State. The District has an overall integrity of design, scale, setting, and materials which need to be maintained to preserve its unique character of a small-town, family-friendly 1940s to 1970s east coast beach town.

These standards specifically permit property development while ensuring the preservation of the District’s important elements and features which lend themselves to the unique character of the District.

These standards only address changes to the exterior features of buildings and structures within the District and are intended to assist property owners and the Town in determining whether the proposed changes are consistent and harmonious with the District’s neighborhood. These standards provide the Kure Beach Historic Preservation Commission (the “HPC” or “Commission”), Town Staff, and property owners with the minimum guidelines needed for making decisions on applications for Certificates of Appropriateness (“COAs”) which are required prior to making any changes to the exterior features within the District.

These standards will also enhance investment within the District and will increase public awareness of the District’s unique, small-town, family-friendly character.

DISTRICT BOUNDARIES

The District, a four-block area bounded on the East by the Atlantic Ocean, on the South by J Avenue, on the North by L Avenue, and on the West by Third Avenue, represents a mix of commercial and residential structures and contains the oldest buildings in the Town. The District is the Town’s only commercial district (*e.g.*, beach-oriented hotels, shops, and restaurants) and retains a character that is reflective and reminiscent of a 1940s-1970s coastal community. Also located within the District are several public beach access points, the Town boardwalk, and the Town’s beachfront park and pavilion. The Town’s only stop-lighted intersection (Fort Fisher Blvd and K Avenue) and the oldest fishing pier on the Atlantic coast (originally built in 1923) are also sited within the District.

ARTICLE II. PROCEDURES FOR AMENDING THE DESIGN STANDARDS

2.1. Amendments

The following procedure shall apply with respect to proposed amendments to these design standards:

- a. Upon a suggestion to amend these standards made by a member of the HPC, the Planning and Zoning Commission, or Town Council, the HPC Chair shall call for discussion on the proposed amendment.
- b. Following the discussion, the Chair shall request a motion to place the question of the proposed amendment on the agenda for a noticed special meeting of the HPC where the Commission will consider and act upon the proposed amendment.
- c. The notice of the special meeting shall state that the purpose of the meeting is to allow for public comments on the proposed amendment and that the Commission will consider and act upon said proposal.
- d. A majority vote shall be sufficient for adopting or denying the proposed amendment.

ARTICLE III. REQUIRED APPROVALS

3.1. COAs Required

Under the General Statutes of North Carolina and the Town of Kure Beach Code (“KBC”), a COA is required for the erection, alteration, restoration, relocation, demolition, or destruction of any exterior portion of any building, structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features), above-ground utility structure, or any type of outdoor advertising sign within the District (all collectively referred to herein as “Exterior Features”). Applications for a COA are decided by the HPC following a quasi-judicial hearing wherein the applicant presents evidence showing that the proposed Exterior Features comply with these design standards. The issuance of a COA by the HPC is required prior to the issuance of a building permit.

3.2. Minor Work Excepted

Minor work on Exterior Features, as defined in KBC Chapter 15 *Zoning*, may be administratively approved by the Town’s Building Inspector without a COA hearing. The request for administrative approval of minor work shall be made to the Building Inspector in writing, describe the work to be performed, and show that the work complies with these standards. A dated letter approving or denying the request shall be issued by the Building Inspector to the applicant generally within two (2) business days after the date on which the Building Inspector received the request.

Appeals of administrative decisions for minor work shall be made in writing to the HPC and delivered to the Commission’s Clerk within ten calendar (10) days after the date of the Building Inspector’s letter setting forth the administrative decision. The appeal shall be considered and acted upon by the HPC in a special or regular meeting conducted no earlier than ten (10) calendar days after the date on which the Clerk received the appeal. The HPC’s decision on the appeal shall be made in writing and delivered to the appellant within **ten (10)** calendar days after the date of the hearing during which the appeal was taken.

Minor work on Exterior Features which may be administratively approved includes the following:

- a. Painting which complies with these standards.
- b. Installation of window air conditioners, television antennas, and other temporary mechanical equipment provided they cannot easily be seen from the street or are screened from view with shrubbery or appropriate fencing.
- c. Repairs to walkways, patios, fences and driveways provided that the replacement materials match the original materials.
- d. Replacement of missing or deteriorated siding, trim, roof shingles, porch flooring, steps, etc. provided that the replacements match the original materials.
- e. Installation of storm windows and doors provided the trim color is white or matches trim color of the building, and the storm door is of the "full view" type.
- f. Installation of gutters and downspouts provided the color matches the trim color of the building and is harmonious with the color of the roof ventilators and chimney caps.
- g. Installation of house numbers, mailboxes, and porch light fixtures which are compatible and harmonious with the surrounding Exterior Features.
- h. Alteration or restoration of a medium to dark gray or black asphalt shingle roof.
- i. Alteration, restoration or erection of shutters or blinds which are **different from the original.** ~~to the building or identical thereto.~~
- j. Removal of aluminum awnings.
- k. Removal of cinderblock walk and steps.
- l. Removal of storm doors and windows which do not feature panels or decorative work.
- m. Removal of metal storage buildings.

3.3. COA Procedures for Non-Minor Work

Application for a COA and payment of the associated fee shall be made to the Town's Buildings Inspection Department no later than thirty (30) days before the date of the next regularly scheduled HPC meeting. Each application shall include sketches, drawings, photographs, specifications, descriptions, and other information clearly showing the proposed work and how it complies with these design standards. Insufficient applications shall not be processed.

The HPC hearing shall be noticed and conducted in a quasi-judicial manner in accordance with the provisions of N.C.G.S. § 160D-406 and the applicant shall be prepared to show, on the basis of the application and other additional materials, documents, or exhibits which the applicant may want to submit into the record of the proceedings, that the proposed Exterior Features comply with these design standards.

All decisions by the HPC in granting or denying a COA shall be made in open session during the meeting in which the application is considered and may be appealed to the Kure Beach Board of Adjustment in the nature of certiorari and within the times prescribed for appeals of decisions in N.C.G.S. § 160D-405(d).

ARTICLE IV. STANDARDS

4.1. General Standards

a. The erection, alteration, restoration, or relocation of any Exterior Feature should have the look and aesthetic of a 1940s to 1970s building, and not be of modern or expressionist design. Exterior Features should be consistent and harmonious with the other Exterior Features within the District in terms of scale and design. Inappropriate modernist or expressionist architectural design elements include but are not limited to construction consisting of or containing predominant glass elements, glossy materials, round window features, exposed steel elements, broad roofs, or exaggerated overhangs.

For the purposes of these standards, “modernist architectural design” shall be interpreted and construed to mean an architectural style characterized by an emphasis on volume, asymmetrical compositions, based or linked boxes, minimal ornamentation, and vertical elements juxtaposed against horizontal elements for dramatic effect. “Expressionist architectural design” shall be interpreted and construed to mean an architectural style using materials such as brick, concrete, metals and glass to create novel and sculptural forms and massing which are sometimes distorted and fragmented to express an emotional perspective or an abstraction; a style which rejects historical styles, symmetrical forms, and traditional designs and which can result in unique exterior Features which stand out and are distinctive from their surroundings.

b. Colors on Exterior Features should be consistent and harmonious with the District’s neighborhood. For example, there should not be any pattern color designs such as those often associated with franchise operations nor should there be any striped or banded coloring/painting.

c. Building facades should be simple, and not consist of multiple sizes. Roofs should be uniform and roof features, uneven roofs, or oversized roofs should be avoided.

d. Design features, including windows and doors, should be normal scale. No large-scale windows or doors and no single architectural feature of an Exterior Feature should dominate the appearance of the building/structure.

e. In determining COA applications, the use of the property and the interior arrangements of the subject buildings/structures shall not be considered.

f. Nothing in these standards shall be interpreted or construed as preventing or restricting the authority to erect buildings to a height of 35 feet above ground level in accordance with N.C. Sess. Law 2006-126.

4.2. Specific Standards for New/Renovated Commercial Buildings and Additions

a. New and renovated commercial buildings and structures shall be designed with an architectural scale that is consistent and harmonious with the neighborhood and shall utilize details and elements, including but not limited to cornice lines, belt courses, fenestration bands, height, material selection, roof form, and street walls, which contribute to integrating the building/structure into the character of the site and the surrounding properties.

b. New and renovated commercial buildings and structures shall be designed so that a pedestrian's experience of the District's unique character is maintained.

c. There shall be no drive-through, curbside, or take-out operational services constructed within the District provided that walk-up service windows shall be permitted.

d. Exterior Features within the District shall not contain commercially oriented architectural features which are typically seen on franchise buildings such as golden arches, clowns, and/or towers/facades/uneven construction designed to emphasize franchise images, signs or logos.

e. All buildings on K Avenue between Atlantic Avenue and Fort Fisher Boulevard shall be commercial in nature. While mixed uses are permitted for multiple story buildings, the first floor of any such building shall be commercial in nature.

f. The signage for all commercial buildings and structures within the District shall be exterior lit only provided that small "open" window signs are permitted provided they comply with the sign regulations of KBC Chapter 15 *Zoning*.

4.3. Specific Standards for New Residential Buildings and Structures

New residential buildings and structures shall be designed with an architectural scale that is consistent and harmonious with the District's neighborhood and is compatible with the surrounding buildings and structures which contribute to the District's special character in terms of height, form, size, scale, massing, proportion, architectural style, and roof shapes.

4.4. Specific Standards for Additions to Residential Buildings and Structures

Additions to residential buildings and structures shall be permitted provided they are consistent and harmonious with the District's neighborhood and designed so that the overall character of the site, including trees and significant vistas of the District, are maintained.

4.5. Relocation, Demolition, and Destruction

COA applications for the relocation, demolition, or destruction of a building or structure within the District shall not be denied.