

AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,  
CHAPTER 30, BOARD OF COMMISSIONERS; TOWN OFFICERS

BE IT HEREBY ORDAINED BY the Kill Devil Hills Board of Commissioners that Chapter 30, Board of Commissioners; Town Officers, 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 30: BOARD OF COMMISSIONERS; TOWN OFFICERS**

Section

*General Provisions*

- 30.01 Definitions
- 30.02 Public bodies to hold open meetings
- 30.03 Rules of procedure generally
- 30.04 Elections
- 30.05 Board of Commissioners
- 30.06 Ordinances and resolutions
- 30.07 Filling of vacancies

*Town Officers*

- 30.20 Appointments
- 30.21 Town Manager; Town Attorney
- 30.22 Disposal of surplus personal property valued at less than \$5,000
- 30.23 Purchase of apparatus, supplies, materials or equipment

**GENERAL PROVISIONS**

**§ 30.01 DEFINITIONS.**

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

**G.S.** The North Carolina General Statute(s).

**LOCAL NEWS MEDIA.** Entities for the primary purpose of disseminating written or broadcast news information, having offices in the county and engaging in news dissemination at least twice weekly.

**PUBLIC BODY (-IES).** Any elected or appointed authority, board, commission, committee, council or other body of the town that is:

(1) Composed of two or more members; and

(2) Exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative or advisory function. (Note: **PUBLIC BODY** does not include a meeting solely among the professional staff of the town.)

(Ord. passed - -)

### **§ 30.02 PUBLIC BODIES TO HOLD OPEN MEETINGS.**

All public bodies as defined in § 30.01, and in G.S. § 143-318.10, shall forthwith and fully comply with the requirements of G.S. Ch. 143, Art. 33C, the Open Meetings Law.

(Ord. passed - -)

### **§ 30.03 RULES OF PROCEDURE GENERALLY.**

Except where otherwise provided by law or ordinance, the rules of procedure of the Board of Commissioners and all other public bodies of the town shall be the *Suggested Rules of Procedure for a City Council* as published, and amended from time to time, by the Institute of Government of the University of North Carolina at Chapel Hill, and adopted and amended from time to time by the Board. (Note: The *Suggested Rules of Procedure for a City Council* includes but is not limited to procedures on conduct of meetings, meeting agendas, procedural duties of the Mayor and Mayor pro tempore, motions by and actions of the Board of Commissioners, introduction and adoption of ordinances and contracts, minutes, appointments and conduct of public hearings.)

(Ord. passed - -)

### **§ 30.04 ELECTIONS.**

(A) *Conduct of elections.* Municipal elections of the town shall be conducted by the Dare County Board of Elections in accordance with the provisions of G.S. Ch. 163.

(B) *Selection of plurality method.* Members of the Board of Commissioners shall be elected on a non-partisan basis and the results determined by a plurality of the votes cast as provided by G.S. § 163-292.

(C) *Absentee ballots.* Absentee ballots shall be allowed in the regular town elections, including primaries, if applicable, and including run-off elections, if applicable, in accordance with the provisions of G.S. § 163-302.

(Ord. passed - -)

### **§ 30.05 BOARD OF COMMISSIONERS.**

The Board of Commissioners shall hold such regular meetings as may be determined from time to time by amendment and adoption of the *Suggested Rules of Procedure for a City Council*. Unless otherwise scheduled, all meetings of the Board will be held in the meeting room of the administration building at 102 Town Hall Drive, off Colington Road. All members shall abide by the Conflict of Interest standards outlined in 153.364.

(Ord. passed - -)

### **§ 30.06 ORDINANCES AND RESOLUTIONS.**

(A) *Official copies.* For each and every ordinance, contract or resolution adopted by the Board of Commissioners in accordance with the provisions of the *Suggested Rules of Procedure for a City Council*:

(1) There shall be a true copy of every ordinance, or any other document which has the effect of ordinance, which has been duly enacted by the Board and signed by the Mayor and the Town Clerk and which shall be known and recognized as an official copy of such ordinance.

(2) There shall be a true copy of every resolution which has been duly enacted by the Board and signed by the Mayor and the Town Clerk and which shall be known and recognized as an official copy of such resolution.

(B) *Effective date.* All ordinances and resolutions passed by the Board of Commissioners shall be in full force and effect from and after their ratification, unless the Board establishes a different effective date at the time of such ratification.

(Ord. passed - -)

### **§ 30.07 FILLING OF VACANCIES.**

In case of death, disability or resignation or if a vacancy is created by any other means in the elected officials of the town, a successor shall be selected by a majority vote of the Board.

## **TOWN OFFICERS**

### **§ 30.20 APPOINTMENTS.**

At the first meeting of the Board of Commissioners after their election and qualification, or as soon thereafter as possible, they shall proceed to appoint the Town Manager and Town Attorney.

(Ord. passed - -)

### **§ 30.21 TOWN MANAGER; TOWN ATTORNEY.**

(A) *Town Manager*. In addition to those outlined in the town code, and any such other duties and responsibilities that from time to time may be conferred on the Town Manager by the Board, the duties and powers of the Town Manager are found in the personnel policy of the town and in G.S. § 160A-148.

(B) *Town Attorney*. In addition to the duties and responsibilities outlined in the town code, and any such other duties and responsibilities that from time to time may be conferred on the Town Attorney by the Board, the Town Attorney shall:

- (1) Prosecute and defend suits against the town;
- (2) Advise the Mayor, Board, Town Manager or any other officer of the town in regard to matters connected with the town's business;
- (3) Attend meetings of the Board of Commissioners;
- (4) Draw such deeds, contracts, bonds, notes and other legal papers as may be required for the proper conduct of the town's business;
- (5) Draw such ordinances as may be directed by the Board or Town Manager;
- (6) Approve all ordinances as to form.

(Ord. passed - -)

**§ 30.22 DISPOSAL OF SURPLUS PERSONAL PROPERTY VALUED AT LESS THAN \$5,000.**

(A) The Town Manager is authorized pursuant to G.S. § 160A-266(c) to dispose of any surplus personal property owned by the town whenever it is determined at the Town Manager's discretion that:

- (1) The item or group of items has a fair market value of less than \$5,000;
- (2) The property is no longer necessary for the conduct of public business;
- (3) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

(B) The Town Manager shall determine the fair market value of the personal property for disposal and may dispose of any such personal property by any means which is judged reasonably calculated to yield the fair market value or the highest attainable prices in money or other consideration, including but not limited to the methods of sale provided in G.S. Ch. 160A, Art. 12. Such sale may be public or private and with or without notice and minimum waiting period.

(C) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner and the Town Manager is authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager may retain the property, obtain any reasonable available salvage value or cause it to be disposed of as waste material.

(D) The Town Manager shall keep a record of all property sold under this section and that record shall generally describe the property sold or exchanged, to whom it was sold or with whom exchanged and the amount of money or other consideration received for each sale or exchange.

(Ord. passed - -)

**§ 30.23 PURCHASE OF APPARATUS, SUPPLIES, MATERIALS OR EQUIPMENT.**

(A) *Grant of authority.* Subject to the restrictions and conditions hereinafter provided, when purchasing apparatus, supplies, materials or equipment for use by the town, in addition to such authority as may be provided by law and/or otherwise delegated by the Board of Commissioners, the Town Manager is authorized pursuant to G.S. § 143-129(a) to:

(1) Prepare, or cause to be prepared, plans and/or specifications setting forth a complete description of the item(s) to be purchased and the characteristics, features and/or requirements therefor;

(2) Include, where appropriate, in specifications for the item(s) to be purchased an opportunity for bidders to purchase as trade-in specified personal property owned by the town;

(3) Advertise, or otherwise secure bids, for such item(s), if required under applicable law;

(4) Award contracts for the purchase of the item(s) and, where applicable, award contracts for the purchase of the item(s) and the sale of trade-in property;

(5) Reject bids;

(6) Readvertise to receive bids;

(7) Waive bid bond or deposit requirements;

(8) Waive performance and payment bond requirements; and

(9) Execute and deliver the purchase contract(s).

(B) *Report.* At the first meeting of the Board of Commissioners following the award of any contract(s) pursuant to this section, the Town Manager shall submit a report to the Board of Commissioners summarizing the bids received and the contract(s) awarded. Such report shall be included in the minutes of the meeting at which it is received.

(C) *Extent of authority.* Except in cases of sole source purchases pursuant to G.S. § 143-129(f) and cases of purchases from established contracts pursuant to G.S. § 143-129(g), unless otherwise provided by law, the provisions of this section shall apply to the purchase of apparatus, supplies, materials or equipment required for use by the town.

(D) *No limitation of other authority.* The provisions of this section are not intended to limit, restrict or revoke in any manner authority otherwise granted and/or delegated to the Town Manager by statute, law or action of the Board of Commissioners.

(E) *Appropriation required.* No purchase shall be made by the Town Manager under authority of this section unless an appropriation for such purpose has been authorized in the

annual budget, or by supplemental appropriation or budget appropriation amendment duly adopted by the Board of Commissioners.

(F) *Application of general statutes.* In acting pursuant to the authority delegated by this section, the Town Manager shall comply with the requirements of G.S. Ch. 143, Art. 8, as from time to time amended, modified, supplemented, revised or superseded, to the same extent as would have otherwise applied to the Board of Commissioners.

(Ord. passed - -)

This amendment to Chapter 30, Board of Commissioners; Town Officers, 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 30, Board of Commissioners; Town Officers, 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