

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
FOR THE TOWN OF MILLS RIVER**

**ARTICLE NO. 1
AUTHORITY**

This Ordinance is enacted by the Town Council of Mills River, North Carolina pursuant to Chapter 160A of the North Carolina General Statutes, particularly Article 18. Town Council does hereby ordain and enact into law the following amendments to the Zoning Ordinance for the Town of Mills River.

**ARTICLE II
AMENDMENT TO ZONING ORDINANCE**

The Zoning Ordinance of the Town of Mills River as enacted effective March 1, 2004, is amended to add the following revisions to the following articles, sections and subsections:

1. Section 154.007. WORD USAGE AND DEFINITIONS.

A. Section 154.007 (B) Definitions. Amend to add definitions:

1. ***ADULT DAY CARE CENTER.*** A non-residential facility certified by the State of North Carolina which provides an organized program of services for adults during the day in a community group setting for the purpose of supporting adults' personal independence. Care is provided for more than 6 but less than 24 hours per day.
2. ***ADULT DAY CARE HOME.*** A non-residential facility certified by the State of North Carolina which provides an organized program of services for adults during the day in a community group setting for the purpose of supporting adults' personal independence out of the provider's home. There may be between 4 and 16 unrelated participants in an adult day care home. Care is provided for more than 6 but less than 24 hours per day.
3. ***ADULT DAY HEALTH CENTER.*** An Adult Day Care Center also provides health care services.
4. ***ADULT DAY HEALTH HOME.*** An Adult Care Home which also provides health care services.
5. ***CHILD CARE CENTERS.*** A child care provider licensed by the state for care of six or more children in a residence or when three or more children are in care in a building other than a residence. Religious sponsored programs that are not licensed by the state such

as parent morning out programs providing child care on a weekly basis are not to be included.

- ✓ 6. **FAMILY CHILD CARE HOME.** A child care provider licensed by the state to provide child care for five or fewer preschool aged children, and an additional three school age children. Care is provided at the licensed care provider's residence.

- ✓ 7. **INCIDENTAL HOME OCCUPATION.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof; provided, further, that no mechanical equipment is installed or used except such as is normally used for domestic or professional purposes and that not over 25% of the total floor space of any structure is used for a home occupation. No home occupation shall be conducted in any accessory building. Incidental home occupations permitted as accessory uses in a residence include, but are not limited to, dressmaking, cooking, baking, music instruction, woodworking, arts and crafts personal care services, family child care homes, internet retail sales and the practice of the professions as insurance, medicine, artistry, architecture and accounting. This definition shall not be used to regulate home schools in any way. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principle building.

- ✓ 8. **STRUCTURED ENVIRONMENT HOMES.** A residential setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication and other treatment.

B. Section 154.007 (B) Definitions. Amend to delete definition:

✓ **CUSTOMARY INCIDENTAL HOME OCCUPATION.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof; provided, further, that no mechanical equipment is installed or used except such as is normally used for domestic or professional purposes and that not over 25% of the total floor space of any structure is used for a home occupation.

No home occupation shall be conducted in any accessory building. Customary incidental home occupations permitted as accessory uses in a residence include, but are not limited to, dressmaking, cooking, baking, music instruction, woodworking, arts and crafts and the practice of the professions as insurance, medicine, artistry, architecture and accounting. This definition shall not be used to regulate home schools in any way

C. Section 154.007 (B) Definitions. Amend definition to read:

- ✓ 1. **FAMILY CARE HOME.** An adult care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than 6 resident handicapped persons and licensed by the state of North Carolina as a family care home. For zoning purposes, a **FAMILY CARE HOME** shall be deemed a residential use of property and shall be a permitted use in all residential districts.

- ✓ 2. **RURAL ACCESSORY BUSINESS.** A business which is traditionally found in rural settings and which is established as follows:

(f) Rural accessory businesses shall include those uses typically defined as incidental home occupation.

deletion

2. Section 154.047 MR-30 RESIDENTIAL DISTRICT.

A. Section 154.047 (A) MR-30 Residential District. Amend to ~~delete~~:

✓ (7). Public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools.

✓ B. Section 154.047 (A) MR-30 Residential District. Amend to add:

1. (8). Family Child Care Homes.
2. (9.) Child Care unregulated by the State of North Carolina.
3. (10). Incidental Home Occupations.

- ✓ C. Section 154.047 (A) MR-30 Residential District. Amend to renumber the following:
 - (8). Family care homes renumber to (7).

- ✓ D. Section 154.047 (B) Special uses.. Amend to add:
 - (9) Structured Home Environments, subject to the conditions listed under § 154.085.

- ✓ E. Section 154.047 (C) Conditional uses. Amend to ~~delete~~:
 - (2) Customary incidental home occupations, including, but not limited to, dressmaking, cooking, baking, music instruction, the practice of the professions as insurance, medicine, artistry, architecture and accounting, permitted as accessory uses in a residence.

- ✓ F. Section 154.047 (C) Conditional uses. Amend to renumber:
 - (3) Libraries. Renumber to (2).
 - (4) Bed-and-breakfast inns. Renumber to (3).
 - (5) Civic and cultural buildings, including auditoriums, theaters for the performing arts, museums, art galleries, symphony and concert halls and historical societies, provided that...include (a) through (f). Renumber to (4).

- ✓ G. Section 154.047 (C) Conditional uses.. Amend to add:
 - 1. (5) Child Care Centers, public schools having multiple curricula and private schools having curricula approximately the same as ordinarily given in public schools provided that:
 - a) The structures are placed not less than 50 feet from any property line.
 - (b) Play areas shall be placed not less than 20 feet from any property line.
 - (c) There is a planted buffer strip along the side and rear property lines, except where the lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.

(d) The property has at least 45 feet of frontage on a publicly owned and maintained road.

2. (6) Adult Day Care Centers and Adult Day Health Centers provided that:

(a) The structures are placed not less than 50 feet from any property line.

(b) There is a planted buffer strip along the side and rear property lines, except where the lines run parallel and contiguous with streets, streambeds, lakes and railroad tracks.

(c) The property has at least 45 feet of frontage on a publicly owned and maintained road.

3. (7) Adult Day Care Homes and Adult Day Health Homes provided that:

(a) There is a limit of 10 clients per day.

3. Section 154.055 MR-LIGHT INDUSTRIAL DISTRICT.

✓ A. Section 154.055 (A) (10) MR-Light Industrial. Amend to add:

1. (c) Child Care Centers;

2. (f) Family Child Care Homes and Incidental Home Occupations per §154.105(G);

✓ B. Section 154.055 (A) (10) MR-Light Industrial. Amend to renumber:

1. (c) Clothing, including hosiery. Renumber to (d).

2. (d) Electrical and electronic products. Renumber to (e).

3. (e) Fiber-optic cable. Renumber to (g).

4. (f) Foods and food products. Renumber to (h).

5. (g) Furniture industries. Renumber to (i).

6. (h) Glass. Renumber to (j).

7. (i) Household appliances. Renumber to (k).
8. (j) Ice. Renumber to (l).
9. (k) Leather goods, not to include processing or storage of raw hides. Renumber to (m).
- ✓ 10. (l) Machine tools. Renumber to (n).
11. (m) Metals and metal products. Renumber to (o).
12. (n) Paints. Renumber to (p).
13. (o) Paper products, not including the manufacturing or processing of paper. Renumber to (q).
14. (p) Plastics. Renumber to (r).
15. (q) Pottery, porcelain and vitreous china. Renumber to (s).
16. (r) Rubber products, not to include the processing or manufacture of rubber. Renumber to (t).
17. (s) Soap, detergent and washing compounds. Renumber to (u).
18. (t) Textiles. Renumber to (v).

✓ C. Section 154.055 (B) Conditional uses. Amend to:

1. Add (2) Adult Day Care Centers and Adult Day Health Centers, provided that the use is secondary to the primary use of commercial or industrial business on site and that the structures comply with the District's setbacks.
2. Renumber (2) "Uses not otherwise named herein which come within the spirit and intent of this district; subject to a finding by the Board of Adjustment that both the conditions and the definition of CONDITIONAL USE in § 154.007(B) and those listed below are met" to (3).

4. **Section 154.057 MR-GENERAL BUSINESS**

✓ A. Section 154.057 (A) Uses. Amend to add:

- ✓ 1. (1) Adult Day Care Centers and Adult Day Health Centers.
- 2. (11) Child Care Centers.
- 3. (21) Family Child Care Homes and Incidental Home Occupations per §154.105(G).

✓ B. Section 154.057 (A) Uses. Amend to:

- 1. Renumber existing (1) through (9) to numbers (2) through (10).
- 2. Renumber existing (10) through (18) to numbers (12) through (20).
- 3. Renumber existing (19) through (50) to numbers (22) through (53).

✓ C. Section 154.057 (B) Conditional uses. Amend to add:

(9) Structured Home Environments, subject to the conditions listed under § 154.085.

5. Section 154.058 MR-NEIGHBORHOOD COMMERCIAL.

✓ A. Section 154.058 (A) Uses. Amend to add:

- 1. (7) Adult Day Health Homes, Adult Day Health Centers, Adult Day Care Homes and Adult Day Care Centers.
- 2. (8) Child Care Centers.
- 3. (9) Family Child Care Homes and Incidental Home Occupations per §154.105(G).

✓ B. Section 154.058 (A) Uses. Amend to renumber:

Renumber existing (7) through (9) to numbers (10) through (12).

✓ C. Section 154.058 (B) Conditional Uses. Amend to add:

(4) Structured Home Environments, subject to the conditions listed under § 154.085.

✓ 6.

Section 154.085 STRUCTURED ENVIRONMENT HOMES.

- A. Section 154.085 RESERVED. Amend to delete RESERVED, and amend to add:

The following development standards shall apply to Structured Home Environment Uses:

(A) Land development standards. The following land development standards shall apply for a Structured Home Environment. Structured Home Environment Uses may be located in the MR-NC , MR-MU, and MR-GB and MR-LI districts as a special use, subject to a finding by the Mills River Town Council on the advice and recommendation of the Planning Board that certain conditions shall be met.

(1) Distance from a School. The site for a Structured Home Environment must be at least one mile in linear distance from a school.

(2) Maximum Density. A Structured Home Environment has a maximum density of five residents.

(3) Minimum requirements.

(a) The lot size and dimensional requirements of the district in which the development is proposed shall apply.

(b) Publicly-owned and maintained water and sewer shall be required for a Structured Home Environment.

(c) The Structured Home Environment shall comply with parking, buffer and landscape requirements as listed in the code for commercial uses.

(B) Application Process. Prior to submission of an application for a special use permit to the Town Council, the applicant shall arrange a pre-application conference with the Planning Board and its staff.

(1) The applicant shall submit to the Planning Board a sketch development plan for the proposed site. The sketch plan and development strategy shall show and describe the layout of the Structured Environment Home along with adequate parking and landscaping.

(2) The pre-application conference is designed to inform the developer of the local government's regulations and policies

concerning development alternatives and to inform the local government of the developer's intentions, enough to be able to give him or her some informal, non-binding feedback on the acceptability of his or her ideas. The greater the level of common understanding between the developer and the local government that can be achieved at the pre-application conference stage, the smoother the remaining steps of the review process will be.

(3) Special use permit. Upon completion of the pre-application conference with the Planning Board, the applicant shall submit to the Town Council a written application for a special use permit in accordance with § 154.180. The special use permit shall expire two years from the date of issuance without substantial progress towards development of the site.

(4) Development plan. After the pre-application conference and upon submission of a written application for a special use permit, the applicant shall submit a development plan to the Town Council. A second copy of the development plan shall be submitted to the Planning Board for review and recommendations. The Town Council shall not issue a special use permit until it has received recommendations from the Planning Board. If no action is taken by the Planning Board within 45 days of the meeting at which the Planning Board first considers the development plan, it shall be deemed to have recommended approval of the development plan, and the Town Council may proceed to act upon the application.

(5) The Planning Board shall review the development plan for conformance with the land development standards of this section, the sketch plan and development strategy presented in the pre-application conference and the requirements of the development plan which shall include the following information and supporting documentation.

(6) Written documents.

a) A legal description of the total site proposed for development, including a statement of present and proposed ownership.

b) The zoning district or districts in which the project is located.

c) A general statement of the way the Structured Home Environment shall be operated.

d) Documentation showing that the development meets the requirements as outlined for Structured Home Environments.

e) Site plan and supporting maps. A map or maps drawn to an appropriate scale, with the date of preparation and North point, shall include the following information:

f) Existing site conditions, including contours, watercourses, identified flood hazard areas and any unique natural or man-made features.

g) Boundary lines of the proposed development, proposed lot lines and plot designs.

h) Proposed location and use of all existing and proposed structures.

i) Approximate location of proposed utility systems, including documentation approving the proposed water and sewer systems from the appropriate local and state agencies. Water and sewer documentation must reflect the current development name and densities, be issued within the past 6 months and state that the public entity intends to accept both flow and maintenance. Documentation of an approved sedimentation and erosion control plan shall also be submitted.

(1) Location and/or notation of existing and proposed easements and rights-of-way.

(2) The proposed treatment of the perimeter of the development, including materials and/or techniques, such as screens, fences and walls.

(3) Information on adjacent land areas, including land use, zoning classifications, public facilities and any unique natural features.

(j) Additional information. Any additional information required by the Mills River Town Council in order to evaluate the impact of the proposed Structured Home Environment. The Town Council may waive a particular requirement if, in its opinion, the inclusion is not essential to a proper decision on the project. The advice and recommendation of the Planning Board is 1 of an advisory

capacity, and the Town Council has final authority on granting or denying a special use permit.

(7) The Town Council shall submit a copy of its decision on a specific Structured Home Environment to the Planning Board.

7. Section 154.105 NONCONFORMING USES.

Section 154.105 Nonconforming Uses. Amend to add:

(G). Non-conforming Residential. Non-conforming residential lots may be permitted for family child care home, adult day care homes, adult day health homes and incidental home occupations.

8. Section 154.106 OFF-STREET PARKING.

Section 154.106 (2) A. Minimum parking requirements. Amend table to:

<i>Residential Uses</i>	<i>Required Parking</i>
Residential dwellings, single-family and 2-family	2 spaces for each dwelling unit
Residential dwelling, multifamily	1-1/2 spaces for each dwelling unit
<i>Public and Semipublic Uses</i>	<i>Required Parking</i>
Adult Day Center and Adult Day Health Centers	1 space for each activity room and administrative office with an additional 3 spaces for drop off and pick up
Child Care Centers	1 space for each classroom and administrative office with an additional 3 spaces for drop off and pick up
Hospitals and clinics	1 space for each 2 beds, plus 1 space for each staff or visiting doctor, plus 1 space for each 4 employees, including nurses
Funeral parlors	1 space for each 4 seats in the chapel or parlor
Churches, spiritual institutions and places of public assembly	1 space for each 4 seats in the principal assembly room
Places of assembly or recreation without fixed seats	1 space for each 200 feet of gross floor space directed to patron use

Schools, elementary and junior high	1 space for each classroom and administrative office
Schools, senior high	1 space for each classroom and administrative office, plus 1 space for each 20 seats or 1 space for each 400 square feet of area used for public assembly
Public buildings	1 space for each 200 square feet of gross floor space
Sanitariums, rest and convalescent homes for the aged and similar institutions	1 space for each 6 patient beds, plus 1 space for each staff or visiting doctor, plus 1 space for each 4 employees
Structured Home Environments	1 space for each 2 beds, plus 1 space for each staff or visiting counselor, plus 1 space for each 4 employees
<i>Business Uses</i>	<i>Required Parking</i>
Doctors and dentists offices	5 spaces per doctor or dentist
Professional and business offices	1 space for each 300 square feet of gross floor space
Banks	1 space for each 150 square feet of gross floor space
Retail stores and shops of all kinds, including barber, shoe and similar service outlets	1 space for each 200 square feet of gross floor space
Car sales, house and truck trailer sales, outdoor equipment and machinery sales and commercial nurseries	4 spaces for each sales person, plus 1 space for each 2 employees
Hotels	1 space for each 2 rooms, plus 1 additional space for each 5 employees
Motels, tourist homes, tourist courts and bed-and-breakfast inns	1 space for each accommodation, plus 2 additional spaces for employees
<i>Business Uses</i>	<i>Required Parking</i>
Service stations	2 spaces for each gas pump, plus 3 spaces for each grease rack or similar facility
Shopping centers	1 parking space for each 300 square feet of gross floor area
Restaurants, drive-in	Parking space equivalent to 5 times the floor space in the main building

Restaurants, indoor	1 space for each 3 seats or stools, plus 1 space for each 2 employees on the shift of the largest employment
Motor sports facilities	1 space for each 3 seats based on maximum capacity of the motor sports facility or per each 200 square feet of space directed to patron use, whichever is greater
Amusement parks	1 space for each 3 seats based on maximum capacity of the amusement park or per each 200 square feet of space directed to patron use, whichever is greater, plus 1 space for each 2 employees at maximum employment on a single shift
Junkyards	1 space for each 2 employees at maximum employment on a single shift, plus 1 space for each company vehicle operating from the premises
Adult establishments	1 space for each 200 square feet of gross floor space
<i>Wholesale and Industrial Uses</i>	<i>Required Parking</i>
Wholesale and industrial uses	1 space for each 2 employees at maximum employment on a single shift, plus 1 space for each company vehicle operating from the premises
Solid waste management facilities, mining and extraction operations, concrete plants, asphalt plants, slaughtering plants, chip mills, heavy industry, incinerators	1 space for each 2 employees at maximum employment on a single shift, plus 1 space for each company vehicle operating from the premises

9. **Section 154.131 EXISTING LOTS.**

1. Section 154.131 (A). Amend to delete: “(A) Lots of insufficient land area. Where the owner of a lot at the time of the adoption of this chapter or any amendment thereto or his or her successor in title thereto does not own sufficient land to enable him or her to conform to the minimum area requirements of this chapter, the lot may nonetheless be used as a building site, provided that any existing lot with an area below the minimum set forth in this chapter shall be approved by the Board of Adjustment as provided in § 154.105(F). If, however, the owner of 2 or more adjoining

lots either of which contains insufficient land area to comply with the applicable provisions of this chapter decides to build on or sell these lots as a building lot, he or she must first combine the lots to comply with the area and dimensional requirements of this chapter. As used in the section, "the time of the adoption of this chapter or any amendment thereto" means the date on which this chapter or any amendment thereto is made applicable to the use district in which the lot is located.

2. Section 154.131 (A). Amend to add: "(A) Lots of insufficient land area. Where the owner of a lot at the time of the adoption of this chapter or any amendment thereto or his or her successor in title thereto does not own sufficient land to enable him or her to conform to the minimum area requirements of this chapter, the lot may nonetheless be used as a building site, provided that any existing lot with an area below the minimum set forth in this chapter shall meet the setbacks required in the district. Applicants who do not feel they can meet the setback requirements may appeal to the Board of Adjustment as provided in § 154.105(F). If, however, the owner of 2 or more adjoining lots either of which contains insufficient land area to comply with the applicable provisions of this chapter decides to build on or sell these lots as a building lot, he or she must first combine the lots to comply with the area and dimensional requirements of this chapter. As used in the section, "the time of the adoption of this chapter or any amendment thereto" means the date on which this chapter or any amendment thereto is made applicable to the use district in which the lot is located.

10. Section 154.258 SIGNAGE TYPES.

Section 154.258 Signage Types. Amend to add:

(G) *Incidental Home Occupation Signs.* Incidental Home Occupations permitted in the Town of Mills River are limited to one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principle building.

Except as specifically amended herein, the Zoning Ordinance of the Town of Mills River shall remain valid and in full force and effect.

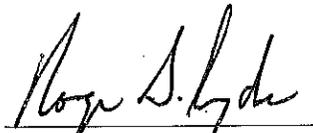
**ARTICLE III
SEVERABILITY**

Each section and subsection of said ordinance as adopted herein constitutes a separate and distinct provision. Whenever possible, each provision of such Ordinance shall be interpreted in a manner as to be effective and valid under applicable law. In the event that any provision so such Ordinance shall finally be determined by competent court or tribunal to be unlawful or unenforceable, such provision shall be deemed severed from such Ordinance but every other provision of the Ordinance shall remain in full force and effect.

**ARTICLE NO. IV
EFFECTIVE DATE**

This Ordinance and the Amendment to the Zoning Ordinance of the Town of Mills River, North Carolina shall take effect and be effective at 12:01AM on April 24, 2009, and shall be in full force and effect at all times thereafter until duly amended.

ADOPTED AND PASSED by the Town Council of the Town of Mills River, North Carolina, this the 23rd day of April, 2009.



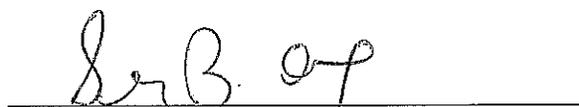
Roger D. Snyder, Mayor

ATTEST By:



Susan L. Powell, CMC
Town Clerk

Approved as to Form:



Sharon B. Alexander, Town Attorney

