

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:

**Chapter 153, Zoning,**

**§ 153.210 SITE REQUIREMENTS.**

(C) Density.

(1) Multi-family dwelling: ~~12 units per acre.~~ The maximum floor area ratio (FAR) shall be up to 0.40.

(2) Hotel and motel: 36 units per acre.

and,

**§ 153.207 CONDITIONAL USES.**

(A) *Work force housing.*

~~—(1) *Density.*~~

~~—(a) Density bonuses for workforce multi-family structures; an increase in the permitted dwelling density may be authorized according to the following:~~

~~—1. Workforce housing units with a sales price of three times 80% or less of Median Family Income or annual rental of 30% of 80% or less of Median Family Income: 1.2 additional units per workforce housing unit.~~

~~2. Workforce housing units with a sales price of three times 100% of Median Family Income or annual rental of 30% of 100% or less of Median Family Income: 1.0 additional units per workforce housing unit.~~

~~3. Workforce housing units with a sales price of three times 125% of Median Family Income or annual rental of 30% of 125% of Median Family Income or annual rental of 30% of 125% or less of Median Family Income: 0-0.8 additional units per workforce housing unit.~~

(1) To qualify, a workforce multi-family housing unit shall:

(a) Have a sales price of three times 80% or less of Median Family Income or annual rental of 30% of 80% or less of Median Family Income; and,

~~(b) The residential units shall~~ Be used exclusively for year-round occupancy by eligible households, and the rentals or sales prices restricted according to the definitions contained in § 153.002.

(2) *Location of workforce housing units.* Workforce housing units shall not be set apart and should be interspersed among the market rate units throughout the workforce housing development and the locations shall be approved by the Board of Commissioners.

(3) *Ratio.* ~~Workforce multi-family housing must contain at least one unit of workforce housing and~~ No less than 25% of the units shall be market-rate housing.

(4) *Exterior appearance.* The exterior appearance of the workforce housing units in any covered development shall be visually compatible with the market rate units in the development.

External building materials and finishes shall be substantially the same in type and quality for workforce housing units as for market rate units.

(5) *Interior appearance and finishes.* Workforce housing units may differ from market rate units with regard to interior finishes and gross floor area provided that:

(a) There shall be no differences between the workforce housing units and the market rate units related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

(b) The gross floor area for the workforce housing units shall be no less than 75% of the gross floor area of similar market rate units.

(6) *Waiver of fees.* Projects meeting the eligibility requirements may request a waiver of town fees, including site plan review fees, building permit fees, water service fees, and subdivision fees for the workforce housing units. Approval of a request to waive town fees shall be subject to approval by the Board of Commissioners. Workforce units must meet the standards of this section and are subject to the following requirements.

(a) The developer shall submit the development plan to the Blessings Ministries Community Development Corporation's designee or its successor for review and certification prior to submission for development concessions.

1. Rental development. The owner must submit to the Blessings Ministries Community Development Corporation's designee or its successor for certification annually. If certification is

not issues, any concessions will be rescinded and appropriate fees will be due and payable immediately.

(7) *Restrictive covenants.*

(a) Restrictive covenants shall be recorded, prior to the issuance of any occupancy permit, naming the town as a grantee and party and granting the town the power to enforce, which contain provisions that:

1. Insure that the site shall at all times remain in compliance with this section and the Housing Placement Eligibility System, as it may be amended from time to time, of the Blessings Ministries Community Development Corporation's designee or its successor;

2. Give all subsequent purchasers notice that the site and the living units on the site are subject to the provisions of this section;

3. Prevent the modification of the site or its use or withdrawal or modification of the covenants without the consent of the town;

4. Prohibit the sale or lease of a housing unit without the receipt by the town of a certification from the Blessings Ministries Community Development Corporation's designee or its successor that the purchaser or tenant qualifies under the Housing Placement Eligibility System, as it may be amended from time to time, of the Blessings Ministries Community Development Corporation's designee or its successor.

(b) Such covenants shall be in a form satisfactory to the town.

(c) Such covenants shall be superior to any liens or encumbrances upon the property and prior to the issuance of an occupancy permit; applicant shall provide the town with a title opinion from a licensed North Carolina attorney indicating that the covenants required herein are superior to all other liens or encumbrances upon the property.

(8) *Deed of trust.* The restrictive covenants and the applicant's or its successor's obligation to comply with the terms of this section shall be secured by a deed of trust in favor of the town, in a form satisfactory to the town. Such deed of trust shall be recorded prior to the issuance of an occupancy permit. The town shall subordinate the deed of trust to the lien of any lender financing the purchase of any of the housing units, upon proof of compliance with the terms of this section and upon certification from the Blessings Ministries Community Development Corporation's designee, or its successor, of compliance with the Housing Placement Eligibility System, as it may be amended from time to time. Violation of the terms of this section or the terms of the restrictive covenants required above, shall be an event of default under the terms of such deed of trust and shall authorize the town, in addition to any other remedy available, to foreclose upon the property as provided in the deed of trust.

(9) *Violations.* Each sale or rental of a housing unit in violation of this section shall constitute a separate offense. Each day's continuing violation of this section shall be a separate offense. In addition to the remedies provided in this section or in § 10.99 of this Code of Ordinances, the town shall be authorized to recover from the seller or landlord violating this section, any fees that were waived under the provisions of this section, together with attorney fees and other costs and expenses incurred in the collection of such fees. The remedies available

to the town shall be cumulative and may be exercised together or separately in the discretion of the town. The exercise of one remedy shall not be construed to be a waiver of any other remedy.

This amendment to Chapter 31, Boards and Commissions, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2018. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2018, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

SEAL

\_\_\_\_\_  
Sheila F. Davies, Ph.D.  
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 31, Boards and Commissions, was placed in the Kill Devil Hills Town Code Book on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 at \_\_\_\_\_m.

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