



AGENDA

Town of Kure Beach Planning and Zoning Commission

Wednesday, September 16, 2020

A meeting of the Planning and Zoning Commission will be held Wednesday, September 16, 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 - 9 3.1. Minutes:
- July 1, 2020 Regular Meeting
[PZ Minutes_07-1-2020](#)

4. PUBLIC COMMENT

5. OLD BUSINESS

- 10 - 23 5.1. Review resident text amendment application received for proposed text amendment to 15.36.010 (Control of Yard/Setbacks)
[Text Application](#)
[Department comments for Text Application](#)
[Attorney Memo Encroachment](#)
[Consistency statement for approval](#)
[Consistency statement for disapproval](#)
- 5.2. Utility Conversion with Duke Energy Progress, Alex Winslow
- 24 - 50 5.3. Proposed text amendments to Chapter 8 (Public Health and Safety): (Eldridge)
- Section 16 (Light Trespass Nuisance)
 - Section 20 (Complaint Investigation)

- Section 30 (Notice to Abate)
- Section 40 (Abatement By Town - Upon Failure of Owner)

[Light Trespass Nuisance Not Abbreviated](#)

[Light Trespass Nuisance Abbreviated](#)

[Light Trespass Nuisance from 7.1.20 meeting](#)

[Memo Light Ordinance](#)

- 51
- 5.4. Prohibited Uses (Galbraith)
[Prohibited Uses](#)

6. NEW BUSINESS

- 6.1. Interview applicants for P&Z alternate position:
- James Dugan
 - Beth Burns
 - Bill Bernath
 - Jerry Clark

7. ADJOURNMENT



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday, July 1, 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

Mandy Sanders, Town Clerk
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- Chairman Galbraith made a motion to amend the agenda to add the Discussion of Temporary Structures in the Setbacks/Town Right of Way and Resignation of William Moore from the PZC under Old Business

SECOND- Member Richardson

VOTE- Unanimous

APPROVAL OF MEETING MINUTES:

- June 3, 2020 Regular Meeting

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

SECOND- Member Garibay

VOTE- Unanimous

PUBLIC COMMENTS

None.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

OLD BUSINESS

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)

Attorney Eldridge stated during last month's meeting the PZC Chairman relayed a discussion he had with a property owner regarding the livestock text amendments the PZC had drafted in 2017 and Town Council had adopted. The definition for exotic animals could not be found anywhere in the KBC Code and the PZC determined the definition needed to be included. After the meeting Attorney Eldridge went through his files and found the definition for exotic animals that was adopted by the Town Council in 2017. Since this text amendment was not input into the code before it was renumbered he is proposing amending the text amendments by moving them to the correct Chapter to make the text amendments more user friendly.

MOTION- Member Moore made a motion to recommend to Town Council to approve the 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)

SECOND- Member Richardson

VOTE- Unanimous

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)

Attorney Eldridge stated:

- The Light Trespass Nuisance proposed text amendments are included in the agenda for PZC to review tonight
- Exemptions:
 - Lighting within public ways for the principal purpose of illuminating public way

2



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

- Lighting for public parks
- Lighting for signs as regulated under KBC Sec. 15.40.080
- Lighting for Town-approved theatrical or television productions or performance areas, lighting for work areas at construction sites
- Underwater lighting in swimming pools
- Seasonal lighting
- Lighting used in emergency situations or conditions, lighting required under federal, state, or local laws, ordinances, rules, and/or regulations, lighting as otherwise required by the Town for public health, safety, and welfare
- Kure Beach Pier.
- The following types of lighting are specifically prohibited:
 - Any lighting that does not comply with the applicable General and Special Standards set forth below in, respectively, sub-sections E and F.
 - Up-lighting except as otherwise provided for in this Section.
 - Lighting that could be confused for a traffic control device.
 - Searchlights, beacons, and laser source luminaires.
 - Lights which blink, flash, move, revolve, flicker, change intensity, or change color.
 - 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.
 - 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.
 - Lighting inside of an awning when the awning material is translucent.
- General Standards:
 - *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.
 - *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.
 - *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.
 - *Material for light poles.* Light poles shall be anodized, painted, or otherwise coated to minimize glare from the light source.
 - *Overhead electrical lines prohibited.* For new installations, electrical lines for pole-mounted luminaires shall be placed underground between poles.
 - *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



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

luminaires shall be directed downward and the light source shielded so that it is not visible from adjacent property.

- *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.
- Special Standards for Specific Applications:
 - *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.
 - *Building façade lighting.* The exterior of a building may be lighted provided the following standards are met:
 - The lighting shall only accentuate an architectural or aesthetic element of the building.
 - The light shall only be directed onto the building's façade and not spillover beyond the plane of the building.
 - 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.
 - *Canopy lighting for vehicular shelters.* Lighting associated with a canopy used for vehicular shelter shall meet the following standards:
 - 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.
 - 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.
 - Where applicable, lighting beyond the perimeter of the canopy shall be consistent with the lighting standards for parking areas.
- *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.
- *Nonconforming lighting.* Notwithstanding the provisions of sub-section G above, nonconforming lighting shall be made to conform to the requirements of this Section when:
 - 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



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

lighting, to achieve conformity with the applicable requirements set forth in this Section.

- Nonconforming lighting deemed by the Town, following a complaint-based investigation as provided for in KBC 8.02.020, to constitute a public nuisance.
- There is a change in the use of the subject property.
- 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.

Chairman Galbraith stated his only issue with the proposed text amendment is the is .5 illumination as he cannot picture or measure what that would be.

Member Garceau stated when he was reviewing light ordinances in other Towns .5 illumination was a common measurement to use.

Attorney Eldridge stated this is an issue he struggled with while drafting the proposed text amendment. He recommends the Town order a light meter to better understand what .5 illumination would be throughout Town.

Member Richardson stated his concern is the difficulty of understanding the proposed text amendment.

Building Inspector Batson commented he will order a light meter before the August PZC meeting.

MOTION- Chairman Galbraith made a motion to continue the item to the August meeting

SECOND- Member Richardson

VOTE- Unanimous

3. Discussion of Temporary Structures in the Setbacks/Town Right of Way

Building Inspector Batson stated this issue was brought forward by the Town Code Enforcement Officer when she noticed the pool placed across the Town right of way and within the front setback of the property. He also found a pool in the backyard setback in a different area of Town around the same time. The code does not currently address issues of these natures so informed the property owners to reach out to PZC.

Property Owner April Agrilto stated the pool has been on the property for the past 7 years and this is the first year they have heard from the Town. The pool is only put up mid-June through the beginning of August. There is no permanent structure surrounding the pool.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

Chairman Galbraith commented is there any way for the property owner to have the structure without infringing on the Town right of way or the setback.

Property Owner April Agrilto answered there is no room for the pool to fit as if it was pushed up closer to the house, they wouldn't be able to use the garage on the property.

Building Inspector Batson commented this is the first year he has noticed the pool totally on the Town property and is concerned about the liability for the Town for allowing the pool to be on Town property.

Property Owner April Agrilto stated the pool was smaller in the beginning but for the last 3 years this pool has been used.

Property Owner Michael stated he has a very similar issue. They have a pool that is in the setback that they put up and remove each year. He thought since it was a temporary structure it was allowed such as trampoline or swing set.

Building Inspector Batson stated if the structure can be moved quickly, he believes it is an allowable use in the setback.

Member Garibay stated having a pool exposed there is a liability not only for the homeowner but also for the Town. He is struggling with entertaining anything on this issue.

Building Inspector Batson stated he agrees with the property owner that it would be a good idea for the Town to clarify the KBC code regarding temporary structures.

Member Richardson stated the Town needs to address temporary structures and need to better define it in the KBC Code.

Attorney Eldridge stated the Commission currently has two issues brought before them tonight. The first is the encroachment into the Town right of way which sounds like the PZC seems to have a consensus not to allow under any circumstances and second the encroachment into the setbacks. Any property owner can apply for a text amendment which the PZC would review before it was submitted to the Town Council for review.

Chairman Galbraith stated PZC needs to include on the August agenda continued Discussion of Temporary Structures in the Town right of way and setbacks.

4. Prohibited Uses



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, July 1, 2020 @ 6:30 p.m.

MOTION- Member Moore made a motion to table Prohibited Uses to the August agenda

SECOND- Member Richardson

VOTE- Unanimous

5. Underground Utilities

Member Richardson stated Building Inspector Batson is going to create a work number with Duke Energy Progress before the next meeting.

6. Resignation of William Moore from the P&Z Commission

Chairman Galbraith stated William Moore has served for 6 years on the PZC and his resignation is effective July 15, 2020.

NEW BUSINESS

None.

MEMBER ITEMS

None.

ADJOURNMENT

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

SECOND- Member Moore

VOTE- Unanimous

RCVD
7/10/20
JR



**TOWN OF KURE BEACH
APPLICATION FORM**
Requesting text amendment to Code of Ordinances

PLEASE READ THOROUGHLY BEFORE COMPLETING
TYPE OR PRINT ONLY PLEASE

<u>Name of Applicant</u> April Aguilto		<u>Application No.</u>		<u>Zoning Area</u>	
<u>Applicant's Phone No.</u> 704-953-2010 252-531-6262		<u>Date</u> 7/7/20		<u>Address of Applicant</u> 333 N. 3rd Ave 202 Fifth Ave South	
<u>Name of Text to be changed</u> Control of Yards/ Setbacks		<u>Section of Text to be changed</u> 15.36.010		<u>Zip Code</u> 28449	

APPLICATION FOR A TEXT AMENDMENT

CONTENT OF THE APPLICATION; FEES

Application must be received and reviewed by the Town Clerk for completeness prior to acceptance. A \$100 fee payable to Town of Kure Beach MUST accompany the application. Should the text amendment be for Chapters 15 "Subdivision" or 19 "Zoning" the petition must be reviewed by the Planning and Zoning Commission and a recommendation made by them to Town Council before Town Council may act. The Planning and Zoning Commission and/or the Town Council reserve the right to require additional information, if needed, to assure that the proposed text amendment is in accordance with all of the Town's plans and policies. The Town Council gives final approval for all text amendments to the Code of Ordinances.

GUIDE TO REVIEW PROCEDURES

Applications for a text amendment are first referred to all departments for review and comment. Should the request be for an amendment to Chapters 15 or 19, the Kure Beach Planning and Zoning Commission must also review and make a recommendation before being acted upon by the Kure Beach Town Council. Applications must be received in the office of the Town Clerk twenty (20) working days before the Planning and Zoning Commission meeting or the Town Council meeting (should Planning & Zoning involvement not be required) to allow adequate time for processing and review.

Planning and Zoning Commission meetings are held at 7:00pm in the Kure Beach Town Hall, 117 Settlers Lane, North Carolina, on the first Wednesday of each month. The Planning and Zoning Commission's recommendation regarding this application will automatically be referred to the Kure Beach Town Council. Town Council meetings are held on the third Tuesday of each month at 6:30pm at Town Hall as referenced above.

EXISTING TEXT

15.36.010 Control of Yards/Setbacks

Any building or other structure requiring a building permit shall not be permitted in the setback

area with the exception of the following items:

- A. Fence
- B. Beach walkovers that are at least ten (10) feet to the rear of the building, and meet the 1996 Hurricane Replacement Standards.
- C. Ground level walkways
- D. Ground level aprons for pools

PROPOSED TEXT CHANGE

Proposed addition to exceptions

Sub paragraph E.

~~Proposed text~~ - "temporary structures that can be easily removed within a day, including above ground pools, trampolines and playground equipment"

Bethany White

From: Jim Mesimer
Sent: Thursday, July 23, 2020 5:59 AM
To: Bethany White; Ed Kennedy; Mike Bowden; Mandy Sanders; Arlen Copenhaver; Nikki Keely
Cc: John Batson
Subject: Re: Text Amendment Application

I oppose of any thing in the front set backs almost all the utilities in town are in the front.

Thanks

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From: Bethany White <b.white@townofkurebeach.org>
Sent: Wednesday, July 22, 2020 4:20:48 PM
To: Ed Kennedy <e.kennedy@townofkurebeach.org>; Mike Bowden <m.bowden@townofkurebeach.org>; Mandy Sanders <m.sanders@townofkurebeach.org>; Arlen Copenhaver <a.copenhaver@townofkurebeach.org>; Nikki Keely <n.keely@townofkurebeach.org>; Jim Mesimer <j.mesimer@townofkurebeach.org>
Cc: John Batson <j.batson@townofkurebeach.org>
Subject: RE: Text Amendment Application

Thank you to all who responded so far. Jimmy, I still need a response from you before I can get this on the P&Z agenda. Please acknowledge that you reviewed it and any comments you would like considered.

Thanks!

From: Ed Kennedy <e.kennedy@townofkurebeach.org>
Sent: Wednesday, July 15, 2020 11:56 AM
To: Mike Bowden <m.bowden@townofkurebeach.org>; Bethany White <b.white@townofkurebeach.org>; Mandy Sanders <m.sanders@townofkurebeach.org>; Arlen Copenhaver <a.copenhaver@townofkurebeach.org>; Nikki Keely <n.keely@townofkurebeach.org>; Jim Mesimer <j.mesimer@townofkurebeach.org>
Cc: John Batson <j.batson@townofkurebeach.org>
Subject: Re: Text Amendment Application

Bethany,

From a fire safety standpoint I do not advocate putting things in the front setback, even if they can be taken down in a day. In the event of a fire, anything that hinders apparatus placement, ladder placement, and hose line advancement could drastically alter the outcome of life safety and property conservation.

Please contact me if you have any questions.

Sincerely,

Bethany White

From: Mandy Sanders
Sent: Wednesday, July 22, 2020 3:34 PM
To: Bethany White; Arlen Copenhaver; Nikki Keely; Jim Mesimer; Mike Bowden; Ed Kennedy
Cc: John Batson
Subject: RE: Text Amendment Application

Bethany,
I agree with the other department heads.
Thank you

Mandy Sanders

Town Clerk
Town of Kure Beach
117 Settlers Lane
Kure Beach, NC 28449
Direct: 910.707.2012
Fax: 910.458.7421
Cell: 910.409.6574
www.townofkurebeach.org

E-mail correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Bethany White <b.white@townofkurebeach.org>
Sent: Tuesday, July 14, 2020 11:19 AM
To: Mandy Sanders <m.sanders@townofkurebeach.org>; Arlen Copenhaver <a.copenhaver@townofkurebeach.org>; Nikki Keely <n.keely@townofkurebeach.org>; Jim Mesimer <j.mesimer@townofkurebeach.org>; Mike Bowden <m.bowden@townofkurebeach.org>; Ed Kennedy <e.kennedy@townofkurebeach.org>
Cc: John Batson <j.batson@townofkurebeach.org>
Subject: Text Amendment Application

Good morning,

Please review attached application for text amendment to section 15.36.010 of the KB code of ordinances and respond back with comments. The application must be reviewed by all departments prior to going before the Planning and Zoning commission for review.

Let me know if you have any questions.

Thanks!

Bethany White
Code Enforcement Officer
Town of Kure Beach
910-707-2011

Bethany White

From: Arlen Copenhaver
Sent: Friday, July 17, 2020 3:36 PM
To: Bethany White
Subject: RE: Text Amendment Application

Bethany,

I concur with the comments made by the Police Chief and P&R Director.

Arlen Copenhaver, CPA
Finance & Budget Officer
Town of Kure Beach
117 Settlers Lane
Kure Beach, NC 28449
Tel: (910) 458-8216
Fax: (910) 458-7421
a.copenhaver@tokb.org

From: Nikki Keely <n.keely@townofkurebeach.org>
Sent: Wednesday, July 15, 2020 11:36 AM
To: Mike Bowden <m.bowden@townofkurebeach.org>; Bethany White <b.white@townofkurebeach.org>; Mandy Sanders <m.sanders@townofkurebeach.org>; Arlen Copenhaver <a.copenhaver@townofkurebeach.org>; Jim Mesimer <j.mesimer@townofkurebeach.org>; Ed Kennedy <e.kennedy@townofkurebeach.org>
Cc: John Batson <j.batson@townofkurebeach.org>
Subject: RE: Text Amendment Application

I agree with Mike regarding the front yard setback. In addition, playground equipment is pretty ambiguous. Certain types of playground equipment require concrete footers to be installed properly. Does having the verbiage "that can be easily removed within a day" rule out any playground equipment that would require that type of construction for proper installation?

Nikki Keely
Recreation Director, CPRP

Recreation Department
Town of Kure Beach
117 Settlers Lane
Kure Beach, NC 28449
910.458.8216/Fax 910.458.7421
www.townofkurebeach.org

From: Mike Bowden <m.bowden@townofkurebeach.org>
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Please contact me if you have any questions.

Sincerely,

Edmund C. Kennedy
Fire Chief
Kure Beach Fire Department
Office: 910-707-2034
Cell: 910-409-9398

From: Mike Bowden <m.bowden@townofkurebeach.org>
Sent: Wednesday, July 15, 2020 11:09 AM
To: Bethany White <b.white@townofkurebeach.org>; Mandy Sanders <m.sanders@townofkurebeach.org>; Arlen Copenhaver <a.copenhaver@townofkurebeach.org>; Nikki Keely <n.keely@townofkurebeach.org>; Jim Mesimer <j.mesimer@townofkurebeach.org>; Ed Kennedy <e.kennedy@townofkurebeach.org>
Cc: John Batson <j.batson@townofkurebeach.org>
Subject: Re: Text Amendment Application

I think for safety reasons pools, trampolines, and playground equipment should not be in the front yard setbacks. In my opinion it invite people to trespass on other people's property.
Thanks Mike

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From: Bethany White <b.white@townofkurebeach.org>
Sent: Tuesday, July 14, 2020 11:19:27 AM
To: Mandy Sanders <m.sanders@townofkurebeach.org>; Arlen Copenhaver <a.copenhaver@townofkurebeach.org>; Nikki Keely <n.keely@townofkurebeach.org>; Jim Mesimer <j.mesimer@townofkurebeach.org>; Mike Bowden <m.bowden@townofkurebeach.org>; Ed Kennedy <e.kennedy@townofkurebeach.org>

Bethany White

From: Nikki Keely
Sent: Wednesday, July 15, 2020 11:36 AM
To: Mike Bowden; Bethany White; Mandy Sanders; Arlen Copenhaver; Jim Mesimer; Ed Kennedy
Cc: John Batson
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Nikki Keely

Recreation Director, CPRP

Recreation Department
Town of Kure Beach
117 Settlers Lane
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Let me know if you have any questions.

Thanks!

Bethany White
Code Enforcement Officer
Town of Kure Beach
910-707-2011

ELDRIDGE LAW FIRM, P.C.

ATTORNEY AND COUNSELOR AT LAW

201 NORTH FRONT STREET, SUITE 906
WILMINGTON, NC 28401

REPLY TO:
JAMES E. ELDRIDGE
POST OFFICE BOX 1380
WILMINGTON, NC 28402

TELEPHONE: (910) 815-0107
MOBILE: (910) 232-6005
EMAIL: jee@ec.rr.com

MEMORANDUM

TO: KURE BEACH PZC
FROM: JAMES E. ELDRIDGE, ATTORNEY
DATE: SEPTEMBER 9, 2020
RE: SETBACKS AND ENCROACHMENTS UNDER THE CODE

The Agrillo/Hern application to amend KBC 15.36.010 *Control of Yards/Setbacks* seeks to add a new sub-section F allowing “temporary structures that can be easily removed within a day, including above-ground pools, trampolines, and playground equipment,” within (any) setback. In considering the application, it may be useful for PZC to review those Town Code provisions which, while not necessarily on point or applicable to the instant matter, nonetheless impart some sense as to how the Code presently regulates encroachments into the setbacks.

15.03.010 Definitions:

Setback shall mean the distance between the minimum building line and the street right-of-way line required to obtain the front side, or rear yard open space provisions of this chapter in order to provide for runoff control, health, safety, firefighting, free flow of air and adequate off-street parking. In the event there is not a street right-of-way involved, then the property line shall be used in establishing the setback.

15.36.010 Control of Yards/Setbacks:

Any building or other structure requiring a building permit shall not be permitted in the setback area with the exception of the following items:

- A. Fence.
- B. Beach walkovers that are at least ten (10) feet to the rear of the building, and meet the 1996 Hurricane Replacement Standards.
- C. Ground level walkways.
- D. Ground level aprons for pools.
- E. Disability ramps for individuals with verifiable disabilities provided that: i) a plan showing the design of the disability ramp is submitted to and approved by the Building Inspector prior to the construction thereof; ii) the ramp is removed by the property owner when providing access for a disability is no longer needed or in the event

the property is sold and iii) 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.

15.36.070 *Location of Accessory Buildings on Residential Lots:*

Accessory buildings shall be in the rear yard and shall not exceed one (1) story with a height limit of fifteen (15) feet. Accessory buildings shall meet the setback requirements of a residence, and shall be erected, reconstructed or structurally altered in accordance with the building code.

15.38.020 *Continuance of Nonconforming Situation:*

B. *Extension in yard/setback space.* A structure that is nonconforming as to yard/setback requirements but conforms to the permissible use within the district in which it is located shall not be enlarged or extended in any direction (horizontally or vertically) into the required open space of the yard/setback area, except for energy conservation enclosures in subparagraph I below, and changes in roof design in subparagraph J below, and ramps, lifting devices and hand rails or a combination of these for the handicapped in subparagraph K below.

Approve



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

PZC Meeting Date: 09/16/2020

PZC Agenda Item No. 1 under Old Business

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

- X Consideration of the proposed text amendment to KBC 15.36.010 *Control of Yards/Setbacks* attached hereto and incorporated herein by reference.
- X The proposed text amendments are CONSISTENT WITH the objectives/policies of the Town of Kure Beach Land Use Plan (“LUP”).
- X The proposed text amendments are CONSISTENT WITH Part 3, Section 2 of the LUP.

The proposed text amendments are NOT CONSISTENT WITH Part 3, Section 2.B. of the LUP.

The Planning and Zoning Commission (“PZC”) requests Town Council’s consideration of the Agrillo/Hern application for the proposed text amendment and recommends that Council adopt the proposed text amendment based on the following:

1. The application seeks to amend KBC 15.36.010 by adding a new sub-section F allowing “temporary structures that can be easily removed within a day, including above-ground pools, trampolines, and playground equipment,” within (any) setback.
2. The proposed text amendment affects all of the Town’s zoning districts.
3. The proposed text amendment is not likely to result in obstructions within the setback areas negatively impacting public health, safety, and welfare, stormwater drainage, and airflow.
4. The proposed text amendment would therefore be consistent with the goal on land use compatibility set forth in Part 3, Section 2.B. of the LUP which provides, in pertinent part, as follows:

Kure Beach desires to ensure that future development will be consistent with the historic small town nature of the community...and will work to...ensure that any uses of the land and water minimize negative environmental impacts and avoid risks to public health, safety and welfare....

Approve

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

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

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

Craig Galbraith, Chairman

Disapprove



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

PZC Meeting Date: 09/16/2020

PZC Agenda Item No. 1 under Old Business

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

- X Consideration of the proposed text amendment to KBC 15.36.010 *Control of Yards/Setbacks* attached hereto and incorporated herein by reference.

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

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

- X The proposed text amendments are NOT CONSISTENT WITH Part 3, Section 2.B. of the LUP.

The Planning and Zoning Commission (“PZC”) requests Town Council’s consideration of the Agrillo/Hern application for the proposed text amendment and recommends that Council deny the application based on the following:

1. The application seeks to amend KBC 15.36.010 by adding a new sub-section F allowing “temporary structures that can be easily removed within a day, including above-ground pools, trampolines, and playground equipment,” within (any) setback.
2. The proposed text amendment affects all of the Town’s zoning districts.
3. The proposed text amendment could result in obstructions within the setback areas negatively impacting public health, safety, and welfare, stormwater drainage, and airflow.
4. The proposed text amendment would therefore be inconsistent with the goal on land use compatibility set forth in Part 3, Section 2.B. of the LUP which provides, in pertinent part, as follows:

Kure Beach desires to ensure that future development will be consistent with the historic small town nature of the community...and will work to...ensure that any uses of the land and water minimize negative environmental impacts and avoid risks to public health, safety and welfare....

Disapprove

The Commission finds that denying the proposed amendment will be reasonable and in the public interest inasmuch as it is inconsistent with the community policies and goals, set forth in Part 3, Section 2 of the LUP, of preserving environmental attributes, providing for the “harmonic adaptation” of built uses in close proximity to one another, and minimizing impacts on man-made and natural areas; all of which further public health, safety, and welfare.

Based on these findings, the Commission recommends that Town Council deny the proposed text amendment.

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

Craig Galbraith, Chairman

**Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

8.02 Nuisances 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 – Not Abbreviated
(For September 16, 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 – Not Abbreviated
(For September 16, 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

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.

**Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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.

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

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.

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

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.

**Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

12. Residential porch lights, limited to a maximum of two (2) in the front and two (2) in the back, provided the bulbs used do not exceed 40 watts each (or LED bulbs equivalent to 40 watts).

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. Lighting that could be confused for a traffic control device.
3. Searchlights, beacons, and laser source luminaires.
4. Lights which blink, flash, move, revolve, flicker, change intensity, or change color.
5. 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.

E. *General Standards.*

1. *Illumination level at the property line.* Where adjacent to residential uses, the illumination level shall not exceed 0.1 (1/10) foot-candles at 5 feet beyond the property line. Where adjacent to commercial uses, the illumination level shall not exceed 0.2 (2/10) foot-candles at 5 feet beyond the property line. Exterior luminaires (lighting fixtures) which will be visible from residential areas shall be oriented or shielded so that the direct or reflected light source is not visible.
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 provided in this section, all other exterior lighting, including pole or building-mounted

**Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

luminaires, shall be oriented or shielded so that the direct or reflected light source is not visible from adjacent property.

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.
- b. The light shall only be directed or reflected 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 general standards set forth in sub-sub-section E.1 above.

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:

**Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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.

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

**Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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

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

Proposed Text Amendments for Light Trespass Regulations – Not Abbreviated
(For September 16, 2020 PZC Review/Discussion)

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

**Proposed Text Amendments for Light Trespass Regulations – Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

8.02 Nuisances 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 – Abbreviated
(For September 16, 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 – Abbreviated
(For September 16, 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

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.

**Proposed Text Amendments for Light Trespass Regulations – Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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.

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

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.

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

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.

**Proposed Text Amendments for Light Trespass Regulations – Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

12. Residential porch lights, limited to a maximum of two (2) in the front and two (2) in the back, provided the bulbs used do not exceed 40 watts each (or LED bulbs equivalent to 40 watts).

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. Lighting that could be confused for a traffic control device.
3. Searchlights, beacons, and laser source luminaires.
4. Lights which blink, flash, move, revolve, flicker, change intensity, or change color.
5. 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.

E. *General Standard.*

1. *Illumination level at the property line.* Where adjacent to residential uses, the illumination level shall not exceed 0.1 (1/10) foot-candles at 5 feet beyond the property line. Where adjacent to commercial uses, the illumination level shall not exceed 0.2 (2/10) foot-candles at 5 feet beyond the property line. Exterior luminaires (lighting fixtures) which will be visible from residential areas shall be oriented or shielded so that the direct or reflected light source is not visible.

F. *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.

G. *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.

**Proposed Text Amendments for Light Trespass Regulations – Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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.

H. *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.

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

**Proposed Text Amendments for Light Trespass Regulations – Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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

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

**Proposed Text Amendments for Light Trespass Regulations – Abbreviated
(For September 16, 2020 PZC Review/Discussion)**

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

**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

ELDRIDGE LAW FIRM, P.C.

ATTORNEY AND COUNSELOR AT LAW

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MEMORANDUM

TO: KURE BEACH PZC
FROM: JAMES E. ELDRIDGE, ATTORNEY
DATE: SEPTEMBER 10, 2020
RE: LIGHT ORDINANCE

With the assistance of Chairman Galbraith, I have revised the light ordinance draft PZC reviewed during its July 1, 2020 meeting. I have also produced two versions of the current draft: a succinct version (labeled as “Abbreviated”) and a more detailed version (labeled as “Not Abbreviated”). Copies of these drafts are attached hereto for PZC’s September 16th meeting.

For a variety of reasons, not the least of which includes working with the code’s self-publishing app, the current revisions are not set forth as tracked changes to the July 1st draft. I am therefore including a copy of the July 1st draft herewith so that it can be cross-read while reviewing the September 16th drafts to note the changes made. In general, those changes, in both drafts, include the deletion of several definitions, the addition of porch lights, under certain conditions, to lighting which is exempt under the ordinance, and, in particular, to the general standard set forth in Sec. E.1.

The Abbreviated draft was made so by deleting several of the general and special standards for specific lighting issues; the basis for such deletions being the broad applicability of the general standard set forth in Sec. E.1.

I look forward to discussing these drafts with PZC on September 16, 2020.



Prohibited Uses P&Z Commission



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fx Business Zoning

	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			
15			
16			