



AGENDA

Town of Kure Beach Planning and Zoning Commission

Wednesday, July 1, 2020

A meeting of the Planning and Zoning Commission will be held Wednesday, July 1, 2020 in the Council Chambers commencing at **6:30 PM**.

Page

1. CALL TO ORDER

2. ADOPTION OF THE AGENDA

3. ADOPTION OF MINUTES

- 3 - 5 3.1. June 3, 2020 Regular Meeting
[PZ Minutes_06-3-2020](#)

4. PUBLIC COMMENT

5. OLD BUSINESS

- 6 - 14 5.1. Proposed text amendment to Chapter 1 (General Provisions) Article 04 (Code Construction and General Provisions) Section 10 (Definitions and Rules of Construction)
Proposed text amendment to Chapter 9 (Animal Services and Control) Article 06 (Livestock and Exotic Animals) Section 15 (Definitions)
Proposed text amendment to Chapter 9 (Animal Services and Control) Article 06 (Livestock and Exotic Animals) Section 100 (Violations, Enforcement and Penalties)
[PTA's for Chapter 1](#)
[PTA's for Chapter 9](#)
[Chapter 8 Table of Content](#)

- 15 - 25 5.2. Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02

(Graffiti Nuisance) Section 16 (Light Trespass Nuisance) (Eldridge)
Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02
(Graffiti Nuisance) Section 20 (Complaint Investigation)
Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02
(Graffiti Nuisance) Section 30 (Notice to Abate)
Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02
(Graffiti Nuisance) Section 40 (Abatement By Town - Upon Failure of
Owner)

[Memorandum to PZC for PTA's](#)
[Light trespass PTA's.](#)

- 26 5.3. Prohibited Uses (Galbraith)
[Prohibited Uses](#)
- 5.4. Underground Utilities (Richardson)

6. NEW BUSINESS

7. ADJOURNMENT



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, June 3, 2020 @ 6:30 p.m.

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday, June 3, 2020. A quorum of members was present and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

Chairman Craig Galbraith
Member Bill Moore
Member David Garceau
Member Kenneth Richardson
Member Tony Garibay (Via Conference Phone)
Alternate Member Kathleen Zielinski

P&Z MEMBERS ABSENT

None.

STAFF PRESENT

Beth Chase, Deputy Town Clerk
John Batson, Building Inspector

CALL TO ORDER

Chairman Galbraith called the meeting to order at 6:45 p.m.

ADOPTION OF AGENDA

MOTION- Member Garceau made a motion to approve the agenda as presented

SECOND- Member Moore

VOTE- Unanimous

APPROVAL OF MEETING MINUTES:

- May 6, 2020 Regular Meeting

MOTION- Member Richardson made a motion to approve the minutes as presented

SECOND- Member Moore

VOTE- Unanimous

PUBLIC COMMENTS

None.

OLD BUSINESS

1. Proposed text amendment to Chapter 15 (Zoning) Article 02 (In General) Section 10 (Definitions)
Proposed text amendment to Chapter 15 (Zoning) Article 36 (Supplemental District Regulations) Section 10 (Control of Yards/Setbacks)



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, June 3, 2020 @ 6:30 p.m.

Attorney Eldridge stated the proposed text amendments providing for encroachments into setbacks for residential disability access ramps.

Building Inspector Batson stated he would like to include additional text that the owner's obligation to remove the ramp upon certain conditions be set forth in a written, signed, and notarized agreement entered into between the Town and the property owner at the time the design plans for a ramp are approved.

Attorney Eldridge stated he will insert the following text into the proposed amendments: "said approval and removal obligation is set forth in a written agreement entered into between the Town and the property owner at the time the plan is approved."

MOTION- Chairman Galbraith made a motion to forward to Town Council the proposed text amendment to proposed text amendment to Chapter 15 (Zoning) Article 02 (In General) Section 10 (Definitions) and proposed text amendment to Chapter 15 (Zoning) Article 36 (Supplemental District Regulations) Section 10 (Control of Yards/Setbacks)

SECOND- Member Richardson

VOTE- Unanimous

MOTION- Chairman Galbraith made a motion to adopt the proposed consistency statement as presented

SECOND- Member Garceau

VOTE- Unanimous

2. Light Pollution ordinance and Dark Sky regulations

Chairman Galbraith stated he attended the May Town Council and received approval to proceed with drafting the proposed text amendments.

Attorney Eldridge stated he will bring forth a proposed text amendments at next month's meeting.

3. Prohibited Uses

Chairman Galbraith stated he suggests the Commission submits all the prohibited uses by the next PZC meeting for the Commission to review.

4. Underground Utilities

Member Richardson stated Duke Energy needs a Town Employee to call Duke Energy to establish a work order for the project and once completed Duke Energy will be able to give data to the Town regarding the utilities. The Commission's goal at this time is to put all public utilities underground in Kure Beach. There also may be grant funds available for the Commission to research.

Building Inspector Batson stated he would call and get the work order established.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, June 3, 2020 @ 6:30 p.m.

NEW BUSINESS

Chairman Galbraith stated he was asked by a resident about the regulations for owning chickens in Kure Beach. A few years ago, PZC reviewed and recommended, and Council adopted, a text amendments spent time drafting text amendments providing for the keeping of livestock which also addressed exotic animals but that he could not find any definitions for exotic animals in the Town Code.

Attorney Eldridge commented he will bring a definition for exotic animals to the next PZC meeting.

MEMBER ITEMS

None.

ADJOURNMENT

MOTION- Member Moore made a motion to adjourn at 7:15 p.m.

SECOND- Member Richardson

VOTE- Unanimous

**PROPOSED TEXT AMENDMENTS TO KBC 1.04.010 DEFINITIONS
(FOR JULY 1, 2020 REVIEW)**

1.04.010 Definitions And Rules Of Construction

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the town council or the context clearly requires otherwise:

Charter. The word Charter means and refers to the Charter of the Town of Kure Beach printed in Part I of this Code.

Code. The word Code shall mean the Code of Ordinances of the town which is the "Code of the Town of Kure Beach, North Carolina."

Computation of time. In computing any period of time prescribed or allowed by this Code, including rules respecting publication of notices, the day of the act, event, default, or publication after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

Council. The words council or town council shall mean the town council or the governing body of the Town of Kure Beach and shall be interchangeable with board of commissioners.

County. The words the county shall mean the County of New Hanover, except as otherwise provided.

~~*Exotic Animal.* An animal that: i) is typically found in a non-domesticated state and that, because of its size, vicious propensity, toxicity, or otherwise, reasonably poses a potential danger to persons, property, or other animals; ii) is classified as a wild animal by the North Carolina Wildlife Commission; or iii) is deemed to be an endangered or protected species under any federal, state, or local statute, regulation, ordinance, policy, or program. Exotic animals shall include, without limitation, apes, bears, monkeys, raccoons, wild cats, wolves, venomous reptiles, and venomous amphibians.~~

Gender. Words importing the masculine gender shall include the feminine and neuter.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

~~*Livestock.* Poultry (ducks, geese, turkeys, roosters), horses, mules, cows, pigs, goats, sheep, rabbits, and all other animals which are generally kept primarily for productive or useful purposes rather than as pets; provided that, however, chickens shall not constitute livestock as defined herein.~~

~~*Livestock Enclosure.* a space enclosed on all sides and overhead by wire, metal bars, wood, or a combination thereof, designed to hold and shelter livestock and prevent them from running free. While the specific type and design of an enclosure will vary depending on the animal species being confined and the materials used, common examples of livestock enclosures include: hutches; coops; yards; kennels; and pens. All livestock enclosures shall be designed and used in such a manner so as to prevent the occurrence of a related public nuisance, ensure the humane care and handling of livestock, and provide a favorable environment for animal growth.~~

**PROPOSED TEXT AMENDMENTS TO KBC 1.04.010 DEFINITIONS
(FOR JULY 1, 2020 REVIEW)**

Month. The word month shall mean a calendar month.

Number. Words used in the singular includes the plural and the plural includes the singular number.

Oath. The word oath shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

Officers, departments, boards, etc. Whenever reference is made to any officer, department, board, commission or other agent, agency or representative, such reference shall be construed as if followed by the words "of the Town of Kure Beach."

Official time standard. Whenever certain hours are named in this Code, they shall mean eastern standard time or eastern daylight saving time, whichever may be in current use in the town.

Or; and. The word or may be read and, and the word and may be read or, where the sense requires it.

Owner. The word owner applied to building or land shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word person shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual and any other entity.

Personal property includes every species of property except real property, as herein defined.

Preceding; following. The words preceding and following shall mean next before and next after, respectively.

Property. The word property shall include real and personal property.

Real property shall include lands, tenements and hereditaments.

Sidewalk. The word sidewalk shall mean that portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

Signature or *subscription* includes a mark when the person cannot write.

State shall mean the State of North Carolina.

Statute references. "G.S." shall refer to the General Statutes of North Carolina, as amended.

Street. The word street shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town.

Tenant; occupant. The words tenant or occupant, applied to a building or land, shall include any person who occupies the whole or a part of such building or land whether alone or with others.

Tense. Words used in the past or present tense includes the future as well as the past and present.

Town. The words town shall mean the Town of Kure Beach, in the County of New Hanover and State of North Carolina, except as otherwise provided.

**PROPOSED TEXT AMENDMENTS TO KBC 1.04.010 DEFINITIONS
(FOR JULY 1, 2020 REVIEW)**

Writing. The words writing and written shall include printing and any other mode of representing words and letters.

Year. The word year, except where fiscal year is specifically referred to, shall mean a calendar year.

(Code 1973, § 1-2)

State law reference(s)—Construction of statutes, G.S. § 12-3; computation of time, G.S. §§ 1-593, 1A-1, Rule 6(a), 159-2; citation of General Statutes, G.S. § 164-1.

HISTORY

Amended by Ord. [1.04.010](#) on 5/16/2017

**PROPOSED TEXT AMENDMENTS TO KBC 9.06 LIVESTOCK AND EXOTIC ANIMALS
(FOR JULY 1, 2020 PZC REVIEW)**

9.06 LIVESTOCK AND EXOTIC ANIMALS

9.06.010 Purpose

9.06.015 Definitions

9.06.020 Interlocal Agreements

9.06.030 Exotic Animals

9.06.040 Running At Large

9.06.050 Permits

9.06.060 Application Denial Procedure

9.06.070 Permit Revocation

9.06.080 Appeal Of Permit Denial Or Revocation

9.06.090 Persons/Entities Liable

9.06.100 Violations, Enforcement And Penalties

9.06.010 Purpose

To establish standards for exotic animals and for the keeping of livestock within the town's jurisdictional limits.

(Ord. of 5-16-17(1))

9.06.015 Definitions

For the purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Exotic Animal. An animal that: i) is typically found in a non-domesticated state and that, because of its size, vicious propensity, toxicity, or otherwise, reasonably poses a potential danger to persons, property, or other animals; ii) is classified as a wild animal by the North Carolina Wildlife Commission; or iii) is deemed to be an endangered or protected species under any federal, state, or local statute, regulation, ordinance, policy, or program. Exotic animals shall include, without limitation, apes, bears, monkeys, raccoons, wild cats, wolves, venomous reptiles, and venomous amphibians.

Livestock. Poultry (ducks, geese, turkeys, roosters), horses, mules, cows, pigs, goats, sheep, rabbits, and all other animals which are generally kept primarily for productive or useful purposes rather than as pets; provided that, however, chickens shall not constitute livestock as defined herein.

Livestock Enclosure. a space enclosed on all sides and overhead by wire, metal bars, wood, or a combination thereof, designed to hold and shelter livestock and prevent them from running free. While the specific type and design of an enclosure will vary depending on the animal species being confined and the materials used, common examples of livestock enclosures include: hutches; coops; yards; kennels; and pens. All livestock enclosures shall be designed and used in such a manner so as to prevent the occurrence of a related public nuisance, ensure the humane care and handling of livestock, and provide a favorable environment for animal growth.

9.06.020 Interlocal Agreements

Any applicable interlocal agreements made and entered into by the town shall take precedence over the provisions contained within this article.

**PROPOSED TEXT AMENDMENTS TO KBC 9.06 LIVESTOCK AND EXOTIC ANIMALS
(FOR JULY 1, 2020 PZC REVIEW)**

(Ord. of 5-16-17(1))

9.06.030 Exotic Animals

No person or entity may keep an exotic animal within the town's jurisdictional limits.

(Ord. of 5-16-17(1))

9.06.040 Running At Large

It shall be unlawful for the owner or keeper of any livestock to permit the livestock to be or run at large within the town's jurisdictional limits. All permitted livestock shall be kept in livestock enclosures and no livestock enclosure shall be erected or maintained within the front or side yard.

(Ord. of 5-16-17(1))

9.06.050 Permits

A. *Permit required.* Keeping livestock within the town's jurisdictional limits shall be allowed in accordance with the following:

1. A permit obtained from the building inspector in conformity with the provisions of this article;
2. Compliance with the provisions of any applicable federal, state or local statute, regulation, ordinance, rule, policy, program or inter-local agreement including, in particular, provisions regulating animal cruelty and the prevention and abatement of public nuisances; and
3. No permit shall be issued until the appropriate application has been filed with the building inspector.

B. No permit may be issued for any livestock unless the applicant shall demonstrate that the livestock will be kept on a property complying with the standards set forth in Table 4.1 and that the locations and sizes of livestock enclosures shall be depicted on a site plan to be included with the permit application; provided that, however, the building inspector is authorized to:

1. Accept, review, and issue permits for livestock animal types not enumerated in Table 4.1 which could be reasonably kept within the Town's jurisdictional limits; and
2. In the event such a permit is issued, set forth therein the maximum number of and the minimal enclosure size for the permitted livestock.

C. Waste generated from the keeping of livestock (manure, etc.) must be properly managed so as not to create a public nuisance (e.g. noise, odor complaints) and properly handled so as not to result in surface water or groundwater degradation. An owner or keeper of livestock must strictly comply with all federal, state, and local statutes, regulations,

**PROPOSED TEXT AMENDMENTS TO KBC 9.06 LIVESTOCK AND EXOTIC ANIMALS
(FOR JULY 1, 2020 PZC REVIEW)**

ordinances, and rules governing waste management, pollution prevention and abatement, and public health and safety.

- D. Subject to the provisions of G.S. § 106-701, the requirements of this section apply to exotic animals and livestock present within the town's jurisdictional limits on the effective date of these provisions as well as livestock brought into the town thereafter; provided that, however, owners of exotic animals or livestock within the town on the effective date of these provisions shall not be deemed in violation of this section until thirty (30) days after the effective date and have either failed to apply for the required permit during that time or upon application, have been denied a permit and failed to remove the livestock or exotic animals within thirty (30) days after the denial.

- E. A permit issued in accordance with this section may be revoked by the building inspector for any violation of this article or for any reason justifying denial of an application as set forth herein. If a permit is revoked, the applicant shall be given a written explanation of the reasons for the revocation. Upon the determination of a violation, the building inspector shall notify the owner or keeper of livestock or an exotic animal of the violation in writing with instructions to remedy the violation, which may include a specified time frame to bring the property or condition into compliance, or remove the livestock/exotic animals from the premises.

TABLE 4.1 PERMITTED LIVESTOCK

Animal Type	Maximum Number	Minimal Enclosure Size per Animal (sq. ft.)
Cow	0	NA
Goat	0	NA
Horse	0	NA
Duck	4	327
Turkey	0	NA
Rabbit	6	109
Sheep	0	NA
Swine	0	NA

(Ord. of 5-16-17(1))

**PROPOSED TEXT AMENDMENTS TO KBC 9.06 LIVESTOCK AND EXOTIC ANIMALS
(FOR JULY 1, 2020 PZC REVIEW)**

9.06.060 Application Denial Procedure

- A. The building inspector shall deny, within ten (10) business days after receipt of an application, any application that is incomplete or inaccurate, contains false material statements or omissions, or includes elements in violation of any standard herein. An application denied for one (1) or more of the reasons set forth herein shall be returned to the applicant, along with a written notice setting forth the reasons why the application was denied.
- B. The building inspector shall process all complete and accurate livestock permit applications within ten (10) business days of the town's receipt of the same. The building inspector shall provide written notice to the applicant of his/her decision provided that an application meeting the standards of this article shall be granted and a permit issued.
- C. An application that has been denied and later resubmitted in conformity with this article shall be deemed to have been submitted on the date of resubmission and shall comply with all applicable provisions for original applications.

(Ord. of 5-16-17(1))

9.06.070 Permit Revocation

- A. Following a determination that a permit was issued under an application containing a false material statement or omission, the Building Inspector shall revoke said permit and the subject livestock shall be removed within thirty (30) days after the revocation. The permittee shall be notified in writing of the revocation and the notice shall state the grounds upon which the revocation is based.
- B. The violation of any provision of this article shall be sufficient grounds upon which to revoke a permit.
- C. Revoking a permit does not in any way preclude or limit the town from taking any action provided by the Code or any other applicable legal authority to enforce, remedy, or abate the any underlying violation of this article.

(Ord. of 5-16-17(1))

9.06.080 Appeal Of Permit Denial Or Revocation

The denial of a livestock permit application or the revocation of a livestock permit may be reviewed in accordance with the provisions for administrative hearings as set forth in KBC 1.08.020 subparagraph F.

(Ord. of 5-16-17(1))

**PROPOSED TEXT AMENDMENTS TO KBC 9.06 LIVESTOCK AND EXOTIC ANIMALS
(FOR JULY 1, 2020 PZC REVIEW)**

9.06.090 Persons/Entities Liable

The owner, tenant, or occupant of any structure or property, or part thereof, and/or the authorized agents or representative(s) of the same, who create(s), maintain(s), or allow(s) for the existence of any situation constituting a violation of this article may be held jointly or severally liable for the violation and be subjected to the enforcement remedies and penalties set forth herein.

(Ord. of 5-16-17(1))

9.06.100 Violations, Enforcement And Penalties

A. The following, without limitation, shall constitute violations of this article:

1. The keeping of livestock or exotic animals in violation of the standards set forth herein; and
2. The keeping of livestock without first obtaining a permit from the town.

B. Enforcement.

1. Violations of this article shall be enforced in accordance with the provisions of KBC 1.08.010 and KBC 1.08.020.
2. In addition, violations of this article shall be deemed to constitute a public nuisance such that the provisions of KBC 8.02 ~~Nuisances~~, shall be fully applicable.

(Ord. of 5-16-17(1))

8.02 Weeds, Weed Growth, Trash, Garbage, Refuse, Debris And Graffiti

[8.02.010 Nuisances Declared; Enumeration](#)

[8.02.015 Graffiti Nuisance](#)

[8.02.020 Complaint; Investigation](#)

[8.02.030 Notice To Abate](#)

[8.02.040 Abatement By Town - Upon Failure Of Owner](#)

[8.02.050 Same - Costs Charged To Owner](#)

[8.02.060 Same - Unpaid Charges Become A Lien](#)

[8.02.070 Additional Remedies](#)

ELDRIDGE LAW FIRM, P.C.

ATTORNEY AND COUNSELOR AT LAW

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WILMINGTON, NC 28401

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MEMORANDUM

TO: KURE BEACH PZC
FROM: JAMES E. ELDRIDGE, PZC ATTORNEY
DATE: 06/25/2020
RE: LIGHT TRESASS REGULATIONS

Discussion points re proposed light trespass regulations.

1. Original draft regulated, *inter alia.*, glare and provided a presumptive definition of the term. Glare is a too subjective and varied physiological sensation upon which to base the regulations. For example, what an older person may perceive as glare may not be perceived as such by a younger person.
2. In conjunction with the subjective perception of glare, the presumptive definition is too rigid. A person may experience glare at a level less than that provided in the presumptive definition.
3. Instead, the approach taken in the proposed amendments sets forth what constitutes prohibited lighting and it is prohibited (*i.e.* nonconforming) lighting that constitutes the public nuisance.
4. The list of prohibited lighting includes specific instances, such as not illuminating the beach during sea turtle season, but also prohibits lighting that does not meet the applicable general and special standards set forth in the proposed amendments. Primary among these standards is the regulation of light spilling (*i.e.* trespassing) over into residential lots.
5. Light meters measure both foot-candles and lumens. Although lumens is mentioned in the standards, the provision regulating light trespass utilizes a foot-candles measurement.
6. The proposed text amendments provide a clear, detailed list of the lighting which is exempt from these regulations.
7. The amendments allow a 2-year period for coming into compliance with the requirements but still allow for enforcement when a required complaint-based investigation finds that any nonconforming lighting constitutes a public nuisance.
8. We cannot “grandfather” nonconforming lighting during the 2-year compliance deadline. Grandfathering is only possible under zoning regulations and these are not Chapter 15

amendments. Secondly, it defeats the purpose of regulating light trespass if we “protect” prohibited lighting for 2 years.

9. I considered adding a provision for an administrative waiver for situations where complying with the new regulations would result in significant hardship for the property owner. I eventually decided against such a provision when the drafting of the provision became overly complicated and because such a provision could result in a lot of “busy work” for Inspections. I can insert a waiver provision if PZC wants one.

10. These regulations are somewhat nuanced and were challenging to draft. Please review them carefully and in detail to confirm that they achieve the policy objectives.

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

8.02 Weeds, Weed Growth, Trash, Garbage, Refuse, Debris, Graffiti, and Light Trespass

[8.02.010 Nuisances Declared; Enumeration](#)

[8.02.015 Graffiti Nuisance](#)

[8.02.016 Light Trespass Nuisance](#)

[8.02.020 Complaint; Investigation](#)

[8.02.030 Notice To Abate](#)

[8.02.040 Abatement By Town - Upon Failure Of Owner](#)

[8.02.050 Same - Costs Charged To Owner](#)

[8.02.060 Same - Unpaid Charges Become A Lien](#)

[8.02.070 Additional Remedies](#)

State law reference(s)—Authority to prohibit and dispose of abandoned and junked motor vehicles, G.S. § 160A-303.

HISTORY

Amended by Ord. [8.02.015](#) on 5/18/2020

8.02.010 Nuisances Declared; Enumeration

The existence of any of the following conditions on any lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- A. The uncontrolled growth of noxious weeds or grass to a height in excess of six (6) inches causing or threatening to cause a hazard detrimental to the public health or safety, including fallen trees and tree damage caused by storms;
- B. Any accumulation of waste, animal or vegetable, such as but not limited to waste material and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels, rooming houses and boarding houses, and all other deleterious substances that are offensive by virtue of odors, vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which are or may be dangerous or prejudicial to the public health;
- C. Any accumulation of rubbish, garbage, trash, or any material of any kind that has been discarded, rejected, cast aside, stored or thrown away as worthless or junk causing or threatening to cause a fire hazard or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which are or may be dangerous or prejudicial to the public health;
- D. Any accumulation of trash, rubbish such as tin cans, paper, boxes, glass, wood, shrubs, yard clippings, leaves, tree trimmings and other deleterious substances on the premises of private residences, commercial institutions and in the streets which greatly increases the danger of fire and spread of infections, contagious and epidemic diseases, shall constitute a public menace and nuisance;

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

- E. Any accumulation of construction or demolition debris such as bricks, concrete, lumber, scrap lumber, ashes, dirt, plaster, or large chunks or metal, such as automobile bodies, frames, stoves, refrigerators, beams or other metal materials shall not be stored, kept or placed upon any property unless prior arrangement for collection of such materials have been made and approved by the town;
- F. Any accumulation of abandoned or deteriorated structure such as boats, dog houses, storage sheds or the like which greatly increase the danger of fire and spread infections, contagious and epidemic diseases shall constitute a public menace and nuisance;
- G. Any condition detrimental to the public health which violates the rules and regulations of the county health department.

(Ord. of 7-21-92)

8.02.015 Graffiti Nuisance

- A. *Findings.* Graffiti is the number one vandalism crime in the United States which significantly and adversely impacts property values and economic development and is often associated with actual or perceived gang activity such that, being prejudicial to public health, safety, and welfare, graffiti is hereby declared to constitute a public nuisance.
- B. *Definition.* As used in this section, “graffiti” means any marking, including but not limited to, any inscription, slogan, drawing, painting, symbol, logo, name, character, or figure, that is written, scripted, marked, etched, scratched, sprayed, drawn, painted, or engraved, or made in any other manner, on tangible public or private real or personal property.
- C. *Exemptions.* Graffiti shall not be construed to mean:
 - 1. Temporary, easily removable chalk or other water-soluble markings on sidewalks and other surfaces utilized in connection on with children’s activities, including, but not limited to, baseball, stickball, kickball, hopscotch.
 - 2. Markings lawfully made on real or personal property with the property owner’s consent which do not violate any provisions of the Town Code, including but not limited to, the town’s sign regulations.
- D. *Prohibition; Abatement.*
 - 1. Graffiti is prohibited and any person engaging in graffitiing is guilty of graffiti vandalism under N.C. Gen. Stat. § 14-127.1 and shall also be subject to the civil penalties and remedies set forth in this article for the creation of a public nuisance.

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

2. An owner of real or personal property shall be subject to the civil penalties and remedies set forth in this article for maintaining a public nuisance if the owner fails to remove all graffiti from the property within fifteen (15) days after the date on which the written notice to abate provided under KBC 8.02.030 is received.

HISTORY

Adopted by Ord. [8.02.015](#) on 5/18/2020

8.02.016 Light Trespass Nuisance

A. Findings and purpose.

1. *Findings.* Town Council finds that the existence of improperly located/directed lighting or excessive/obtrusive lighting causes unpleasant, unhealthy, and unsafe conditions which threaten general welfare and the natural environment. Based upon these findings, Council hereby declares that prohibited lighting, as set forth in this Section, on any lot or parcel within the Town's corporate limits is dangerous and prejudicial to public health and safety and does therefore constitute a public nuisance.

2. *Purpose.* The purpose of this Section is to set and require reasonable lighting standards to:

- a. Provide for and control lighting in outdoor settings where public health, safety, and welfare are potential concerns.
- b. Protect drivers and others from glare.
- c. Protect property and the night-sky from glare and light trespass caused by improperly selected, located, directed, applied, maintained, or shielded light sources.
- d. Promote energy efficient lighting installations.
- e. Protect and enhance the visual character of the Town.
- f. Protect the natural environment including but not limited to the use of the Town's beaches by sea turtles.

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

Cutoff luminaire. A luminaire where less than 2.5 percent of the lamp's lumens occur at or above the horizontal plane and no more than 10 percent of the lamp's lumens occur above 80 degrees.

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

Exterior lighting. Lighting equipment installed within the property line and outside the building envelope of a subject property whether attached to poles, building structures, the earth, or any other location and which includes, without limitation, façade, canopy, security, landscaping, and flag pole lighting.

Façade lighting. The illumination of exterior surfaces of buildings achieved by shining light onto building surfaces.

Foot-candle. A measure of light falling on a given surface. One foot-candle is equal to one lumen per square foot.

Full-cutoff luminaire. A luminaire where no light occurs above the horizontal plane and no more than 10 percent of the lamp's lumens occur above 80 degrees.

Glare. A subjective, physiological visual sensation caused by excessive brightness that is uncomfortable and potentially disabling.

Landscape lighting. Lighting of trees, shrubs, other plant material, water features, and sculptural objects.

Lighting plan. A site plan depicting the property lines of all properties for which lighting is proposed, the location and specification of all exterior light fixtures to be installed within the property, their lumen or foot-candle values, mounting heights, shielding, directionality, controls, protections minimizing light trespass, other relevant site conditions, and any additional information required to demonstrate compliance with the requirements of this Section.

Light trespass. Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited.

Lumen. The light-output rating of a lamp.

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Seasonal lighting. Seasonal and/or holiday-themed lighting in cumulative use for not longer than a 6-week period in any calendar year.

Security lighting. Exterior lighting used for, without limitation, illuminating walkways, roadways, and equipment.

Semi-cutoff luminaire. A luminaire where less than 5 percent of the lamp's lumens occur above the horizontal.

Up-light. Light emitted upward by a luminaire.

C. *Exemptions.* The following are exempt from the provisions of this Section:

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

1. Lighting within public ways for the principal purpose of illuminating public ways.
2. Lighting for public parks.
3. Lighting for signs as regulated under KBC Sec. 15.40.080.
4. Lighting for Town-approved theatrical or television productions or performance areas.
5. Lighting for work areas at construction sites.
6. Underwater lighting in swimming pools.
7. Seasonal lighting.
8. Lighting used in emergency situations or conditions.
9. Lighting required under federal, state, or local laws, ordinances, rules, and/or regulations.
10. Lighting as otherwise required by the Town for public health, safety, and welfare.
11. Kure Beach Pier.

D. *Prohibited Lighting.* The following types of lighting are specifically prohibited:

1. Any lighting that does not comply with the applicable General and Special Standards set forth below in, respectively, sub-sections E and F.
2. Up-lighting except as otherwise provided for in this Section.
3. Lighting that could be confused for a traffic control device.
4. Searchlights, beacons, and laser source luminaires.
5. Lights which blink, flash, move, revolve, flicker, change intensity, or change color.
6. Illuminating, by any light source, any portion of the beach within the Town's corporate limits between the hours of sunset and sunrise from May 1st through October 31st except by such frequencies of red light as to not disturb nesting or hatchling sea turtles.
7. Any lamp or bulb when not within a luminaire that is visible from the property boundary line of the lot or parcel on which it is located.
8. Lighting inside of an awning when the awning material is translucent.

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

E. *General Standards.*

1. *Illumination level at the property line.* Lighting shall be designed and installed so that the illumination attributable to the subject lot does not exceed 0.5 foot-candles at the property boundary line of an abutting residentially zoned lot.
2. *Pole-mounted luminaires.* Pole-mounted luminaires shall not be taller than 15 feet in residentially zoned lots or when placed within 50 feet of a residential zoning district. In all other zoning districts, luminaires shall not be taller than 50 feet.
3. *Building-mounted luminaires.* Building-mounted luminaires shall not be attached to a sloped roof and shall not be taller than 30 feet or the height of the principal building, whichever is less. The use of wall-pack luminaires is discouraged.
4. *Material for light poles.* Light poles shall be anodized, painted, or otherwise coated to minimize glare from the light source.
5. *Overhead electrical lines prohibited.* For new installations, electrical lines for pole-mounted luminaires shall be placed underground between poles.
6. *Types of luminaires.* Full-cutoff luminaires shall be used in parking lots. Except as otherwise provided in this Section, all other pole or building-mounted luminaires shall be directed downward and the light source shielded so that it is not visible from adjacent property.
7. *New Development lighting.* No new development, as that term is defined in KBC 15.02.010, within the Town involving exterior lighting, including without limitation, façade, canopy, landscaping, and/or flag pole lighting, shall be undertaken without the written approval by the Building Inspector of a lighting plan showing conformity with the requirements of this Section.

F. *Special Standards for Specific Applications.*

1. *Flag poles.* A flag pole bearing a flag may be illuminated by fully shielded upward directed luminaires mounted as close to the base of the flag pole as possible.
2. *Building façade lighting.* The exterior of a building may be lighted provided the following standards are met:
 - a. The lighting shall only accentuate an architectural or aesthetic element of the building.

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

- b. The light shall only be directed onto the building's façade and not spillover beyond the plane of the building.
- c. Façade lighting shall: not exceed 4000 mean lumens per feature; be aimed directly upward or downward; be fully shielded, and mounted as flush to the wall as possible.

3. *Canopy lighting for vehicular shelters.* Lighting associated with a canopy used for vehicular shelter shall meet the following standards:

- a. Full-cutoff luminaires shall be used, mounted beneath the canopy, and pointed downward so that the light is confined to the ground surface directly beneath the canopy.
- b. The sides and top of the canopy shall not be illuminated except as permitted for associated signage, if any, under KBC Sec. 15.40.080.
- c. Where applicable, lighting beyond the perimeter of the canopy shall be consistent with the lighting standards for parking areas.

G. *Applicability.* Except as provided for in this Section, all exterior lighting installed after the effective date of this Section shall comply with the requirements set forth herein. This applicability includes, but is not limited to, new lighting equipment, light fixtures, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location. Except as otherwise provided for in this Section, all exterior lighting installed prior to the effective date of this Section shall be altered and made to conform to these requirements within 2 years after the effective date of this Section.

H. *Nonconforming lighting.* Notwithstanding the provisions of sub-section G above, nonconforming lighting shall be made to conform to the requirements of this Section when:

- 1. Upon the effective date of this Section, property owners shall make, where reasonable and feasible to do so, minor modifications and corrective measures to their lighting installations, such as, for example, re-aiming or shielding the lighting, to achieve conformity with the applicable requirements set forth in this Section.
- 2. Nonconforming lighting deemed by the Town, following a complaint-based investigation as provided for in KBC 8.02.020, to constitute a public nuisance.
- 3. There is a change in the use of the subject property.

I. *Abatement.* Any person or entity responsible for causing or maintaining nonconforming lighting that constitutes a public nuisance shall be subject to the civil penalties and remedies set forth in this article in the event said person or entity fails to abate the public nuisance within 15 days after the date on which the written notice to abate provided under KBC 8.02.030 is received.

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

8.02.020 Complaint; Investigation

The building inspector, upon notice from any person of the existence of any of the conditions described in KBC 8.02.010, ~~8.02.015, and/or 8.02.016, and KBC 8.02.015~~, shall cause to be made by the appropriate county health department official, or town official, such investigation as may be necessary to determine whether in fact such conditions exist as to constitute a public nuisance as declared in such section.

(Ord. of 7-21-92)

HISTORY

Amended by Ord. [8.02.020](#) on 5/18/2020

8.02.030 Notice To Abate

Upon a determination that such conditions constituting a public nuisance exist, as specified in KBC 8.02.010 subparagraphs B, C, D, E, F and G, ~~8.02.015, and/or 8.02.016, and KBC 8.02.015~~, the building inspector shall notify, in writing, the owner, occupant, or person in possession of the subject premises of the conditions constituting such public nuisance and shall order the prompt abatement thereof within fifteen (15) days after the date on which said written notice was received.

Upon a determination that such conditions constituting a public nuisance exist as defined in KBC 8.02.010 subparagraph A and given the fact that weeds and grass continue to grow at a rapid rate at certain times of the year, the building inspector shall in the spring of the year notify, in writing, the owner of the premises in question of the conditions constituting such public nuisance and shall order the prompt and continuous abatement thereof which shall be the responsibility of the owner thereof to keep and maintain his property in compliance with existing public health and safety regulations throughout the year. No further notice for the year shall be required.

(Ord. of 7-21-92; Ord. of 5-19-98; Ord. of 2-16-99)

HISTORY

Amended by Ord. [08.02.030](#) on 5/18/2020

8.02.040 Abatement By Town - Upon Failure Of Owner

If any person, having been ordered under KBC 8.02.~~030020~~ to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days after the date on which the order was received, the building inspector or his designee shall seek town council approval to cause said condition to be removed or otherwise abated by having employees of the town or other designated persons go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the town council. In the event the employees or designated persons are denied entry on to the property, the town shall have recourse to any available remedy in law or equity to secure entry.

(Ord. of 7-21-92)

HISTORY

Amended by Ord. [8.02.040](#) on 5/18/2020

**Proposed Text Amendments for Light Trespass Regulations
(For July 1, 2020 PZC Review/Discussion)**

8.02.050 Same - Costs Charged To Owner

1. The actual cost incurred by the town in removing or otherwise abating a public nuisance shall be charged to the owner of such lot or parcel of land and it shall be the duty of the finance department to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within thirty (30) days after the date on which the statement was received . In addition to the actual cost, there shall be added an administrative overhead fee, such fee shall be determined by the town council.

2. In the event the town commences a civil action to collect an unpaid civil citation or obtain an order of abatement, the town shall be entitled to recover from the defendant the costs of such action, including but not limited to, court costs, enforcement costs including expenses and fees for any related inspections, clean-up, and/or abatement, and a reasonable attorney's fee.

(Ord. of 7-21-92)

HISTORY

Amended by Ord. [8.02.050](#) on 5/18/2020

8.02.060 Same - Unpaid Charges Become A Lien

If charges for the removal or abatement of a public nuisance are not paid by the property owner within thirty (30) days after the date on which a statement of charges was received as provided for under KBC 8.02.050. or if a court-ordered award of costs to the town as provided for in KBC 8.02.050.B is not paid by the defendant within thirty (30) days after the date on which the order was entered by the court, such charges/costs shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(Ord. of 7-21-92)

HISTORY

Amended by Ord. [8.02.060](#) on 5/18/2020

8.02.070 Additional Remedies

The procedure set forth in this article shall be in addition to any other remedies that may now or hereafter exist in law or equity for the abatement of public nuisances, and this article shall not prevent the town from issuing a civil citation subjecting the offender to a civil penalty in the amount of twenty-five dollars (\$25.00) for each day the violation continues to exist in accordance with the provisions of KBC 1.08.020 or proceeding in a criminal action against any person violating the provisions of this article as provided in G.S. § 14-4 or both.

(Ord. of 7-21-92)

HISTORY

Amended by Ord. [8.02.070](#) on 5/18/2020



Prohibited Uses P&Z Commission



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	A	B
1	Business Zoning	Residential Zoning
2	Tattoo Parlor	Barber Shops
3	Vaping Stores	Hair Saloon
4	Adult Entertainment/Publications/Escorts	Beach Chair and Umbrella Rentals
5	Fast Food Restaurants/Drive Throughs	Surfboard Sales
6	Billboards	Restaurants/Coffee Shops
7	Weapons/ammunitions	Grocery/Quickly Mart Stores
8	Selling of Fireworks	Realtor Offices
9	Gambling/OTB/Sport	Financial Advisory Offices (Accounting/CPA/Planing)
10	Pawn Shops	For Profit: Auto Detailing Auto Repair Golf Cart Repair Surfboard Repair/Maintenance
11	Flea Markets	Sell of Fireworks
12		Gambling
13		FLea Markets (Periodic short term yard sales are OK)
14		