

AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,  
CHAPTER 152, SUBDIVISIONS

BE IT HEREBY ORDAINED BY the Kill Devil Hills Board of Commissioners that Chapter 152, Subdivisions, 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:

**CHAPTER 152: SUBDIVISIONS**

Section

*General Provisions*

- 152.01 Title
- 152.02 Authority and purpose
- 152.03 Substance
- 152.04 Definitions

*Minimum Developmental Requirements*

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*Procedure for Subdivision Plat Approval*

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*Standards*

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- 152.58 Violations
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## **GENERAL PROVISIONS**

### **§ 152.01 TITLE.**

This chapter shall be known as the Subdivision Code of the Town of Kill Devil Hills.

### **§ 152.02 AUTHORITY AND PURPOSE.**

(A) *Purpose.* The Board of Commissioners does hereby adopt this chapter under the authority of ~~G.S. Ch. 153A, Art. 18, Part 2.C., Purpose.~~ [N.C.G.S. §160A, Article 8.](#) The purpose of this chapter is to establish procedures and standards for the development and subdivision of real estate within the town in an effort to, among other things, ensure proper legal description, identification, monumentation and recordation of real estate boundaries; further the orderly layout and appropriate use of land; provide safe, convenient and economic circulation of vehicular traffic; provide suitable building sites which drain properly and are readily accessible to emergency vehicles; assure the proper installation of roads and utilities; and help conserve and protect the physical and economic resources of the town.

(B) *Territorial jurisdiction.* The regulations hereinafter shall apply to all of the incorporated areas of the town.

(C) *Required compliance with regulations.* All plats for the subdivision of land shall conform to the requirements of this chapter, and shall be submitted in accordance with the procedures and specifications established herein.

(D) *Fees.* Reasonable fees sufficient to recover incurred costs of review will be charged in accordance with the adopted fee schedule.

(E) *Enforcement and penalties.* It shall be the duty of the Zoning Administrator to enforce the provisions of this chapter and to bring to the attention of the Board of Commissioners any violations or lack of compliance. Violation of the provisions of this chapter shall be deemed a misdemeanor, punishable as provided by law and with each day such violation continues constituting a separate offense. The Planning Department shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations.

### **§ 152.03 SUBSTANCE.**

(A) *Recordation.* No plat of a subdivision of land within the town shall be recorded by the Dare County Register of Deeds until a final plat of the subdivision has been approved by the Town Planning Board.

(B) *Interpretation, conflict, and severability.* In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.

(C) *Conditions imposed by chapter.* Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

### **§ 152.04 DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly states or requires a different meaning.

***BUILDING SETBACK LINE.*** The line within a property defining the required minimum distance between any building and the adjacent right-of-way or lot.

***CUL-DE-SAC*** or ***MINOR DEAD-END ROAD.*** A road permanently terminated by a turnaround or dead end.

***DOUBLE FRONTAGE LOT.*** A lot within front and rear street frontage.

***LOT.*** A plot, tract, or parcel of land or any number of contiguous plots, tracts, and parcels of land in single ownership with or without improvements.

***MARGINAL ACCESS ROAD.*** A minor (service) road which parallels and is immediately adjacent to a primary road or highway, which provides access to the properties abutting it and which separates the abutting properties from high-speed vehicular traffic.

***OFFICIAL MAPS OR PLANS.*** Any maps or plans officially adopted by the Board of Commissioners as a guide for the development of the town.

***PRIMARY ROAD.*** A road designed to carry heavy volumes of vehicular traffic.

**ROAD.** A right-of-way for vehicular traffic. The word **ROAD** shall include the word **STREET**.

**SECONDARY** or **COLLECTOR ROAD.** A road designed to carry medium volumes of vehicular traffic, to provide access to the primary road and to provide access to abutting properties.

**SUBDIVIDER.** Any person, owner, broker, surveyor, engineer, planner, corporation, partnership or the like who subdivides or develops any land deemed to be a subdivision as defined in this section.

**SUBDIVISION.** Any division of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development, including any division of land involving the dedication of a new street or a change in existing streets; provided, that the following shall not be included within this definition, nor shall they be subject to the regulations prescribed by this chapter:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the town;

(2) The division of parcels of land into parcels greater than ten acres where no street right-of-way dedicating is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets;

(4) The division of a tract in single ownership where the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to the standards of the town.

## **MINIMUM DEVELOPMENTAL REQUIREMENTS**

### **§ 152.15 MINIMUM REQUIREMENTS; VARIANCE.**

The requirements set out in this subchapter shall be considered the minimum requirements and shall be varied only in specific cases.

### **§ 152.16 MODIFICATION OF REQUIREMENTS BY PLANNING BOARD.**

The provisions of this subchapter concerning street widths, block lengths and widths, dead-end streets, lot widths and areas may be modified by the Planning Board, subject to final approval by the Board of Commissioners, in the case of an approved planned unit development (PUD), or a multi-family development in accordance with a well-studied plan, properly safeguarded by restrictions and which adequately provides for health, safety, traffic circulation, light and air needs and recreational requirements for the maximum anticipated population and containing such other requirements as may be recommended by the Planning Board and approved by the Board of Commissioners.

(Am. Ord. 08-01, passed 1-2-08)

### ~~§ 152.17 SUBDIVISION COMMITTEE.~~

~~—The Chairperson of the Planning Board may appoint a Subdivision Committee. The Subdivision Committee shall consist of at least two Board members along with technical and other staff members such as the Planner and/or Engineer as deemed appropriate. The purpose of the Subdivision Committee is to review, comment, and make recommendations with respect to subdivisions applications, and to perform other duties conferred on this Committee by the Board through a motion duly adopted and recorded.~~

## **PROCEDURE FOR SUBDIVISION PLAT APPROVAL**

### **§ 152.25 SKETCH PLAN OR PRELIMINARY PLAT REQUIREMENT MAY BE WAIVED.**

A sketch plan and preliminary plan required may be waived by the Planning Director for minor subdivisions provided that no new streets are proposed, and no improvements are required to be installed by the subdivider according to the provisions of this chapter. Additionally, final plat approval of minor subdivision plats where no streets are proposed, and no improvements are may be granted by the Chairperson of the Planning Board upon receipt of written technical review and certification of compliance from the Planning Director. Such action shall be reported for the record to the Planning Board at the next regularly scheduled meeting.

### **§ 152.26 SKETCH PLAN.**

#### *(A) Contents.*

(1) Prior to the filing of an application for approval of the preliminary plan, the subdivider shall submit to the Planning Department 15 copies of a sketch plan of the proposed subdivision.

(2) The sketch plan (prepared by architect, engineer, or hand drawn) will contain the following information:

(a) A sketch map of the vicinity of the proposed subdivision showing its location in relation to neighboring tracts, subdivisions, roads, and waterways;

(b) The boundaries of the entire tract in common ownership and the portion of the tract to be subdivided;

(c) The total acreage to be subdivided;

(d) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

(e) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;

(f) The name, address, and telephone number of the owner, and if applicable, a written and acknowledged statement of the owner designating the subdivider or other person to act as his agent for the submission of plats;

(g) The name of the proposed subdivision;

(h) Streets and lots of adjacent developed or platted properties, street rights-of-way and street names;

(i) The zoning classification of the tract and of adjacent properties; and

(j) A statement from the Dare County Health Department that a copy of the sketch plan has been submitted to them.

(B) *Review.*

(1) The Planning Department shall review the sketch plan for general compliance with the requirements of this chapter and other applicable policies. The Planning Department shall advise the subdivider of the policies applicable to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats.

(2) One copy of the sketch plan shall be retained for the files of the Planning Board.

**§ 152.27 PRELIMINARY PLAT.**

(A) *Submission and contents.* After the Planning Department has reviewed the sketch plan, the subdivider shall submit to the Planning Department, on or before the third Tuesday of the month prior to the meeting of the Planning Board, a preliminary plat of the subdivision at a scale of not smaller than 1 inch to 100 feet, drawn on a sheet 18 inches by 24 inches or such other size as may be required for recording by the Dare County Register of Deeds. The preliminary plat shall be prepared by a professional engineer or land surveyor currently licensed or registered by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The preliminary plat shall show or have attached to it a document with the following information:

(1) Title block containing:

(a) Property designation;

(b) Name of owner;

(c) Location (including township, county and state);

(d) Date or dates survey was conducted and plat prepared;

(e) A scale of drawing in feet per inch listed in words or figures;

(f) Name, address, registration number and seal of the land surveyor and/or professional engineer.

(2) A map of the vicinity of subdivision showing the relationship between the proposed subdivision and surrounding area;

(3) Corporate limits, township boundaries, county lines if on the subdivision tract;

(4) The names, titles, firm association, addresses, and the telephone numbers of all owners, subdividers, mortgages, planners, architects, landscape architects, and engineers responsible for the subdivision;

- (5) North arrow and orientation;
- (6) Boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands;
- (7) The names of owners of adjoining properties;
- (8) The names of any adjoining subdivisions of record, proposed or under review;
- (9) Minimum building setback lines, front, side, and rear;
- (10) The zoning classification of the tract to be subdivided and adjoining properties;
- (11) Existing property lines on the tract to be subdivided and on adjoining properties;
- (12) Existing buildings or other structures, water courses, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining;
- (13) Proposed lot lines, lot and block numbers, and approximate dimensions;
- (14) Lots numbered consecutively throughout the subdivision;
- (15) Wooded areas, marshes, swamps, mean high tide line, vegetation line, primary and other dunes, ponds or lakes, streams or streambeds, and any other natural features affecting the site;
- (16) Flood hazard, floodway and floodway fringe areas;
- (17) Base flood elevation data if available;
- (18) The following data concerning streets:
  - (a) Proposed streets;
  - (b) Existing and platted streets on adjoining properties and in the proposed subdivision;
  - (c) Right of way location and dimensions;
  - (d) Pavement widths;
  - (e) Approximate grades;
  - (f) Design engineering data for all corners and curves;
  - (g) Typical street cross sections; and
  - (h) Street names.
- (19) The location and dimensions of all:
  - (a) Utility and other easements;
  - (b) Riding trails;
  - (c) Natural buffer areas;

- (d) Pedestrian or bicycle paths;
  - (e) Parks and recreation areas with specific types indicated, subdivisions with 15 or more lots or multi-family housing developments with more than 25 units shall provide open space for parks or recreation at the rate of 360 square feet per lot;
  - (f) School sites;
  - (g) Areas to be dedicated to or reserved for public use;
  - (h) The proposed ownership and maintenance of recreation and open space lands, trails, paths, and the like.
- (20) The plans for utility layouts, including:
- (a) Sanitary sewers;
  - (b) Storm sewers;
  - (c) Other drainage facilities;
  - (d) Water distribution lines;
  - (e) Natural gas lines;
  - (f) Telephone lines;
  - (g) Electric lines;
  - (h) Cable television lines and illustrative connections to existing systems, line sizes, the location of fire hydrants, blowoffs, manholes, forcemains and gate valves, and the like;
  - (i) Lighting plan for streets and highways within the subdivision.
- (21) Plans for individual water supply and sewage disposal systems;
- (22) Profiles based upon mean sea level datum for sanitary sewers and storm sewers;
- (23) Site calculations including:
- (a) Acreage in total tract to be subdivided;
  - (b) Acreage in parks and recreation areas, areas of environmental concern, and other non-residential uses, by category;
  - (c) Total number of parcels created acreage in the smallest lot in the subdivision;
  - (d) Linear feet in streets.
- (24) The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places;
- (25) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right of way line, easement line, and setback line,

including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line or curved property lines that are not the boundary line of curved streets. All dimensions shall be measured to the nearest  $\frac{1}{10}$  foot and all angles to the nearest minute;

(26) The accurate locations and descriptions of all monuments, elevations, markers and control points;

(27) A copy of any proposed deed restrictions or similar covenants;

(28) A copy of the document or documents for the creation and continued operation of the home owners, land owners, or similar association of the consumers of the subdivision. Topographic map when it is determined by the Planning Board that one is needed, with contour intervals and scale as determined by the Planning Board;

(30) Boundaries of all Areas of Environmental Concern designated in accordance with the Coastal Area Management Act of 1974;

(31) If any portion of any lot within the subdivision falls within an area of environmental concern, the following notice shall be placed on the face of the plat: "Some portion of some lots in this subdivision are located in Areas of Environmental Concern. Individual permits may be required before development may take place in these areas;"

(32) If the subdivision is to be developed in phases, the boundaries of each phase and the sequence in which each is to be developed;

(33) An inventory and evaluation of the soil and water resources within the proposed subdivision; and

(34) Statement from the chief executive official of the town water system indicating if the proposed subdivision may be connected to that system.

(B) *Review.*

(1) *Fees.* Fees for review are established by the regularly adopted fee schedule. Fifteen copies of the preliminary plats are required for initial submission.

(2) *Review by other agencies.* The Planning **and Inspections Department** will submit the preliminary plat to the District Highway Engineer, the County Health Director, and to other appropriate agencies including review necessary to assure coordination with the North Carolina Coastal Management Program and offices of the town for their review and recommendations.

(a) After considering any report and/or recommendations received in addition to any comments which the subdivider may have, the Planning Board shall recommend approval, table, or recommend disapproval of the preliminary plat to the Board of Commissioners.

(b) If the Planning Board disapproves the preliminary plat, the reasons for such action shall be stated, and recommendations made on the basis of which the proposed subdivision could be approved.

(3) *Review by Board of Commissioners.*

(a) The Board of Commissioners shall approve, table, or disapprove the preliminary plat.

(b) If the Board of Commissioners disapproves the preliminary plat, the reasons for such action shall be stated and recommendations made on the basis of which the proposed subdivision could be approved.

(Am. Ord. 08-01, passed 1-2-08)

**§ 152.28 FINAL PLAT.**

(A) *Preparation of final plat and installation of improvements.* Upon approval of the preliminary plat by the Board of Commissioners, the subdivider may proceed with the preparation of the final plat and the installation of required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter. No final plat will be accepted for review by the Planning Board unless accompanied by a statement signed by the subdivider certifying that all of the provisions of this chapter have been complied with and that all of the required improvements have been installed. The final plat shall include only that portion of the preliminary plat which the subdivider proposes to record at that time.

(B) *Submission of the final plat.* The subdivider shall submit to the Planning Board the final plat, so marked, on or before the last Tuesday of the month:

(1) The final plat for the subdivision or for the first phase of the subdivision as indicated in the sequence of phases on the approved preliminary plat shall be submitted not more than 12 months after the date on which the preliminary plat was approved; otherwise, approval of the preliminary plat shall expire.

(2) Final Phasing of the Subdivision approval shall be in accordance with the site specific vesting requirements outlined in §153.360 of the Town Code. ~~The Planning Board may grant an additional 12 months for the installation of improvements and submission of the final plat if the subdivider applies for such extension in writing before the expiration of the initial period, and has made substantial progress (over 60% as determined by the Planning Board and documented in the application for extension) in installation of required improvements. The progress of required improvements must be verified by the Planning Board.~~

~~(3) A final plat for each subsequent phase must be submitted within 12 months after the final plat for the previous phase has been approved, or the remaining phases shall be null and void.~~

(34) The final plat shall be prepared in accordance with the highest professional standards by a land surveyor or professional engineer currently licensed and registered in the state by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. § 47-30 and shall show or have attached to it a document showing the same information required for the preliminary plat.

(45) Fifteen copies of the final plat shall be submitted; three shall be reproducible black or blue line prints.

(56) The final plat shall be of a size suitable for recording with the Dare County Register of Deeds and shall be at a scale of not less than 1 inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(67) Submission of the final plat shall be accompanied by a cashier's or certified check payable to the Dare County Register of Deeds in the amount of the recording fee for the final plat and related documents.

(C) *Certification.* The following signed and acknowledged certificates or required portions thereof shall appear on all copies of the final plat:

(1) I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Kill Devil Hills and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town of Kill Devil Hills.

\_\_\_\_\_  
Date                      Owner

(2) I, \_\_\_\_\_, hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and official seal this the \_\_\_\_\_ day of, \_\_\_\_\_ AD. \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary Public

(3) State of North Carolina, Town of Kill Devil Hills.  
I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description record in Book \_\_\_\_\_, Page \_\_\_\_\_; Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the ratio of precision as calculated by latitudes and departure is 1: \_\_\_\_\_; that the boundaries not shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this map was prepared in accordance with G.S. § 47-30, as amended; and that the prescribed reference points have been properly placed. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

Registration Number    Registered Land Surveyor/Professional Engineer  
Official Seal

I, \_\_\_\_\_, hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

Official Seal

(D) *Review by the Planning Board.* The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least 15 days after it receives the final plat and shall approve the final plat if it is in compliance with this chapter or disapprove it if it is not within 75 days of receiving the plat.

(1) During its review of the final plat, the Planning Board may, with the consent of the Board of Commissioners, appoint a Registered Land Surveyor to confirm the accuracy of the final plat and/or installation of improvements. If substantial errors are found, the costs shall be charged to the subdivider and shall be paid before the plat will be considered further; the plat shall not be recommended for approval until such errors have been corrected.

**(2) Adoption and Notification for subdivision shall follow the procedures outlined in §153.363 of the Town Code.**

(2) If the Planning Board approves the final plat, such approval shall be shown on each copy of the plat by the following signed certificate:

(a) *Certificate of Approval for Recording.*

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision code of the Town of Kill Devil Hills Planning Board for recording in the Office of the Register of Deeds of Dare County.

\_\_\_\_\_  
Date Chairman of the Town of Kill Devil Hills Planning Board

(b) If the final plat is approved by the Planning Board, one reproducible and one print of the plat shall be returned to the subdivider; one reproducible and one print shall be filed with the County Tax Supervisor's Office; and one print shall be retained by the Planning Board for its files; and one reproducible shall be filed by the Planning Department with the Register of Deeds.

(3) If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply: One copy of such reasons and one print of the plat shall be retained by the Planning Board as part of its proceedings; one copy of the reasons and one copy of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit the same for reconsideration by the Planning Board as if it were an original submission of a final plat.

[\(5\) Appeals of decision for subdivision shall be in accordance with N.C.G.S. 160D-1403, Appeals of decisions on subdivision plats.](#)

**STANDARDS**

**§ 152.35 DESIGN AND IMPROVEMENT STANDARDS.**

(A) *Purpose.* The purpose of good subdivision and site design is to create a function and attractive development, to minimize adverse impacts, and to ensure a project will be an asset to a community. To promote this purpose, the subdivision shall conform to the following standards which are designed to result in a well-planned community without adding unnecessarily to development costs.

(B) *Site design standards.* Design of the development shall take into consideration all existing local and regional plans for the surrounding community.

(C) *Development of the site shall be based on the site analysis.* To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.

(D) *Open space.* The following specific areas shall be preserved as undeveloped open space, to the extent consistent with the reasonable utilization of land, and in accordance with applicable state or local regulations:

(1) Unique and/or fragile areas, including wetlands as defined in Section 404, Federal Water Pollution Control Act Amendments of 1972, and delineated on wetlands maps prepared by the U.S. Fish and Wildlife Service, field verified by on-site inspections;

(2) Significant trees or stands of trees, defined as the largest known individual trees of each species in the state, large trees approaching the diameter of the known largest tree, or species or clumps of trees that are rare to the area or of particular horticultural or landscape value;

(3) Steep slopes in excess of 20% as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion and resident safety are taken;

(4) Habitats of endangered wildlife, as identified on federal or state lists;

(5) Historically significant structures and sites, as listed on federal or state lists of historic places;

(6) The development shall be laid out to avoid adversely affecting ground water and aquifer recharge.

**§ 152.36 REFERENCE POINTS.**

Prior to the approval of the final plat, the subdivider shall have in place the following permanent reference points:

(A) *Subdivision corner tie.* At least one corner of the subdivision shall be designated by course and distance (tie) from a readily discernible reference marker.

(B) *Monuments.*

(1) Within each block or a subdivision at least two monuments designed as control corners shall be installed. The surveyor shall employ additional monuments when necessary. Monuments shall be constructed of concrete with steel reinforcing rods running their entire length and shall be at least four inches in diameter or square and not less than three feet in length. Each monument shall have imbedded in its top or attached by suitable means a metal plate of non-corrosive material and marked plainly with the point, the surveyor's registration number and the words "monument" or "control corner."

(2) A monument shall be set at least 30 inches in the ground with at least 6 inches exposed above ground, unless this requirement is impractical because of vehicular traffic or other factors. Elevation above sea level shall be shown on the metal plate on at least one of the monuments.

(C) *Stakes.* Each lot shall be adequately staked to show the boundaries of the lot with stakes not less than three feet long and driven into the ground not less than two feet. A stake should be placed on every corner and where the lot lines intersect public rights-of-way.

**§ 152.37 GENERAL STANDARDS.**

(A) *Natural terrain to be preserved.* The design and development of subdivisions shall preserve the natural terrain, natural drainage, existing topsoil, trees and natural vegetation to the maximum extent possible.

(B) *Flood precautions.* All subdivisions shall be designed to be consistent with the need to minimize flood damage.

(C) *Utilities.* All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(D) *AEC compliance.* All lots, improvements, structures, and utilities shall comply with the applicable Areas of Environmental Concern (AEC) Standards and any other rules promulgated pursuant to the Coastal Area Management Act of 1974.

(E) *Blocks.* The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated, requirements of the zoning code, needs for vehicular and pedestrian circulation, control and safety of street traffic, limitations and opportunities of topography, and convenient access to water area. Length shall not be greater than 1,400 nor less than 400 feet. Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area. If there are more than four lots abutting on a highway, a frontage road may be required. Where deemed necessary by the Planning Board, a pedestrian walk may be required to provide convenient access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

(F) *Non-residential and multi-family lots.* The size, shape and orientation of lots for purposes other than single-family and duplex residential uses shall be such as the Planning Board deems appropriate for the type of development and use contemplated.

(G) *Single-family and Duplex Residential lots.* Residential lots shall comply with the following requirements:

(1) *Lots shaped and filled.* Any lot shaped or filled must be approved as to quality and content by the Dare County Health Department.

(2) *Orientation of lot lines.* Side lot lines shall be substantially at right angles or radial to street lines.

(3) *Minimum lot width.* Lots within the Ocean Impact Residential Zone (OIR) shall have a minimum lot width not less than 50 feet measured at the front building setback line. Lots in all other zoning districts shall have a minimum width of not less than 75 feet measured at the front building setback line.

(H) *Lot size.*

(1) All lots in new subdivisions shall conform to the requirements of the zoning code for the zoning district in which the subdivision is located. Conformance means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning code. It is not sufficient merely for the average lot to meet such requirements.

(2) No land area shall be omitted from a plat when to do so would have the effect of creating a residual parcel of inadequate size.

(a) *Area.* All lots served by an approved central water supply system shall have an area of not less than 15,000 square feet. Additional lot size may be required by the zoning code or when soil conditions in the area to be subdivided are classified as provisionally suitable as currently defined by the North Carolina Department of Human Resources, Division of Health Services, Environmental Health Section (codified as 10 NCAC 10A.1934-1968).

(b) *Building setback lines.* The minimum setback from property lines shall be recorded on the final plat.

(3) Residential subdivisions in the Residential Low Zoning District on parcels greater than five acres shall comply with the following:

(a) Lot size shall be a minimum of 7,500 square feet;

(b) Lot width shall be a minimum of 50 feet;

(c) Right-of-ways shall be dedicated to the town and must have a sidewalk or multi-use path on at least one side;

(d) Five percent open space shall be provided; and

(e) Twenty-five percent of the lots shall exceed the minimum lot size requirements.

(I) *Buffer strips.* The Planning Board may recommend the use of a buffer strip adjacent to major roads and commercial or industrial development which would be part of the platted lots but have the following restriction on the fact of the plat: "This strip reserved for the planting of trees or shrubs by the owner; the building of structures is prohibited."

(J) *Utilities franchise services.* Telephone, electric, and cable television service within subdivisions shall be installed underground.

(Am. Ord. 04-20, passed 10-27-04; Am. Ord. 08-01, passed 1-2-08; Am. Ord. 10-02, passed 1-27-10; Am. Ord. 16-5, passed 9-11-17)

### **§ 152.38 SUITABILITY OF LAND.**

(A) If, based on an inventory and evaluation of the soil and water resources of the tract under consideration, the Planning Board determines that a portion of that tract is not suited for the use proposed, that area shall not be platted for that use unless 1) the subdivider has permanently remedied the conditions which made the land unsuitable or 2) all requirements of the chapter are met by each lot without including the unsuitable land in the land area calculation.

(B) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Dare County Health Department, a structural engineer, and a soils expert determine that the land is suitable for the purpose proposed.

(C) Land which the Planning Board finds to be unsuited for development due to improper drainage, topography, soil characteristics, ground water elevation, susceptibility to flooding or failure to meet the criteria of G.S. Ch. 130, Art. 13C shall not be subdivided unless adequate methods are utilized to correct the unsuitable conditions. Any land disturbing activity, as defined in G.S. § 113A-52, shall be accomplished in accordance with the requirements of G.S. Ch. 113A, Art. 4. Any required land preparation must be completed prior to submission of the final plat for approval.

### **§ 152.39 STORM WATER DRAINAGE SYSTEM.**

(A) The subdivider shall provide a surface water drainage system constructed to the standards of the town Storm Water Management Plan, the North Carolina Department of Transportation, and subject to the approval of the Planning Board.

(B) No surface water shall be channeled or directed into a sanitary sewer.

(C) Where feasible, the subdivider shall connect to an existing storm drainage system.

(D) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(E) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act.

(F) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least 1 foot in each 200 feet of horizontal distance, or as directed by the Public Works Department.

(G) Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity. (As specified by the North Carolina Sedimentation Pollution Control Act.)

(H) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law.

(I) In areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

***Cross-reference:***

*Standards for subdivision proposals, see § 151.27*

**§ 152.40 SUBDIVISION NAME.**

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Dare County.

***Cross-reference:***

*Compliance with subdivision regulations, see § 150.49*

**§ 152.41 STREET/ROAD NAME SIGNS.**

Streets and roads shall be named and the street names shall be indicated on signs designed, constructed, and placed in accordance with the existing policy of the town. New street names shall not duplicate existing street names in Dare County.

***Cross-reference:***

*Uniform street address system, see §§ 150.40 et seq.*

**§ 152.42 UTILITY AND OTHER EASEMENTS.**

Easements shall be provided as follows:

(A) Easements for underground or above ground utilities shall be provided, across lot or centered on rear or side lot lines and shall be at least ten feet wide for water and sanitary sewer lines and have the widths required by the utility companies involved for telephone, gas, and power lines.

(B) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such finished width as will be adequate for the purpose.

(C) Where a subdivision of five or more lots that have one or more proposed lots adjacent to the Atlantic Ocean or estuarine shoreline, the subdivider shall provide a dedicated ten-foot wide

access easement to remain unobstructed which can be improved by the town for use by the general public to access the ocean or estuarine shoreline. This requirement shall not apply if an improved public access, as classified in the current Shoreline Access Plan Update, is located within 500 feet of all waterfront lots within the proposed subdivision.

(D) Lakes, ponds, creeks and similar areas within the town will be accepted for maintenance only if such is recommended by the Planning Board and approved by the Board of Commissioners.

(Am. Ord. 04-22, passed 12-13-04)

#### **§ 152.43 WATER AND SANITARY SEWER SYSTEMS.**

Each lot in all subdivisions within the town's jurisdiction shall be provided with an extension of the town water system at the subdivider's expense if in the judgement of the Board of Commissioners there is adequate unused capacity in the system to serve the subdivision and if the Planning Board determines that the existing system is sufficiently close to the subdivision to make such an extension feasible. All lots in subdivisions must have a suitable source of water supply and sanitary disposal which complies with the regulations of the town, the Dare County Health Department, and with applicable laws of the state.

#### **§ 152.44 STREETS.**

(A) *Public streets.* All subdivision lots shall abut on a public street. All public streets shall be built to the standards of the town code and all other applicable standards of the town and/or state.

(B) *Conformity.* Conformity of proposed streets to existing maps or plans. The location and width of all proposed streets shall be in conformity with official plan or maps of the town and with existing or amended plans of the Planning Board.

(C) *Continuation of existing streets.* The proposed street layout shall be coordinated with the existing road system of the surrounding area and where possible, existing principal streets shall be extended at the same or at a greater width or in compliance with town standards.

(D) *Access to adjacent properties.* Where in the opinion of the Planning Board it is desirable to provide access to an adjoining property, proposed streets shall be extended to the boundary of such property, and a temporary turnaround shall be provided.

(E) *Large tracts or parcels.* Where land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future roads and logical future subdivisions.

(F) *Nonresidential streets.* The subdivider of a nonresidential subdivision must provide streets in accordance with the appropriate town standards and the standards of this chapter, whichever are stricter in regard to each particular item.

(G) *Design standards.* The design of all streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the town.

(H) *Access to parks, schools, and the like.* Streets shall be designed or walkway and bikeway easements provided to assure convenient access to parks, playgrounds, schools and other places of public assembly. Walkway and bikeway easements shall be consistent with town standards.

(I) *Discourage through traffic.* Minor residential access streets shall be laid out so as to discourage through traffic.

(J) *Access streets and the like.* Where a tract of land to be subdivided adjoins an arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on an interior street for the lots to be developed adjacent to the arterial streets. Where reverse frontage is established, deed restrictions or other means shall be provided to prevent private driveways from having direct access the arterial street.

(K) *Relation to topography.* In sloping terrain, streets shall parallel the contours of the land, in so far as practicable, to avoid steep grades and the concentration of storm surface runoff.

(L) *Conformity.* All proposed subdivisions shall be planned so as to facilitate the most advantageous development of an entire neighborhood area.

## **ADMINISTRATION AND ENFORCEMENT**

### **§ 152.55 RECORDS, MINUTES, BUDGETARY REQUIREMENTS.**

The Board of Commissioners and the Planning Board shall provide for the appropriate keeping of records, minutes, and other proceedings held to fulfill the Planning Board's responsibilities under the terms of this chapter. The Board of Commissioners may provide for such budgetary requirements as may be necessary in the administration of this chapter.

### **§ 152.56 AMENDMENTS.**

This chapter may be amended from time to time by the Board of Commissioners in accordance with the provisions of G.S. § 153A-323.

### **§ 152.57 CONFLICTS WITH THE TOWN CODE.**

Should the requirements of this chapter conflict with any portion of the town code, the more stringent requirements shall prevail.

### **§ 152.58 VIOLATIONS.**

Any person who, being the owner, or agent of the owner of any land located within the jurisdiction of this chapter, transfers or sells such land by reference to, exhibition of, or any other use of a plat showing a subdivision of such land, before such plat has been properly approved in accordance with this chapter and recorded in the Office of the Register of Deeds, shall be guilty of a misdemeanor. The description of metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties provided therefore. The town may also seek injunctive relief for the illegal subdivision, transfer, conveyance or sale of land. [N.C.G.S. 160D-807](#)

### **§ 152.59 RECORDING OF EXEMPT PLATS.**

(A) Any plat required to be recorded in the office of the Dare County Register of Deeds of land situated in the town, which complies with G.S. §~~160D-802 160A-376~~ as an exempt plat, may be signed and certified by the Town Planner to be in compliance with such exemption statute.

(B) The combination or recombination of portions of previously subdivided and recorded lots, if the total number of lots is not increased, the combination will not create or increase any nonconformities of the Town Code, and the resultant lots are equal to or exceed the standards of the town as established by this chapter, or the resultant lot(s) will be equal to or less nonconforming by area.

(C) The division of land into parcels greater than ten acres, if no street right-of-way dedication is involved.

(D) The public acquisition by purchase of strips of land for the widening or opening of streets.

(E) The division of a tract of land in single ownership, the entire area of which is no greater than two acres, into not more than three lots, where no street right-of-way dedication.

(Am. Ord. 15-2, passed 6-24-15)

This amendment to Chapter 152, Subdivisions, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2021. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2021, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

SEAL

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

ATTEST:

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

APPROVED AS TO FORM:

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Casey C. Varnell  
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 152, Subdivisions was placed in the Kill Devil Hills Town Code Book on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 at \_\_\_\_\_ .m.

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James Michael O'Dell  
Deputy Town Clerk