

**AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE**

**CHAPTER 33. EMERGENCY MANAGEMENT**

BE IT HEREBY ORDAINED by the Kill Devil Hills Board of Commissioners that Chapter 33. Civil Emergencies, of the Kill Devil Hills Town Code, shall be amended as follows:

**Chapter 33. Civil Emergencies.** Shall be deleted in its entirety, and the following new ordinance shall hereby be adopted:

**CHAPTER 33. - EMERGENCY MANAGEMENT**

**§ 33.01 STATE OF EMERGENCY; RESTRICTIONS AUTHORIZED.**

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***EMERGENCY.*** An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or human-made accidental, military, paramilitary, weather-related, or riot-related cause, or technological failure or accidents, including, but not limited to, a cyber-incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazard material incident.

**STATE OF EMERGENCY.** The finding and declaration by the Mayor that an emergency exists.

(B) If an emergency exists, the Mayor is hereby authorized and empowered under G.S. § 166A-19.22 to issue a public proclamation declaring to all persons the existence of a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized.

(C) The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of the restrictions authorized by this chapter to any area specifically designated or described within the town and to specify hours of the day or night, and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters, and other public employees, rescue squad members, doctors, nurses, employees of hospitals, and other medical facilities, on-duty military personnel whether state or federal, on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit, and such other classes of persons as may be deemed essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.

**Sec. 33.02. - Organization.**

(a) It is the intent and purpose of this chapter to establish emergency management to ensure complete and efficient utilization of all resources of the Town in the event of an emergency or disaster.

(b) The Fire Department shall be the coordinating entity for all activity in connection with emergency management within the Town; it will be the agency through which the Board of Commissioners will exercise the authority and discharge the responsibilities vested in them during states of disaster or local emergency. The Fire Chief shall act as the Emergency Management Director for the Town.

(c) This chapter does not relieve any department or agency of the responsibilities or authority given to it by state law or by local chapter, nor will it adversely affect the work of any volunteer agency organized for relief in disaster situations.

**Sec. 33.03. - Duties and responsibilities.**

(a) The Fire Department shall be the central coordinating agency for activities and programs relating to emergency and disaster mitigation, preparedness, response and recovery among agencies and officials of the Town, the state, and federal agencies; and with other private and quasi-official organizations. The Fire Department shall be responsible and have the duties of the following except where specifically assigned to another.

(b) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of disaster or terrorism, either impending or present.

(c) Manage exercises to insure efficient operation of the emergency management forces and to familiarize residents and partner agencies with emergency management regulations, procedures and operations.

(d) Monitor and advise the Town Manager of any and all threats, emergencies or disasters that pose a risk to the lives and safety of the residents and visitors of the Town of Kill Devil Hills,

proposing solutions for their decision on how to best protect people and property from imminent danger, or from further damage.

(e) Procure supplies and equipment, institute training programs, public preparedness information and education programs, manage and coordinate disaster drills and exercises in accordance with emergency plans.

(f) Manage the Town of Kill Devil Hills Emergency Operations Center as the central coordinating entity for the Town during major emergencies or disasters.

(g) A town-wide, all hazards Emergency Operations Plan shall be implemented and maintained. In the preparation of this plan, the services, equipment, facilities and personnel of all existing departments shall be utilized to the fullest extent. When the plan is approved by the Town Manager, each department shall perform those functions assigned to it by the plan and shall maintain a current state of readiness at all times.

(h) When a skill required for a disaster relief function is not available within local government, assistance shall be sought beyond the local government resources.

(i) The Town of Kill Devil Hills shall operate all disaster and emergency response by complying with the National Incident Management System and using the Incident Command System.

#### **§ 33.04 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.**

(A) The Mayor by proclamation may impose the prohibitions and restrictions specified in § 33.05 through § 33.08 of this chapter in the manner described in this chapter. The Mayor may impose as many of those specified prohibitions and restrictions as the Mayor finds necessary,

because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Mayor shall recite findings in the proclamation.

(B) The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the Town Hall. The Mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

### **§ 33.05 CURFEW.**

(A) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24 hours to which the curfew applies. The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempt classes and the restrictions from which each is exempted.

(B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.

### **§ 33.06 RESTRICTIONS ON POSSESSION, CONSUMPTION, OR TRANSFER OF ALCOHOLIC BEVERAGES.**

The proclamation pursuant to this chapter may prohibit the possession and/or consumption of alcoholic beverages, other than on one's own premises, and may prohibit the transportation, sale, and/or purchase of alcoholic beverages within the area of the town described in the proclamation.

**§ 33.07 RESTRICTIONS ON POSSESSION, TRANSPORTATION, AND TRANSFER OF DANGEROUS WEAPONS AND SUBSTANCES.**

(A) The proclamation pursuant to this chapter may prohibit the possession, transportation, sale, purchase, storage, and use of gasoline and dangerous weapons and/or substances, except lawfully possessed firearms or ammunition. The Mayor may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary in the preservation of the public health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) For the purposes of this § 33.07, the term ***DANGEROUS WEAPONS AND SUBSTANCES*** shall have the same meaning as it does under G.S. § 14-288.1(2), which, as of the adoption of this §33.07, is as follows:

“Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S. 14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.”

Notwithstanding the provisions of this § 33.07 to the contrary, for purposes of this section, the term ***DANGEROUS WEAPONS AND SUBSTANCES*** does not include a firearm, as that term is defined in this section.

(C) For the purposes of this section, the term FIREARM shall have the same meaning as it does under G.S. 14-409.39(2), which, as of the adoption of this section, is as follows:

“A handgun, shotgun, or rifle which expels a projectile by action of an explosion.”

(D) If imposed, the restrictions of this section shall apply throughout the jurisdiction of the town or such part thereof designated in the proclamation.

### **§ 33.08 RESTRICTION ON ACCESS TO AREAS.**

(A) The proclamation pursuant to this chapter may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(B) Areas to which access is denied or restricted shall be designated by the Chief of Police and his or her subordinates when directed in the proclamation to do so by the Mayor. When acting under this authority, the Chief of Police and his or her subordinates may restrict or deny access to any area, street, highway, or location within the town if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

### **§ 33.09 EVACUATION OF AREAS.**

The proclamation pursuant to this chapter or any amendment thereto may require the emergency evacuation of any area. The proclamation shall state the geographic boundaries of the area to be evacuated and, upon issuance of the proclamation, the Chief of Police and his or her subordinates shall take all necessary action to remove all persons from the area and to deny access to the area as set out in §33.08.

**§ 33.10 PROHIBITIONS AND RESTRICTIONS GENERALLY.**

The proclamation pursuant to this chapter may prohibit or restrict:

(A) Movements of people in public places; ingress and egress of an emergency area, and the movement of persons within the area;

(B) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;

(C) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

**§ 33.11 AMENDMENTS OF THE PROCLAMATION.**

(A) The Mayor may amend or extend the proclamation under this chapter from time to time, making such modifications as he or she would have been authorized to include in the original proclamation.

(B) Any proclamation issued pursuant to this chapter shall expire 5 days after its last imposition unless sooner terminated.

**§ 33.12 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.**

The Mayor shall by proclamation remove the prohibitions and restrictions under this chapter as the emergency no longer requires them, or when directed to do so by the Board of Commissioners.



**§ 33.13 SEPARATE AND SUPERSEDING PROCLAMATIONS.**

The Mayor in his or her discretion may invoke the restrictions authorized by this chapter in separate proclamations and may amend any proclamation by means of a superseding proclamation.

**§ 33.14 ABSENCE OR DISABILITY OF MAYOR.**

In case of the absence or disability of the Mayor, the Mayor Pro Tempore or the Board of Commissioners itself shall have and exercise all of the powers given the Mayor in this chapter.

This revised ordinance, Chapter 33. Emergency Management shall be in full force and effect from and after the 11<sup>th</sup> day of September, 2019. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the 11<sup>th</sup> day of September, 2019, by a vote of 5 in favor and 0 opposed.

SEAL



*Sheila F. Davies*

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Sheila F. Davies, Ph.D.  
Mayor

ATTEST:

*James Michael O'Dell*

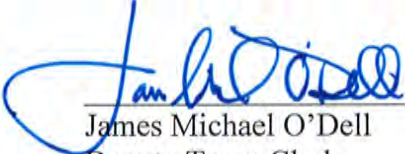
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James Michael O'Dell  
Deputy Town Clerk

APPROVED AS TO FORM:

*Casey C. Varnell*

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Casey C. Varnell  
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 33, CIVIL EMERGENCIES, was placed in the Kill Devil Hills Town Code Book on the 18<sup>th</sup> day of September, 2019 at 9:00 a.m.



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James Michael O'Dell  
Deputy Town Clerk