



# TOWN OF KILL DEVIL HILLS

*Land Where Flight Began*

MEMORANDUM

July 8, 2024

TO: Mayor and Board of Commissioners

FROM: Debora P. Díaz, Town Manager

REF: New Business

**1. Town Code Amendment – Requested Town Code Amendment – Chapter 50, Garbage Service, establishing §50.035, Prohibition of Balloon Release on Town-Owned Property (Attached NB-1)**

Following requests from the public and at the direction of the Board, the Office of the Town Clerk, working in conjunction with the Police and Planning Departments, has developed an amendment to the Code of Ordinances to address the intentional release of helium balloons on Town-owned property. This amendment, highlighted in the meeting memorandum, has also been reviewed by the Town Attorney, and would prohibit the intentional release of lighter-than-air balloons from Town-owned properties, including recreational areas and ocean and soundside accesses.

A motion would be in order.



THE TOWN OF KILL DEVIL HILLS  
NORTH CAROLINA

ADMINISTRATION

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Town Manager  
**DEBORA P. DIÁZ**

Assistant Town Manager  
**CHARLENE ALLEN**

Town Clerk  
**JAMES MICHAEL O'DELL**

Deputy Town Clerk/  
Administrative Assistant  
**JENNIFER STECHER**

Public Information Officer  
**RACHEL TACKETT**

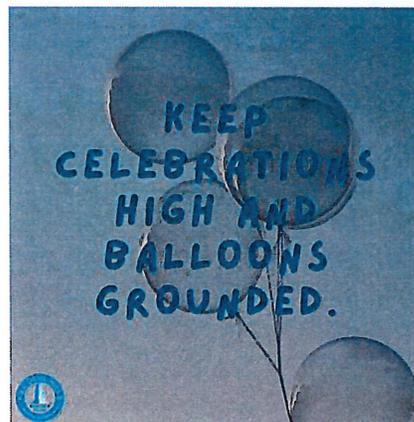
Deputy Town Clerk/  
Administrative Specialist  
**PARKER MIDGETT**

July 8, 2024

Memorandum

To: Debora P. Díaz, Town Manager  
From: James Michael O'Dell, Town Clerk *jmo*  
Subject: Requested Town Code Amendment – Chapter 50, Garbage Service, establishing §50.035, Prohibition of Balloon Release on Town-Owned Property

At its April 24, 2024, meeting, the Board of Commissioners adopted a *Resolution Opposing the Release of Helium Balloons*, which it had directed Staff to develop, reflecting its commitment to the Town's natural areas and wildlife, and promoting education and outreach to heighten the public's awareness of the proper disposal of all balloons and consider possible alternatives, including this social media posting:



We're all about spreading joy and good vibes, but let's skip the balloon releases. What goes up must come down, and when balloons come back down, they become harmful litter, endangering wildlife and polluting our environment.

Consider eco-friendly alternatives to commemorate special moments like blowing bubbles, planting trees, or using biodegradable confetti. Together, let's celebrate responsibly and show more love for our planet.

On May 13, 2024, the Board invited Debbie Swick, founder of Ban Balloon Releases NC, to present a history of her organization and its goals, including the establishment a prohibition for release of balloons in Kill Devil Hills. Ms. Swick requested the Board adopt an ordinance similar to other local governments. The Board directed Staff to develop an ordinance prohibiting the release of balloons on Town-owned properties, which is included with this memorandum.

**AN ORDINANCE AMENDING THE  
KILL DEVIL HILLS CODE OF ORDINANCES,  
CHAPTER 50, GARBAGE SERVICE**

**WHEREAS**, pursuant to N.C.G.S. §160A-174, a municipality may by ordinance define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

**WHEREAS**, in furtherance of the public's health, safety and welfare it is necessary to regulate certain activities upon the lands, waterways, beaches, and dune areas of the Town which degrade or cause harm to these areas or the waters of the Atlantic Ocean, Pamlico Sound, their tributaries, or waterways within 100 miles of the Town, and

**WHEREAS**, it is further necessary to regulate certain activities to protect the well-being of the natural environment and the wildlife present in this environment;

**NOW THEREFORE BE IT ORDAINED** by the Kill Devil Hills Board of Commissioners that Chapter 50, Garbage Service of the Kill Devil Hills Town Code of Ordinances, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

**§ 50.03 LITTER.**

(A) It shall be unlawful to litter in the town. If the town determines that there is litter upon a property or within the street right-of-way adjacent to an improved or unimproved property, the property owner shall be notified by return-receipt mailed or hand-delivered written notification and given seven days to remove the litter from the property or right-of-way. In the event the litter is not removed and abated within the allotted seven-day period, the litter shall become a nuisance and the town shall proceed to abate the nuisance in accordance with the provisions of § 10.99.

(B) Upon a property owner's failure to abate the nuisance within the time set forth above, the

owner of the improved or unimproved property shall be in violation of the town code and subject to the civil and criminal penalties set forth in the town code. Each 24-hour period that the nuisance remains unabated after notice to the property owner shall constitute a separate violation.

Penalty, see § 10.99

**§ 50.035 PROHIBITION OF BALLOON RELEASE ON TOWN-OWNED PROPERTY.**

Intent: In furtherance of the Town's authority to protect public's health, safety and welfare, it is necessary to regulate certain activities upon the Town-owned lands, waterways, beaches, and dune areas within the corporate limits which degrade or cause harm to these areas or surrounding waters. However, this section is not intended to infringe upon the freedom of expression guaranteed by the U.S. Constitution.

(A) Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) **BALLOON.** A flexible, nonporous bag made from materials such as, but not limited to, rubber, latex, neoprene / polychloroprene, BoPET (biaxially oriented polyethylene terephthalate / Mylar), nylon fabric, or similar material that can be inflated or filled with gas, such as helium, hydrogen, or nitrous oxide, and then sealed at the neck of the bag.
- (2) **BALLOON LITTER.** All waste materials resulting from the intentional outdoor release of a balloon.

(B) It shall be unlawful for any person, firm, nonprofit organization, or corporation to knowingly and intentionally release, participate in the release of, intentionally cause to be released,

any type of balloon on any Town-owned property.

(C) The following are not violations of this section:

- (1) Any balloon(s) released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.
- (2) Any hot air balloon(s) that are controlled by an operator on board or on ground and are recovered after launching.
- (3) Any balloon(s) released inside a building or structure that do not make their way into the open air.

(D) Penalty for violations of this section:

Any person violating the provisions of this section shall be subject to a civil penalty in the amount of \$25 to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten days after having been cited for violation of the ordinance.

This amendment to Chapter 50, Garbage Service, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2024. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2024, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

SEAL

\_\_\_\_\_  
John Windley  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Casey C. Varnell  
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE, CHAPTER 50, GARBAGE SERVICE, was placed in the Kill Devil Hills Town Code Book on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at \_\_\_\_\_ .m.

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