

January 22, 2020

**Town of Kill Devil Hills
Proposed 2020 Flood Damage Prevention Ordinance
Summary of Changes**

The State model ordinance has been modified and should be adopted as modified except the few items that were listed optional. State additions and modification are indicated in GREEN. Kill Devil Hills staff has recommended several additions to the state ordinance to help clarify the ordinance and to create a regulatory flood elevation for areas outside the Special Flood Hazard Area. Staff recommended changes are in PURPLE. Staff recommendations are consistent with the CRS Users Group and have been reviewed and approved by the State. Staff recommends a minimum building elevation of 8 feet throughout the entire Town either through freeboard requirements in the AE, AO and VE or local elevation standard of 8 feet in the X and Shaded X Zones.

Article 1, Section D Objectives

- State added objectives for model ordinance and Kill Devil Hills added objectives to regulate the "X" and "Shaded X" flood Zone

Article 2 Definitions

- State clarified/modified several definitions that were included in the 2006 ordinance. The State added the following Definitions: Coastal "A" Zones, Design Flood, Development Activity, Digital Flood Insurance Map (DFIRM), Existing Building and Existing Structure, Flood Resistant Material, Letter of Map Change (LOMA), Light Duty Truck, Limit of Moderate Wave Action (LiMWA), Technical Bulletin and Technical Fact Sheet, Temperature Controlled.
- Kill Devil Hills is recommending adding several definitions to clarify existing procedures and to create a regulatory flood level in the "X" and "Shaded X" Flood Zone. Staff is recommending adding the following:
 - Breakaway Walls, Free of Obstruction, Local Elevation Standard, Reference Level, Regulatory Flood Protection Elevation (RFPE), Secondary Structure, Shaded X Zone and X Zone.
 - The RFPE is the definition that creates regulatory elevation standards for all Flood Zones including "X" and "Shaded X".

Article 3 General Provision

- The State modified "Penalties for Violations"

Article 4 Administration

- Designate the Planning Director or their designee as the Flood Plain Administrator (previously was the Building Inspector)
- Application Requirements:
 - Requiring plot plans from a land surveyor or professional engineer
 - Clarification on the datum used for determining elevation
 - State requirement for V-Zone Certification with plans and specifications by a professional engineer in addition to the V Zone Certification required prior to Certificate of Occupancy
- Permit Requirements
 - Limitation of use below the RFPE

January 22, 2020

- Clarification of V Zone construction limits
- Materials allowed below RFPE
- Certification Requirements
 - State clarification on certification requirements
 - Staff recommendation to require an elevation certificate in the AE, AO and VE Zone before construction, during construction (foundation completion) and as built. This is the Town's current regulation (The pre and foundation elevation certificates are optional in the State Ordinance)
 - Staff recommends requiring a pre-construction and as-built elevation certificate in the "X" and "Shaded X" zones to meet the RFPE (eliminating the foundation certification). However, allowing site survey or other approved FEMA form by a licensed professional may be used to demonstrate natural grade exceeds the RFPE of 8, instead of an elevation certificate for both preconstruction and as-built.
 - State changes to the Flood Proofing Certifications
 - Staff recommended Non-Conversion Agreements for areas developed below the RFPE (this is currently required)
 - Require acknowledgement forms for construction completed by property owners at the time construction permits are issued. These acknowledgement forms indicate the specific flood zone designation for the subject property; outlines the construction standards for elevation of the structure to the regulatory flood elevation and explains the use restrictions associated with the property.
- Variance Procedure
 - Staff recommends extending variance options to the "X" and "Shaded X" zones because of the RFPE required.

Article 5 Provision for Flood Hazard Reduction

- General Standards
 - State specifying type of equipment that shall be above RFPE
- Specific Standards
 - Elevated Buildings – Clarifying what is allowed in enclosures below the RFPE
 - Staff recommends adding property east of NC12 to the other VE Zone properties that are required to have 1 foot free of obstruction to allow water to freely flow under the building. This would apply to the oceanfront properties regardless of flood zone and prevent slab on grade construction on the oceanfront.
 - State clarification of the "50% rule" for existing structures and the type of improvements that fall under this rule and the time frame of one year (which the Town currently enforces)
 - Staff recommends setting standards for improvements within the "X" and the "Shaded X" zones with the required RFPE. Staff recommends to NOT apply substantial damage or substantial improvement regulations in these zones. Staff recommends allowing interior renovations to existing living space regardless of RFPE. Allowing lateral additions at the existing structure level. Staff recommends requiring the RFPE be met if the house is relocated on the lot. Finally, not to allow conversion of existing unconditioned space to conditioned space if the area is below RFPE.

January 22, 2020

- Staff recommends a provision for other structures on a lot in addition the principal use that finished living space be required to meet all the requirements of the applicable general and and specific standards.
- State made several changes to the Coastal High Hazard Area (Zone VE) including clarifying specifications for concrete pads and swimming pools and elevators that were previously only outlined in the technical bulletins (not regulatory).
- State clarified and codified several construction elements in the VE Zone including filling/grading, alterations to sand dunes, deck construction, bulkheads and fencing.