



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

December 13, 2021

TO: Mayor and Board of Commissioners

FROM: Debora P. Díaz, Town Manager 

REF: New Business

2. Beach driving ordinance amendment (Attached NB-2)

Kill Devil Hills and Nags Head have a reciprocal agreement with their respective beach driving programs in which vehicles with a KDH permit are recognized and permitted on Nags Head beaches, and vice versa.

In 2021, the General Assembly approved legislation that permits licensed and registered modified utility vehicles (MUTVs) on certain roadways, which could include on our beaches. At its November 3, 2021, meeting, the Nags Head Board of Commissioners amended its town ordinances to classify MUTVS as ineligible for beach driving.

Assistant Police Chief Dana Harris' attached memorandum describes the Nags Head change and recommends identical verbiage for the Kill Devil Hills ordinance to avoid confusion and maintain consistency with beach driving programs.

Staff recommends approval and a motion would be in order.



Assistant Chief
Dana Harris

KILL DEVIL HILLS POLICE DEPARTMENT

Post Office Box 1605, 102 Town Hall Drive
Kill Devil Hills, North Carolina 27948
252-449-5337
www.kdhnc.com

Memorandum

Date: November 30th, 2021

To: Debbie Diaz, Town Manager

From: Dana E. Harris, Assistant Chief of Police

Re: Beach Driving Ordinance change reference Modified Utility Vehicles (MUTV)

Nags Head and Kill Devil Hills allow eligible permitted vehicles to operate on both our beaches whether they purchased the permit from Nags Head or Kill Devil Hills. Both Town's code conformed so there would not be confusion by people who purchased permits as they traveled through both Towns.

On November 3, 2021, the Nags Head Commissioners modified their ordinance, **Sec. 8-83. Beach Driving by Permit**, by adding the highlighted below:

- (A) *Eligible vehicles.* Permits shall be issued only for properly registered and licensed vehicles owned by the person signing the permit having a four-wheel drive and which shall have passed inspection by the Department of Motor Vehicles of the state or by the equivalent department or agency of the state in which such vehicle is licensed, if applicable. Modified utility vehicles ("MUTV") as described in N.C.G.S. 20-4.01(27) shall not be considered an "eligible" vehicle regardless of whether the MUTV is registered or licensed in any state.

I believe Kill Devil Hills should also add the same highlighted language to our town code, **96.21 Permits**, shown below, so that both town's codes conform and are not confusing to people traveling through both towns.

- (A) *Eligible vehicles.* Permits shall be issued only for properly registered and licensed vehicles having a four-wheel drive or an all-wheel drive and which shall have passed inspection by the Department of Motor Vehicles of the state or by the equivalent department or agency of the state in which such vehicle is licensed, if applicable. Any boat transported onto the beach must be properly registered and marked according to the licensing jurisdiction Modified utility vehicles ("MUTV") as described in N.C.G.S. 20-4.01(27) shall not be considered an "eligible" vehicle regardless of whether the MUTV is registered or licensed in any state.



Assistant Chief
Dana Harris

KILL DEVIL HILLS POLICE DEPARTMENT

Post Office Box 1605, 102 Town Hall Drive
Kill Devil Hills, North Carolina 27948
252-449-5337
www.kdhnc.com

Memorandum

Date: November 30th, 2021

To: Debbie Diaz, Town Manager

From: Dana E. Harris, Assistant Chief of Police

Re: Beach Driving Ordinance change reference Modified Utility Vehicles (MUTV)

Nags Head and Kill Devil Hills allow eligible permitted vehicles to operate on both our beaches whether they purchased the permit from Nags Head or Kill Devil Hills. Both Town's code conformed so there would not be confusion by people who purchased permits as they traveled through both Towns.

On November 3, 2021, the Nags Head Commissioners modified their ordinance, **Sec. 8-83. Beach Driving by Permit**, by adding the highlighted below:

- (A) *Eligible vehicles.* Permits shall be issued only for properly registered and licensed vehicles owned by the person signing the permit having a four-wheel drive and which shall have passed inspection by the Department of Motor Vehicles of the state or by the equivalent department or agency of the state in which such vehicle is licensed, if applicable. Modified utility vehicles ("MUTV") as described in N.C.G.S. 20-4.01(27) shall not be considered an "eligible" vehicle regardless of whether the MUTV is registered or licensed in any state.

I believe Kill Devil Hills should also add the same highlighted language to our town code, **96.21 Permits**, shown below, so that both town's codes conform and are not confusing to people traveling through both towns.

- (A) *Eligible vehicles.* Permits shall be issued only for properly registered and licensed vehicles having a four-wheel drive or an all-wheel drive and which shall have passed inspection by the Department of Motor Vehicles of the state or by the equivalent department or agency of the state in which such vehicle is licensed, if applicable. Any boat transported onto the beach must be properly registered and marked according to the licensing jurisdiction Modified utility vehicles ("MUTV") as described in N.C.G.S. 20-4.01(27) shall not be considered an "eligible" vehicle regardless of whether the MUTV is registered or licensed in any state.

Example of 4-wheel drive modified utility vehicle:



AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,
CHAPTER 96, SEASIDE REGULATIONS

BE IT HEREBY ORDAINED BY THE Kill Devil Hills Board of Commissioners that Chapter 96, Seaside Regulations, 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:

BEACH DRIVING

§ 96.20 GENERALLY.

(A) No person shall operate any vehicle of any type, such as a beach buggy, jeep, motorcycle, bicycle, dirt-bike, any one-, two-, three-, four- or more wheeled vehicle powered by any type of motor or physically propelled on the ocean beach area from May 1 through September 30.

(B) This section shall not prohibit the use of specified vehicles from that area seaward of and including the frontal dune system by commercial anglers engaged in commercial fishing activities.

§ 96.21 PERMITS.

(A) *Eligible vehicles.* Permits shall be issued only for properly registered and licensed vehicles having a four-wheel drive or an all-wheel drive and which shall have passed inspection by the Department of Motor Vehicles of the state or by the equivalent department or agency of the state in which such vehicle is licensed, if applicable. Modified utility vehicles (“MUTV”) as described in N.C.G.S. 20-4.01(27) shall not be considered an “eligible” vehicle regardless of

whether the MUTV is registered or licensed in any state. Any boat transported onto the beach must be properly registered and marked according to the licensing jurisdiction.

This amendment to Chapter 96, Seaside Regulations, 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:

Casey C. Varnell
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 96, SEASIDE REGULATIONS, was placed in the Kill Devil Hills Town Code Book on the _____ day of _____, 2021 at _____ .m.

James Michael O'Dell
Deputy Town Clerk

Requested Amendment
Chapter 96, Seaside Regulations, §96.21 Permits –
Classifying modified utility vehicles (MUTV) as ineligible for beach driving.
Page - 2 - of 2