

AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,  
CHAPTER 153, ZONING

BE IT HEREBY ORDAINED BY THE Kill Devil Hills Board of Commissioners that Chapter 153, Zoning, of the Kill Devil Hills Town Code, shall be amended by adding the underlined language and deleting the following stricken language to the sections identified below, as follows:

**§ 153.073 LANDSCAPING REQUIREMENTS.**

(A) *Intent and objectives*

(1) The intent of this section is to improve the appearance of parking areas and properties abutting public rights-of-way; to provide buffering between noncompatible land uses; to provide spatial separation of land uses; to protect, preserve and promote the aesthetic and visual character of lands particularly adjacent to major thoroughfares; and to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature and artificial light glare within the town.

(2) Landscaping includes not only trees, shrubbery, grass and ground cover but open paving stones, benches, fountains and exterior lighting fixtures as well. Buildings, vehicles, boats, equipment, parking areas or storage areas shall not be included in required landscaped areas. No more than 20% of a required perimeter landscaped area may be utilized for sidewalks, walkways or private roads. Landscaping standards may be satisfied within required setbacks.

(3) Any existing natural landscape shall be preserved whenever possible. Preservation of trees and further landscaping is the goal rather than destruction of existing trees or plant life. The planting of drought-tolerant vegetation common to the immediate natural coastal environment is encouraged to ensure proper plant life development and maturation.

(4) While the above objectives are general in form, proper design and location of trees, shrubbery and other landscape amenities will be subject to the town's plan review procedure.

(5) Landscaped areas may be used for nitrification fields.

(B) *Jurisdiction.* The requirements of this section shall apply to all zones.

(C) *Applicability.* All new development and redevelopment shall comply with the requirements of this section, except single-family detached residences and duplexes with less than 6,000 square feet of lot coverage, which shall meet the requirements of division (M) below.

(D) *Plan review and approval.*

(1) A landscape plan shall be submitted at the time application is made for site plan approval covering new development or redevelopment.

(2) The plan shall include the location and size of all proposed structures or improvements, landscape materials, including botanical and common names, and all existing vegetation by their common names as specified by the following:

(a) A tree survey: show all existing trees which have a diameter of six inches or greater, measured three feet from the base and also all major vegetation with an index of those trees and vegetation;

- (b) Total site area;
- (c) Parking area;
- (d) Landscape area required and provided for in the project;
- (e) Number of trees which are provided for the project;
- (f) Irrigation plan, if any;
- (g) Total amount of interior landscaped area.

(E) *Parking lot landscape requirements.*

(1) If more than 40 parking spaces are provided, landscaping of 10% of the total parking areas, including aisles, shall be required. This landscaping shall be established within the interior of the parking lot.

(2) The interior landscaped areas shall be located in a manner that:

- (a) Assists and helps to control the movement of vehicular and pedestrian traffic;
- (b) Provides visual relief from a large expanse of paving;
- (c) Preserves existing trees, where possible; and
- (d) Screens loading and service areas.

(3) A landscaped aisle shall be provided at the end of each parking row adjacent to the travel lane serving the parking aisle.

(4) In order to encourage the required landscaped areas to be properly dispersed, no required landscape area shall be larger than 350 square feet unless a larger area is necessary to save or protect existing vegetation.

(5) Interior landscaped areas shall contain a minimum of 75 square feet. Within these landscaped areas there shall be a minimum of one small tree per ten parking spaces in addition to other plant materials and ground cover. See division (L) of this section and Appendix A of this chapter.

(6) Required perimeter landscape areas shall not be used in the calculation of required interior landscape areas.

(F) *Perimeter landscaped areas.*

(1) *General.* A perimeter landscaped area, with a minimum depth of five feet, shall be required along property lines. Along property lines abutting any street, the minimum depth shall be ten feet. Driveways, sidewalks and similar facilities may traverse perimeter landscaped areas.

(2) *Screening requirements.*

(a) *Buffer between incompatible uses.* Restaurants, retail sales, shopping centers, automotive sales or repair, taverns, amusement or entertainment establishments, industrial uses, warehouses, wholesale businesses or trucking facilities, business or professional offices, places of worship, schools, daycare centers, parking lots, and townhouse or multi-family developments, and single-family and duplex dwellings with greater than 6,000 square feet of lot coverage must provide screening on their property for certain adjacent uses. Where abutting single-family dwellings or duplexes with less 6,000 square feet of lot coverage to the rear or to the side, such

property line shall have a wall constructed of wood, masonry wall, vinyl or composite materials or a vegetative buffer six feet in height along the property line. Along property lines abutting single-family or duplex dwellings with less than 6,000 square feet of lot coverage a fence or dense vegetative screen shall be provided. Fences shall be constructed of wood, masonry, vinyl or composite materials and be a minimum of six feet in height. In addition, ornamental landscaping shall be provided if a fence is utilized as a buffer. Dense vegetative screens shall contain shrubs at least 30 inches high at the time of installation planted two-and-one-half feet on center. The type of shrub used needs to be capable of attaining a height of at least six feet at maturity. A dense vegetative screen utilized as a buffer will also satisfy the ornamental landscaping requirements below. In all cases where a fence is constructed, the required landscaped area shall be located between the fence and property line.

(b) *Ornamental landscaping.* Along property lines not abutting single-family or duplex dwellings with less than 6,000 square feet of lot coverage, the landscape plan shall indicate at least one tree for each 30 linear feet of landscape area and one shrub for each ten feet of landscape area. For new construction or substantial improvements in the Commercial Zone, the landscape plan shall indicate at least one tree and one shrub for each ten linear feet of landscape area along the front property line. Ornamental landscaping need not be evenly spaced, but rather dispersed throughout the landscape area to create a natural appearance. In all cases where a fence is constructed, the required landscaped area shall be located between the fence and property line.

(c) No vehicles, motor or otherwise, shall be parked on landscaped areas. In all cases where a fence is constructed, the required landscaped area shall be located between the fence and

property line. No temporary signs or other structures shall be placed on any landscaped area without issuance of a permit by the Building Inspector or Zoning Administrator.

(G) *Grass and ground cover.* Ground cover shall be placed or planted on all disturbed portions of exposed ground or earth not occupied by natural or other landscape material.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2020. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

SEAL

\_\_\_\_\_  
Ben Sproul  
Mayor

ATTEST:

\_\_\_\_\_  
James Michael O'Dell  
Deputy Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Casey C. Varnell  
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 153, ZONING, was placed in the Kill Devil Hills Town Code Book on the \_\_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_\_.m.

\_\_\_\_\_  
James Michael O'Dell  
Deputy Town Clerk

## PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

### PLANNING BOARD RECOMMENDATIONS

**Proposed Amendment Title:** Proposed Zoning Amendment—§153.073 Landscaping Requirements— Modify Landscaping Requirements to Include Single Family and Duplex Dwellings with Greater Than 6,000 Square Feet of Lot Coverage

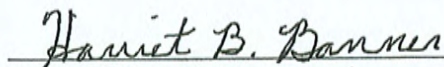
**Approval:** Planning Board finds that the Proposed Zoning Amendment§153.073 Landscaping Requirements— Modify Landscaping Requirements to Include Single Family and Duplex Dwellings with Greater Than 6,000 Square Feet of Lot Coverage is consistent with the adopted Land Use Plan.

**Therefore,** the Planning Board finds the proposed amendment is **consistent** with the objectives and policies contained in the Kill Devil Hills Land Use Plan and/ or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of 5 to 0, this eleventh day of February, 2020.

Attest:

  
\_\_\_\_\_  
Planning Board Chairman

  
\_\_\_\_\_  
Secretary of Planning Board