

**TOWN OF KURE BEACH
ORDINANCE 15**

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

SECTION 1: **ADOPTION** “15.08.110 K Avenue Mixed-Use Overlay District” of the Town of Kure Beach Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

15.08.110 K Avenue Mixed-Use Overlay District (Non-existent)

AFTER ADOPTION

15.08.110 K Avenue Mixed-Use Overlay District(*Added*)

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

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

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 The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein.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

C. Geographic boundaries of district. The MUOD shall include and consist of lots the entire length of K Avenue between Third Avenue and Seventh Avenue. A condition of applying for a special use permit under the provisions of the overlay district is that any privately owned parking area intended to serve the subject project shall be subject to the provisions of the permit (whether said parking is located in the MUOD proper or not).

D. Uses allowed in the MUOD (by special use permit only).

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

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

1. *Residential component.* Each special use must contain a residential component in compliance with the NC Building Code and other applicable codes and regulations.
2. *Signs.* Signs in the mixed use area should be small, relatively unobtrusive and compatible with the neighborhood. Towards this end, the following shall apply to the MUOD:

- a. All regulations described in KBC 15.40.010 to KBC 15.40.120 apply to the overlay district.
- b. In addition, the following regulations apply:
 - (1) Commercial signs may only be used in conjunction with an actual commercial activity occurring on the premises.
 - (2) A commercial sign may only be attached to the first floor of the building. Such attachment may either be flush or projecting.
 - (3) Only one (1) commercial sign is allowed for each building
 - (4) Any lighting for the commercial sign must be external. No internally lit signs are allowed in this district. Lighting shall only be allowed during the hours of operation for the business. Lighting for exterior signs must only illuminate the sign, and may not "spill over" to neighboring residences.
 - (5) The total area of the commercial sign shall not exceed six (6) square feet
 - (6) It is encouraged that any commercial sign be attractive, and artistic, such as a carved wooden sign.
 - (7) As defined in KBC 15.40.050, no exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries are allowed. This includes tube lighting, strong lighting, LED lighting, or typical holiday lighting. Exceptions to this are typical holiday lighting and decorations which contain no commercial message.
 - (8) Temporary "A" frame signs, or menu boards must be approved by the Town of Kure Beach Planning and Zoning Commission, to ensure that safety will be maintained, and that a reasonable time frame for use is established.

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

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

- a. Landscaping.
 - (1) All usable open space, such as pedestrian walkways, separations between buildings, yard areas and common recreation areas should be landscaped and provided with an underground irrigation system, or an alternative equivalent system.
 - (2) Trees and plants indigenous to southeastern North Carolina are recommended.
- b. Walls and fences.
 - (1) A four-foot high solid wall or fence should be constructed along the property line of any lot where construction of any residential/commercial mixed-use development is adjacent to property zone and /or used for residential purposes.
 - (2) Chain-link, barbed-wire, razor-wire and spikes are prohibited.
- c. On-site tree preservation.
 - (1) All species of mature oak trees should be preserved and integrated into the project design unless it is shown to be infeasible. Mature trees are defined as trees having a diameter of thirty (30) inches or greater at a height of four and one-half (4.5) feet above adjacent ground.
 - (2) Removal of mature trees must be approved by the building inspector, to ensure that the circumstances present at the property warrant removal of the tree(s).

4. *Buffering.*

- a. Shielding AC:
 - (1) In order to keep a harmonious look, HVAC units shall be in the back or side and concealed with landscaping or lattice, unless it can be shown that the same is not feasible. If the same is not feasible, additional screening may be required.
- b. Shielding trash:
 - (1) Outside trash and garbage receptacles shall be no closer than five (5) feet from adjoining property lines.
 - (2) There shall be minimum visibility of outside trash and garbage receptacles from the street; all reasonable efforts in this regard shall be made, taking into account the following: (criteria for the type of screening to be used)
 - (A) The amount and size of receptacles shall be appropriate in light of the occupancy of the building.
 - (B) If enclosed, screening material should be consistent with the building.

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

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

5. Lighting.

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

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

SECTION 2: **AMENDMENT** “15.08.100 K Avenue Mixed-Use Overlay District” of the Town of Kure Beach Municipal Code is hereby *amended* as follows:

BEFORE AMENDMENT

15.08.100 K Avenue Mixed-Use Overlay District

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

A. Purpose and intent of the overlay district.

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

5. To reinforce streets as public places that encourage pedestrian and bicycle travel.
- B. *Relationship with underlying district.* The overlay district is an overlay mixed use district zone. The land use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. In circumstances where the underlying zone is silent, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.
- C. *Geographic boundaries of district.* The K Avenue mixed use overlay district shall include and consist of lots the entire length of K Avenue between Third Avenue and Seventh Avenue. A condition of applying for a special use permit under the provisions of the overlay district is that any privately owned parking area intended to serve the subject project shall be subject to the provisions of the permit (whether said parking is located in the Overlay District proper or not).
- D. *Uses allowed in the overlay district (by special use permit only).*
1. Light retail (See retail, miscellaneous, KBC 15.02.010 for definition).
 2. light food service (primarily counter service); seating for no more than fifteen (15) customers.
 3. Churches and other places of worship, including parish houses and Sunday schools.
 4. Colleges, schools, public libraries, public museums, art galleries, and other public buildings.
 5. Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on within the premises.
 6. Customary home occupations.
- E. The following requirements and restrictions shall apply to the overlay district.
1. *Residential component.* Each special use must contain a residential component in compliance with the NC Building Code and other applicable codes and regulations.
 2. *Signs.* Signs in the mixed use area should be small, relatively unobtrusive and compatible with the neighborhood. Towards this end, the following shall apply to the overlay district:
 - a. All regulations described in KBC 15.40.010 to KBC 15.40.120 apply to the overlay district.
 - b. In addition, the following regulations apply:
 - (1) Commercial signs may only be used in conjunction with an actual commercial activity occurring on the premises.
 - (2) A commercial sign may only be attached to the first floor of the building. Such attachment may either be flush or projecting.
 - (3) Only one (1) commercial sign is allowed for each building
 - (4) Any lighting for the commercial sign must be external. No internally lit signs are allowed in this district. Lighting shall only be allowed during the hours of operation for the business. Lighting for exterior signs must only illuminate the sign, and may not "spill over" to neighboring residences.
 - (5) The total area of the commercial sign shall not exceed six (6) square feet
 - (6) It is encouraged that any commercial sign be attractive, and artistic, such as a carved wooden sign.
 - (7) As defined in KBC 15.40.050, no exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries are allowed. This includes tube lighting, strong lighting, LED lighting, or typical holiday lighting. Exceptions to this are typical holiday lighting and decorations which contain no commercial message.
 - (8) Temporary "A" frame signs, or menu boards must be

approved by the Town of Kure Beach Planning and Zoning Commission, to ensure that safety will be maintained, and that a reasonable time frame for use is established.

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

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

- a. Landscaping.
 - (1) All usable open space, such as pedestrian walkways, separations between buildings, yard areas and common recreation areas should be landscaped and provided with an underground irrigation system, or an alternative equivalent system.
 - (2) Trees and plants indigenous to southeastern North Carolina are recommended.
 - b. Walls and fences.
 - (1) A four-foot high solid wall or fence should be constructed along the property line of any lot where construction of any residential/commercial mixed-use development is adjacent to property zone and /or used for residential purposes.
 - (2) Chain-link, barbed-wire, razor-wire and spikes are prohibited.
 - c. On-site tree preservation.
 - (1) All species of mature oak trees should be preserved and integrated into the project design unless it is shown to be infeasible. Mature trees are defined as trees having a diameter of thirty (30) inches or greater at a height of four and one-half (4.5) feet above adjacent ground.
 - (2) Removal of mature trees must be approved by the building inspector, to ensure that the circumstances present at the property warrant removal of the tree(s).
4. *Buffering.*
 - a. Shielding AC:
 - (1) In order to keep a harmonious look, HVAC units shall be in the back or side and concealed with landscaping or lattice, unless it can be shown that the same is not feasible. If the same is not feasible, additional screening may be required.
 - b. Shielding trash:
 - (1) Outside trash and garbage receptacles shall be no closer than five (5) feet from adjoining property lines.
 - (2) There shall be minimum visibility of outside trash and garbage receptacles from the street; all reasonable efforts in this regard shall be made, taking into account the following: (criteria for the type of screening to be used)
 - (A) The amount and size of receptacles shall be appropriate in light of the occupancy of the building.
 - (B) If enclosed, screening material should be consistent with the building.
 - (C) Recycling should be controlled such as minimize spillover.
 - (D) Dumpsters should be on a concrete pad so they can be washed, and should be screened from neighboring properties.
5. *Lighting.*
 - a. A detailed lighting plan shall be submitted with preliminary drawings.
 - b. Parking lot lights shall be shielded down, with the lights being not more than ten feet high.
 - c. Commercial entrance lights shall be shielded down and directed at the

entrance to the property.

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

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

(Ord. of 2-18-14; Ord. of 6-20-14)

AFTER AMENDMENT

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

Definition. Overlay ~~zoning~~ districts ~~or zones~~ are established to define certain subareas within which development is subject to restrictions over and above those applicable to the underlying district. Within these overlay districts, any development that occurs must ~~comply~~ ~~be in~~ ~~compliance~~ not only with the regulations applicable to the underlying district but also with the additional requirements of the overlay district. ~~The "K Avenue mixed use overlay district" (referred to hereinafter as the "overlay district") is such a district. Overlay districts are not required to be mapped on the official zoning map if the description of such zones in the zoning ordinance is sufficient to define their extent and application to specific properties.~~*Purpose and intent of the overlay district.*~~Relationship with underlying district.~~ The overlay district is an overlay mixed-use district zone. The land-use regulations applicable to the underlying zone remain in full force and effect except where superseded herein. In circumstances where the underlying zone is silent, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay ordinance shall be controlling.*Geographic boundaries of district.* The K Avenue mixed use overlay district shall include and consist of lots the entire length of K Avenue between Third Avenue and Seventh Avenue. A condition of applying for a special use permit under the provisions of the overlay district is that any privately owned parking area intended to serve the subject project shall be subject to the provisions of the permit (whether said parking is located in the Overlay District proper or not).*Uses allowed in the overlay district (by special use permit only).* The following requirements and restrictions shall apply to the overlay district.*Application.* An applicant for a use permitted in the overlay district must apply for a special use permit from the Town of Kure Beach and follow the process described in KBC 15.08.080 and KBC 15.08.090. Staff will review the application to ensure that it is complete, as to the provisions above and the special use requirements. Although an application may be complete, i.e. all of the requirements set out in this section have been addressed, the planning and zoning commission or town council may place additional requirements or conditions on the proposal through the special use process. To provide for development consistent with the Town of Kure Beach Land Use Plan adopted in 2006; To allow commercial activity along K Avenue to provide a link between the commercial district and a commercial area in the interior of the town that is zoned as neighborhood business and is in close proximity with key buildings such as the Town Hall and fire and police stations; To allow a mixture of complementary land uses that may include housing, retail, offices, commercial services and civic uses, to create economic and social vitality; To provide for the development of commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians; To reinforce streets as public places that encourage pedestrian and bicycle travel. Light retail (See retail, miscellaneous, KBC 15.02.010 for definition). light food service (primarily counter service); seating for no more than fifteen (15) customers. Churches and other places of worship, including parish houses and Sunday schools. Colleges, schools, public libraries, public museums, art galleries, and other public buildings. Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on within the premises. Customary home occupations. *Residential component.* Each special use must contain a residential component in compliance with the NC Building Code and other applicable codes and regulations. *Signs.* Signs in the mixed use area should be small, relatively unobtrusive and compatible with the neighborhood. Towards this end, the following shall apply to the overlay district: *Landscaping and hardscaping.* Landscaping or hardscaping of property between the street curb and buildings promotes and enhances a comfortable pedestrian scale and orientation. It encourages pedestrian use of the area.

- A. The following design standards shall apply to development in the overlay district: *Buffering.* Lighting. All regulations described in KBC 15.40.010 to KBC 15.40.120 apply to the overlay district. In addition, the following regulations apply: *Landscaping.* Walls and fences. On-site tree preservation. *Shielding.* AC: *Shielding trash.* A detailed lighting plan shall be submitted with preliminary drawings. *Parking lot lights* shall be shielded down, with the lights being not more than ten feet high. *Commercial entrance lights* shall be shielded down and directed at the entrance to the property. *Flood and security lights* shall be shielded and aimed such as to not create glare on adjoining properties. *Accent lighting* shall be low voltage and aimed at the objects to be accented only. All lighting shall be installed and aimed to minimize light trespassing across property lines. *Restrictions:* Bare light sources (including, but not limited to, festive light strands, strands, incandescent, fluorescent, high intensity

discharge, LED, fiber optics and neon) used to outline property lines, open sales areas, roof lines, doors, windows the edges of walls or any other area of the building or property visible from outside the building are prohibited, except for holiday lighting permitted from Thanksgiving through January 15th of the new year, unless approved as part of a planned lighting program. This section does not apply to a) security lighting with motion detection, b) emergency lighting and c) residential zones. Commercial signs may only be used in conjunction with an actual commercial activity occurring on the premises. A commercial sign may only be attached to the first floor of the building. Such attachment may either be flush or projecting. Only one (1) commercial sign is allowed for each building. Any lighting for the commercial sign must be external. No internally lit signs are allowed in this district. Lighting shall only be allowed during the hours of operation for the business. Lighting for exterior signs must only illuminate the sign, and may not "spill over" to neighboring residences. The total area of the commercial sign shall not exceed six (6) square feet. It is encouraged that any commercial sign be attractive, and artistic, such as a carved wooden sign. As defined in KBC 15.40.050, no exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries are allowed. This includes tube lighting, strong lighting, LED lighting, or typical holiday lighting. Exceptions to this are typical holiday lighting and decorations which contain no commercial message. Temporary "A" frame signs, or menu boards must be approved by the Town of Kure Beach Planning and Zoning Commission, to ensure that safety will be maintained, and that a reasonable time frame for use is established. All usable open space, such as pedestrian walkways, separations between buildings, yard areas and common recreation areas should be landscaped and provided with an underground irrigation system, or an alternative equivalent system. Trees and plants indigenous to southeastern North Carolina are recommended. A four-foot high solid wall or fence should be constructed along the property line of any lot where construction of any residential/commercial mixed-use development is adjacent to property zone and/or used for residential purposes. Chain-link, barbed-wire, razor-wire and spikes are prohibited. All species of mature oak trees should be preserved and integrated into the project design unless it is shown to be infeasible. Mature trees are defined as trees having a diameter of thirty (30) inches or greater at a height of four and one-half (4.5) feet above adjacent ground. Removal of mature trees must be approved by the building inspector, to ensure that the circumstances present at the property warrant removal of the tree(s). In order to keep a harmonious look, HVAC units shall be in the back or side and concealed with landscaping or lattice, unless it can be shown that the same is not feasible. If the same is not feasible, additional screening may be required. Outside trash and garbage receptacles shall be no closer than five (5) feet from adjoining property lines. There shall be minimum visibility of outside trash and garbage receptacles from the street; all reasonable efforts in this regard shall be made, taking into account the following: (criteria for the type of screening to be used) No lighting shall be aimed toward public streets causing public safety hazards. No laser lights are allowed. No search lights for advertising are allowed. The amount and size of receptacles shall be appropriate in light of the occupancy of the building. If enclosed, screening material should be consistent with the building. Recycling should be controlled such as minimize spillover. Dumpsters should be on a concrete pad so they can be washed, and should be screened from neighboring properties. (Ord. of 2-18-14; Ord. of 6-20-14)

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL APRIL 19, 2021.


	AYE	NAY	ABSENT	ABSTAIN
Commissioner John Ellen	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Commissioner Allen Oliver	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Commissioner David Heglar	<u> </u>	<u> X </u>	<u> </u>	<u> </u>
Commissioner Joseph Whitley	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Mayor Craig Bloszinsky	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Presiding Officer

Attest



Craig Bloszinsky, Mayor, Town of Kure Beach



Mandy Sanders, Town Clerk Town of Kure Beach

