

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

**ARTICLE I
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:

A. 154.007(B)- Add the following definitions:

Commercial waste container. Any container for storing waste pending removal or recycling.

Construction related waste container. A waste container on site prior to issuance of the certificate of occupancy for the project for purposes of construction or remodel related waste collection.

B. 154.047 (E) (1) MR-30 Residential District - amend to read "Whenever any MR-30 Residential District non-residential rear and/or side property line abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential purposes shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B)."

C. 154.055 MR-LI Mills River Light Industrial

1. 154.055 (D) (2) – amend to read "Whenever the location of an accessory building abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential purposes shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B)."

2. 154.055 (F) (1) – amend to read "Whenever any non-residential MR-Light Industrial rear and/or side property line abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential purposes shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B)."

D. 154.056 I-1 Light Industrial – delete this section and all references to this section in the Code.

E. 154.057 MR-General Business

1. **(D) (2)** - amend to read “Whenever the location of an accessory building abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential purposes shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B).”

2. **(F) (1)** – amend to read “Whenever any non-residential MR-General Business rear and/or side property line abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential purposes shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B).”

F. 154.058 MR-Neighborhood Commercial -

1. **154.058 (B) 4** - amend to renumber second (B) (4) to (B) (5).
Remove editor’s note.

2. **154.058 (F) (1) MR-Neighborhood Commercial** – amend to read “Whenever any non-residential MR-Neighborhood Commercial rear and/or side property line abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential purposes shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B).”

G. 154.066 MR-Mixed Use District –

1. **154.066 (K) (1)**

a. amend to re-letter existing letter (K) as (L)

b. amend new letter (K) to read “Whenever any non-residential MR-Mixed Use rear and/or side property line abuts upon a residential use with no intervening street or highway or natural buffer, any buildings or parking area used for non-residential shall be screened with a buffer strip along the property line(s) as defined in § 154.007(B).”

2. **154.066** – amend to add new section (K) to read as follows:

(K) Dimensional requirements – non-residential. Within the MR-Mixed Use District, as shown on the Zoning Map of the Town of Mills River, the following dimensional requirements shall be met:

1. Maximum building size: 15,000 square feet. Public Schools as defined in 154.007(B) are exempt from this provision for building side maximum.
2. Maximum building height: 40 feet.
3. Minimum front yard setback from major street: 75 feet.²
4. Minimum front yard setback from all other streets: 60 feet.
5. Minimum rear and side yard setback: 30 feet.

H. 154.086 Communications Towers

1. - amend opening paragraph to this section to read: “Any person, corporation, partnership or other entity which intends to construct a communications tower within the jurisdiction of this chapter shall first obtain a permit in accordance with the terms of this Chapter and Chapter 152.”

2. **154.086 (A) (7)** – amend to read “Towers in the MR-MU District. Towers are permitted in the MR-MU District, but shall comply with all procedural and substantive requirements of Chapter 152 of this Code.”

3. **154.086 (C) Zoning Compliance Permit** - amend to read: “Permit application and review requirements for communications towers. All sealed documents shall be accompanied by an unsealed copy. All site plans and drawings must submit at least one copy in 11 x 17. Application and review requirements for communications towers vary according to group, as follows:”

I. **154.115 Commercial waste container Screening Requirements** – amend chapter 154 to add new section 154.115 to read as follows: “154.115 (A) Commercial waste container Screening Requirements. New Commercial sites in all districts shall locate commercial waste containers so that they are screened from view from the public right of way by either:

- 1) a solid fence; or
- 2) Screened with evergreen landscaping. Shrubbery used for screening must be a minimum of 24” high at planting and maintained so as to grow vertically to screen the commercial waste container. Any landscaping used for screening may also count towards interior plantings on the landscape plan; or
- 3) by a building or natural barrier.
- 4) Construction related waste containers, as defined in 154.007(B) are to be excluded from this provision.

J. **154.215 Conflict with Other Laws, Table A - Dimensional Requirements** - amend Table A to read as follows:

Table A. Dimensional Requirements							
	Minimum Lot Area	Minimum Lot Area Per Dwelling (Family) Unit	Maximum Building Height	Yard Setback From Center Line of Street		Minimum Setbacks	
				Major ¹	All Others	Side	Rear
District	(sq. ft.)	(sq. ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)
MR-30	30,000	30,000	50	75	60	30	30
MR-LI 2,4	1 acre 3	-	50	75	60	15	20
MR-GB 2,3	see note 3	-	50	50	40	15	30
MR-NC Residential	30,000	30,000	50	75	60	30	30
MR-NC ⁵ Non-Residential	30,000	-	30	75	60	30	30
MR-MU	30,000	30,000	-	-	-	-	-

Residential							
MR-MU6 Non-Residential	-	-	40	75	60	30	30

NOTES:

1 Where the major street is more than 2 lanes, including parking lanes, setback requirements shall be measured and begin at a point on the pavement 12 feet from the edge of the paved street abutting the property in subject.

2 Building Foot print shall cover no more than 50% of total area.

3 Minimum mean lot width: 75 feet.

4 Minimum mean lot width: 200 feet.

5 Maximum building size: 10,000 square feet.

6 Maximum building size: 15,000 square feet

K. 152.01 Statutory Authority; Purpose - amend to add 152.01 (C) All applications for communications towers as defined herein must also comply with § 154.086 of this Code.

L. 153.045 Subdivision Types and Plat Requirements

1. - amend to add letter (A) before paragraph.
2. - amend to add letter (B) to read “Certificate of Understanding. The following certificate of understanding shall be required on all final plats including the property owner’s signature before being approved for recordation by the Zoning Administrator;

Certificate of Understanding

I (we) hereby certify that I am (we are) the owner(s) of the property located within the subdivision-regulation jurisdiction of the Town of Mills River as shown and described hereon, and that I (we) hereby adopt this plan of subdivision. I (we) understand that expansion of this subdivision may result in the upgrading of road infrastructure, utilities and additional right-of-way dedication and other applicable requirements as required by the Subdivision Regulations, Chapter 153 of the Town of Mills River Zoning Code. All proposed roads in this subdivision will meet the minimum requirements outlined Chapter 153 for the type of subdivision approved.

Date

Owner(s)

3. - amend to add (C) Unsealed copies and Plan Size Requirements. An unsealed copy of all plats shall be submitted in addition to requirements for sealed plats and plans. All drawings shall be submitted with at least one copy in 11 x 17 size or less.

4. - amend Appendix 7 to add "An unsealed copy of all plats shall be submitted in addition to requirements for sealed plats and plans. All drawings shall be submitted with at least one copy in 11 x 17 size or less." Add Certificate of Understanding (as set out in Item K 2 above) under Required Certificates section of Appendix.

5. - amend Appendix 3 to add "An unsealed copy of all plats shall be submitted in addition to requirements for sealed plats and plans. All drawings shall be submitted with at least one copy in 11 x 17 size or less." Add above the first paragraph beginning "Please check appropriate space."

6. - amend Appendix four (4)

a. to change reference in first paragraph under Master Plan Requirements from section 153.049 (B) (1) to section 153.049 (B).

b. to add "An unsealed copy of all plats shall be submitted in addition to requirements for sealed plats and plans. All drawings shall be submitted with at least one copy in 11 x 17 size or less." Add under Other Master Plan Application Requirements.

c. to change reference on Master Plan requirement under Other Master Plan Application Requirements to section 153.049 (B) from section 170300-16C.

7. - amend Appendix five (5)

a. to change reference in first paragraph under Development Plan Requirements from section 153.049 (B) (1) to section 153.049 (B).

b. to add "An unsealed copy of all plats shall be submitted in addition to requirements for sealed plats and plans. All drawings shall be submitted with at least one copy in 11 x 17 size or less." Add under Other Development Plan Application Requirements.

8. - amend Appendix six (6) to add "An unsealed copy of all plats shall be submitted in addition to requirements for sealed plats and plans. All drawings shall be submitted with at least one copy in 11 x 17 size or less." Add above first paragraph beginning "Please check appropriate space."

M. 153.069 Roads in General -

1. - amend to add (A) Travel way minimum. All roads must have a minimum gravel or paved travel way of 12 feet.

2. - amend to change existing letter (A) to letter (B).

3. - amend to change existing letter (B) to letter (C).

4. - amend to change existing letter (C) to letter (D).

5. - amend to change existing letter (D) to letter (E).

6. - amend to change existing letter (E) to letter (F).

7. - amend to change existing letter (F) to letter (G).

8. - amend to change existing letter (G) to letter (H).

9. - amend to change existing letter (H) to letter (I).

10. - amend to change existing letter (I) to letter (J).

11. - amend to add letter (K) Commercial Subdivision Entrances. Interior roads in a commercial subdivision shall comply with Table 1 Road Construction Standards with no exemption for less than four lots as granted for residential subdivisions.

12. - amend Table 1 to read as follows:

TABLE 1			
<i>Road Classification</i>			
Item	Collector	Local	Limited Local
Number of residential units served	25 +	1 to 24 ⁽¹⁾	1 to 3 (1)
Right-of-way width			
Roads	50 feet	45 feet	30 feet
Cul-de-sac (radius)	N/A	50 feet(2)	50 feet(2)
Sight distance on vertical curves	150 feet	110 feet	110 feet
Centerline radius	110 feet(3)	90 feet(3)	90 feet(3)
Maximum grade			
Stone only	12%	15%	15%
Paved surface	16%	18%	18%
Road construction			
Minimum travelway width (2 way road)	18 feet	18 feet	14 feet

Minimum travelway width (1 way road)	12 feet	12 feet	12 feet
Minimum travelway (cul-de-sac)	N/A(2) feet	N/A(2) feet	N/A(2) feet
Shoulder width (each side, 2 way road)	6 feet(4)	4 feet(4)	2 feet
Shoulder width (each side, 1 way road)	2 feet	2 feet	2 feet
Stone base (ABC) compacted	8 inches	6 inches	6 inches
Asphalt(5)	1-1/2 inches of I-2 or BST		
Cut and fill slope	2 to 1(6)	1-1/2 to 1(6)	1-1/2 to 1(6)
Ditch slope	4 to 1	3 to 1	3 to 1
Vertical clearance	13 feet	13 feet	13 feet
	6 inches	6 inches	6 inches

NOTES:

(1) Except for right-of-way width, required standards do not apply to minor subdivisions of fewer than 4 lots. [See § 153.046(A)(5).]

(2) See also § 153.069(H). Alternative culs-de-sac may be approved by the Planning Board (or the Subdivision Administrator for minor subdivisions or for approved major subdivisions if the alternative cul-de-sac does not constitute a substantial change) based on sound engineering design and public safety concerns.

(3) Reductions in the centerline radius are permitted under specific circumstances. (See § 153.069(F).)

(4) On private local residential roads, in cases where the existing cross slope is 20% or greater, a 2 foot minimum shoulder width shall be permitted. (See also § 153.070.)

On private collector roads, in cases where the existing cross slope is greater than 10% but less than 20%, a 4 foot minimum shoulder width shall be permitted. (See also § 153.070.)

On private collector roads, in cases where the existing cross slope is 20% or greater, a 2 foot

minimum shoulder width shall be permitted. (See also § 153.070.)

(5) Asphalt or other similar hard surface material is optional except where the Subdivision Administrator requires the material on steep grades, subdivision entrances or road intersections.

(6) In cases where the existing cross slope is 20% or greater, 1 to 1 cut-and-fill slopes shall be permitted. (See also § 153.070.)

N. 153.076 Roads Frontage and Existing Off-Site Access – amend (A) to read “Any tract of land to be subdivided must either have frontage on an existing public (state-maintained) road or a private right-of-way to a public road. For a proposed minor or family subdivision which has less than 30 feet of frontage on an existing public (state-maintained) road or less than 30 feet of right-of-way to a public road, the subdivision shall not be divided into more lots than provided in Table 2. Inadequate frontage or existing off-site access over a private right-of-way shall restrict the maximum number of lots into which a subject tract may be divided, regardless of total acreage.”

O. 153.078 Pedestrian Facilities – amend to add section 153.078 Pedestrian Facilities.

(A) All subdivisions of 100 or more lots shall provide one linear foot of sidewalk or walking trail for every linear foot of proposed roadway.

(B) Sidewalks should be at least five feet in width, made with permanent weather proof material, and located in a road right of way or sidewalk easement.

(C) Maintenance provisions shall be recorded in the homeowner’s association covenants at the Henderson County Register of Deeds with a copy submitted for review by the Zoning Administrator prior to final plat.

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

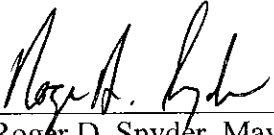
Each section and subsection of said ordinance as adopted herein constitutes a separate and distinct provision. Whenever possible, each provision of such Ordinance shall be interpreted in a manner as to be effective and valid under applicable law. In the event that any provision so such Ordinance shall 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 29, 2011 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 28th day of April, 2011.

ATTEST By:



Roger D. Snyder, Mayor



Susan L. Powell, CMC
Town Clerk

