

These pages provide a summary of duties and responsibilities of each of the standing boards and committees of the Town of Kill Devil Hills.

PLANNING BOARD – The Kill Devil Hills Planning Board meets on the third Tuesday of each month, on a schedule set at the beginning of the year, at 5:30 p.m. in the Meeting Room of the Administration Building, at 102 Town Hall Drive, off Colington Road. All Planning Board meetings are open to the public.

KILL DEVIL HILLS TOWN CODE
§ 31.04 POWERS AND DUTIES; COMPREHENSIVE PLAN.

(A) The Planning Board shall prepare plans and coordinate the plans of the municipality and those of others so as to bring about a coordinated and harmonious development of the area. The Planning Board is designated as the planning agency for the revision of the zoning code of the town under the authority of G.S. § 160A-387. In addition, the Planning Board is directed and authorized:

(1) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area. The comprehensive plan shall be the Planning Board's recommendations to the Board of Commissioners for the development of the town, including, among other things, the general location, character and extent of streets, bridges, parkways, playgrounds, parks and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals; and the most desirable pattern of land use within the area;

(2) To establish principles and policies and recommend their adoption to the Board of Commissioners for guiding the action of development in the area. The Planning Board may prepare a capital improvements program and report its recommendations to the Board of Commissioners upon the extent, location and design of all public structures and facilities, on the acquisition and disposal of public properties and on the establishment of building lines, mapped street lines and proposals to change existing street lines in order to insure that the goals of the comprehensive plan are furthered by a coordinated and efficient expenditure of public funds;

(3) To prepare and recommend amendments to existing ordinances promoting orderly development of the area along the lines indicated in the comprehensive plan, including a zoning ordinance and subdivision regulations. The Planning Board may initiate, from time to time, proposals for the amendment of the zoning code and the subdivision regulations based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the zoning code and subdivision regulations;

(4) To determine whether specific proposed developments referred to it by governmental or private agencies in the area conform to the principles and requirements of the comprehensive plan for the area and to make recommendations concerning them;

(5) To keep the Board of Commissioners and the general public informed and advised as to these matters and to make any other recommendations which it sees fit for improving the development of the area. In the development of these suggestions, the Planning Board shall acquire and maintain data and materials to show correlation of past, present and future needs and conditions;

(6) To perform any other duties which may be lawfully assigned to it.

(B) The Planning Board is authorized to appoint such committees and employees and to authorize such expenditures as it may see fit, subject to limitation of funds provided for the Planning Board by the Board of Commissioners in the town's annual budget.

(C) The Planning Board may set up special committees to assist it in the study of specific problems.

(D) The Planning Board may perform any of the actions authorized for municipal planning boards by G.S. § 160A-387, as amended.

STREET IMPROVEMENTS AND SPECIAL PROJECTS COMMITTEE – All meetings of this committee are held on an as-needed bases in the Meeting Room of the Administration Building, at 102 Town Hall Drive, off Colington Road and are open to the public.

The Street Improvement and Special Projects Subcommittee is a subcommittee of the Kill Devil Hills Planning Board. Its purpose include:

1. The responsibility to provide the Planning Board with a list of streets recommended for improvement each fiscal year. The Planning Board finalizes the list and forwards its recommendations to the Board of Commissioners. The SISPC is also responsible for updating the Street Improvements Master Plan, which is the plan for upgrading and improving the street system of Kill Devil Hills on a “pay-as-you-go” basis.
2. Updating the Town’s Storm-water Management Plan.
3. Serving as the Town’s Flood-plain Management Committee and updating the Flood-plain Management Plan.

BOARD OF ADJUSTMENT - The Zoning Board of Adjustment meets on an as-needed basis in the Meeting Room of the Administration Building, at 102 Town Hall Drive, off Colington Road. Meetings are scheduled as much as possible without creating a burden on the applicant, for the last Tuesday of the month, at 6:00 p.m. All Zoning Board of Adjustment meetings are open to the public.

The following statute outlines the powers and duties of boards of adjustment. The Kill

Devil Hills Town Code, beginning with Section 153-315 specifically addresses compensation, meeting procedures, membership, etc. of the Kill Devil Hills Board of Adjustment, and it can be found at www.kdhnc.com or a copy obtained at the Town Clerk's Office.

NORTH CAROLINA GENERAL STATUTE
§ 160A-388. BOARD OF ADJUSTMENT.

(a) Composition and Duties. - The zoning or unified development ordinance may provide for the appointment and compensation of a board of adjustment consisting of five or more members, each to be appointed for three years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the city council may appoint certain members for less than three years so that the terms of all members shall not expire at the same time. The council may appoint and provide compensation for alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals.

(a1) Provisions of Ordinance. - The zoning or unified development ordinance may provide that the board of adjustment hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(a2) Notice of Hearing. - Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(b) Repealed by Session Laws 2013-126, s. 1, effective October 1, 2013, and applicable to actions taken on or after that date by any board of adjustment.

(b1) Appeals. - The board of adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning or unified development

ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

- (1) Any person who has standing under G.S. 160A-393(d) or the city may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.
- (2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- (5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(7) Subject to the provisions of subdivision (6) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.

(8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

(9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

(10) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

(c) Special and Conditional Use Permits. - The ordinance may provide that the board of adjustment may hear and decide special and conditional use permits in accordance with standards and procedures specified in the ordinance. Reasonable and appropriate conditions may be imposed upon these permits.

(d) Variances. - When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(e) Voting. -

(1) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(2) A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(e1) Recodified as subdivision (e)(2) by Session Laws 2013-126, s. 1, effective October 1, 2013, and applicable to actions taken on or after that date by any board of adjustment.

(e2) Quasi-Judicial Decisions and Judicial Review. -

(1) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(2) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

(f) Oaths. - The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any

person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) Subpoenas. - The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

PERSONNEL BOARD - The Personnel Board meets on an as-needed basis in closed session in the Meeting Room of the Administration Building, at 102 Town Hall Drive, off Colington Road. The Chairperson, of the Personnel Board, is elected by the other members of the Personnel Board. Two members shall constitute a quorum. The Town Clerk serves as ex officio secretary to the Personnel Board.

KILL DEVIL HILLS PERSONNEL POLICY

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

It is the policy of the Town to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from Town service.

The Personnel Board shall:

- a) Advise the Board of Commissioners and the Town Manager on municipal problems;
- b) Conduct a hearing, either public or private at the employee's request, upon the request of discharged, suspended or demoted town employees. The Personnel Board shall have all powers necessary to complete investigation of the action taken, including the power to call and examine witnesses and papers. The Personnel Board shall inform the employee and the Town Manager in writing of its findings and recommendations; and
- c) Keep an adequate record of all proceedings, findings, and recommendations.

HISTORIC LANDMARKS COMMISSION - The Kill Devil Hills Historic Landmarks Commission meets on the second Wednesday of each month, at 8:30 a.m. in the Meeting Room

of the Administration Building, at 102 Town Hall Drive, off Colington Road. All Historic Landmarks Commission meetings are open to the public.

KILL DEVIL HILLS TOWN CODE
§ 31.41 POWERS AND DUTIES.

(A) The powers of the Historic Landmarks Commission are as follows:

(1) Undertake an inventory of properties of historical, prehistoric, architectural and/or cultural significance.

(2) Recommend to the Board of Commissioners individual structures, buildings, sites, areas or objects to be designated by ordinance as "Landmarks".

(3) Recommend to the Board of Commissioners that designation of any building, structure, site, area or object as a landmark, be revoked or removed for cause.

(4) Review and act upon proposals for the alteration or demolition of designated landmarks.

(5) Conduct an educational program with respect to historic landmarks within its jurisdiction.

(6) Cooperate with the state, federal and local government in pursuance of the purpose of this subchapter; to offer or request assistance, aid, guidance or advice concerning matters under its purview or mutual interest. The Board of Commissioners, or the Commission when authorized by the Board of Commissioners, may contract with the State or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.

(7) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof.

(8) Prepare and recommend the official adoption of a preservation element as part of the Town of Kill Devil Hills comprehensive plan.

(9) Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to any such properties designated as landmarks; to hold, manage, preserve, restore and improve the same; and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

(10) Restore, preserve and operate historic properties.

(11) Negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.

(B) Prior to any official action the Commission shall adopt rules of procedure governing its meetings and the conduct of official business and bylaws governing the appointment of members, terms of office, the election of officers and related matters. A public record shall be kept of the Commission's resolutions, proceedings and actions. The Commission shall also prepare and adopt principles and guidelines for altering, restoring, moving, or demolishing properties designated as landmarks.

DANGEROUS ANIMAL APPEALS BOARD – The Dangerous Animal Appeal Board meets on an as-needed basis in the Meeting Room of the Administration Building, at 102 Town Hall Drive, off Colington Road. The Chairperson, of the Dangerous Animal Appeal Board, is elected by the other members of the Dangerous Animal Appeal Board.

KILL DEVIL HILLS TOWN CODE

§ 94.20 DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS.

(A) The Chief of Police is the person designated to determine when a dog or an animal is dangerous or potentially dangerous under the provisions of G.S. § 67-4.1 and to determine when an animal is dangerous or potentially dangerous as defined herein. The Kill Devil Hills Board of Commissioners shall designate as needed, three members to serve as the Dangerous Animal Appeal Board to hear appeals from the Police Chief's determination that a dog or an animal is dangerous or potentially dangerous.

(B) Upon receipt of a report that an animal is dangerous or potentially dangerous:

(1) The Animal Control Officer shall promptly investigate the report and upon completion of the investigation present the findings of such investigation to the Chief of Police.

(2) Upon receipt of the investigative report, the Chief of Police shall determine whether there is probably cause to believe that the animal which is the subject of the report is a dangerous or potentially dangerous animal.

(3) Upon determining that an animal is a dangerous animal or a potentially dangerous animal the Chief of Police shall:

(a) Notify the owner in writing, giving the reasons for the determination, before the animal may be considered dangerous or potentially dangerous.

(b) Notify Animal Control of the Police Chief's determination and direct that the animal be seized and impounded until final disposition is deemed.

(c) Give the owner notice that owner may appeal the determination by filing written objections with the Dangerous Animal Appeal Board within three days and provide the address at which to deliver such notice of appeal.

(d) Direct the owner to immediately deliver the animal to Kill Devil Hills Animal Shelter if not previously seized by Kill Devil Hills Animal Control to be impounded until the animal's disposition is determined as provided herein.

(e) If after reasonable efforts the owner or the whereabouts of the owner cannot be determined, the Chief of Police and Kill Devil Hills Animal Control shall proceed as provided herein as if such notice was properly given.

(C) An animal control officer is authorized to serve a copy of the Police Chief's notice upon the owner of the animal and to seize and impound the animal upon the Police Chief's determination that the animal is dangerous or potentially dangerous.

(D) Within three days of receipt of notice of the Police Chief's determination that an animal is dangerous or potentially dangerous, the owner may appeal the determination to the Dangerous Animal Appeal Board. In the event the written notice of appeal is not received within the times prescribed herein, the determination of the Chief of Police shall be final. Upon a timely appeal, the Dangerous Animal Appeal Board shall convene within ten days and conduct a hearing to determine whether the determination of the Chief of Police is affirmed. The hearing shall be conducted pursuant to the procedures adopted by Dangerous Animal Appeal Board may be appealed to the superior court by filing notice of appeal and a petition for review within ten days of the final decision of the appellate Board and shall be heard de novo before a superior court judge sitting in Dare County. In the event that the notice of appeal and petition for review are not timely filed, the decision of the Dangerous Animal Appeal Board shall be final.

(E) Upon final determination that an animal is dangerous, the animal shall be humanely destroyed and the owner shall be responsible for all costs and expenses of impoundment and destruction as set forth on the schedule of fees adopted by Kill Devil Hills Board of Commissioners. Upon a final determination that an animal is not dangerous or potentially dangerous, the animal shall be returned to the owner.

(F) Notwithstanding any of the foregoing, the provisions of this chapter do not apply to:

(1) An animal being used by a law enforcement officer to carry out the law enforcement officer's official duties:

(2) An animal being used in a lawful hunt;

(3) An animal where the injury or damage inflicted by the animal was sustained by a domestic animal while the animal was working as a hunting animal, herding animal, or predator control animal on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the animal; or

(4) An animal where the injury inflicted by the animal was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the animal, had tormented, abused, or assaulted the animal, or was committing or attempting to commit a crime.

COMMUNITY APPEARANCE COMMISSION - The Community Appearance Commission typically meets the fourth Thursday of each month at 8:30 a.m. in the Meeting Room of the Administration Building, at 102 Town Hall Drive, off Colington Road. The Chairperson, of the CAC, is elected by the committee's membership.

KILL DEVIL HILLS TOWN CODE The Community Appearance Commission shall serve the Board of Commissioners in an advisory capacity. The Commission's responsibilities may include, but are not necessarily limited to:

- (A) Studying the visual needs of the town and recommending plans to carry out programs that will, in accordance with the powers herein granted, enhance and improve the visual quality and aesthetic characteristics of the town;
- (B) Initiating, promoting and assisting in the implementation of programs of general community beautification in the town;
- (C) Coordinating the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs bear upon the appearance of the town;
- (D) Preparing both general and specific plans for the improved appearance of the town. These plans may include the entire town or any part thereof, and may include private and public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the town or any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces and public and private buildings and projects;
- (E) Participating in the implementation of the plans it develops;
- (F) Formulating and recommending to the Planning Board and Board of Commissioners the adoption or amendment of ordinances, including the zoning code, subdivision regulations and other local ordinances proposing to regulate the use of property to enhance the appearance of the town;
- (G) Directing the attention of town officials to necessary enforcement of any ordinance that may improve the appearance of the town;
- (H) Seeking voluntary adherence to the standards and policies of the plans developed by the Community Appearance Commission;
- (I) Promoting public interest in and an understanding of its recommendations, studies and plans;

