

**TOWN OF KURE BEACH  
ORDINANCE 15.08.120 I**

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

**SECTION 1:**        **AMENDMENT** “15.08.120 Downtown Preservation Overlay District” of the Town of Kure Beach Municipal Code is hereby *amended* as follows:

**BEFORE AMENDMENT**

15.08.120 Downtown Preservation Overlay District

- A. *Purpose and Intent of the Downtown Preservation Overlay District (“POD”).*
  - 1. Protecting and preserving, within the designated POD, important elements of the Town’s culture, history, and architecture.
  - 2. Safeguarding the character and heritage of the POD by preserving the district as a whole and the properties therein which embody those important elements of the Town’s culture, history, and architecture.
  - 3. Promoting the use and conservation of the POD for the education, pleasure, and enrichment of the residents of the district, the Town, and the State.
  - 4. Stabilizing and enhancing property values within the POD which will improve the general health, safety, and welfare of the Town’s residents.
- B. *Establishment of the POD.* The POD district is hereby established as a Historic District overlaying the existing B-1 Business District, the extent and boundaries of which are as indicated on the Town’s official zoning map.
- C. *Effect of the POD.* These POD regulations apply in combination with the underlying B-1 district regulations and all other applicable provisions of the KBC. In circumstances where the B-1 district regulations are silent or where the POD regulations conflict with the B-1 regulations, then the POD regulations shall be controlling.
- D. *Allowed Uses.* All uses permitted in the B-1 district, whether by right or as a Special Use, shall be permitted in the POD district in accordance with the procedures established for such uses.
- E. *Design Standards.* Buildings and structures within the POD shall comply with the Design Standards for the Kure Beach Downtown Preservation and Historic District (“Design Standards”).
- F. *Certificates of Appropriateness.*
  - 1. A Certificate of Appropriateness (“COA”) shall be required for any erection, alteration, restoration, relocation, demolition, or destruction of any exterior portion of any building, structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features), above-ground utility structure, or any type of outdoor advertising sign within the POD.
  - 2. Where required, a COA shall be granted by the Kure Beach Historic

Preservation Commission (“HPC”) prior to the issuance of a building permit and a building permit that is issued thereafter shall be in conformity with said COA.

G. *Minor Work Excepted.*

1. Nothing in this section shall be construed to prevent minor work on any exterior feature in the POD district. Examples of minor work are set forth in Sec. 3.2 of the Design Standards.
2. Ordinary maintenance, repairs, and other work which does not involve any change to any exterior feature in the POD district are excepted from and are not subject to these regulations.
3. Minor work on exterior features within the POD may be administratively approved by the Town’s Building Inspector without a COA hearing before the HPC. The request for administrative approval of minor work shall be made to the Building Inspector in writing, describe the work to be performed, and show that the work complies with these standards. A dated letter approving or denying the request shall be issued by the Building Inspector to the applicant generally within 2 business days after the date on which the Building Inspector received the request.
4. Appeals of administrative decisions for minor work shall be made in writing to the HPC and delivered to the Commission’s Clerk within 10 days after the date of the Building Inspector’s letter setting forth the administrative decision. The appeal shall be considered and acted upon by the HPC in a special or regular meeting conducted no earlier than 10 days after the date on which the Clerk received the appeal. The Commission's decision on the appeal shall be made in writing and delivered to the appellant, via personal delivery, electronic mail, or certified mail, return receipt requested, within 10 days after the date of the hearing during which the appeal was taken.

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

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

J. *Procedure.*

1. The provisions of KBC 12.06.050 are applicable to the Historic Preservation Commission hearing and deciding applications for a certificate of appropriateness and appeals of administrative decisions on minor work.
2. Provided a complete application for a certificate of appropriateness is filed by the appropriate deadline, the Historic Preservation Commission shall consider

the application at its next regular meeting following the deadline.

3. The Commission shall review each application under the Review Criteria set forth in subsection K herein and take action to approve, approve with modifications, or deny the application.
4. Prior to taking final action on an application, the Historic Preservation Commission shall make written findings of fact based upon the Review Criteria and Design Standards and indicating the extent to which the application is, or is not, compatible with the POD, the Review Criteria, and the Design Standards.
5. The Commission shall enter into the minutes of its meeting the findings of fact for the action taken.
6. The Historic Preservation Commission shall deliberate and render its decision in open session during the meeting in which the application was considered heard.
7. The Commission's decision shall be set forth in writing, be based on the competent, material, and substantial evidence in the record, reflect the Commission's determination of contested facts and their application to the Review Criteria and the Design Standards, be approved by majority vote, and signed by the Chair.

*K. Review Criteria.*

1. The regulations set forth herein and the Design Standards are intended to, insofar as is reasonable, ensure that the exterior portions of the buildings and structures within the POD shall be harmonious. However, it is not the intent of these regulations or the Design Standards to require the reconstruction or restoration of any buildings or structures, prohibit their demolition or removal, or impose any architectural style.
2. In determining an application for a certificate of appropriateness, the Historic Preservation Commission shall consider the historic and/or architectural significance of the building or structure under consideration, the exterior form and appearance of the proposed changes thereto, and the effect the proposed changes would have upon the other buildings and structures within the POD.
3. The Commission shall make no requirement except to prevent work that is incongruent with the POD.
4. Applicants shall consult the Design Standards which will be utilized in administering these regulations.
5. The Historic Preservation Commission shall base its decisions on exterior form and appearance, the Design Standards, and the following criteria:
  - a. The setbacks, lot coverage, yards, orientation, and positioning of the building or structures.
  - b. Materials, surface textures, and patterns.
  - c. Architectural details.
  - d. Roof shapes, forms, features, and materials.
  - e. The proportions, shapes, positions, locations, and patterns of doors and windows.
  - f. The general form and proportions of the buildings and structures.
  - g. Appurtenant features including, without limitation, walls and fences.

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

- L. *Interior Arrangements Not Considered.* -- When determining applications for certificates of appropriateness, the Historic Preservation Commission shall not consider the interior arrangement of the subject buildings or structures.
- M. *Relocation and Demolition.* -- Per N.C.G.S. § 160D-949, applications for a certificate of appropriateness for the relocation, demolition, or destruction of a building or structure within the POD shall not be denied.
- N. *Certain Changes Not Prohibited.* -- Nothing in these POD regulations or the Design Standards shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the POD that does not involve a change in design, material, or appearance thereof nor to prevent the construction, reconstruction, alteration, restoration, relocation, or demolition of any such feature that the Building Inspector shall certify in writing is required for public safety because of an unsafe or dangerous condition. Nothing in these regulations or the Design Standards shall be construed to prevent a property owner from making any use of his property that is not prohibited by any other law.
- O. *Successive Applications.* -- In the event the Historic Preservation Commission denies an application for a certificate of appropriateness, a new application affecting the same property may be submitted if substantial changes are made in the original plans for the proposed work on the building or structure.
- P. *Appeals.* -- The applicant or the property owner if different from the applicant, may appeal the issuance or denial of an application for a certificate of appropriateness to the Board of Adjustment in the nature of certiorari within the times prescribed for appeals of administrative decisions set forth in KBC 12.06.040.C. To the extent applicable, the provisions of G.S. 160D-1402 apply to appeals in the nature of certiorari to the Board of Adjustment.
- Q. *Lapse of Approval.* -- All certificates of appropriateness shall expire 1 year from the date of issuance. The Historic Preservation Commission may grant an extension of up to 1 year provided the Commission finds that substantial progress has been made under the certificate or that the recipient encountered unforeseen difficulties which caused the delay.
- R. *Compliance.*
  - 1. Failure to comply with a certificate of appropriateness shall constitute a violation of KBC Chapter 15 and shall be enforceable as provided for under KBC 15.42.010 Civil Penalty.
  - 2. The discontinuance of work or the lack of substantial progress under a certificate of appropriateness for a period of 1 year shall be considered as a failure to comply with the certificate and the enforcement of any remedy under Chapter 15 shall not prevent the application of any other remedy or remedies available under the Town's Code or other statutes, ordinances, or rules.

## AFTER AMENDMENT

### 15.08.120 Downtown Preservation Overlay District

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I. *Staff Review and Report.* The Building Inspector shall review each COA application under the Design Standards and the Review Criteria set forth in subsection L herein. For major work applications, Based upon the review, the Building Inspector shall appear at the hearing, testify to, and submit ~~provide~~ a written report on whether the proposed work complies, in his/her opinion, with the Design Standards and Review Criteria. ~~the COA application to the HPC.~~ The Building Inspector may determine, based upon review of the application, that the proposed work constitutes minor work

and may approve the same in the manner set forth in subsection G above

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- R. *Compliance.*
1. Failure to comply with a certificate of appropriateness shall constitute a violation of KBC Chapter 15 and shall be enforceable as provided for under

KBC 15.42.010 Civil Penalty.

2. The discontinuance of work or the lack of substantial progress under a certificate of appropriateness for a period of 1 year shall be considered as a failure to comply with the certificate and the enforcement of any remedy under

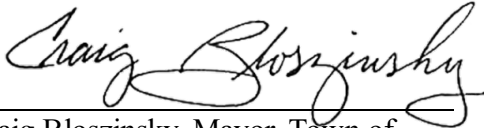
Chapter 15 shall not prevent the application of any other remedy or remedies available under the Town's Code or other statutes, ordinances, or rules.

PASSED AND ADOPTED BY THE TOWN OF KURE BEACH COUNCIL APRIL 17, 2023.

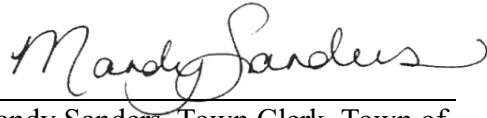
	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Commissioner John Ellen	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Commissioner Allen Oliver	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Commissioner David Heglar	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Commissioner Dennis Panicali	<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

