

**AN ORDINANCE AMENDING TITLE XV LAND USAGE  
OF THE MILLS RIVER CODE OF ORDINANCES**

**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. 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, and with various amendments, is further amended as to the following articles, chapters, sections and subsections:

**Chapter 150 Building Regulations**

Amended to comply with North Carolina General Statutes Chapter 160D Local Planning and Development Regulation. See Exhibit A.

**Chapter 151 Manufactured Home Parks**

Amended to comply with North Carolina General Statutes Chapter 160D Local Planning and Development Regulation. See Exhibit B.

**Chapter 152 Nuisances**

Amended to comply with North Carolina General Statutes Chapter 160D Local Planning and Development Regulation. See Exhibit C.

**Chapter 155 Vested Rights**

Amended to comply with North Carolina General Statutes Chapter 160D Local Planning and Development Regulation. See Exhibit D.

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 12:01 AM on March 26, 2021 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 25<sup>th</sup> day of March 2021.



Chae T. Davis  
Mayor

ATTEST By:



Susan L. Powell, MMC, NCCMC  
Finance Director/Town Clerk



# TITLE XV: LAND USAGE

## CHAPTER 150: BUILDING REGULATIONS

### Generally

- 150.01 Prohibiting restrictions on agricultural land use
- 150.02 Enhanced voluntary agricultural districts

### Entry Gates and Entry Boxes

- 150.15 Definitions
- 150.16 Design
- 150.17 Size of entry gate area
- 150.18 Enforcement and legal status

## GENERALLY

1 **§ 150.01 PROHIBITING RESTRICTIONS ON AGRICULTURAL LAND**  
2 **USE.**

3 (A) The Town of Mills River shall not impose any regulation or restriction  
4 on the use of agricultural land which is more stringent than that imposed by the state  
5 of North Carolina or the United States of America. Agricultural land shall be defined  
6 to include "agricultural land, forest land, and horticultural land" as defined in G.S. §  
7 105-277.2 and property used for bona fide "farm purposes" as defined in G.S. § ~~160D-~~  
8 ~~903153A-340(b)(2)~~. Those regulations and restrictions that are prohibited include  
9 but are not limited to those related to waste management, water quality, pesticide  
10 use, farm labor, hours of operation, water usage, stream buffers, storm water runoff,  
11 sounds and odors. This prohibition does not apply to any prohibition of, regulation of  
12 or limitation on nonagricultural activities occurring upon agricultural property.

13 (B) Nothing herein shall be construed to impose any restriction upon the  
14 ability of Henderson County to regulate land use or prohibit or regulate any activity

15 within the Town of Mills River pursuant to any Henderson County Ordinance that is  
16 being administered or enforced by Henderson County within the Town of Mills River  
17 pursuant to an agreement between Henderson County and the Town of Mills River.

18 (C) Nothing herein shall be construed to impose any restriction upon the  
19 ability of the Town of Mills River to regulate land use pursuant to G.S. Chapter ~~160A,~~  
20 ~~Article 19~~160A and Chapter 160D as long as the regulation of agricultural land is not  
21 more stringent than that imposed by the state and federal governments.

22 (D) (1) The purpose of this subsection is to encourage the voluntary  
23 preservation and protection of farmland from nonfarm development, recognizing the  
24 importance of agriculture to the economic and cultural life of the Town of Mills River.

25 (2) Pursuant to authority conferred by G.S. Ch. 106, Art. 61, and for  
26 the purpose of promoting the health, safety, morals and general welfare of the Town  
27 of Mills River, this section shall be known as the “Voluntary Farmland Preservation  
28 Program Ordinance of Mills River, North Carolina.”<sup>[AS1]</sup>

29 (Ord. 00001, passed 9-11-2003; Am. Ord. 00086, passed 11-14-2013)

### 30 § 150.02 ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS.

31 (A) The purpose of Enhanced Voluntary Agricultural Districts within the  
32 Town is to provide, pursuant to G.S. § 160-743-1, *et seq.*, all of the benefits provided  
33 in Part 2 and Part 3, Article 61 of Chapter 160 <sup>[AS2]</sup>of the North Carolina General  
34 Statutes.

35 (B) Enhanced Voluntary Agricultural Districts shall be established and  
36 administered within the Town of Mills River as provided in Chapter 45 of the  
37 Henderson County Code of Ordinances.

38 (C) The County Agricultural Advisory Board, established pursuant to § 45-  
39 3 of the Henderson County Code, shall serve as the agricultural advisory board for the  
40 Town of Mills River.



41 (D) An Enhanced Voluntary Agricultural District shall be established only  
42 after compliance with the requirements set out in Article IV and Article VII of Chapter  
43 45 of the Henderson County Code of Ordinances.  
44 (Ord. 00088, passed 3-13-2014)<sup>[AS3]</sup>

## ENTRY GATES AND ENTRY BOXES

### 45 § 150.15 DEFINITIONS.

46 Except as otherwise defined in this section, all terms contained herein shall  
47 have their meaning as otherwise defined in the Mills River Town Code, or if not so  
48 defined, as commonly used. The following terms are specifically defined as follows:

49 **ACCESS CONTROL DEVICE.** Equipment and/or machinery that opens and  
50 closes an entry gate.

51 **ENTRY GATE.** Movable partition for controlling access and egress.

52 **VEHICLE.** Any motor vehicle which is allowed to use the public roadways in  
53 North Carolina, but not including vehicles which include trailers or semi-trailers.

54 (Ord. 00040, passed 4-12-2007)

### 55 § 150.16 DESIGN.

56 (A) All subdivision or community entry gates constructed hereafter shall  
57 be setback sufficiently far from public road or street access to allow for the stacking  
58 of at least 50 feet out of the public travel lanes on the public road or street.

59 (B) All entry gates hereafter constructed shall have an additional setback  
60 between the point of the access control device and the entry gate to allow a vehicle  
61 which is denied access to safely turn around and exit onto a public street.

62 (C) Approach and departure areas on both sides of a gated entrance must  
63 provide adequate setbacks and proper alignment to allow free and unimpeded  
64 passage of emergency vehicles through the entrance area.

65 (D) Key boxes approved by the Fire Chief shall be installed on all new  
66 commercial and industrial uses and on existing uses where a nuisance or repeated  
67 alarms occur. Installation of the key box may be on access gates or other locations  
68 where access is delayed. Strip malls or commercial developments may have a  
69 centrally located key box where each business may locate a key. Multiple keys will  
70 require some identification as to which key corresponds to each business.

71 (Ord. 00040, passed 4-12-2007)

72 **§ 150.17 SIZE OF ENTRY GATE AREA.**

73 Entry gates shall have sufficient minimum gate width and opening to allow  
74 safe passage of all vehicles. Overhead barriers or obstructions shall provide a  
75 minimum 13' 6" vertical clearance at its lowest point. All new gates installed after this  
76 subchapter is adopted shall have a minimum width of 15 feet clearance through the  
77 gate. The Fire Chief may require modifications to existing gate structures to allow  
78 them to accommodate emergency vehicles.

79 (Ord. 00040, passed 4-12-2007)

80 **§ 150.18 ENFORCEMENT AND LEGAL STATUS PROVISIONS.**

81 (A) All plans for entry gates for which construction is not complete as of  
82 the adoption of this subchapter shall be subject to inspection by Mills River Fire and  
83 Rescue for compliance with the provisions. Once plans are approved, the entry gate  
84 shall be constructed in compliance with such plans.

85           (B) All entry gates for which construction is complete as of the adoption of  
86 this subchapter shall be retrofitted in such manner as to be in compliance with the  
87 terms of this subchapter within 6 months of the date of adoption of this subchapter.

88           (C) The developer and homeowners' association shall provide unfettered  
89 access to all private streets by emergency and law enforcement vehicles. Access  
90 procedures must ensure immediate access through the entry gates for emergency and  
91 law enforcement vehicles responding to emergencies without need of special keys or  
92 codes. This may be done by access control device approved by Mills River Fire and  
93 Rescue. The developer and homeowner's association shall provide and annually  
94 update documentation necessary to provide this access to Henderson County Sheriff's  
95 Department, Emergency Services, ~~and the Town of Mills River,~~ and Mills River Fire  
96 and Rescue that proposed entry gates and access procedures meet all town standards  
97 for access by emergency and law enforcement vehicles. If the homeowner's  
98 association fails to maintain reliable access for the provision of emergency or other  
99 public services, the town may enter the gated residential, development and open,  
100 disable or remove any gate or device, which is a barrier to access, at the sole expense  
101 of the homeowners' association. The declaration of covenants, conditions and  
102 restrictions and any other relevant documents of the homeowners' association shall  
103 include a statement to this effect.

104           (D) The developer and homeowners' association shall guarantee  
105 reasonable access to all private streets by the Town of Mills River, Henderson County  
106 and State of North Carolina employees operating within the scope of their official  
107 duties to perform zoning, inspections and other governmental regulatory activities,  
108 and to all public utility companies to perform installation and maintenance activities  
109 of public utility infrastructure. A statement to this effect shall be filed with the

110 Henderson County Sheriff's Department and appear on the final plat of all new  
111 development.  
112 (Ord. 00040, passed 4-12-2007)



# TITLE XV: LAND USAGE

## CHAPTER 151: MANUFACTURED HOME PARKS

### General Provisions

151.001	Title
151.002	Authority
151.003	Purpose
151.004	Jurisdiction
151.005	Manufactured home parks allowed in certain zoning districts as a special use
151.006	Conformance with other ordinances
151.007	Definitions
151.008	Conflict with other laws

### Applications, Plan Review and Approval

151.020	Approval/special use permit required
151.021	Application procedure
151.022	Completion of improvements
151.023	Amendments to park development plan

### Site Development and Improvement Standards

151.040	Phasing
151.041	Road frontage and off-site access
151.042	Density
151.043	Common area
151.044	Landscaping and buffers
151.045	Separation, dimensional, and design requirements
151.046	Municipal water supply and sewage disposal system connection requirements
151.047	Fire protection
151.048	Utility requirements
151.049	Erosion and sedimentation control
151.050	Stormwater drainage
151.051	Parking
151.052	Driveways

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- 151.053 Internal road construction standards
- 151.054 Road names
- 151.055 Road name signs and other regulatory signs
- 151.056 Property addressing
- 151.057 Park identification sign
- 151.058 Manufactured home park name
- 151.059 Setup
- 151.060 Nonresidential uses
- 151.061 Solid waste disposal
- 151.062 Unit type
- 151.063 Beginning a park
- 151.064 Expansion of minor park to major park

**Administration**

- 151.080 Preexisting/nonconforming manufactured home parks
- 151.081 Expansion of existing manufactured home parks
- 151.082 Waiver of requirements
- 151.083 Appeals
- 151.084 Revocation of certificate of completion
- 151.085 (Reserved)
- 151.086 (Reserved)
- 151.087 (Reserved)
- 151.088 Forms
- 151.089 Fees
- 151.090 Amendments
- 151.999 Penalty
- Appendix A: Manufactured home park site development plan requirements
- Appendix B: Construction Permit Application Form
- Appendix C: Certificate of Completion Application Form



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24 Ordinance for the Town of Mills River, the terms and provisions of the Zoning  
25 Ordinance shall prevail.  
26 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
27 2016)

28 **§ 151.005 MANUFACTURED HOME PARKS ALLOWED IN CERTAIN**  
29 **ZONING DISTRICTS AS A SPECIAL USE.**

30 Manufactured home park developments may be located in the MR-30, MR-MU,  
31 and MR-NC ~~as a Special Use~~, subject to a ~~finding~~ the approval of a Major Special Use  
32 Permit by Town Council ~~on the advice and~~ in consideration of the recommendations  
33 of the Planning Board that certain conditions are met.

34 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00052, passed 6-26-  
35 2008; Am. Ord. 2016-04, passed 7-28-2016)

36 **§ 151.006 CONFORMANCE WITH OTHER ORDINANCES.**

37 (A) This chapter applies in areas under the jurisdiction of the Town of Mills  
38 River Zoning Ordinance to the extent allowed by the Zoning Ordinance.

39 (B) In the case of manufactured home parks proposed for development in  
40 designated water supply watershed areas, the parks shall conform to the  
41 requirements of the appropriate watershed district according to the terms of the  
42 Henderson County Water Supply Watershed Ordinance as amended as or replaced as  
43 well as to the standards of this chapter, and, in case of conflict, the most restrictive  
44 shall apply.

45 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
46 2016)



Town of Mills River, NC Code of Ordinances47 **§ 151.007 DEFINITIONS.**

48 For the purpose of this chapter, the following words shall have the meanings  
49 indicated:

50 **APPLICANT.** The legal owner of the real property to be developed for a  
51 manufactured home park who is responsible for submitting an application for a  
52 manufactured home park construction permit and upon whom final responsibility for  
53 ensuring compliance with the terms and conditions of this chapter rests. For  
54 purposes of submission and review of an application, an agent designated by the legal  
55 owner, in writing, will also be considered an **APPLICANT**.

56 **APPLICATION.** A manufactured home park construction permit application  
57 form, the site development plan and any other supporting documents.

58 **BUILDING.** Any structure having a roof supported by columns or by walls  
59 and intended for shelter, housing or enclosure of persons, animals or personal  
60 property. Two buildings connected by a common roof shall be considered as 1  
61 building, provided that the width of the connecting roof shall be at least 20% of the  
62 principal building width, but in no case less than 6 feet in width. The connection of 2  
63 buildings by means of an open porch, breeze way or passageway without a roof, or  
64 with a roof less than 6 feet in width, shall not be deemed to make them 1 building.

65 **BUILDING, ACCESSORY.** A detached building subordinate to a main building  
66 or manufactured home for purposes customarily incidental to the main or principal  
67 building and located on the same lot or manufactured home space therewith.

68 **CERTIFICATE OF COMPLETION (COC).** A document issued by the  
69 Manufactured Home Park Ordinance Administrator to a manufactured home park  
70 applicant upon completion of the park, or phase thereof, which certifies that the park  
71 conforms to the requirements of this chapter. A **CERTIFICATE OF COMPLETION** is

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72 required in order to obtain manufactured home set-up permits or other building  
73 permits from the Henderson County Inspections Department.

74 **COMMON AREA.** Area set aside, dedicated or reserved for the use and  
75 enjoyment of residents of a manufactured home park. **COMMON AREA** may include  
76 space for community buildings, ponds, gardens, walking paths, outdoor play areas,  
77 swimming pools, ball fields, basketball courts, racquet courts, gazebos, picnic  
78 shelters, utility easements, and the like. Areas above subsurface sewage disposal  
79 systems or wells may, in some cases, also be used as **COMMON AREA**. Land within  
80 required building setbacks and separation areas, internal roads, exterior road rights-  
81 of-way, driveways, parking spaces, common storage facilities, laundry rooms, mail  
82 delivery areas, model homes, solid waste disposal areas and areas needed for  
83 aboveground utility facilities, including water supply or sewage disposal systems,  
84 shall not be considered **COMMON AREA**.

85 **DRIVEWAY.** An area used for ingress or egress of vehicles and allowing  
86 access from an internal road to no more than 2 dwelling units.

87 **DWELLING UNIT.** A building, or portion thereof, that provides complete and  
88 permanent living facilities for 1 family. Also known as a **UNIT**.

89 **EASEMENT.** A grant by the owner of property of the use of a strip of land for  
90 specified purpose and use by the public, a corporation or persons. **EASEMENTS** are  
91 typically granted (dedicated) for utility use and for ingress and egress such as a road  
92 easement, commonly referred to as a **RIGHT-OF-WAY**.

93 **FAMILY.** One or more persons living independently as a single  
94 housekeeping unit and using cooking facilities and certain rooms in common. A  
95 **FAMILY** shall not include a group occupying a boarding house, lodging house, club or  
96 fraternity house or similar dwelling.

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97           **LOT.** A piece of land occupied or capable of being occupied by a building or  
98 group of buildings devoted to a common use, together with the customary accessories  
99 and open spaces belonging to same.

100           **MAJOR PARK.** Any manufactured home park consisting of 11 or more  
101 manufactured homes and/or spaces.

102           **MANUFACTURED HOME.** A single-family residential dwelling built in  
103 accordance with the Federal Manufactured Housing Construction and Safety  
104 Standards Act of 1974 (which became effective June 15, 1976). For purposes of this  
105 chapter, however, the term includes **MOBILE HOMES** (see definition below).

106           **MANUFACTURED HOME PARK (PARK).** A tract of land designed to  
107 accommodate 3 or more manufactured or mobile home spaces, 3 or more  
108 manufactured or mobile homes or any combination of such for rent or lease.  
109 Notwithstanding the foregoing, manufactured home parks which consist of no more  
110 than 10 manufactured homes and in which all of the manufactured homes provide or  
111 are intended to provide migrant housing subject to and in accordance with the  
112 Migrant Housing Act of North Carolina (G.S. §§ 95-222 *et seq.*) are specifically  
113 exempted from the terms of this chapter.

114           **MANUFACTURED HOME PARK CONSTRUCTION PERMIT.** A permit issued  
115 by the Manufactured Home Park Ordinance Administrator to a manufactured home  
116 park applicant upon approval of a Special Use Permit by Town Council which certifies  
117 that the applicant may begin improvements to the park or phase site.

118           **MANUFACTURED HOME PARK ORDINANCE ADMINISTRATOR**  
119 **(ADMINISTRATOR).** An official or designated person(s) of the Town of Mills River  
120 authorized to review and approve applications and plans for manufactured home  
121 parks under the terms and conditions of this chapter. **THE MANUFACTURED HOME**  
122 **PARK ORDINANCE ADMINISTRATOR** may be the Zoning Administrator.



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123           **MINOR PARK.** Any manufactured home park consisting of 10 or fewer  
124 manufactured homes and/or spaces.

125           **MOBILE HOME.** A transportable, factory- built home, designed to be used as  
126 a single-family residential dwelling and manufactured prior to the Federal  
127 Manufactured Housing Construction and Safety Standards Act of 1974, which became  
128 effective on June 15, 1976.

129           **OPERATOR.** The person responsible for the operation of a manufactured  
130 home park.

131           **PHASE.** A portion of a manufactured home park delineated on the site  
132 development plan.

133           **PLAN, SITE DEVELOPMENT.** A graphic representation or map of the tract of  
134 land to be developed for a manufactured home park indicating all proposed uses of  
135 land, improvements and other general and specific information as may be required  
136 to fully disclose the applicant's intentions.

137           **RIGHT-OF-WAY.** An easement for ingress and egress, such as a road  
138 easement. See **EASEMENT.**

139           **ROADS, INTERNAL.** Vehicular travelways located within a manufactured  
140 home park. **INTERNAL ROADS** may be of 2 types: collector roads or service roads.

141                   (1) **INTERNAL COLLECTOR ROAD.** An internal road which serves  
142 25 or more units or spaces and serves as the most probable and convenient route to  
143 and from any external road or street connected to the manufactured home park.

144                   (2) **INTERNAL SERVICE ROAD.** An internal road which serves no  
145 more than to 24 units or spaces.

146           **SEPARATION.** The required minimum horizontal distance which must be  
147 reserved between the nearest vertical surface of a building and the applicable street  
148 right-of-way line, street, boundary line or other building or structure in which no



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149 other structure may be erected. However, for the purpose of this chapter, all  
150 structures attached to manufactured homes, including storage buildings, carports,  
151 covered or open porches, covered or open decks and steps, shall not be counted when  
152 measuring separation requirements from manufactured homes. See also **SETBACK,**  
153 **BUILDING.**

154 **SETBACK, BUILDING.** The distance from an established property boundary  
155 or other line defined in this chapter that establishes the buildable area on a lot and/or  
156 a manufactured home space. See also **SEPARATION.**

157 **SEWAGE DISPOSAL SYSTEM.** Any facilities for wastewater (sewage)  
158 collection, treatment and disposal. A **SEWAGE DISPOSAL SYSTEM** may be of the  
159 following types:

160 (1) **APPROVED PUBLIC OR COMMUNITY SEWAGE SYSTEM.** A  
161 single system of sewage collection, treatment and disposal owned and operated by a  
162 sanitary district, a metropolitan sewage district, a water and sewer authority, a  
163 county or municipality or a public utility constructed and operated in compliance  
164 with applicable requirements of the North Carolina Division of Environmental  
165 Management.

166 (2) **MUNICIPAL SEWAGE DISPOSAL SYSTEM.** An approved  
167 public or community sewage system which is owned and operated by a county or  
168 municipality.

169 (3) **SEPTIC TANK.** A subsurface wastewater system consisting of  
170 a settling tank and subsurface disposal field.

171 **SPACE, MANUFACTURED HOME.** An area of land within a manufactured  
172 home park designed for the exclusive use of 1 manufactured or mobile home and  
173 associated accessory buildings. A space shall be defined on the ground by the  
174 presence of 2 or more of the following:

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- 175 (1) A water supply system service connection;  
176 (2) A sewage disposal system service connection; and  
177 (3) Electric service equipment.

178 **SPECIAL USE, MAJOR.** A use that is not permitted by right, but is permitted  
179 after a review and finding by the Town Council that the use will meet all of the  
180 required general standards (see § 154.138) and the applicable specific site standards  
181 or site conditions.

182 **STATE ROAD STANDARDS.** Those standards contained in the NCDOT  
183 publication *Subdivision Roads - Minimum Construction Standards*, dated January 2010,  
184 as may be amended.

185 **STREET, EXTERNAL.** Vehicular travelway located outside of a  
186 manufactured home park that abuts the manufactured home park property.

187 **STREET, MAJOR.** An external street whose average daily traffic is greater  
188 than 4,000 vehicles per day.

189 **STRUCTURE, ACCESSORY.** See **BUILDING, ACCESSORY.**

190 **TRACT.** An area, site, piece of land or property which is the subject of a  
191 development application. A **TRACT** may contain 1 or more smaller parcels or lots all  
192 in the same ownership or control.

193 **UNIQUE NATURAL AREAS.** An area that contains features sensitive to  
194 development and is listed in the publication titled "Natural Areas of Henderson  
195 County, A Preliminary Inventory of the Natural Areas of Henderson County, North  
196 Carolina," by L.L. Gaddy, Ph.D., dated January 1994.

197 **WASTEWATER.** Any sewage or industrial process wastewater discharged,  
198 transmitted or collected from a residence, place of business, place of public assembly  
199 or other places into a sewage disposal (wastewater) system.

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200           **WATER SUPPLY SYSTEM.** A system for the collection, treatment, storage  
201 and distribution of potable water from the source of supply to the consumer. A  
202 **WATER SUPPLY SYSTEM** may be of the following types:

203           (1)   **MUNICIPAL WATER SYSTEM.** A public water system owned  
204 and operated by a local government.

205           (2)   **PRIVATE WELL WATER SUPPLY.** Any water supply  
206 furnishing potable water to less than 15 residences or 25 persons.

207           (3)   **PUBLIC WATER SYSTEM.**

208           (a)   A system for the provision to the public of piped water  
209 for human consumption which serves 15 or more service connections or which  
210 regularly serves 25 or more individuals. The term includes:

211                   1.   Any collection, treatment, storage or distribution  
212 facility under the control of the operator of the system and used primarily in  
213 connection with the system.

214                   2.   Any collection or pretreatment storage facility  
215 not under the control of the operator of the system which is used primarily in  
216 connection with the system.

217           (b)   A public water system is either a **COMMUNITY WATER**  
218 **SYSTEM** or a **NONCOMMUNITY WATER SYSTEM** as follows:

219                   1.   **COMMUNITY WATER SYSTEM.** A public  
220 water system which serves 15 or more service connections or which regularly serves  
221 at least 25 year-round residents.

222                   2.   **NONCOMMUNITY WATER SYSTEM.** A public  
223 water system which is not a community water system.



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224           **WATERSHED ADMINISTRATOR.** An official or designated person of  
225 Henderson County responsible for the administration and enforcement of the Water  
226 Supply Watershed Protection Ordinance for Henderson County.  
227 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
228 2016)

229   **§ 151.008   CONFLICT WITH OTHER LAWS.**

230           It is not intended that this chapter repeal, abrogate, annul, impair or interfere  
231 with any existing rules, regulations or permit previously adopted or issued pursuant  
232 to laws, except that should this chapter conflict with any applicable federal, state or  
233 local laws, the most stringent shall govern.  
234 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
235 2016)

236                   **APPLICATIONS, PLAN REVIEW AND APPROVAL**

237   **§ 151.020   APPROVAL/SPECIAL USE PERMIT REQUIRED.**

238           No person, firm or corporation shall construct a manufactured home park  
239 within the jurisdiction of this chapter without first obtaining a Major Special Use  
240 Permit approval from the Town Council as defined in §§ 154.138 and 154.180. Upon  
241 approval by Town Council, the Manufactured Home Park Ordinance Administrator  
242 shall issue a notice to proceed in the form of a manufactured home park construction  
243 permit.  
244 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
245 2016)



Town of Mills River, NC Code of Ordinances246 **§ 151.021 APPLICATION PROCEDURE.**

247 (A) *Planning conference.* A planning conference with the Administrator  
248 to acquaint the applicant with the approval process is required prior to submitting an  
249 application for a manufactured home park ~~construction permit~~ Major Special Use  
250 Permit. At the time of the conference, the applicant shall provide a general sketch for  
251 discussion and comment.

252 (B) *Application.* Prior to constructing a new manufactured home park or  
253 phase thereof or prior to expanding an existing park, an applicant shall submit a  
254 complete manufactured home park construction permit application (see Appendix B)  
255 along with 8 legible copies of the proposed site development plan, drawn at a scale of  
256 1 inch equals 100 feet, a buffer plan (if applicable, per § 151.044), a detailed drainage  
257 plan (per § 151.050), a description of the solid waste disposal method (per §  
258 151.061), plus required fees to the Administrator (see Appendix A for site  
259 development plan requirements).

260 (C) *Review procedure.* Major Special Use Permits ~~procedure goes to~~  
261 Planning Board for recommendation, then to Town Council for an evidentiary  
262 hearing ~~Public Hearing~~. Refer to § 154.138 and § 154.180.

263 (D) *Manufactured home park construction permit.*

264 (1) *Application approval.* If the application meets the requirements  
265 of this chapter, the Administrator shall issue the applicant a manufactured home park  
266 construction permit. The permit shall state the improvements that must be  
267 constructed by the applicant prior to issuance of a certificate of completion (see §  
268 151.022).

269 (2) *Application approval with conditions.* If the application is  
270 approved with conditions, the Administrator shall provide the conditions to the  
271 applicant, in writing, within 10 days of the action. The applicant must fulfill all

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272 conditions before the Administrator may issue a manufactured home park  
273 construction permit. Any development activity started prior to obtaining the permit  
274 shall be at the applicant's risk and may be deemed a violation of this chapter.

275 (3) Application *denial*. If the application is denied, the  
276 Administrator shall inform the applicant, in writing, of the reasons for the denial  
277 within 10 days of the action. (See § 151.083, Appeals, for more information.)  
278 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
279 2016)

280 **§ 151.022 COMPLETION OF IMPROVEMENTS.**

281 (A) *Time period*. Upon issuance of a manufactured home park  
282 construction permit, the applicant shall have 2 years to complete construction of site  
283 improvements as stated in the permit for the park or phase thereof, except as  
284 otherwise noted in division (B) below. Extensions may be granted by the  
285 Administrator for good cause upon receipt of a written request from the applicant.

286 (B) *Site improvements*.

287 (1) Depending on the specifics of the application, a manufactured  
288 home park applicant may be required to construct or install the following  
289 improvements, in accordance with special provisions, in order to obtain a certificate  
290 of completion (see division (C) below).

- 291 (a) Water supply systems;
- 292 (b) Sewage disposal systems;
- 293 (c) Fire protection improvements;
- 294 (d) Drainage improvements;
- 295 (e) Internal roads;
- 296 (f) Park identification signage; and
- 297 (g) Buffers.

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298 (2) Depending on the specifics of the application, a manufactured  
299 home park applicant may be required to construct or install the following  
300 improvements in accordance with special provisions. The improvements must be  
301 completed within 45 days of the date of issuance of a certificate of completion (see  
302 division (C) below).

- 303 (a) Parking areas;
- 304 (b) Driveways; and
- 305 (c) Improvements to common solid waste disposal areas.

306 (3) A manufactured home park applicant shall not be required to  
307 construct or install the following site improvements prior to obtaining a certificate of  
308 completion:

- 309 (a) Improvements to common areas;
- 310 (b) Road name and regulatory signs; and
- 311 (c) Nonresidential uses (such as laundry rooms, community  
312 buildings, park offices, and the like).

313 (C) Certificate of completion (COC). Once the required site  
314 improvements for the park or phase thereof are complete and the applicant has  
315 provided evidence that property addresses have been assigned to each manufactured  
316 home and other buildings in accordance with § 151.056, the applicant shall apply to  
317 the Administrator for a COC (see Appendix C). The Administrator shall conduct a site  
318 inspection and either issue a COC or a list of remedial items to be satisfied before a  
319 COC will be issued. Once the applicant obtains and maintains a valid COC, he or she  
320 may lease spaces and he or she (or the operator or tenants, as applicable) may obtain  
321 set-up and building permits for manufactured homes and other buildings within the  
322 park.



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323 (D) *As-built drawings.* One as-built drawing, at a scale of 1 inch equals  
324 100 feet, of the completed park (or phase) shall be submitted to the Administrator at  
325 the time an applicant applies for a COC.

326 (E) *Inspection.* The Administrator (or his or her designee) is authorized  
327 to make the inspections of manufactured home parks as necessary to ensure  
328 compliance with this chapter.

329 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
330 2016)

331 **§ 151.023 AMENDMENTS TO PARK DEVELOPMENT PLAN.**

332 Minor changes in the location, siting or character of manufactured homes or  
333 other structures may be authorized by the Administrator if required by engineering  
334 or other circumstances not foreseen at the time the plan was approved, provided that  
335 the changes are within the minimum or maximum requirements set forth in this  
336 chapter. An applicant proposing to increase the number of units or to construct  
337 buildings (other than accessory buildings for individual manufactured homes) not  
338 originally shown on the site development plan shall submit a revised plan for  
339 approval by the Administrator under the terms of this chapter.

340 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
341 2016)

342 **SITE DEVELOPMENT AND IMPROVEMENT STANDARDS**

343 **§ 151.040 PHASING.**

344 Manufactured home parks may be developed in phases of at least 3 units,  
345 except when less than 3 spaces remain to be developed.



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346 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
347 2016)

348 **§ 151.041 ROAD FRONTAGE AND OFF-SITE ACCESS.**

349 (A) Any tract of land to be developed as a manufactured home park must  
350 either have frontage on a public (state-maintained) road or have a private right-of-  
351 way corridor to the property. The minimum required length of the public road  
352 frontage or width of the private right-of-way corridor (at its narrowest point) shall  
353 be 30 feet.

354 (B) Off-site access shall have a minimum 20 foot cleared, unobstructed  
355 corridor, with a vertical clearance of at least 13 feet, 6 inches, to allow passage of  
356 emergency vehicles. The grade of any road, existing or proposed, within an off-site  
357 private right-of-way corridor used to access a manufactured home park shall not  
358 exceed 18% if the road is paved. If the road is not paved, the grade shall not exceed  
359 15%.

360 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
361 2016)

362 **§ 151.042 DENSITY.**

363 (A) The maximum permitted overall density for manufactured home parks  
364 is 4 units per acre. The applicant shall provide common area, as defined in § 151.007  
365 and in accordance with § 151.043, and a buffer, in accordance with § 151.044.

366 (B) The acreage of the entire area within the boundary of a manufactured  
367 home park, including areas to be designated as common area, shall be used to  
368 determine the overall density of a park. Other standards in this chapter as well as  
369 requirements of the Henderson County Department of Public Health or other agency  
370 may also affect the density.

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371 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
372 2016)

373 **§ 151.043 COMMON AREA.**

374 (A) Manufactured home parks shall contain a minimum of 400 square feet  
375 of common area per manufactured home space. Common area shall be accessible for  
376 the use and enjoyment of park residents and shall be maintained in good condition  
377 by the park applicant. All common area shall be designated as such on the site  
378 development plan submitted with the application for a manufactured home park  
379 construction permit.

380 (B) *Conveyance of open space, recreational areas and communally owned*  
381 *facilities.*

382 (1) Common open space, recreational areas and communally  
383 owned facilities shall be guaranteed by a restrictive covenant describing the areas  
384 and facilities and their maintenance improvement, running with the land for the  
385 benefit of residents of the manufactured housing development or adjoining property  
386 owners or both.

387 (2) The applicant must submit to the Town Council the legal  
388 documents which will produce the aforesaid guarantees and, in particular, will  
389 provide for restricting the use of common areas and facilities for the designated  
390 purposes.

391 (C) *Maintenance.*

392 (1) Manufactured home parks shall be approved subject to the  
393 submission of an instrument or instruments setting forth a plan for permanent care  
394 and maintenance of permanent open spaces, recreational areas, easements, rights-of-  
395 way and communally owned facilities which would be legally enforceable.

396 (2) The developer shall either:

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397 (a) Maintain responsibility for maintenance and upkeep of  
398 open space, recreational areas, and communally owned facilities as described in this  
399 section through a management company or some other similar means, or

400 (b) Create an owner's association for maintenance and  
401 upkeep of open space, recreational areas, and communally owned facilities as  
402 described in this section. All lot owners must be part of the owner's association and  
403 must be set up before the lots are sold. A copy of the by-laws of the owner's  
404 association must be submitted to the Town Attorney for review and approval.

405 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
406 2016)

407 **§ 151.044 LANDSCAPING AND BUFFERS.**

408 (A) *Landscape plan.* The proposed development shall be designed as a  
409 single architectural scheme with appropriate common landscaping. Landscaping  
410 shall meet the requirements of §§ 154.230 through 154.237. The applicant shall  
411 include with the application for a manufactured home park construction permit a  
412 landscape plan, including a general description of the materials to be used and where  
413 the materials shall be planted. The required landscaping must be installed for the  
414 entire park or phase thereof prior to issuance of a certificate of completion by the  
415 Administrator.

416 (B) *Buffers.* Manufactured home parks shall provide a buffer of planted  
417 vegetation which shall serve as a partial visual screen to separate different densities  
418 of land use. The buffer shall be provided along the perimeter of the park, except where  
419 ingress and egress to the park is provided. Buffers shall be allowed within the building  
420 setback from the perimeter of the park. Planted buffers shall not be allowed within  
421 the right-of-way of any public road.



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422           (1) *Materials.* Trees and shrubs shall be used with approval of the  
423 Administrator. At the time of planting, shrubs shall be at least 1 gallon container  
424 plants and trees shall be at least 4 feet in height, measured from ground level.

425           (2) *Method.* At least 5 trees and 10 shrubs shall be planted around  
426 the perimeter of the park for every 100 feet of the perimeter. The materials may be  
427 planted in a line or staggered. In addition, for each 100 linear feet of perimeter, up to  
428 50% of the trees and 50% of the shrubs may be grouped; however, the remaining  
429 required materials must be evenly distributed along the perimeter.

430 Retention of existing vegetation which would provide an equivalent buffer is  
431 encouraged. The Administrator shall have the authority to determine if existing  
432 vegetation fulfills the intent of the buffer requirement or if additional vegetation  
433 should be planted.

434           (C) *Maintenance.* Landscaping shall be placed and maintained in common  
435 area as described in § 151.043. Deteriorating materials or materials which are  
436 removed or altered shall be replaced in a timely manner. Replacement materials shall  
437 conform with the standards of this chapter.

438 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
439 2016)

440 **§ 151.045 SEPARATION, DIMENSIONAL, AND DESIGN**  
441 **REQUIREMENTS.**

442           The following separation, dimensional, and design requirements shall apply to  
443 manufactured home parks, except that all structures attached to a manufactured  
444 home, including storage buildings, carports, covered or open porches, covered or  
445 open decks and steps, shall not be considered part of a manufactured home for  
446 purposes of determining separation requirements (see definition).



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447 (A) The minimum tract for development of a manufactured home park is  
448 1.5 acres.

449 (B) The maximum density of a manufactured home park is 4 units per acre.

450 (C) The minimum lot width for a manufactured home park development is  
451 30 feet of frontage along a public right of way or a 30 foot wide easement to a publicly  
452 owned and maintained road.

453 (D) All manufactured homes and other buildings, including those which are  
454 accessory to individual manufactured home units, shall be located at least 50 feet  
455 from any frontage and 25 feet from any side or rear property line or other boundary  
456 defining the perimeter of the manufactured home park.

457 (E) All manufactured homes shall be located at least 30 feet from the center  
458 line of internal collector roads and at least 25 feet from the center line of internal  
459 service roads.

460 (F) Within a manufactured home park, each manufactured home shall be  
461 separated from any other manufactured home by a minimum of 20 feet "short" end  
462 to "short" end, 30 feet "short" end to "long" side, and 30 feet "long" side to "long" side.

463 (G) The separation between buildings and water supply systems and/or  
464 sewage disposal systems shall be as required by regulations of the Henderson County  
465 Department of Public Health and the State of North Carolina.

466 (H) The minimum footprint for a manufactured home is 14 feet by 70 feet.

467 (I) Each footprint must have a permanent foundation.

468 (J) Underpinning for each unit shall be brick or other approved masonry  
469 product.

470 (K) All accessory buildings (detached from units) for individual  
471 manufactured home units shall be located at least 20 feet from any manufactured

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472 homee or other building on a neighboring space or lot. There is no minimum  
473 separation between a manufactured home and its own accessory buildings.  
474 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
475 2016)

476 **§ 151.046 MUNICIPAL WATER SUPPLY AND SEWAGE DISPOSAL**  
477 **SYSTEM CONNECTION REQUIREMENTS.**

478 (A) *Generality.* Manufactured home parks shall be required to connect to  
479 existing municipal water supply and municipal sewage disposal systems when the  
480 systems are located within the distance equal to that specified herein of the parks.  
481 The distance requirements shall be measured along existing public rights-of-way  
482 and/or utility easements. New phases of manufactured home parks existing at the  
483 date of enactment of this chapter shall also meet this requirement.

484 (B) *Municipal water supply system distance requirement.* A park shall  
485 connect to a municipal water supply system when the system is located within a  
486 distance equal to the product of 100 feet multiplied by the number of spaces proposed  
487 for the park. However, if a park is located more than 5,000 feet from an existing  
488 municipal water supply system, the connection shall not be required.

489 (C) *Municipal sewage disposal system distance requirement.* A park shall  
490 connect to a municipal sewage disposal system when the system is located within a  
491 distance equal to the product of 50 feet multiplied by the number of spaces proposed  
492 for the park. However, if a park is located more than 2,500 feet from an existing  
493 municipal sewage disposal system, the connection shall not be required.

494 (D) *Exceptions.* Exceptions to these provisions may be allowed on the basis  
495 of terrain, availability or ease of acquiring easements, denial of allocation by the  
496 public utility, insufficient capacity of the municipal system or other circumstances  
497 that are unusual or unique to the site. Requests for exceptions must be made, in

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498 writing, to the Administrator who may ask that the requests be supported by a  
499 professional engineer's review of the manufactured home park plans and planned  
500 route of the utility extension. Where the Administrator finds that it would not be  
501 economically feasible for a manufactured home park to be connected to a municipal  
502 water supply and/or sewage disposal system, other systems may be used, subject to  
503 approval by the Henderson County Department of Public Health and the appropriate  
504 state agencies.

505 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
506 2016)

507 **§ 151.047 FIRE PROTECTION.**

508 Manufactured home parks proposed to be served by a municipal water supply  
509 system shall meet the minimum requirements of the system owner for fire hydrant  
510 installation. For a manufactured home park without a fire suppression rated water  
511 system, that either has or is adjacent to an adequate permanent surface water supply,  
512 the applicant may be required to install a dry fire hydrant system if recommended by  
513 the Fire Marshal. The Fire Marshal shall determine the type and location of such a  
514 system. A road providing all-weather access to the water source that is adequate for  
515 fire-fighting equipment shall be required, if applicable.

516 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
517 2016)

518 **§ 151.048 UTILITY REQUIREMENTS.**

519 (A) Utilities located in the interior of the manufactured home park must be  
520 underground. The applicant should discuss with utility providers whether easements  
521 must be provided and, if so, at what size and location. The easements should be shown  
522 on the site development plan.



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523 (B) Exterior lighting is required for all manufactured home park  
524 developments. Street lights shall be shown on the development plan and shall be in  
525 accordance with local utility provider specifications. All other outdoor lighting must  
526 be located, screened, or shielded in order to prevent direct glare onto neighboring  
527 lots.

528 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
529 2016)

530 **§ 151.049 EROSION AND SEDIMENTATION CONTROL.**

531 Where required under the North Carolina Sedimentation Pollution Control Act  
532 of 1973, evidence of approval of an erosion and sedimentation control plan by the  
533 North Carolina Department of Environment and Natural Resources, Land Quality  
534 Division, shall be submitted prior to issuance of a manufactured home park  
535 construction permit.

536 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
537 2016)

538 **§ 151.050 STORMWATER DRAINAGE.**

539 Stormwater drainage improvements shall be designed and constructed to  
540 minimize erosion and downstream sedimentation, to follow natural drainage where  
541 possible, to minimize flooding or standing water conditions, to maintain desirable  
542 groundwater conditions and to avoid excessive stormwater discharge to sensitive  
543 natural areas. Points of stormwater discharge shall be within the manufactured home  
544 park site unless otherwise approved by the Administrator and adjoining property  
545 owners. Stormwater control devices shall be properly maintained by the park  
546 applicant. A detailed drainage plan shall be submitted as part of the site plan  
547 application for manufactured home parks. The plan shall show the general drainage

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548 patterns of the manufactured home park. Where the drainage of the manufactured  
549 home park does not follow the natural drainage of the property, the applicant shall  
550 design the new drainage systems, including swales, ditches, pipes, culverts, detention  
551 ponds, lakes or similar devices, to minimize any adverse effect on the proposed  
552 manufactured home park and on adjacent and downstream properties. The plan shall  
553 include the location, type and size of existing and proposed stormwater drainage  
554 improvements.

555 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
556 2016)

**§ 151.051 PARKING.**

558 Two off-street parking spaces shall be provided and maintained for each  
559 manufactured home space. Parking spaces shall, at a minimum, be constructed using  
560 3 inches of crushed stone on a well- compacted subbase.

561 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
562 2016)

**§ 151.052 DRIVEWAYS.**

564 No more than 2 spaces may be served by a common driveway. Driveways shall  
565 be at least 10 feet in width and shall be constructed using a minimum of 3 inches of  
566 crushed stone on a well-compacted subbase.

567 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
568 2016)

**§ 151.053 INTERNAL ROAD CONSTRUCTION STANDARDS.**

570 (A) Access to all manufactured homes and other structures within a park  
571 shall be made using internal roads. The maintenance of internal roads and drainage

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572 facilities shall be the responsibility of the manufactured home park applicant. For the  
 573 purpose of this chapter, the location of the driveway entrance for a manufactured  
 574 home space determines which type of road, collector or service, serves the unit.

575 (B) Construction standards are as follows:

576 **Table 1**

577 **Internal Road Construction Standards**

<i>Road Classification</i>		
<i>Item</i>	<i>Collector</i>	<i>Service</i>
Number of spaces/units served	25 +	1 to 24
Maximum grade stone surface	12%	15%
Paved (asphalt) surface	16%	18%
Minimum road width	18 feet	18 feet
Shoulder width	4 feet	4 feet
Stone base (ABC*) compacted	8 inches	
<i>Minor parks</i>	4 inches	
<i>Major parks</i>	6 inches	
Asphalt	Not required**	Not required**
Cut and fill slope	2:1	1.5:1
Ditch slope	4:1	3:1
Notes: * ABC = Aggregate Base Course, No. 7 stone.		
** Paved roads, if used, shall meet the minimum state road standards for local residential subdivision roads.		

578

579 (1) *Road construction.* All roads must be constructed with  
 580 suitable stone and shall be properly compacted. Used asphalt is unacceptable as a



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581 base course. The subgrade must be of a soil capable of supporting the road above. The  
582 road should be built so that water will drain from the road surface into side ditches.  
583 Because of the difficulty of operating vehicles and moving manufactured homes on  
584 steep grades and because of the high potential for erosion, roads should be  
585 constructed along the contour of the land where possible. Maximum road grades shall  
586 be as provided in Table 1. If a combination of paved and stone-based roads ~~are~~<sup>is</sup>  
587 proposed, the paved sections must extend 50 feet from any point where the grade  
588 exceeds the minimum for a stone-based road. The Administrator may require that a  
589 professional engineer or surveyor certify on an as-built drawing that no portion of  
590 any internal roads have grades exceeding the maximum allowed by this chapter.

591           (2) *Road drainage and culverts.* All internal roads shall be  
592 provided with appropriate drainage facilities (see also § 151.050). Road drainage  
593 structures shall be constructed in accordance with minimum state road standards.  
594 Road drainage side ditches shall have sufficient depth and width to carry the expected  
595 volume of stormwater runoff. Where roads cross streams or minor watercourses,  
596 culverts shall be designed and installed in accordance with minimum state road  
597 standards.

598           (3) *Turnarounds.* A cul-de-sac or other turnaround approved by  
599 the Administrator is required on any internal road which serves 10 or more spaces.  
600 Culs-de-sac shall have a minimum radius of 35 feet. Culs-de-sac and other approved  
601 turnarounds shall be surfaced with the same material required on the road they  
602 serve.

603           (4) *Vertical clearance.* All internal roads, including shoulder  
604 areas, shall have a minimum vertical clearance of 13 feet, 6 inches, to allow for the  
605 passage of emergency vehicles.

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606 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
607 2016)

608 **§ 151.054 ROAD NAMES.**

609 The site development plan shall show names, approved by the Henderson  
610 County Property Addressing Office, for all proposed internal roads which serve 3 or  
611 more spaces.

612 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
613 2016)

614 **§ 151.055 ROAD NAME SIGNS AND OTHER REGULATORY SIGNS.**

615 The applicant shall provide road name signs in accordance with the  
616 Henderson County Property Addressing Ordinance and regulatory signs (such as  
617 "stop" signs) in accordance with applicable state and county policies.

618 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
619 2016)

620 **§ 151.056 PROPERTY ADDRESSING.**

621 Prior to issuance of a certificate of completion by the Administrator, the  
622 applicant shall provide evidence that each manufactured home space and other  
623 building, as necessary, has been assigned a property address number by the  
624 Property Addressing Office. The address (number) shall be affixed to the  
625 manufactured home so that it is clearly visible from the internal road or driveway  
626 serving the space.

627 (Ord. passed, 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
628 2016)

Town of Mills River, NC Code of Ordinances629 **§ 151.057 PARK IDENTIFICATION SIGN.**

630 Major parks shall provide at least 1 sign displaying the name of the park at  
631 each entrance. The park name shall not duplicate or closely resemble the name of any  
632 existing housing development located in Henderson County. Park name signs shall be  
633 at least 1 foot in height by 3 feet in width. Park identification signs shall not be located  
634 within the right-of-way for any road.

635 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
636 2016)

637 **§ 151.058 MANUFACTURED HOME PARK NAME.**

638 In order to avoid possible confusion for emergency services personnel, the  
639 applicant shall choose a name for the manufactured home park which does not  
640 duplicate or closely resemble the name of any existing road, subdivision, existing  
641 manufactured home park or other housing development located in Henderson  
642 County.

643 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
644 2016)

645 **§ 151.059 SETUP.**

646 All manufactured homes within a manufactured home park shall be set up in  
647 accordance with the standards set by the North Carolina Department of Insurance  
648 Regulations for Manufactured/Mobile Homes.

649 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
650 2016)



Town of Mills River, NC Code of Ordinances651 **§ 151.060 NONRESIDENTIAL USES.**

652 (A) Convenience establishments of a commercial nature, such as coin-  
653 operated laundries, food stores, common storage units, and the like, may be permitted  
654 in manufactured home parks subject to the following conditions:

655 (1) The uses shall be subordinate to the residential use and  
656 character of the park.

657 (2) The uses shall present no visible evidence of their commercial  
658 character to adjacent properties.

659 (3) The uses shall be designed to serve the needs of park residents  
660 only.

661 (4) The uses shall be designed to be in harmony with the  
662 development, including traffic flow, parking, and the like.

663 (5) The uses shall be shown on the site development plan at the  
664 time of application.

665 (B) Model manufactured home units may be located in a manufactured  
666 home park if they are set up properly as dwelling units and if they conform to all other  
667 standards of this chapter. The standards in divisions (A)(1), (2) and (4), above, shall  
668 also apply to model units.

669 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
670 2016)

671 **§ 151.061 SOLID WASTE DISPOSAL.**

672 Each manufactured home park shall provide a suitable method of solid waste  
673 disposal and collection consisting of either private collection from individual  
674 manufactured homes or the use of bulk containers (dumpsters). The method shall be

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675 in conformance with the Henderson County Solid Waste Ordinance, and a description  
676 of the method shall be submitted as part of the application process.  
677 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
678 2016)

**679 § 151.062 UNIT TYPE.**

680 No more than 25% of the spaces in a new manufactured home park or in an  
681 expansion to an existing manufactured home park shall be occupied by mobile homes,  
682 as defined in this chapter. For purposes of determining the percentage of mobile  
683 homes allowed in an expansion, only the units added as a result of the expansion are  
684 used in the calculation.

685 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
686 2016)

**687 § 151.063 BEGINNING A PARK.**

688 It is specifically noted that the establishment of 2 spaces and/or manufactured  
689 homes on a tract of land is not considered a manufactured home park and the  
690 development is not subject to the requirements of this chapter. However, if the  
691 development is expanded and results in 3 or more spaces and/or manufactured  
692 homes on a tract of land, the development, including the first 2 spaces and/or units,  
693 shall be considered a manufactured home park as defined by this chapter and shall  
694 be subject to the standards in this chapter. In zoned areas, the development shall be  
695 subject to the applicable standards of this chapter and to the standards of the Town  
696 of Mills River Zoning Ordinance. Compliance with the standards of this chapter, and  
697 the Zoning Ordinance if applicable, is therefore encouraged if there is any possibility  
698 that a manufactured home park will be established. In no case, however, shall either

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699 of the first 2 units be required to be moved in order to achieve compliance with  
700 standards of this chapter.

701 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
702 2016)

703 **§ 151.064 EXPANSION OF MINOR PARK TO MAJOR PARK.**

704 If expansion of a minor park developed under this chapter results in 11 or  
705 more spaces and/or manufactured homes on a tract of land, the development,  
706 including the first 10 spaces and/or manufactured homes, shall be considered a major  
707 park as defined by this chapter and shall be subject to all of the standards in this  
708 chapter, including those for major parks. Compliance with the major park standards  
709 of this chapter is therefore encouraged if there is any possibility that a major park will  
710 be established. In no case, however, shall any of the first 10 units be required to be  
711 moved in order to achieve compliance with standards for major parks in this chapter.

712 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
713 2016)

714 **ADMINISTRATION**

715 **§ 151.080 PREEXISTING/NONCONFORMING MANUFACTURED**  
716 **HOME PARKS.**

717 (A) Any manufactured home park, as defined by this chapter, existing on  
718 the effective date of this chapter or any subsequent amendment thereto may continue  
719 to operate without being subject to the requirements of this chapter, unless  
720 expansion is proposed (see § 151.081).

721 (B) Manufactured home parks existing prior to the effective date of this  
722 chapter ("preexisting manufactured home parks") must have registered with the  
723 Henderson County Planning Department before January 1, 2000. Any preexisting



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724 manufactured home park which is not registered may be subject to the provisions of  
725 this chapter. Preexisting manufactured home parks registered with the Planning  
726 Department may be expanded, provided that any such expansion shall be in  
727 accordance with the requirements of this chapter.

728 (C) A manufactured home park space shall be considered preexisting if, on  
729 the effective date of this chapter, the space:

730 (1) Contains an occupied manufactured home; or

731 (2) Is defined on the ground by the presence of 2 of the following:

732 (a) A water supply system service connection;

733 (b) A sewage disposal system service connection; and

734 (c) Electric service equipment.

735 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
736 2016)

737 **§ 151.081 EXPANSION OF EXISTING MANUFACTURED HOME**  
738 **PARKS.**

739 The addition of any new spaces to a manufactured home park existing prior to  
740 enactment of this chapter, except as provided in division (A) below, shall be  
741 considered an expansion of the park and shall be subject to the requirements of this  
742 chapter.

743 (A) *Infilling.* If a preexisting manufactured home park is to be expanded  
744 but the expansion does not require the construction of new internal roads to serve  
745 the new spaces, the development will not be required to comply with the  
746 requirements of this chapter, provided that all of the following conditions are met:

747 (1) The development must occur within the boundaries of the  
748 existing park;

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749                   (2)    The number of new spaces shall not exceed more than 33% of  
750 the existing spaces; and

751                   (3)    The setbacks for manufactured home units set up on newly  
752 created spaces shall not exceed the average setbacks of existing units located wholly  
753 or in part within 100 feet on each side of the new space and which front on the same  
754 road as the new space.

755           (B)    *Other expansions.*   If expansion of a preexisting manufactured home  
756 park involves new internal road construction, the new development will be  
757 considered a new phase and shall comply, to the extent possible, with the  
758 requirements of this chapter. The compliance shall be determined by the  
759 Administrator on a case-by-case basis; however, compliance will not require that any  
760 existing units be relocated.

761 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
762 2016)

763   **§ 151.082    WAIVER OF REQUIREMENTS.**

764           Town Council may approve variations or modifications of any regular  
765 provision of this chapter as part of the Major Special Use Permit process defined in §  
766 154.180.

767 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
768 2016)

769   **§ 151.083    APPEALS.**

770           Appeals from decisions of the Mills River Town Council shall be made to the  
771 Superior Court of Henderson County in the nature of certiorari. An applicant shall file  
772 an appeal by giving written notice to the Administrator within 30 days of the decision  
773 of the approval authority. A petition for writ of certiorari in the Superior Court must

Town of Mills River, NC Code of Ordinances

774 be filed with the Clerk of Superior Court within 30 days after a decision of the Town  
775 Council. Unless otherwise ordered by a court of competent jurisdiction, this chapter  
776 may be enforced pursuant to §§ 151.084 and 151.085 while any appeal under this  
777 section is pending.

778 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
779 2016)

780 **§ 151.084 REVOCATION OF CERTIFICATE OF COMPLETION.**

781 (A) Failure to comply with any of the requirements of this chapter or with  
782 any permit issued pursuant to this chapter may subject the manufactured home park  
783 applicant to revocation of the certificate of completion (COC) in accordance with this  
784 section.

785 (B) If the Administrator finds a park to be in violation, he or she shall notify  
786 the applicant, in writing. The notice shall state the specific violations and set  
787 reasonable time limits for corrective actions and subsequent inspections. In the event  
788 that the applicant takes no action to correct violations, the Administrator shall notify  
789 him or her, by certified mail, that the COC for the park will be revoked at the close of  
790 10 business days from the date of the written notice. Should the applicant correct the  
791 violations prior to the COC being revoked, he or she shall request that the  
792 Administrator conduct an inspection. If the Administrator finds that the park is no  
793 longer in violation, he or she shall notify the applicant that the COC will continue to  
794 be valid. If the violations have not been remedied, the COC shall be revoked. The  
795 revocation and the reasons for such shall be made in writing to the manufactured  
796 home park applicant.

797 (C) If a COC has been revoked:

798 (1) The applicant shall not rent or lease any vacant spaces until the  
799 violations have been corrected and the COC is reinstated.



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800                   (2)    The applicant shall notify each renter/lessee of a space within  
801 the park within 10 days after receiving written notification that the COC has been  
802 revoked. The applicant shall provide the Administrator with a signed statement from  
803 each renter/lessee indicating that notice from the applicant has been received. Any  
804 lease that is renewed after revocation of the certificate of completion shall be at the  
805 renter's/lessee's own risk.

806                   (D)    The Administrator may revoke a COC for violations of any part of this  
807 chapter, except for those regulated by the Henderson County Health, Inspections or  
808 Solid Waste Departments. In these cases, the Administrator shall work with the other  
809 departments regarding the revocation of a COC.

810                   (E)    A COC may be reinstated if the manufactured home park applicant  
811 applies to the Administrator and the Administrator finds that the park is in  
812 compliance with the regulations for which the COC was revoked.

813                   (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
814 2016)

815    **§ 151.085    [RESERVED].**

816                   (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
817 2016)

818    **§ 151.086    [RESERVED].**

819                   (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
820 2016)

821    **§ 151.087    [RESERVED].**

822                   (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
823 2016)

Town of Mills River, NC Code of Ordinances824 **§ 151.088 FORMS.**

825 Any forms or checklists listed in the Appendices of this chapter are general in  
826 nature and may be modified by the Administrator, Planning Board or Town Council  
827 as necessary.

828 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
829 2016)

830 **§ 151.089 FEES.**

831 Reasonable fees for applications and revisions thereto, certificate of  
832 completion inspections, reinspections and variances under this chapter may be set by  
833 the Mills River Town Council. See fee schedule posted in Mills River Town Hall.

834 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
835 2016)

836 **§ 151.090 AMENDMENTS.**

837 The Mills River Town Council may, from time to time, amend the terms of this  
838 chapter, but no amendment shall become effective unless it shall have been proposed  
839 by or shall have been submitted to the Planning Board for review and  
840 recommendation. The Planning Board shall have 2 regularly scheduled meetings  
841 from the time a proposed amendment is submitted to it within which to submit its  
842 recommendation. No amendment shall be adopted by the Town Council until it has  
843 held a legislative public hearing on the amendment. Notice of the legislative hearing  
844 shall comply with the provisions of G.S. §160D-601~~160A-364~~, as amended.

845 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
846 2016)

Town of Mills River, NC Code of Ordinances847 **§ 151.999 PENALTY.**

848           The construction of a manufactured home park in violation of this chapter, or  
849 failure to comply with any of the requirements of this chapter or with any permit  
850 issued pursuant to this chapter, subject the applicant, the manufactured home park  
851 owner and/or developer to revocation of the permit (See §81-11.) and the penalties  
852 and enforcement provisions pursuant to G.S. § 160A-175, including, but not limited  
853 to, the following:

854           (A) *Equitable remedies.* This chapter may be enforced by equitable  
855 remedies, and any unlawful condition existing in violation of this chapter may be  
856 enforced by injunction and order of abatement in accordance with G.S. § 160A-175.

857           (1) *Injunction.* Where necessary to effectuate compliance with  
858 this chapter, the Ordinance Administrator or the other official charged with the  
859 responsibility of enforcing the Town of Mills River Ordinances may institute an action  
860 in a court of competent jurisdiction seeking an injunction against the further violation  
861 of this chapter. The action may be joined with a civil action instituted to collect  
862 accrued civil penalties in accordance with the provisions herein.

863           (2) *Order of abatement.* Where necessary to abate a condition  
864 existing upon land in violation of this chapter or a use made of land in violation of this  
865 chapter, the Ordinance Administrator or the other official charged with the  
866 responsibility of enforcing the Town of Mills River Ordinances may institute an action  
867 in a court of competent jurisdiction seeking an order of abatement of the use or  
868 condition of land in violation of this chapter. The action may be joined to an action for  
869 an injunction and/or an action to recover civil penalties accrued against an individual  
870 for the use or condition of land in violation of this chapter.



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871 (3) *Other equitable remedies.* This chapter may be enforced by  
872 any other equitable remedy which a court of competent jurisdiction deems just and  
873 proper.

874 (B) *Civil penalties.* Any individual who is found in violation of this  
875 chapter may be subject to a civil penalty of \$50 or other amount as established by  
876 Town Council. Each day's violation shall be treated as a separate offense.

877 (1) ~~Compliance order~~ Notice of Violation.

878 (a) Upon making a determination that a person is in  
879 violation of this chapter, the Ordinance Administrator or the other official charged  
880 with the responsibility of enforcing the Town of Mills River Ordinances shall issue a  
881 ~~compliance order~~ notice of violation to the owner of the property in violation of this  
882 chapter in accordance with § 154.995. ~~The compliance order shall notify the violator~~  
883 ~~of the violation in writing.~~ The ~~order~~ notice shall identify the circumstances giving  
884 rise to the violation, including the times, dates and places of the violation. The  
885 ~~notification~~ notice shall further identify the action which is necessary to comply with  
886 this chapter. The notification shall state that if the violator does not comply within a  
887 reasonable time, not to exceed ~~15~~ 30 days, the individual will be subjected to a civil  
888 penalty. If circumstances exist such that the violator cannot come into compliance  
889 within ~~15~~ 30 days, the Ordinance Administrator or the other official charged with the  
890 responsibility of enforcing the Town of Mills River Ordinances may grant an extension  
891 of time after which the individual will be subjected to a criminal penalty  
892 commensurate with the magnitude of the violation. The ~~compliance order~~ notice of  
893 violation shall further state that failure to comply with the terms of the ~~compliance~~  
894 ~~order~~ notice of violation will subject the violator to a civil penalty and shall further  
895 state the amount of the civil penalty.

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896 (b) Failure to comply with the terms of a ~~compliance~~  
897 ~~order~~notice of violation issued by the Ordinance Administrator or the other official  
898 charged with the responsibility of enforcing the Town of Mills River Ordinances  
899 within the time stated in the order shall subject the violator to a civil penalty of \$50  
900 or other amount as established by Town Council. Each day that the violation  
901 continues shall be considered a separate offense, and the violator may be subject to  
902 an additional civil penalty for each separate offense.

903 (2) *Civil action.* When necessary to collect any civil penalty or  
904 accrued civil penalties, a civil action may be instituted against an individual for the  
905 collection of all accrued penalties by the Ordinance Administrator or the other official  
906 charged with the responsibility of enforcing the Town of Mills River Ordinances.

907 (C) *Criminal penalties.* Unless otherwise provided by this chapter or  
908 other applicable law, violation of this chapter shall constitute a Class 3 misdemeanor  
909 punishable by a fine not to exceed \$500. Each day's violation shall be treated as a  
910 separate offense.

911 (1) *Warning ticket.* Upon the initial violation of a particular  
912 provision of this chapter, an individual may be issued a warning ticket or notice of  
913 violation. The warning ticket shall identify the particular practice which is in violation  
914 of this chapter and shall state the time, date and place of the violation. The warning  
915 ticket shall further state that if the individual commits further similar violations  
916 within the 6 months following the date of the warning ticket, the Ordinance  
917 Administrator or the other official charged with the responsibility of enforcing the  
918 Town of Mills River Ordinances may issue a notice of violation or cause a warrant to  
919 be issued for the individual's arrest.

920 (2) *Warrant.* If an individual violates this chapter within the 6  
921 months following the issuance of a warning ticket or notice of violation in a manner



Town of Mills River, NC Code of Ordinances

922 that is similar to the violation specified in the warning ticket or notice of violation, the  
923 Ordinance Administrator or the other official charged with the responsibility of  
924 enforcing the Town of Mills River Ordinances may cause a warrant to be issued for  
925 the arrest of the individual.

926 (3) *Enforcement.* Notwithstanding any other provisions of this  
927 chapter, the Ordinance Administrator or the other official charged with the  
928 responsibility of enforcing the Town of Mills River Ordinances may issue a notice of  
929 violation or cause a warrant to be issued without having first issued a warning ticket  
930 where he or she deems it necessary to effectively enforce the terms of this chapter.

931 (D) Revocation of Development Approvals. In addition to initiation of  
932 enforcement actions, development approvals may be revoked by notifying the holder  
933 in writing stating the reason for the revocation. The Town shall follow the same  
934 development review and approval process required for issuance of the development  
935 approval, including any required notice or hearing, in the review and approval of any  
936 revocation of that approval. Development approvals shall be revoked for any  
937 substantial departure from the approved application, plans, or specifications; for  
938 refusal or failure to comply with the requirements of any applicable element of this  
939 chapter; or for false statements or misrepresentations made in securing the approval.  
940 Any development approval mistakenly issued in violation of an applicable State law  
941 or local ordinance may also be revoked. The revocation of a development approval by  
942 a staff member may be appealed pursuant to G.S. § 160D-405.

943  
944 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
945 2016)



Town of Mills River, NC Code of Ordinances946 **APPENDIX A: MANUFACTURED HOME PARK SITE**  
947 **DEVELOPMENT PLAN REQUIREMENTS**

948 Section

949 *Per § 151.021(B) of the Manufactured Home Park Ordinance, a manufactured*  
950 *home park developer shall submit 8 legible copies of the proposed site development*  
951 *plan, drawn at a scale of 1 inch equals 100 feet. The following information shall be*  
952 *indicated on the proposed site development plan or presented in supporting*  
953 *documents, if necessary. Each document submitted must be clearly labeled with the*  
954 *name of the developer, the manufactured home park name (including phase number, if*  
955 *applicable), and the date. Applicants for minor parks shall not be required to provide*  
956 *items marked below with an asterisk (\*).*

957 (A) General Legend:

958 (1) Scale (1 inch = 100 feet).

959 (2) North arrow.

960 (3) Property owner's name and address.

961 (4) Applicant's name and address (if different from property  
962 owner).963 (5) Vicinity map showing general location of project site in relation  
964 to surrounding area road network.965 (6) Phase map showing location of subject phase within the overall  
966 development (if applicable).

967 (7) Key to symbols, lines and other features used on plan.

968 (B) Title Block:

969 (1) Park name (including phase number and range of space  
970 numbers, if applicable).

971 (2) Title of plan (site development plan).

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- 972                   (3) Name, address and phone number of individual or firm  
973 preparing plan elements.
- 974                   (4) Date of plan (and revision dates, if applicable).
- 975                   (5) Tax parcel identification number for each parcel within the  
976 manufactured home park or phase thereof.
- 977           (C) Plan Details and Site Characteristics:
- 978                   (1) Boundary lines of the proposed manufactured home park or  
979 phase thereof.
- 980                   (2) Topographic contours at 20 foot whole intervals or as otherwise  
981 available from United States Geologic Survey (USGS) or Tennessee Valley Authority  
982 (TVA) maps\*.
- 983                   (3) Location, names and state road numbers (if applicable) of  
984 existing streets/roads (including rights-of-way) inside the manufactured home park.
- 985                   (4) Location, names and state road numbers (if applicable) of  
986 existing streets/roads (including rights-of-way) within 100 feet of the boundaries of  
987 the manufactured home park\*.
- 988                   (5) Location of existing and proposed bridges, easements and  
989 railroad or other rights-of-way within the manufactured home park.
- 990                   (6) Location of existing and proposed bridges, easements and  
991 railroad or other rights-of-way within 100 feet of the boundaries of the manufactured  
992 home park\*.
- 993                   (7) Location of proposed roads and off-site access corridors,  
994 indicating width and approximate finished grade.
- 995                   (8) Proposed names of internal roads and, if needed, off-site access  
996 corridors.
- 997                   (9) Location of driveways and parking spaces.

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998 (10) Cross sections of typical roads, turnarounds, off-site access  
999 corridors, driveways and parking spaces with proposed construction standards  
1000 noted\*.

1001 (11) Location of existing and proposed utilities with line sizes noted  
1002 (public water supply and sewage disposal systems only).

1003 (12) Names of adjoining property owners, manufactured home parks  
1004 and subdivisions within 100 feet of the boundaries of the manufactured home park,  
1005 if available through the Henderson County Land Records Office\*.

1006 (13) Approximate location of 100 year flood hazard boundary line (if  
1007 applicable)\*.

1008 (14) Locations and approximate dimensions of existing  
1009 manufactured home spaces and manufactured homes (if applicable).

1010 (15) Proposed locations and approximate dimensions of new  
1011 manufactured home spaces or manufactured homes.

1012 (16) Locations of existing and proposed (non-manufactured home)  
1013 structures (it is not necessary to show locations for accessory buildings for individual  
1014 manufactured home units).

1015 (17) Building setback line(s) from manufactured home park  
1016 boundary per § 151.045(B).

1017 (18) Building setback line(s) from external streets, rights-of-way or  
1018 access easements per § 151.045(C).

1019 (19) Building setback line(s) from internal roads per § 151.045(D).

1020 (20) Approximate location and dimensions of proposed common  
1021 areas (if applicable), including outdoor play areas, community buildings, walking  
1022 paths, and the like (common areas shall be designated as such on the plan per §  
1023 151.043).



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- 1024 (21) Fire hydrant locations, if public water supply system proposed.
- 1025 (22) Dry hydrant locations, if applicable.
- 1026 (23) Zoning district boundaries, water supply watershed
- 1027 boundaries, fire district boundaries and political boundaries\*.
- 1028 (24) Location of mail delivery points and solid waste collection
- 1029 points (if applicable).
- 1030 (25) Location and dimensions of park identification signs.
- 1031 (26) Location of existing and proposed ponds, lakes and
- 1032 watercourses (with names noted, if applicable).
- 1033 (27) Location of existing and proposed drainage improvements in
- 1034 accordance with § 151.050.
- 1035 (D) Project Summary:
- 1036 (1) Total project or phase area in acres.
- 1037 (2) Number of proposed manufactured home spaces in the park or
- 1038 phase thereof (if a phase, also include total number of spaces proposed in park).
- 1039 (3) For parks with preexisting spaces, the number of existing spaces
- 1040 in park or phase thereof.
- 1041 (4) Dwelling unit density, in units per acre (to nearest 0.1 acre)\*.
- 1042 (5) Amount of common area provided to nearest 0.1 acre (if
- 1043 applicable).
- 1044 (6) Type of proposed water supply system and sewage disposal
- 1045 system.
- 1046 (7) Distances to nearest public water supply system and nearest
- 1047 public sewage disposal system.
- 1048 (8) Current zoning and water supply watershed districts (if
- 1049 applicable)\*.

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- 1050 (9) Fire district names\*.  
1051 (10) For parks without public water supply systems, the distance  
1052 from the entrance to the park to the nearest water supply source for fire protection  
1053 or to the nearest fire department if no other source available.  
1054 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
1055 2016)

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1056 APPENDIX B

APPENDIX B

Application Number: \_\_\_\_\_ MR-PL-0016  
TOWN OF MILLS RIVER  
MANUFACTURED HOME PARK CONSTRUCTION PERMIT APPLICATION FORM

Manufactured Home Park Name \_\_\_\_\_ Phase (If Applicable) \_\_\_\_\_

Property Owner's Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_ Telephone Number \_\_\_\_\_

Applicant's Name (if different from Property Owner) \_\_\_\_\_

Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_ Telephone Number \_\_\_\_\_

Parcel Identification Number(s): \_\_\_\_\_

Location and Description of Property to be Developed: \_\_\_\_\_

Size of Property to be Developed: Entire Park: \_\_\_\_\_ This Phase: \_\_\_\_\_

New Park: ( ) Yes ( ) No OR Expansion to Existing Park: ( ) Yes ( ) No

If Expansion to Existing Park, Number of Pre-Existing Spaces: \_\_\_\_\_

Number of New Spaces Proposed: This Phase \_\_\_\_\_ Entire Park \_\_\_\_\_

Water Supply Watershed District: \_\_\_\_\_ Fire District: \_\_\_\_\_

Proposed Type of Water Supply System: \_\_\_\_\_

Proposed Type of Sewage Disposal System: \_\_\_\_\_

I certify that the information contained in this application and supporting materials is true and accurate to the best of my knowledge.

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant (if different from above) \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*  
TOWN USE ONLY

Application Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Method: \_\_\_\_\_

Date of Action on Variance (if applicable): \_\_\_\_\_

Comments: \_\_\_\_\_

1057

1058 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-

1059 2016)



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1060  
1061

**APPENDIX C: Manufactured Home Park COC Application Form30A**

APPENDIX C

Application Number: \_\_\_\_\_ MR-PL-0017

**TOWN OF MILLS RIVER  
MANUFACTURED HOME PARK CERTIFICATE OF COMPLETION APPLICATION FORM**

Manufactured Home Park Name \_\_\_\_\_ Phase (If Applicable) \_\_\_\_\_

Property Owner's Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_ Telephone Number \_\_\_\_\_

Applicant's Name (if different from Property Owner) \_\_\_\_\_

Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date Manufactured Home Park Construction Permit Issued: \_\_\_\_\_

Date(s) of Approval of Any Revised Site Development Plan (s): \_\_\_\_\_

Number of New Spnces Created: Entire Park: \_\_\_\_\_ This Phase: \_\_\_\_\_

New Park: ( ) Yes ( ) No **OR** Expansion to Existing Park: ( ) Yes ( ) No

Does the park and its improvements (shown on the "as-built" drawing) conform with the site development plan and other materials approved at the time of issuance of the Manufactured Home Park Construction Permit? ( ) Yes ( ) No

If no, please explain: \_\_\_\_\_  
\_\_\_\_\_

I certify that the information contained in this application and supporting materials is true and accurate to the best of my knowledge.

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant (if different from above) \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*

**Town Use Only**

Application Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Method: \_\_\_\_\_

Date of Action on Variance (if applicable): \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_

1062  
1063  
1064

(Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-2016)

# TITLE XV: LAND USAGE

1

## CHAPTER 152: NUISANCES

- 152.01 Purpose and objectives
- 152.02 Jurisdiction and exception
- 152.03 Definitions
- 152.04 Prohibitions
- 152.05 Outdoor storage
- 152.06 Administration and enforcement
- 152.07 Investigation and response to public nuisance
- 152.08 Vehicle restoration permit
- 152.09 Appeals
- 152.99 Violations, penalties, costs, and reimbursements

### 2 § 152.01 PURPOSE AND OBJECTIVES.

3 (A) *Purpose.* This Chapter is enacted to protect the health, safety, and  
4 general welfare of the people of the Town of Mills River pursuant to powers granted  
5 under G.S. 160A-175, G.S. 160A-193, G.S. 160A-303, G.S. 160A-303.1, G.S. 160A-303.2;  
6 the Mills River Town Code; subsequent recodifications and/or amendments; and  
7 other applicable ordinances as may be adopted in the future.

8 (B) *Objectives.* The principal objectives of this chapter are:

9 (1) To prevent injury and illness to occupants of property and the  
10 public and to remove public nuisances.

11 (2) To provide town wide standards for the abatement of public  
12 nuisances, including but not limited to solid waste, junked motor vehicles and  
13 abandoned manufactured homes.

14 (3) To establish responsibility of involved parties and assure that  
15 people are not unnecessarily exposed to dangers of public nuisances.

Town of Mills River, NC Code of Ordinances

16                   (4) To ensure proper actions may be taken to abate public  
17 nuisances.  
18 (Ord. 2019-02, passed 10-12-2019)

19 **§ 152.02 JURISDICTION AND EXCEPTION.**

20           (A) *Jurisdiction.* This chapter shall apply to all the land within the corporate  
21 limits of the Town of Mills River.

22           (B) *Exception.* This chapter shall not regulate property being actively used  
23 as a bona fide farm which is any tract of land used for dairying, the raising of  
24 agricultural products, forest products, livestock or poultry, or any other use defined  
25 as **AGRICULTURE** in § 154.007 of the Town Code and including facilities for the sale  
26 of such products from the premises where produced.  
27 (Ord. 2019-02, passed 10-12-2019)

28 **§ 152.03 DEFINITIONS.**

29           The following terms are defined for purposes of this chapter:

30           **ABANDONED MANUFACTURED HOME.** A manufactured home that has not  
31 had legal power or was not properly connected to a permitted septic/sewer system  
32 and water supply in the most recent six months, not to be interpreted to include a  
33 manufactured home stored or parked in accordance with a valid zoning permit.

34           **ABATEMENT.** The proper removal, repair, and/or containment of substances  
35 or materials —hazardous to humans and/or the environment. Abatement is part of  
36 remediation.

37           **BUILDING.** Any structure having a roof supported by columns or by walls and  
38 intended for shelter, housing or enclosure of persons, animals or chattels. Two  
39 buildings connected by a common roof shall be considered as one building, provided  
40 that the width of the connecting roof shall be at least 20% of the principal building



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41 width, but in no case less than six feet in width. The connection of two buildings by  
42 means of an open porch, breeze way or passageway without a roof, or with a roof less  
43 than six feet in width, shall not be deemed to make them one building.

44 **JUNK.** Any discarded, abandoned, or scrapped copper, brass, metal, rope, rags,  
45 batteries, appliances, paper or rubber; discarded, dismantled, abandoned, or wrecked  
46 automobiles or other vehicles or parts thereof; dismantled or abandoned  
47 mobile/manufactured homes or RV's or travel trailers or parts thereof; discarded,  
48 dismantled or wrecked motorized or non-motorized equipment or parts thereof;  
49 discarded or scrapped iron, steel or other scrapped ferrous material; or any other  
50 materials, items or equipment similar to those listed herein.

51 **JUNKED MOTOR VEHICLE.** A motor vehicle that does not display a current  
52 license plate or vehicle registration and is partially dismantled or wrecked, cannot be  
53 self-propelled or moved in the manner it was originally intended to move, or is more  
54 than five years old and appears to be worth less than \$500 as provided by the  
55 municipality, or a junked motor vehicle as defined in G.S. 160A-303.2.

56 **MANUFACTURED HOME.** A single-family residential dwelling built in  
57 accordance with the Federal Manufactured Housing Construction and Safety  
58 Standards Act of 1974 (which became effective June 15, 1976), as amended. For  
59 purposes of this chapter, however, the term also includes mobile homes.

60 **OCCUPANT.** Any person who occupies real property, whether with or without  
61 any right, title or interest in the property, and any person in possession or charge of  
62 such property, in the event the owner resides or is located elsewhere.

63 **OWNER.** Any person, persons, organization, or corporation that owns, in  
64 whole or in part, the land, structure, or other property or is the purchaser of the  
65 property under contract for deed.

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66           **PERSONAL PROPERTY.** All property other than that defined in the definitions  
67 of **PROPERTY** and **REAL PROPERTY, REAL ESTATE AND LAND** of this section that is  
68 subject to ownership.

69           **PLANNING/ZONING DEPARTMENT.** The town department responsible for  
70 enforcing this chapter.

71           **PROPERTY.** Publicly or privately owned real property including parcels of  
72 land, buildings, or structures.

73           **PROPERTY AGENT.** A person authorized by a property owner to act in  
74 transacting business matters or in managing the affairs of the subject property.

75           **PUBLIC NUISANCE.** Any activity or use of property or personal property or  
76 failure to act that adversely affects the public and shall include, but is not limited to,  
77 any condition which poses an immediate and direct hazard to human health if left  
78 unheeded due to the existence of the condition itself or due to the immediate threat  
79 of transmission of disease through insects, animals, or other means of transmission  
80 or infections.

81           **RECREATIONAL VEHICLE.** A vehicular type unit primarily designed as  
82 temporary and mobile living quarters for recreational, camping or travel use, which  
83 either has its own motive power or is mounted on and drawn by another vehicle. The  
84 units do not satisfy the dimensional requirements of a manufactured home.

85           **REMEDICATION.** The action of stopping or reversing conditions, uses,  
86 substances or materials hazardous to humans and/or the environment or otherwise  
87 creating a nuisance.

88           **VEHICLE RESTORATION PERMIT.** A permit that allows persons to actively  
89 restore an unlicensed and unregistered vehicle.

90 (Ord. 2019-02, passed 10-12-2019)

Town of Mills River, NC Code of Ordinances91 **§ 152.04 PROHIBITIONS.**

92           The creation or maintenance of a public nuisance is prohibited. Without  
93 limiting the generality of the foregoing, the following are hereby expressly declared  
94 to be public nuisances:

95           (A)   Improper sewage disposal to such degree that sewage or effluent is  
96 discharging onto the surface of the ground, backing up into a structure, or discharging  
97 into a body of water.

98           (B)   An unsecured opening caused by improperly abandoned cistern, well  
99 pit, sewage treatment system, unused or non-maintained swimming pool, mine shaft  
100 or tunnel.

101           (C)   Failure to keep waste, refuse, or garbage in an enclosed building or  
102 properly contained in a closed, insect and rodent proof container designed or  
103 reasonably adapted for such purpose.

104           (D)   Accumulation of carcass(es) of animals, birds, or fish by failing to bury,  
105 store, or otherwise dispose of in a sanitary manner within 24 hours after death.

106           (E)   Significant outdoor storage of solid waste including but not limited to:  
107 decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage,  
108 rotting lumber, packing materials, scrap metal, pallets, fuel storage containers, tools,  
109 tires and wheels, furnaces, home appliances, furniture, plumbing fixtures,  
110 construction materials, amusement park devices, metal, pipes, rubber, glass bottles,  
111 machinery, wood, brick, cement block, all-terrain vehicles, toys, bicycles, junk or any  
112 other substances in which flies, mosquitoes, other disease-carrying insects, rodents  
113 or other vermin can harbor.

114           (F)   Accumulations of rubbish or junk as to become dangerous or injurious  
115 to the health and safety of any individual or to the public.



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116 (G) Any junked motor vehicles without a current vehicle restoration  
117 permit and/or any abandoned manufactured home as defined.

118 (H) Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae,  
119 hookworm larvae or other insects, parasites or vermin.

120 (I) Breeding grounds which support mosquito larvae and mosquitoes  
121 capable of carrying diseases, or any other disease-causing microorganism.

122 (J) Use of a recreational vehicle as a primary residence without permitted  
123 electric, water, and sewerage connections.

124 (K) Recreational vehicles used to store solid waste.

125 (Ord. 2019-02, passed 10-12-2019)

126 **§ 152.05 OUTDOOR STORAGE.**

127 Outdoor storage by commercial and industrial uses shall be limited to items  
128 that are designed and intended for permanent outdoor usage, storage, and/or sale.

129 Outdoor storage areas in business and industrial zones shall conform to a minimum  
130 of one-half the minimum front building setback and not block or obstruct parking  
131 spaces or any line of sight for a public road.

132 (Ord. 2019-02, passed 10-12-2019)

133 **§ 152.06 ADMINISTRATION AND ENFORCEMENT.**

134 Where there is a violation of any provision of this chapter, the town, in its  
135 discretion, may require any appropriate action as described in this chapter.

136 (A) Town *ordinances*. Except where otherwise specified, this chapter is  
137 subject to all provisions of the Mills River Town Code. The Town Manager or his/her  
138 designee (Department) shall be responsible for administration and enforcement of  
139 this chapter.

140 (B) *Declaration as a public nuisance.*

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141           (1) It shall be the duty of the Planning/Zoning Department acting  
142 by and through its authorized delegate to determine whether or not a public nuisance  
143 exists. The Department shall act by and through complaints only.

144           (2) For purposes of emergency response and notification to  
145 applicable authorities and posting for the public, the Planning/Zoning Department  
146 may determine that a structure, property, or portion of a property constitutes an  
147 immediate environmental health nuisance pursuant to Chapter 130A and the North  
148 Carolina General Statutes and North Carolina Administrative Code. In the event the  
149 Department makes this determination the nuisance will be referred to the Henderson  
150 County Department of Public Health for administration and abatement.

151           (C) *Modifications to or dismissal of the public nuisance declaration.*

152           (1) The Planning/Zoning Department may modify conditions of the  
153 declaration or dismiss the declaration of a public nuisance.

154           (2) Such modifications or dismissal shall occur only after the  
155 Planning/Zoning Department has confirmed that the violation no longer exists or if  
156 there has been substantial and continuing improvement towards abating the  
157 nuisance.

158           (3) The Planning/Zoning Department will base its criteria for  
159 determining levels of nuisance on the best health and safety information available at  
160 the time of the declaration and cannot be held liable for future discoveries.

161           (4) For good cause shown, the owner or occupant may request  
162 authorization from the Planning/Zoning Department for an extension of time to  
163 complete abatement activities. An extension may be granted if the extension does not  
164 increase the risk to public or safety and is deemed appropriate. Extensions may not  
165 be granted unless the owner or occupant shows substantial improvement toward  
166 abating the nuisance and shall be for a period of be no longer than 30 days. Additional

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167 extensions shall be at the discretion of the Planning/Zoning Department and shall  
168 only be considered if there has been substantial and continuing improvement  
169 towards abating the nuisance.

170 (D) *Access to premises and records.* The owner or occupant shall, upon the  
171 request of the Town and after proper identification, permit access to all parts of the  
172 site or structure where a nuisance has been declared as often as necessary, and at any  
173 reasonable time for the purposes of inspection, remediation and abatement, and shall  
174 exhibit and allow copying of any and all records necessary to ascertain compliance  
175 with this chapter. If the occupant will not permit entry upon the property, the  
176 Planning/Zoning Department shall complete the requirements of an administrative  
177 search warrant in order to inspect the complaint.

178 (E) *Interference.* No person shall in any way interfere with or hinder the  
179 Planning/Zoning Department in the performance of duties, or refuse access to gather  
180 information necessary to ascertain compliance with this chapter.

181 (Ord. 2019-02, passed 10-12-2019)

182 **§ 152.07 INVESTIGATION AND RESPONSE TO PUBLIC NUISANCE.**

183 (A) *Owner notification.* Upon declaration of a public nuisance, the  
184 Planning/Zoning Department shall give written notice of its determination and  
185 orders to abate the nuisance to the owner, occupant and property agent, if applicable.  
186 A recipient of any such notice must take all action required within the time period  
187 stated in the notice. This notice shall be served in person, by regular mail, or by an  
188 officer authorized to serve a warrant and contain the following:

189 (1) Property location by street address, parcel identification  
190 number, or other property description.

191 (2) Information identifying the nature of the public nuisance at the  
192 property.



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193 (3) A summary of the owner's and occupant's responsibilities under  
194 this chapter.

195 (4) Specific orders for abatement or remediation of the public  
196 nuisance.

197 (5) A date for completion of the abatement not to exceed 30 days  
198 following the receipt of the notice unless a shorter time is required due to the  
199 Planning/Zoning Department's further determination that the immediate abatement  
200 is necessary to protect public and safety. In such cases, the reason for a shortened  
201 abatement period shall be specified.

202 (6) Information regarding a right of appeal as provided in § 152.09  
203 of this chapter and that, unless the threat to public is abated or removed in accordance  
204 with the terms of the notice, the Planning/Zoning Department will have the public  
205 nuisance abated or removed at the expense of the owner under the provisions of this  
206 chapter and/or other applicable state or local law.

207 (B) *Unknown or absent* property owner. In the event the owner of the  
208 property is unknown or absent and has no known representative upon whom the  
209 notice can be served, the Planning/Zoning Department shall post a written or printed  
210 notice on the property stating that, unless the threat to the public is abated or  
211 removed within 30 days of the date of posting, the Planning/Zoning Department will  
212 have the public nuisance abated or removed at the expense of the owner under the  
213 provisions of this chapter and/or other applicable state or local law.

214 (C) *Public notification.* The Planning/Zoning Department shall provide  
215 information in writing about the public nuisance declaration and potential hazard(s)  
216 to the following persons as applicable and appropriate:

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217 (1) Child Protective Services Division of the Henderson County  
218 Department of Social Services in situations of potential child maltreatment or  
219 endangerment.

220 (2) Adult Protective Services Division of the Henderson County  
221 Department of Social Services in situations of potential vulnerable adult  
222 maltreatment or endangerment.

223 (3) Neighbors in close proximity likely to be affected by the  
224 conditions found at the site.

225 (4) Local law enforcement officers.

226 (5) Henderson County Environmental (Public) Health.

227 (6) Other state and local authorities that may have public or  
228 environmental protection responsibilities.

229 (D) *Warning sign.* The Planning/Zoning Department shall post a warning  
230 sign when deemed necessary to further protect the public and safety. The warning  
231 sign shall be posted on the entrance(s) of the structure or property and contain  
232 information sufficient to alert visitors or returning occupants to the site that it may  
233 be dangerous to enter, that entry is prohibited unless authorized by the  
234 Planning/Zoning Department or law enforcement department posting the sign. Any  
235 person other than the Planning/Zoning Department or designated agent that  
236 removes a warning sign shall be in violation of this chapter.

237 (E) *Abating public nuisance.* If the owner, property agent or occupant fails  
238 or neglects to comply with the requirements in the notice provided under division (A)  
239 of this section, then the Planning/Zoning Department shall abate or remediate the  
240 public nuisance described in the notice. The town will recoup such costs as necessary  
241 to abate the public nuisance as provided in § 152.99 of this chapter.

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242 (F) *Vacating the public nuisance order.* Upon verification and acceptable  
243 proof of proper abatement, remediation, repair, or removal at the site, the  
244 Planning/Zoning Department shall issue written notice to those persons served  
245 notice under subsection A of this section that the public nuisance order is vacated.  
246 Notice shall also be provided, as applicable and appropriate, to those persons  
247 provided information under division (C) of this section.  
248 (Ord. 2019-02, passed 10-12-2019)

249 **§ 152.08 VEHICLE RESTORATION PERMIT.**

250 (A) Persons storing any motor vehicle for more than 30 days outside a fully  
251 enclosed permanent structure for the purpose of restoration shall obtain a vehicle  
252 restoration permit from the Planning/Zoning Department. The permit shall be placed  
253 in the vehicle in a location viewable from outside the vehicle.

254 (B) This permit shall allow for one restoration vehicle and up to one parts  
255 vehicle that must be compatible with the vehicle being restored.

256 (C) The permit allows for outdoor storage of the vehicle(s) for a period of  
257 up to six months.

258 (D) A maximum of two six-month extensions may be granted upon request,  
259 provided substantial progress can be proven in the restoration of the vehicle at each  
260 extension interval. Progress will be measured by receipts for the purchase of parts or  
261 services or visible reconstruction or deconstruction.

262 (E) At no time shall the vehicle become a public health nuisance by  
263 collecting water to breed mosquitoes, losing fluid to contaminate the soil or becoming  
264 a harborage for vermin.

265 (F) If restoration work is not complete upon the permit expiration date, the  
266 vehicle shall be removed or placed inside a fully enclosed building as required by this  
267 chapter.



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268 (Ord. 2019-02, passed 10-12-2019)

269 **§ 152.09 APPEALS.**

270 (A) *Right of appeal.* When a public nuisance is declared, an owner of the  
271 affected property may appeal the declaration, including an order for abatement or  
272 remediation, by filing a written request with the Mills River Zoning Board of  
273 Adjustment.

274 (B) *Hearing.* If any owner makes a written request to the Zoning Board of  
275 Adjustment for an evidentiary hearing, such hearing shall be held in accordance to  
276 procedures as described in §§ 154.175 through 154.179 of the Town Code.

277 (1) *Schedule.* The evidentiary hearing shall be held at the next  
278 available meeting that satisfies public notice requirements after the request for a  
279 hearing was received.

280 (2) *Witnesses and evidence.* All parties shall have full opportunity to  
281 respond to and present evidence and witnesses.

282 (3) *Standard of proof.* The appellant shall have the burden of  
283 proving its position by clear and convincing evidence.

284 (4) *Rules of evidence.* Hearings shall be informal and the rules of  
285 evidence as applied in the courts shall not apply. Irrelevant, immaterial, and  
286 repetitious evidence shall be excluded.

287 (C) *Record of hearing.* The hearing shall be recorded, and the minutes of the  
288 meeting shall be approved by the Zoning Board of Adjustment at their next scheduled  
289 meeting.

290 (D) *Notice of decision.* The decision of the Zoning Board of Adjustment shall  
291 be issued in writing within ten calendar days following the hearing. Unless otherwise  
292 provided by law, the decision of the Zoning Board of Adjustment shall constitute the  
293 final decision.

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294 (E) *Further appellate rights.* Any party aggrieved by a final decision is  
295 entitled to judicial review of the decision. A petition for a writ of certiorari by the  
296 party must be filed with the Court of Appeals not more than 30 calendar days after  
297 notice of the final decision has been issued from the Zoning Board of Adjustment.  
298 (Ord. 2019-02, passed 10-12-2019)

299 **§ 152.99 VIOLATIONS, PENALTIES, COSTS, AND**  
300 **REIMBURSEMENTS.**

301 (A) *Civil penalties.* Any person who is an owner or occupant of property and  
302 who violates this chapter, or permits a nuisance to exist on the property under  
303 his/her control, or fails to take action to abate the existence of the violation(s) within  
304 the time specified in the notice described in § 152.07 above, when ordered or notified  
305 to do so by the Planning/Zoning Department, shall be subject to a civil penalty of \$50  
306 or other amount as determined by Town Council. Each day's violation shall be treated  
307 as a separate offense.

308 (B) *Civil action.* In the event of a violation of this ordinance or any order  
309 entered for abatement of a nuisance, the town may take appropriate action to enforce  
310 this chapter, including application for injunctive relief, action to compel performance,  
311 or other appropriate action in court, if necessary, to prevent, restrain, correct, or  
312 abate such violations. The town may recover all costs and expenditures expensed  
313 towards remedying the violation, including administrative time and attorneys' fees.

314 (C) *Criminal violation.* A violation of this ordinance is a Class 3  
315 misdemeanor pursuant to G.S. 14-4.

316 (D) If required to remove, abate or remediate a public nuisance, the town  
317 shall make every reasonable effort to recover costs incurred in removal, abatement  
318 or remediation in a civil action. The cost of enforcement action under this chapter  
319 may be assessed and charged against the real property on which the public nuisance

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320 was located. The town shall extend the cost as assessed and charged against said real  
321 property. Nothing herein precludes or limits the town from seeking recovery of costs  
322 through other methods allowed by Federal or state law.

323 (E) *Subrogation rights.* Nothing in this chapter is intended to limit the  
324 subrogation rights of any party and the owner occupants. The town shall maintain the  
325 right to recover costs, referenced in this section, from persons contributing to the  
326 damage.

327 (F) Revocation of Development Approvals. In addition to initiation of  
328 enforcement actions, development approvals may be revoked by notifying the holder  
329 in writing stating the reason for the revocation. The Town shall follow the same  
330 development review and approval process required for issuance of the development  
331 approval, including any required notice or hearing, in the review and approval of any  
332 revocation of that approval. Development approvals shall be revoked for any  
333 substantial departure from the approved application, plans, or specifications; for  
334 refusal or failure to comply with the requirements of any applicable element of this  
335 chapter; or for false statements or misrepresentations made in securing the approval.  
336 Any development approval mistakenly issued in violation of an applicable State law  
337 or local ordinance may also be revoked. The revocation of a development approval by  
338 a staff member may be appealed pursuant to G.S. § 160D-405.

339

340 (Ord. 2019-02, passed 10-12-2019)



# TITLE XV: LAND USAGE

## CHAPTER 155: VESTED RIGHTS

- 155.01 Purpose
- 155.02 Definitions
- 155.03 Establishment of development vested right
- 155.04 Approval procedures
- 155.05 Duration
- 155.06 Termination
- 155.07 Limitations
- 155.08 Repeal of statute
- 155.09 When effective; applicability
- 155.10 Title
- Appendix: Application for vested right

Town of Mills River, NC Code of Ordinances1 **§ 155.01 PURPOSE.**

2 The purpose of this chapter is to implement the provisions of G.S. § ~~160A-385.1~~160D-  
3 108 pursuant to which a statutory vested right is established upon the approval of a site  
4 specific development plan.  
5 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

6 **§ 155.02 DEFINITIONS.**

7 As used in this chapter, the following terms shall have the meanings indicated, unless  
8 a different meaning is apparent from the context used:

9 **APPROVAL AUTHORITY.** The Town Council of Mills River.

10 **COUNCIL.** The Mills River Town Council.

11 **SITE SPECIFIC DEVELOPMENT PLAN.** A plan which has been submitted to the  
12 Council or its designee by a landowner, describing with reasonable certainty the type and  
13 intensity of use for a specific parcel or parcels of property. The plan may be in the form of,  
14 but not limited to, any of the following plans: a planned unit development plan; a subdivision  
15 plat; a ~~conditional or~~ special use district zoning plan. The plan shall include the legal  
16 boundaries of the site, significant topographical and other natural features affecting  
17 development of the site; the approximate location on the site of the proposed buildings,  
18 structures and other improvements; the approximate dimensions, including height, of  
19 proposed buildings and other structures; the approximate location of all existing and  
20 proposed infrastructure on the site, including water, sewer, roads, bicycle paths and  
21 pedestrian walkways. Notwithstanding the foregoing, neither a variance, a sketch plan nor  
22 any other document that fails to describe with a reasonable certainty the type and intensity  
23 of use for a specified parcel of property shall constitute a site specific development plan.

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24        **DEVELOPMENT VESTED RIGHT.** A right pursuant to G.S. § ~~160A-385.1~~160D to  
25 undertake and complete the development and use of property under the terms and  
26 conditions of an approved site specific development plan.

27        **LANDOWNER.** Any owner of a legal or equitable interest in real property, including  
28 heirs, devisees, successors, assigns, and personal representatives of such owner. The  
29 landowner may allow an attorney, licensed to practice in the State of North Carolina, an  
30 engineer, licensed to practice in the State of North Carolina or a person holding a valid option  
31 to purchase to act as his or her agent or representative for purposes of submitting a proposed  
32 site specific development plan.

33        **PROPERTY.** All real property located within the corporate limits of the Town of  
34 Mills River, North Carolina, whether or not the area is zoned, is within the planning and  
35 zoning jurisdiction of the Mills River Town Council.  
36 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

37        **§ 155.03 ESTABLISHMENT OF DEVELOPMENT VESTED RIGHT.**

38        (A) A development vested right shall be deemed established upon the valid  
39 approval or conditional approval by the Council of a site specific development plan, following  
40 a properly noticed public hearing. The vested right confers upon the landowner only the  
41 right to undertake and complete the development and use the property under the terms and  
42 conditions of the site development plan ~~or the phased development plan.~~

43        (B) Failure to abide by any terms or conditions imposed shall result in a forfeiture  
44 of development vested rights.

45        (C) The Council may approve or disapprove a site specific development plan based  
46 upon the need to protect the public health, safety and welfare. The Council may require such  
47 terms and conditions as it may deem necessary to protect the public health, safety and  
48 welfare.



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49 (D) The establishment of a development vested right shall not preclude the  
 50 application of overlay zoning that imposes additional requirements, but does not affect the  
 51 allowable type or intensity of use, or ordinances or regulations that are general in nature and  
 52 are applicable to all property subject to land use regulation by the Town of Mills River,  
 53 including, but not limited to, building, fire, plumbing, electrical and mechanical codes.  
 54 Otherwise applicable new or amended regulations shall become effective with respect to  
 55 property that is subject to a site specific development plan upon the expiration or  
 56 termination of the vested right in accordance with this chapter.

57 (E) A development vested right is not a personal right, but shall attach to and run  
 58 with the real property. After approval of a site specific development plan, all successors to  
 59 the original landowner shall be entitled to exercise such right while applicable.

60 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

61 **§ 155.04 APPROVAL PROCEDURES.**

62 (A) A site specific development plan shall be processed in accordance with the  
 63 following procedures:

64 (1) The landowner must apply, on a form to be provided by the town, for a  
 65 development vested right.

66 (2) All applications shall be made at the Mills River Town Hall.

67 (3) An application fee, to be established by the Council, shall be required  
 68 upon submission of the application.

69 (4) Each application shall be accompanied by 1 copy of the site specific  
 70 development plan. Each site specific development plan shall contain the following notation  
 71 in the uppermost right-hand corner:

72 "This site specific development plan establishes a development vested  
 73 right pursuant to G.S. § ~~160A-385.1~~ 160D. Unless terminated at an earlier date, the  
 74 development vested right shall be valid until \_\_\_\_\_.

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75 Mayor, Town of Mills River”

76 (B) Following approval or conditional approval of a site specific development  
77 plan, nothing in this chapter shall exempt such plan from subsequent reviews and approvals  
78 to ensure compliance with the terms and conditions of the original approval, provided that  
79 such reviews and approvals are not inconsistent with the original approval.

80 (C) Nothing in this chapter shall prohibit the revocation of the original approval  
81 or other remedies for failure to comply with applicable terms and conditions of approval.

82 (D) Within 45 days of the application for a development vested right, the Council  
83 shall hold a public hearing. A notice of the public hearing shall be published in a newspaper  
84 of general circulation within the county twice per week for the 2 successive weeks prior to  
85 the hearing. The public hearing shall be conducted and may be continued pursuant to the  
86 provisions of G.S. § 160A-81.

87 (E) Within 30 days after the date of completion of the public hearing, the Council  
88 shall either approve the development vested right, deny the development vested right or  
89 conditionally approve the development vested right.  
90 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

91 **§ 155.05 DURATION.**

92 (A) A development vested right that has been vested as provided in this chapter  
93 shall remain vested for a period of 2 years unless otherwise terminated or unless specifically  
94 and unambiguously provided otherwise pursuant to the following subsection. This vesting  
95 shall not be extended by any amendment or modification to a site specific development plan  
96 unless expressly provided by the Council at the time the amendment or modification is  
97 approved.

98 (B) Notwithstanding the provisions of the preceding division, the Council may  
99 provide that rights shall be vested for a period exceeding 2 years but not exceeding 5 years,  
100 where warranted in light of all relevant circumstances, including, but not necessarily limited

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101 to, the size of the development, the level of investment, economic cycles and market  
102 conditions. Long-term, multi-phased projects of at least 25 acres may be vested for up to  
103 seven years. These determinations shall be in the sole sound discretion of the Council at the  
104 time the site specific development plan is approved.  
105 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

**§ 155.06 TERMINATION.**

107 A development vested right that has been vested as provided in this chapter shall  
108 terminate with any 1 of the following being satisfied:

109 (A) Upon the issuance of a building permit, the expiration provisions of G.S. §  
110 ~~160A-418~~ 160D-1111 and the revocation provisions of G.S. § ~~160A-422~~ 160D-403 shall apply,  
111 except that a building permit shall not expire or be revoked because of the running of time  
112 while a development vested right under this section is outstanding.

113 (B) At the end of the applicable vesting period with respect to building and uses  
114 for which no valid building permit application has been filed.

115 (C) With the written consent of the affected landowner.

116 (D) Upon a finding by the Council, by ordinance after notice and public hearing,  
117 that natural or man-made hazards on or in the immediate vicinity of the property, if  
118 uncorrected, would pose a serious threat to the public health, safety and welfare if the project  
119 were to proceed as contemplated in the site specific development plan; provided, however,  
120 that no landowner in the immediate vicinity shall intentionally create or allow to be created  
121 any hazards, subsequent to the vesting hereunder, for the purpose of causing the termination  
122 of a development vested right.

123 (E) Upon payment to the affected landowner of compensation for all costs,  
124 expenses, and other losses incurred by the landowner, including, but not necessarily limited  
125 to, all fees paid in consideration of financing and all architectural, planning, marketing, legal  
126 and other consultant's fees incurred after approval by the county, together with interest



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127 thereon at the legal rate until paid. Compensation shall include any diminution in value of  
128 the property which is caused by such action.

129 (F) Upon findings by the Council, by ordinance after notice and public hearing,  
130 that the landowner or his or her representative intentionally supplied inaccurate  
131 information or made material misrepresentations which made a difference in the approval  
132 by the Council of the site specific development plan.

133 (G) Upon enactment or promulgation of a state or federal law or regulation that  
134 precludes development as contemplated in the site specific development plan, in which case  
135 the Council may modify the affected provisions, upon finding that the change in state or  
136 federal law has a fundamental effect on the plan, by ordinance after notice and public  
137 hearing.

138 (H) Upon the repeal and absence of replacement of G.S. § ~~160A-385.1~~ 160D-108.  
139 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

#### 140 § 155.07 LIMITATIONS.

141 Nothing in this chapter is intended or shall be deemed to create any vested right other  
142 than those established pursuant to G.S. § ~~160A-385.1~~ 160D-108. Nothing in this chapter shall  
143 preclude judicial determination, based on common law principles or other statutory  
144 provisions, that a vested right exists in a particular case or that a compensable taking has  
145 occurred. Except as expressly provided herein, nothing in this chapter shall be construed to  
146 alter the existing common law.

147 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

#### 148 § 155.08 REPEAL OF STATUTE.

149 In the event that G.S. § ~~160A-385.1~~ 160D-108 is repealed and not replaced, this  
150 chapter shall be deemed repealed and the provisions hereof no longer effective.

151 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

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152 **§ 155.09 WHEN EFFECTIVE; APPLICABILITY.**

153 This chapter shall be effective upon adoption and shall only apply to site specific  
154 development plans approved on or after the effective date of this chapter.

155 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

156 **§ 155.10 TITLE.**

157 This chapter may be cited as the "Town of Mills River Vested Rights Ordinance."

158 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

159

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160 **APPENDIX: APPLICATION FOR VESTED RIGHT**

161 Town of Mills River

162 Application for Vested Right

163 Pursuant to N.C.G.S. ~~160A-385.1~~ 160D-108

164 NAME

165 ADDRESS

166 PROPERTY ADDRESS

167 PROPERTY PIN NUMBER

168 CERTIFICATION

169 I, \_\_\_\_\_, hereby certify that I am seeking to acquire

170 a vested right pursuant to N.C.G.S. ~~160A-385.1~~ 160D-108 and the Town of Mills River Vested

171 Rights Ordinance. I understand and agree that my application will be considered by the Mills

172 River Town Council following notice and a public hearing and that I am under a duty to

173 provide complete and accurate information to the Town Council.

174 This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

175 Applicant

176 \*\*\*\*\*

177 TOWN USE ONLY

178 Received by:

179 \_\_\_\_\_ Date:

180 Fee Paid: \_\_\_\_\_ Received by:

181 \_\_\_\_\_ Date:

182 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)



# TITLE XV: LAND USAGE

## CHAPTER 150: BUILDING REGULATIONS

### Generally

150.01 Prohibiting restrictions on agricultural land use

150.02 Enhanced voluntary agricultural districts

### Entry Gates and Entry Boxes

150.15 Definitions

150.16 Design

150.17 Size of entry gate area

150.18 Enforcement and legal status

## GENERALLY

1 **§ 150.01 PROHIBITING RESTRICTIONS ON AGRICULTURAL LAND**  
2 **USE.**

3 (A) The Town of Mills River shall not impose any regulation or restriction  
4 on the use of agricultural land which is more stringent than that imposed by the state  
5 of North Carolina or the United States of America. Agricultural land shall be defined  
6 to include "agricultural land, forest land, and horticultural land" as defined in G.S. §  
7 105-277.2 and property used for bona fide "farm purposes" as defined in G.S. § [160D-](#)  
8 [903153A-340\(b\)\(2\)](#). Those regulations and restrictions that are prohibited include  
9 but are not limited to those related to waste management, water quality, pesticide  
10 use, farm labor, hours of operation, water usage, stream buffers, storm water runoff,  
11 sounds and odors. This prohibition does not apply to any prohibition of, regulation of  
12 or limitation on nonagricultural activities occurring upon agricultural property.

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13 (B) Nothing herein shall be construed to impose any restriction upon the  
14 ability of Henderson County to regulate land use or prohibit or regulate any activity  
15 within the Town of Mills River pursuant to any Henderson County Ordinance that is  
16 being administered or enforced by Henderson County within the Town of Mills River  
17 pursuant to an agreement between Henderson County and the Town of Mills River.

18 (C) Nothing herein shall be construed to impose any restriction upon the  
19 ability of the Town of Mills River to regulate land use pursuant to G.S. Chapter ~~160A~~,  
20 ~~Article 19~~[160A and Chapter 160D](#) as long as the regulation of agricultural land is not  
21 more stringent than that imposed by the state and federal governments.

22 (D) (1) The purpose of this ~~sub~~section is to encourage the voluntary  
23 preservation and protection of farmland from nonfarm development, recognizing the  
24 importance of agriculture to the economic and cultural life of the Town of Mills River.

25 (2) Pursuant to authority conferred by G.S. Ch. 106, Art. 61, and for  
26 the purpose of promoting the health, safety, morals and general welfare of the Town  
27 of Mills River, this section shall be known as the “Voluntary Farmland Preservation  
28 Program Ordinance of Mills River, North Carolina.”

29 (Ord. 00001, passed 9-11-2003; Am. Ord. 00086, passed 11-14-2013)

30 **§ 150.02 ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS.**

31 (A) The purpose of Enhanced Voluntary Agricultural Districts within the  
32 Town is to provide, pursuant to G.S. § 160-743-1, *et seq.*, all of the benefits provided  
33 in Part 2 and Part 3, Article 61 of Chapter 160 of the North Carolina General Statutes.

34 (B) Enhanced Voluntary Agricultural Districts shall be established and  
35 administered within the Town of Mills River as provided in Chapter 45 of the  
36 Henderson County Code of Ordinances.

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37 (C) The County Agricultural Advisory Board, established pursuant to § 45-  
38 3 of the Henderson County Code, shall serve as the agricultural advisory board for the  
39 Town of Mills River.

40 (D) An Enhanced Voluntary Agricultural District shall be established only  
41 after compliance with the requirements set out in Article IV and Article VII of Chapter  
42 45 of the Henderson County Code of Ordinances.

43 (Ord. 00088, passed 3-13-2014)

## ENTRY GATES AND ENTRY BOXES

### 44 § 150.15 DEFINITIONS.

45 Except as otherwise defined in this section, all terms contained herein shall  
46 have their meaning as otherwise defined in the Mills River Town Code, or if not so  
47 defined, as commonly used. The following terms are specifically defined as follows:

48 **ACCESS CONTROL DEVICE.** Equipment and/or machinery that opens and  
49 closes an entry gate.

50 **ENTRY GATE.** Movable partition for controlling access and egress.

51 **VEHICLE.** Any motor vehicle which is allowed to use the public roadways in  
52 North Carolina, but not including vehicles which include trailers or semi-trailers.

53 (Ord. 00040, passed 4-12-2007)

### 54 § 150.16 DESIGN.

55 (A) All subdivision or community entry gates constructed hereafter shall  
56 be setback sufficiently far from public road or street access to allow for the stacking  
57 of at least 50 feet out of the public travel lanes on the public road or street.



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58 (B) All entry gates hereafter constructed shall have an additional setback  
59 between the point of the access control device and the entry gate to allow a vehicle  
60 which is denied access to safely turn around and exit onto a public street.

61 (C) Approach and departure areas on both sides of a gated entrance must  
62 provide adequate setbacks and proper alignment to allow free and unimpeded  
63 passage of emergency vehicles through the entrance area.

64 (D) Key boxes approved by the Fire Chief shall be installed on all new  
65 commercial and industrial uses and on existing uses where a nuisance or repeated  
66 alarms occur. Installation of the key box may be on access gates or other locations  
67 where access is delayed. Strip malls or commercial developments may have a  
68 centrally located key box where each business may locate a key. Multiple keys will  
69 require some identification as to which key corresponds to each business.

70 (Ord. 00040, passed 4-12-2007)

71 **§ 150.17 SIZE OF ENTRY GATE AREA.**

72 Entry gates shall have sufficient minimum gate width and opening to allow  
73 safe passage of all vehicles. Overhead barriers or obstructions shall provide a  
74 minimum 13' 6" vertical clearance at its lowest point. All new gates installed after this  
75 subchapter is adopted shall have a minimum width of 15 feet clearance through the  
76 gate. The Fire Chief may require modifications to existing gate structures to allow  
77 them to accommodate emergency vehicles.

78 (Ord. 00040, passed 4-12-2007)

79 **§ 150.18 ENFORCEMENT AND LEGAL STATUS PROVISIONS.**

80 (A) All plans for entry gates for which construction is not complete as of  
81 the adoption of this subchapter shall be subject to inspection by Mills River Fire and

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82 Rescue for compliance with the provisions. Once plans are approved, the entry gate  
83 shall be constructed in compliance with such plans.

84 (B) All entry gates for which construction is complete as of the adoption of  
85 this subchapter shall be retrofitted in such manner as to be in compliance with the  
86 terms of this subchapter within 6 months of the date of adoption of this subchapter.

87 (C) The developer and homeowners' association shall provide unfettered  
88 access to all private streets by emergency and law enforcement vehicles. Access  
89 procedures must ensure immediate access through the entry gates for emergency and  
90 law enforcement vehicles responding to emergencies without need of special keys or  
91 codes. This may be done by access control device approved by Mills River Fire and  
92 Rescue. The developer and homeowner's association shall provide and annually  
93 update documentation necessary to provide this access to Henderson County Sheriff's  
94 Department, Emergency Services, ~~and~~ the Town of Mills River, and Mills River Fire  
95 and Rescue that proposed entry gates and access procedures meet all town standards  
96 for access by emergency and law enforcement vehicles. If the homeowner's  
97 association fails to maintain reliable access for the provision of emergency or other  
98 public services, the town may enter the gated residential, development and open,  
99 disable or remove any gate or device, which is a barrier to access, at the sole expense  
100 of the homeowners' association. The declaration of covenants, conditions and  
101 restrictions and any other relevant documents of the homeowners' association shall  
102 include a statement to this effect.

103 (D) The developer and homeowners' association shall guarantee  
104 reasonable access to all private streets by the Town of Mills River, Henderson County  
105 and State of North Carolina employees operating within the scope of their official  
106 duties to perform zoning, inspections and other governmental regulatory activities,  
107 and to all public utility companies to perform installation and maintenance activities

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108 of public utility infrastructure. A statement to this effect shall be filed with the  
109 Henderson County Sheriff's Department and appear on the final plat of all new  
110 development.  
111 (Ord. 00040, passed 4-12-2007)



# TITLE XV: LAND USAGE

## CHAPTER 151: MANUFACTURED HOME PARKS

### General Provisions

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Appendix B:	Construction Permit Application Form
Appendix C:	Certificate of Completion Application Form

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**GENERAL PROVISIONS**

1

2 **§ 151.001 TITLE.**

3 This chapter shall be known and cited as the “Manufactured Home Park  
4 Ordinance of Town of Mills River, North Carolina.”  
5 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
6 2016)

7 **§ 151.002 AUTHORITY.**

8 This chapter is enacted pursuant to the authority and provisions of G.S. §§  
9 160A-174 and [160D-910](#) ~~160A-383.1~~.  
10 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
11 2016)

12 **§ 151.003 PURPOSE.**

13 The purpose of this chapter shall be to regulate and guide the development of  
14 manufactured home parks in order to promote the public health, safety and general  
15 welfare of residents of manufactured home parks and the citizens of the Town of Mills  
16 River.  
17 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
18 2016)

19 **§ 151.004 JURISDICTION.**

20 The provisions of this chapter shall apply to all areas within the corporate  
21 boundaries of the Town of Mills River to the extent provided by the Town of Mills  
22 River Zoning Ordinance (see Chapter 154 of the Town of Mills River Code, as amended  
23 or replaced). In the event of a conflict between this chapter and the Zoning



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24 Ordinance for the Town of Mills River, the terms and provisions of the Zoning  
25 Ordinance shall prevail.  
26 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
27 2016)

28 **§ 151.005 MANUFACTURED HOME PARKS ALLOWED IN CERTAIN**  
29 **ZONING DISTRICTS AS A SPECIAL USE.**

30 Manufactured home park developments may be located in the MR-30, MR-MU,  
31 and MR-NC ~~as a Special Use~~, subject to ~~a finding~~ [the approval of a Major Special Use](#)  
32 [Permit](#) by Town Council ~~on the advice and in consideration of the~~ [recommendations](#)  
33 of the Planning Board that certain conditions are met.

34 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00052, passed 6-26-  
35 2008; Am. Ord. 2016-04, passed 7-28-2016)

36 **§ 151.006 CONFORMANCE WITH OTHER ORDINANCES.**

37 (A) This chapter applies in areas under the jurisdiction of the Town of Mills  
38 River Zoning Ordinance to the extent allowed by the Zoning Ordinance.

39 (B) In the case of manufactured home parks proposed for development in  
40 designated water supply watershed areas, the parks shall conform to the  
41 requirements of the appropriate watershed district according to the terms of the  
42 Henderson County Water Supply Watershed Ordinance as amended as or replaced as  
43 well as to the standards of this chapter, and, in case of conflict, the most restrictive  
44 shall apply.

45 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
46 2016)

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47 **§ 151.007 DEFINITIONS.**

48 For the purpose of this chapter, the following words shall have the meanings  
49 indicated:

50 **APPLICANT.** The legal owner of the real property to be developed for a  
51 manufactured home park who is responsible for submitting an application for a  
52 manufactured home park construction permit and upon whom final responsibility for  
53 ensuring compliance with the terms and conditions of this chapter rests. For  
54 purposes of submission and review of an application, an agent designated by the legal  
55 owner, in writing, will also be considered an **APPLICANT**.

56 **APPLICATION.** A manufactured home park construction permit application  
57 form, the site development plan and any other supporting documents.

58 **BUILDING.** Any structure having a roof supported by columns or by walls  
59 and intended for shelter, housing or enclosure of persons, animals or personal  
60 property. Two buildings connected by a common roof shall be considered as 1  
61 building, provided that the width of the connecting roof shall be at least 20% of the  
62 principal building width, but in no case less than 6 feet in width. The connection of 2  
63 buildings by means of an open porch, breeze way or passageway without a roof, or  
64 with a roof less than 6 feet in width, shall not be deemed to make them 1 building.

65 **BUILDING, ACCESSORY.** A detached building subordinate to a main building  
66 or manufactured home for purposes customarily incidental to the main or principal  
67 building and located on the same lot or manufactured home space therewith.

68 **CERTIFICATE OF COMPLETION (COC).** A document issued by the  
69 Manufactured Home Park Ordinance Administrator to a manufactured home park  
70 applicant upon completion of the park, or phase thereof, which certifies that the park  
71 conforms to the requirements of this chapter. A **CERTIFICATE OF COMPLETION** is

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72 required in order to obtain manufactured home set-up permits or other building  
73 permits from the Henderson County Inspections Department.

74       **COMMON AREA.** Area set aside, dedicated or reserved for the use and  
75 enjoyment of residents of a manufactured home park. **COMMON AREA** may include  
76 space for community buildings, ponds, gardens, walking paths, outdoor play areas,  
77 swimming pools, ball fields, basketball courts, racquet courts, gazebos, picnic  
78 shelters, utility easements, and the like. Areas above subsurface sewage disposal  
79 systems or wells may, in some cases, also be used as **COMMON AREA**. Land within  
80 required building setbacks and separation areas, internal roads, exterior road rights-  
81 of-way, driveways, parking spaces, common storage facilities, laundry rooms, mail  
82 delivery areas, model homes, solid waste disposal areas and areas needed for  
83 aboveground utility facilities, including water supply or sewage disposal systems,  
84 shall not be considered **COMMON AREA**.

85       **DRIVEWAY.** An area used for ingress or egress of vehicles and allowing  
86 access from an internal road to no more than 2 dwelling units.

87       **DWELLING UNIT.** A building, or portion thereof, that provides complete and  
88 permanent living facilities for 1 family. Also known as a **UNIT**.

89       **EASEMENT.** A grant by the owner of property of the use of a strip of land for  
90 specified purpose and use by the public, a corporation or persons. **EASEMENTS** are  
91 typically granted (dedicated) for utility use and for ingress and egress such as a road  
92 easement, commonly referred to as a **RIGHT-OF-WAY**.

93       **FAMILY.** One or more persons living independently as a single  
94 housekeeping unit and using cooking facilities and certain rooms in common. A  
95 **FAMILY** shall not include a group occupying a boarding house, lodging house, club or  
96 fraternity house or similar dwelling.

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97           **LOT.** A piece of land occupied or capable of being occupied by a building or  
98 group of buildings devoted to a common use, together with the customary accessories  
99 and open spaces belonging to same.

100           **MAJOR PARK.** Any manufactured home park consisting of 11 or more  
101 manufactured homes and/or spaces.

102           **MANUFACTURED HOME.** A single-family residential dwelling built in  
103 accordance with the Federal Manufactured Housing Construction and Safety  
104 Standards Act of 1974 (which became effective June 15, 1976). For purposes of this  
105 chapter, however, the term includes **MOBILE HOMES** (see definition below).

106           **MANUFACTURED HOME PARK (PARK).** A tract of land designed to  
107 accommodate 3 or more manufactured or mobile home spaces, 3 or more  
108 manufactured or mobile homes or any combination of such for rent or lease.  
109 Notwithstanding the foregoing, manufactured home parks which consist of no more  
110 than 10 manufactured homes and in which all of the manufactured homes provide or  
111 are intended to provide migrant housing subject to and in accordance with the  
112 Migrant Housing Act of North Carolina (G.S. §§ 95-222 *et seq.*) are specifically  
113 exempted from the terms of this chapter.

114           **MANUFACTURED HOME PARK CONSTRUCTION PERMIT.** A permit issued  
115 by the Manufactured Home Park Ordinance Administrator to a manufactured home  
116 park applicant upon approval of a Special Use Permit by Town Council which certifies  
117 that the applicant may begin improvements to the park or phase site.

118           **MANUFACTURED HOME PARK ORDINANCE ADMINISTRATOR**  
119 **(ADMINISTRATOR).** An official or designated person(s) of the Town of Mills River  
120 authorized to review and approve applications and plans for manufactured home  
121 parks under the terms and conditions of this chapter. **THE MANUFACTURED HOME**  
122 **PARK ORDINANCE ADMINISTRATOR** may be the Zoning Administrator.



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123           **MINOR PARK.** Any manufactured home park consisting of 10 or fewer  
124 manufactured homes and/or spaces.

125           **MOBILE HOME.** A transportable, factory- built home, designed to be used as  
126 a single-family residential dwelling and manufactured prior to the Federal  
127 Manufactured Housing Construction and Safety Standards Act of 1974, which became  
128 effective on June 15, 1976.

129           **OPERATOR.** The person responsible for the operation of a manufactured  
130 home park.

131           **PHASE.** A portion of a manufactured home park delineated on the site  
132 development plan.

133           **PLAN, SITE DEVELOPMENT.** A graphic representation or map of the tract of  
134 land to be developed for a manufactured home park indicating all proposed uses of  
135 land, improvements and other general and specific information as may be required  
136 to fully disclose the applicant’s intentions.

137           **RIGHT-OF-WAY.** An easement for ingress and egress, such as a road  
138 easement. See **EASEMENT**.

139           **ROADS, INTERNAL.** Vehicular travelways located within a manufactured  
140 home park. **INTERNAL ROADS** may be of 2 types: collector roads or service roads.

141                   (1)   **INTERNAL COLLECTOR ROAD.** An internal road which serves  
142 25 or more units or spaces and serves as the most probable and convenient route to  
143 and from any external road or street connected to the manufactured home park.

144                   (2)   **INTERNAL SERVICE ROAD.** An internal road which serves no  
145 more than to 24 units or spaces.

146           **SEPARATION.** The required minimum horizontal distance which must be  
147 reserved between the nearest vertical surface of a building and the applicable street  
148 right-of-way line, street, boundary line or other building or structure in which no

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149 other structure may be erected. However, for the purpose of this chapter, all  
150 structures attached to manufactured homes, including storage buildings, carports,  
151 covered or open porches, covered or open decks and steps, shall not be counted when  
152 measuring separation requirements from manufactured homes. See also **SETBACK,**  
153 **BUILDING.**

154 **SETBACK, BUILDING.** The distance from an established property boundary  
155 or other line defined in this chapter that establishes the buildable area on a lot and/or  
156 a manufactured home space. See also **SEPARATION.**

157 **SEWAGE DISPOSAL SYSTEM.** Any facilities for wastewater (sewage)  
158 collection, treatment and disposal. A **SEWAGE DISPOSAL SYSTEM** may be of the  
159 following types:

160 (1) **APPROVED PUBLIC OR COMMUNITY SEWAGE SYSTEM.** A  
161 single system of sewage collection, treatment and disposal owned and operated by a  
162 sanitary district, a metropolitan sewage district, a water and sewer authority, a  
163 county or municipality or a public utility constructed and operated in compliance  
164 with applicable requirements of the North Carolina Division of Environmental  
165 Management.

166 (2) **MUNICIPAL SEWAGE DISPOSAL SYSTEM.** An approved  
167 public or community sewage system which is owned and operated by a county or  
168 municipality.

169 (3) **SEPTIC TANK.** A subsurface wastewater system consisting of  
170 a settling tank and subsurface disposal field.

171 **SPACE, MANUFACTURED HOME.** An area of land within a manufactured  
172 home park designed for the exclusive use of 1 manufactured or mobile home and  
173 associated accessory buildings. A space shall be defined on the ground by the  
174 presence of 2 or more of the following:

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- 175 (1) A water supply system service connection;  
176 (2) A sewage disposal system service connection; and  
177 (3) Electric service equipment.

178 ***SPECIAL USE, MAJOR.*** A use that is not permitted by right, but is permitted  
179 after a review and finding by the Town Council that the use will meet all of the  
180 required general standards (see § 154.138) and the applicable specific site standards  
181 or site conditions.

182 ***STATE ROAD STANDARDS.*** Those standards contained in the NCDOT  
183 publication *Subdivision Roads - Minimum Construction Standards*, dated January 2010,  
184 as may be amended.

185 ***STREET, EXTERNAL.*** Vehicular travelway located outside of a  
186 manufactured home park that abuts the manufactured home park property.

187 ***STREET, MAJOR.*** An external street whose average daily traffic is greater  
188 than 4,000 vehicles per day.

189 ***STRUCTURE, ACCESSORY.*** See ***BUILDING, ACCESSORY.***

190 ***TRACT.*** An area, site, piece of land or property which is the subject of a  
191 development application. A ***TRACT*** may contain 1 or more smaller parcels or lots all  
192 in the same ownership or control.

193 ***UNIQUE NATURAL AREAS.*** An area that contains features sensitive to  
194 development and is listed in the publication titled “Natural Areas of Henderson  
195 County, A Preliminary Inventory of the Natural Areas of Henderson County, North  
196 Carolina,” by L.L. Gaddy, Ph.D., dated January 1994.

197 ***WASTEWATER.*** Any sewage or industrial process wastewater discharged,  
198 transmitted or collected from a residence, place of business, place of public assembly  
199 or other places into a sewage disposal (wastewater) system.

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200           **WATER SUPPLY SYSTEM.** A system for the collection, treatment, storage  
201 and distribution of potable water from the source of supply to the consumer. A

202 **WATER SUPPLY SYSTEM** may be of the following types:

203           (1)   **MUNICIPAL WATER SYSTEM.** A public water system owned  
204 and operated by a local government.

205           (2)   **PRIVATE WELL WATER SUPPLY.** Any water supply  
206 furnishing potable water to less than 15 residences or 25 persons.

207           (3)   **PUBLIC WATER SYSTEM.**

208           (a)   A system for the provision to the public of piped water  
209 for human consumption which serves 15 or more service connections or which  
210 regularly serves 25 or more individuals. The term includes:

211                   1.   Any collection, treatment, storage or distribution  
212 facility under the control of the operator of the system and used primarily in  
213 connection with the system.

214                   2.   Any collection or pretreatment storage facility  
215 not under the control of the operator of the system which is used primarily in  
216 connection with the system.

217           (b)   A public water system is either a **COMMUNITY WATER**  
218 **SYSTEM** or a **NONCOMMUNITY WATER SYSTEM** as follows:

219                   1.   **COMMUNITY WATER SYSTEM.** A public  
220 water system which serves 15 or more service connections or which regularly serves  
221 at least 25 year-round residents.

222                   2.   **NONCOMMUNITY WATER SYSTEM.** A public  
223 water system which is not a community water system.



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224           **WATERSHED ADMINISTRATOR.** An official or designated person of  
225 Henderson County responsible for the administration and enforcement of the Water  
226 Supply Watershed Protection Ordinance for Henderson County.  
227 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
228 2016)

229   **§ 151.008   CONFLICT WITH OTHER LAWS.**

230           It is not intended that this chapter repeal, abrogate, annul, impair or interfere  
231 with any existing rules, regulations or permit previously adopted or issued pursuant  
232 to laws, except that should this chapter conflict with any applicable federal, state or  
233 local laws, the most stringent shall govern.  
234 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
235 2016)

236           **APPLICATIONS, PLAN REVIEW AND APPROVAL**

237   **§ 151.020   APPROVAL/SPECIAL USE PERMIT REQUIRED.**

238           No person, firm or corporation shall construct a manufactured home park  
239 within the jurisdiction of this chapter without first obtaining a Major Special Use  
240 Permit approval from the Town Council as defined in §§ 154.138 and 154.180. Upon  
241 approval by Town Council, the Manufactured Home Park Ordinance Administrator  
242 shall issue a notice to proceed in the form of a manufactured home park construction  
243 permit.  
244 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
245 2016)

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246 **§ 151.021 APPLICATION PROCEDURE.**

247 (A) *Planning conference.* A planning conference with the Administrator  
248 to acquaint the applicant with the approval process is required prior to submitting an  
249 application for a manufactured home park ~~construction permit~~[Major Special Use](#)  
250 [Permit](#). At the time of the conference, the applicant shall provide a general sketch for  
251 discussion and comment.

252 (B) *Application.* Prior to constructing a new manufactured home park or  
253 phase thereof or prior to expanding an existing park, an applicant shall submit a  
254 complete manufactured home park construction permit application (see Appendix B)  
255 along with 8 legible copies of the proposed site development plan, drawn at a scale of  
256 1 inch equals 100 feet, a buffer plan (if applicable, per § 151.044), a detailed drainage  
257 plan (per § 151.050), a description of the solid waste disposal method (per §  
258 151.061), plus required fees to the Administrator (see Appendix A for site  
259 development plan requirements).

260 (C) *Review procedure.* [Major](#) Special Use Permits ~~procedure goes~~ to  
261 Planning Board for recommendation, then to [Town](#) Council for [an evidentiary](#)  
262 [hearing](#)~~Public Hearing~~. Refer to § 154.138 and § 154.180.

263 (D) *Manufactured home park construction permit.*

264 (1) *Application approval.* If the application meets the requirements  
265 of this chapter, the Administrator shall issue the applicant a manufactured home park  
266 construction permit. The permit shall state the improvements that must be  
267 constructed by the applicant prior to issuance of a certificate of completion (see §  
268 151.022).

269 (2) *Application approval with conditions.* If the application is  
270 approved with conditions, the Administrator shall provide the conditions to the  
271 applicant, in writing, within 10 days of the action. The applicant must fulfill all

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272 conditions before the Administrator may issue a manufactured home park  
273 construction permit. Any development activity started prior to obtaining the permit  
274 shall be at the applicant's risk and may be deemed a violation of this chapter.

275 (3) Application *denial*. If the application is denied, the  
276 Administrator shall inform the applicant, in writing, of the reasons for the denial  
277 within 10 days of the action. (See § 151.083, Appeals, for more information.)

278 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
279 2016)

280 **§ 151.022 COMPLETION OF IMPROVEMENTS.**

281 (A) *Time period*. Upon issuance of a manufactured home park  
282 construction permit, the applicant shall have 2 years to complete construction of site  
283 improvements as stated in the permit for the park or phase thereof, except as  
284 otherwise noted in division (B) below. Extensions may be granted by the  
285 Administrator for good cause upon receipt of a written request from the applicant.

286 (B) *Site improvements*.

287 (1) Depending on the specifics of the application, a manufactured  
288 home park applicant may be required to construct or install the following  
289 improvements, in accordance with special provisions, in order to obtain a certificate  
290 of completion (see division (C) below).

- 291 (a) Water supply systems;
- 292 (b) Sewage disposal systems;
- 293 (c) Fire protection improvements;
- 294 (d) Drainage improvements;
- 295 (e) Internal roads;
- 296 (f) Park identification signage; and

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297

(g) Buffers.

298

(2) Depending on the specifics of the application, a manufactured

299

home park applicant may be required to construct or install the following

300

improvements in accordance with special provisions. The improvements must be

301

completed within 45 days of the date of issuance of a certificate of completion (see

302

division (C) below).

303

(a) Parking areas;

304

(b) Driveways; and

305

(c) Improvements to common solid waste disposal areas.

306

(3) A manufactured home park applicant shall not be required to

307

construct or install the following site improvements prior to obtaining a certificate of

308

completion:

309

(a) Improvements to common areas;

310

(b) Road name and regulatory signs; and

311

(c) Nonresidential uses (such as laundry rooms, community

312

buildings, park offices, and the like).

313

(C) Certificate of completion (COC). Once the required site

314

improvements for the park or phase thereof are complete and the applicant has

315

provided evidence that property addresses have been assigned to each manufactured

316

home and other buildings in accordance with § 151.056, the applicant shall apply to

317

the Administrator for a COC (see Appendix C). The Administrator shall conduct a site

318

inspection and either issue a COC or a list of remedial items to be satisfied before a

319

COC will be issued. Once the applicant obtains and maintains a valid COC, he or she

320

may lease spaces and he or she (or the operator or tenants, as applicable) may obtain

321

set-up and building permits for manufactured homes and other buildings within the

322

park.



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323 (D) *As-built drawings.* One as-built drawing, at a scale of 1 inch equals  
324 100 feet, of the completed park (or phase) shall be submitted to the Administrator at  
325 the time an applicant applies for a COC.

326 (E) *Inspection.* The Administrator (or his or her designee) is authorized  
327 to make the inspections of manufactured home parks as necessary to ensure  
328 compliance with this chapter.

329 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
330 2016)

331 **§ 151.023 AMENDMENTS TO PARK DEVELOPMENT PLAN.**

332 Minor changes in the location, siting or character of manufactured homes or  
333 other structures may be authorized by the Administrator if required by engineering  
334 or other circumstances not foreseen at the time the plan was approved, provided that  
335 the changes are within the minimum or maximum requirements set forth in this  
336 chapter. An applicant proposing to increase the number of units or to construct  
337 buildings (other than accessory buildings for individual manufactured homes) not  
338 originally shown on the site development plan shall submit a revised plan for  
339 approval by the Administrator under the terms of this chapter.

340 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
341 2016)

342 **SITE DEVELOPMENT AND IMPROVEMENT STANDARDS**

343 **§ 151.040 PHASING.**

344 Manufactured home parks may be developed in phases of at least 3 units,  
345 except when less than 3 spaces remain to be developed.

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346 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
347 2016)

348 **§ 151.041 ROAD FRONTAGE AND OFF-SITE ACCESS.**

349 (A) Any tract of land to be developed as a manufactured home park must  
350 either have frontage on a public (state-maintained) road or have a private right-of-  
351 way corridor to the property. The minimum required length of the public road  
352 frontage or width of the private right-of-way corridor (at its narrowest point) shall  
353 be 30 feet.

354 (B) Off-site access shall have a minimum 20 foot cleared, unobstructed  
355 corridor, with a vertical clearance of at least 13 feet, 6 inches, to allow passage of  
356 emergency vehicles. The grade of any road, existing or proposed, within an off-site  
357 private right-of-way corridor used to access a manufactured home park shall not  
358 exceed 18% if the road is paved. If the road is not paved, the grade shall not exceed  
359 15%.

360 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
361 2016)

362 **§ 151.042 DENSITY.**

363 (A) The maximum permitted overall density for manufactured home parks  
364 is 4 units per acre. The applicant shall provide common area, as defined in § 151.007  
365 and in accordance with § 151.043, and a buffer, in accordance with § 151.044.

366 (B) The acreage of the entire area within the boundary of a manufactured  
367 home park, including areas to be designated as common area, shall be used to  
368 determine the overall density of a park. Other standards in this chapter as well as

369 requirements of the Henderson County Department of Public Health or other agency  
370 may also affect the density.  
371 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
372 2016)

373 **§ 151.043 COMMON AREA.**

374 (A) Manufactured home parks shall contain a minimum of 400 square feet  
375 of common area per manufactured home space. Common area shall be accessible for  
376 the use and enjoyment of park residents and shall be maintained in good condition  
377 by the park applicant. All common area shall be designated as such on the site  
378 development plan submitted with the application for a manufactured home park  
379 construction permit.

380 (B) *Conveyance of open space, recreational areas and communally owned*  
381 *facilities.*

382 (1) Common open space, recreational areas and communally  
383 owned facilities shall be guaranteed by a restrictive covenant describing the areas  
384 and facilities and their maintenance improvement, running with the land for the  
385 benefit of residents of the manufactured housing development or adjoining property  
386 owners or both.

387 (2) The applicant must submit to the Town Council the legal  
388 documents which will produce the aforesaid guarantees and, in particular, will  
389 provide for restricting the use of common areas and facilities for the designated  
390 purposes.

391 (C) *Maintenance.*

392 (1) Manufactured home parks shall be approved subject to the  
393 submission of an instrument or instruments setting forth a plan for permanent care

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394 and maintenance of permanent open spaces, recreational areas, easements, rights-of-  
395 way and communally owned facilities which would be legally enforceable.

396 (2) The developer shall either:

397 (a) Maintain responsibility for maintenance and upkeep of  
398 open space, recreational areas, and communally owned facilities as described in this  
399 section through a management company or some other similar means, or

400 (b) Create an owner's association for maintenance and  
401 upkeep of open space, recreational areas, and communally owned facilities as  
402 described in this section. All lot owners must be part of the owner's association and  
403 must be set up before the lots are sold. A copy of the by-laws of the owner's  
404 association must be submitted to the Town Attorney for review and approval.

405 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
406 2016)

407 **§ 151.044 LANDSCAPING AND BUFFERS.**

408 (A) *Landscape plan.* The proposed development shall be designed as a  
409 single architectural scheme with appropriate common landscaping. Landscaping  
410 shall meet the requirements of §§ 154.230 through 154.237. The applicant shall  
411 include with the application for a manufactured home park construction permit a  
412 landscape plan, including a general description of the materials to be used and where  
413 the materials shall be planted. The required landscaping must be installed for the  
414 entire park or phase thereof prior to issuance of a certificate of completion by the  
415 Administrator.

416 (B) *Buffers.* Manufactured home parks shall provide a buffer of planted  
417 vegetation which shall serve as a partial visual screen to separate different densities  
418 of land use. The buffer shall be provided along the perimeter of the park, except where



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419 ingress and egress to the park is provided. Buffers shall be allowed within the building  
420 setback from the perimeter of the park. Planted buffers shall not be allowed within  
421 the right-of-way of any public road.

422           (1) *Materials.* Trees and shrubs shall be used with approval of the  
423 Administrator. At the time of planting, shrubs shall be at least 1 gallon container  
424 plants and trees shall be at least 4 feet in height, measured from ground level.

425           (2) *Method.* At least 5 trees and 10 shrubs shall be planted around  
426 the perimeter of the park for every 100 feet of the perimeter. The materials may be  
427 planted in a line or staggered. In addition, for each 100 linear feet of perimeter, up to  
428 50% of the trees and 50% of the shrubs may be grouped; however, the remaining  
429 required materials must be evenly distributed along the perimeter.

430 Retention of existing vegetation which would provide an equivalent buffer is  
431 encouraged. The Administrator shall have the authority to determine if existing  
432 vegetation fulfills the intent of the buffer requirement or if additional vegetation  
433 should be planted.

434           (C) *Maintenance.* Landscaping shall be placed and maintained in common  
435 area as described in § 151.043. Deteriorating materials or materials which are  
436 removed or altered shall be replaced in a timely manner. Replacement materials shall  
437 conform with the standards of this chapter.

438 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
439 2016)

440 **§ 151.045 SEPARATION, DIMENSIONAL, AND DESIGN**  
441 **REQUIREMENTS.**

442           The following separation, dimensional, and design requirements shall apply to  
443 manufactured home parks, except that all structures attached to a manufactured

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444 home, including storage buildings, carports, covered or open porches, covered or  
445 open decks and steps, shall not be considered part of a manufactured home for  
446 purposes of determining separation requirements (see definition).

447 (A) The minimum tract for development of a manufactured home park is  
448 1.5 acres.

449 (B) The maximum density of a manufactured home park is 4 units per acre.

450 (C) The minimum lot width for a manufactured home park development is  
451 30 feet of frontage along a public right of way or a 30 foot wide easement to a publicly  
452 owned and maintained road.

453 (D) All manufactured homes and other buildings, including those which are  
454 accessory to individual manufactured home units, shall be located at least 50 feet  
455 from any frontage and 25 feet from any side or rear property line or other boundary  
456 defining the perimeter of the manufactured home park.

457 (E) All manufactured homes shall be located at least 30 feet from the center  
458 line of internal collector roads and at least 25 feet from the center line of internal  
459 service roads.

460 (F) Within a manufactured home park, each manufactured home shall be  
461 separated from any other manufactured home by a minimum of 20 feet "short" end  
462 to "short" end, 30 feet "short" end to "long" side, and 30 feet "long" side to "long" side.

463 (G) The separation between buildings and water supply systems and/or  
464 sewage disposal systems shall be as required by regulations of the Henderson County  
465 Department of Public Health and the State of North Carolina.

466 (H) The minimum footprint for a manufactured home is 14 feet by 70 feet.

467 (I) Each footprint must have a permanent foundation.

468 (J) Underpinning for each unit shall be brick or other approved masonry  
469 product.

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470 (K) All accessory buildings (detached from units) for individual  
471 manufactured home units shall be located at least 20 feet from any manufactured  
472 home or other building on a neighboring space or lot. There is no minimum  
473 separation between a manufactured home and its own accessory buildings.  
474 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
475 2016)

476 **§ 151.046 MUNICIPAL WATER SUPPLY AND SEWAGE DISPOSAL**  
477 **SYSTEM CONNECTION REQUIREMENTS.**

478 (A) *Generality.* Manufactured home parks shall be required to connect to  
479 existing municipal water supply and municipal sewage disposal systems when the  
480 systems are located within the distance equal to that specified herein of the parks.  
481 The distance requirements shall be measured along existing public rights-of-way  
482 and/or utility easements. New phases of manufactured home parks existing at the  
483 date of enactment of this chapter shall also meet this requirement.

484 (B) *Municipal water supply system distance requirement.* A park shall  
485 connect to a municipal water supply system when the system is located within a  
486 distance equal to the product of 100 feet multiplied by the number of spaces proposed  
487 for the park. However, if a park is located more than 5,000 feet from an existing  
488 municipal water supply system, the connection shall not be required.

489 (C) *Municipal sewage disposal system distance requirement.* A park shall  
490 connect to a municipal sewage disposal system when the system is located within a  
491 distance equal to the product of 50 feet multiplied by the number of spaces proposed  
492 for the park. However, if a park is located more than 2,500 feet from an existing  
493 municipal sewage disposal system, the connection shall not be required.

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494 (D) *Exceptions.* Exceptions to these provisions may be allowed on the basis  
495 of terrain, availability or ease of acquiring easements, denial of allocation by the  
496 public utility, insufficient capacity of the municipal system or other circumstances  
497 that are unusual or unique to the site. Requests for exceptions must be made, in  
498 writing, to the Administrator who may ask that the requests be supported by a  
499 professional engineer's review of the manufactured home park plans and planned  
500 route of the utility extension. Where the Administrator finds that it would not be  
501 economically feasible for a manufactured home park to be connected to a municipal  
502 water supply and/or sewage disposal system, other systems may be used, subject to  
503 approval by the Henderson County Department of Public Health and the appropriate  
504 state agencies.

505 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
506 2016)

507 **§ 151.047 FIRE PROTECTION.**

508 Manufactured home parks proposed to be served by a municipal water supply  
509 system shall meet the minimum requirements of the system owner for fire hydrant  
510 installation. For a manufactured home park without a fire suppression rated water  
511 system, that either has or is adjacent to an adequate permanent surface water supply,  
512 the applicant may be required to install a dry fire hydrant system if recommended by  
513 the Fire Marshal. The Fire Marshal shall determine the type and location of such a  
514 system. A road providing all-weather access to the water source that is adequate for  
515 fire-fighting equipment shall be required, if applicable.

516 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
517 2016)



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518 **§ 151.048 UTILITY REQUIREMENTS.**

519 (A) Utilities located in the interior of the manufactured home park must be  
520 underground. The applicant should discuss with utility providers whether easements  
521 must be provided and, if so, at what size and location. The easements should be shown  
522 on the site development plan.

523 (B) Exterior lighting is required for all manufactured home park  
524 developments. Street lights shall be shown on the development plan and shall be in  
525 accordance with local utility provider specifications. All other outdoor lighting must  
526 be located, screened, or shielded in order to prevent direct glare onto neighboring  
527 lots.

528 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
529 2016)

530 **§ 151.049 EROSION AND SEDIMENTATION CONTROL.**

531 Where required under the North Carolina Sedimentation Pollution Control Act  
532 of 1973, evidence of approval of an erosion and sedimentation control plan by the  
533 North Carolina Department of Environment and Natural Resources, Land Quality  
534 Division, shall be submitted prior to issuance of a manufactured home park  
535 construction permit.

536 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
537 2016)

538 **§ 151.050 STORMWATER DRAINAGE.**

539 Stormwater drainage improvements shall be designed and constructed to  
540 minimize erosion and downstream sedimentation, to follow natural drainage where  
541 possible, to minimize flooding or standing water conditions, to maintain desirable

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542 groundwater conditions and to avoid excessive stormwater discharge to sensitive  
543 natural areas. Points of stormwater discharge shall be within the manufactured home  
544 park site unless otherwise approved by the Administrator and adjoining property  
545 owners. Stormwater control devices shall be properly maintained by the park  
546 applicant. A detailed drainage plan shall be submitted as part of the site plan  
547 application for manufactured home parks. The plan shall show the general drainage  
548 patterns of the manufactured home park. Where the drainage of the manufactured  
549 home park does not follow the natural drainage of the property, the applicant shall  
550 design the new drainage systems, including swales, ditches, pipes, culverts, detention  
551 ponds, lakes or similar devices, to minimize any adverse effect on the proposed  
552 manufactured home park and on adjacent and downstream properties. The plan shall  
553 include the location, type and size of existing and proposed stormwater drainage  
554 improvements.

555 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
556 2016)

557 **§ 151.051 PARKING.**

558 Two off-street parking spaces shall be provided and maintained for each  
559 manufactured home space. Parking spaces shall, at a minimum, be constructed using  
560 3 inches of crushed stone on a well- compacted subbase.

561 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
562 2016)

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563 **§ 151.052 DRIVEWAYS.**

564 No more than 2 spaces may be served by a common driveway. Driveways shall  
565 be at least 10 feet in width and shall be constructed using a minimum of 3 inches of  
566 crushed stone on a well-compacted subbase.

567 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
568 2016)

569 **§ 151.053 INTERNAL ROAD CONSTRUCTION STANDARDS.**

570 (A) Access to all manufactured homes and other structures within a park  
571 shall be made using internal roads. The maintenance of internal roads and drainage  
572 facilities shall be the responsibility of the manufactured home park applicant. For the  
573 purpose of this chapter, the location of the driveway entrance for a manufactured  
574 home space determines which type of road, collector or service, serves the unit.

575 (B) Construction standards are as follows:

576 **Table 1**

577 Internal Road **Construction Standards**

<b>Road Classification</b>		
<b>Item</b>	<b>Collector</b>	<b>Service</b>
Number of spaces/units served	25 +	1 to 24
Maximum grade stone surface	12%	15%
Paved (asphalt) surface	16%	18%
Minimum road width	18 feet	18 feet
Shoulder width	4 feet	4 feet
Stone base (ABC*) compacted	8 inches	
<b>Minor parks</b>	4 inches	

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<b>Road Classification</b>		
<b>Item</b>	<b>Collector</b>	<b>Service</b>
<b>Major parks</b>	6 inches	
Asphalt	Not required**	Not required**
Cut and fill slope	2:1	1.5:1
Ditch slope	4:1	3:1
Notes: *      ABC = Aggregate Base Course, No. 7 stone.  **      Paved roads, if used, shall meet the minimum state road standards for local residential subdivision roads.		

578

579                   (1)   *Road construction.*   All roads must be constructed with  
580 suitable stone and shall be properly compacted. Used asphalt is unacceptable as a  
581 base course. The subgrade must be of a soil capable of supporting the road above. The  
582 road should be built so that water will drain from the road surface into side ditches.  
583 Because of the difficulty of operating vehicles and moving manufactured homes on  
584 steep grades and because of the high potential for erosion, roads should be  
585 constructed along the contour of the land where possible. Maximum road grades shall  
586 be as provided in Table 1. If a combination of paved and stone-based roads ~~are~~is  
587 proposed, the paved sections must extend 50 feet from any point where the grade  
588 exceeds the minimum for a stone-based road. The Administrator may require that a  
589 professional engineer or surveyor certify on an as-built drawing that no portion of  
590 any internal roads have grades exceeding the maximum allowed by this chapter.

591                   (2)   *Road drainage and culverts.*   All internal roads shall be  
592 provided with appropriate drainage facilities (see also § 151.050). Road drainage  
593 structures shall be constructed in accordance with minimum state road standards.  
594 Road drainage side ditches shall have sufficient depth and width to carry the expected



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595 volume of stormwater runoff. Where roads cross streams or minor watercourses,  
596 culverts shall be designed and installed in accordance with minimum state road  
597 standards.

598           (3)    *Turnarounds.*    A cul-de-sac or other turnaround approved by  
599 the Administrator is required on any internal road which serves 10 or more spaces.  
600 Culs-de-sac shall have a minimum radius of 35 feet. Culs-de-sac and other approved  
601 turnarounds shall be surfaced with the same material required on the road they  
602 serve.

603           (4)    *Vertical clearance.*    All internal roads, including shoulder  
604 areas, shall have a minimum vertical clearance of 13 feet, 6 inches, to allow for the  
605 passage of emergency vehicles.

606 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
607 2016)

608    **§ 151.054    ROAD NAMES.**

609           The site development plan shall show names, approved by the Henderson  
610 County Property Addressing Office, for all proposed internal roads which serve 3 or  
611 more spaces.

612 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
613 2016)

614    **§ 151.055    ROAD NAME SIGNS AND OTHER REGULATORY SIGNS.**

615           The applicant shall provide road name signs in accordance with the  
616 Henderson County Property Addressing Ordinance and regulatory signs (such as  
617 “stop” signs) in accordance with applicable state and county policies.

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618 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
619 2016)

620 **§ 151.056 PROPERTY ADDRESSING.**

621 Prior to issuance of a certificate of completion by the Administrator, the  
622 applicant shall provide evidence that each manufactured home space and other  
623 building, as necessary, has been assigned a property address number by the  
624 Property Addressing Office. The address (number) shall be affixed to the  
625 manufactured home so that it is clearly visible from the internal road or driveway  
626 serving the space.

627 (Ord. passed, 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
628 2016)

629 **§ 151.057 PARK IDENTIFICATION SIGN.**

630 Major parks shall provide at least 1 sign displaying the name of the park at  
631 each entrance. The park name shall not duplicate or closely resemble the name of any  
632 existing housing development located in Henderson County. Park name signs shall be  
633 at least 1 foot in height by 3 feet in width. Park identification signs shall not be located  
634 within the right-of-way for any road.

635 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
636 2016)

637 **§ 151.058 MANUFACTURED HOME PARK NAME.**

638 In order to avoid possible confusion for emergency services personnel, the  
639 applicant shall choose a name for the manufactured home park which does not  
640 duplicate or closely resemble the name of any existing road, subdivision, existing

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641 manufactured home park or other housing development located in Henderson  
642 County.

643 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
644 2016)

645 **§ 151.059 SETUP.**

646 All manufactured homes within a manufactured home park shall be set up in  
647 accordance with the standards set by the North Carolina Department of Insurance  
648 Regulations for Manufactured/Mobile Homes.

649 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
650 2016)

651 **§ 151.060 NONRESIDENTIAL USES.**

652 (A) Convenience establishments of a commercial nature, such as coin-  
653 operated laundries, food stores, common storage units, and the like, may be permitted  
654 in manufactured home parks subject to the following conditions:

655 (1) The uses shall be subordinate to the residential use and  
656 character of the park.

657 (2) The uses shall present no visible evidence of their commercial  
658 character to adjacent properties.

659 (3) The uses shall be designed to serve the needs of park residents  
660 only.

661 (4) The uses shall be designed to be in harmony with the  
662 development, including traffic flow, parking, and the like.

663 (5) The uses shall be shown on the site development plan at the  
664 time of application.

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665 (B) Model manufactured home units may be located in a manufactured  
666 home park if they are set up properly as dwelling units and if they conform to all other  
667 standards of this chapter. The standards in divisions (A)(1), (2) and (4), above, shall  
668 also apply to model units.  
669 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
670 2016)

671 **§ 151.061 SOLID WASTE DISPOSAL.**

672 Each manufactured home park shall provide a suitable method of solid waste  
673 disposal and collection consisting of either private collection from individual  
674 manufactured homes or the use of bulk containers (dumpsters). The method shall be  
675 in conformance with the Henderson County Solid Waste Ordinance, and a description  
676 of the method shall be submitted as part of the application process.  
677 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
678 2016)

679 **§ 151.062 UNIT TYPE.**

680 No more than 25% of the spaces in a new manufactured home park or in an  
681 expansion to an existing manufactured home park shall be occupied by mobile homes,  
682 as defined in this chapter. For purposes of determining the percentage of mobile  
683 homes allowed in an expansion, only the units added as a result of the expansion are  
684 used in the calculation.  
685 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
686 2016)



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687 **§ 151.063 BEGINNING A PARK.**

688 It is specifically noted that the establishment of 2 spaces and/or manufactured  
689 homes on a tract of land is not considered a manufactured home park and the  
690 development is not subject to the requirements of this chapter. However, if the  
691 development is expanded and results in 3 or more spaces and/or manufactured  
692 homes on a tract of land, the development, including the first 2 spaces and/or units,  
693 shall be considered a manufactured home park as defined by this chapter and shall  
694 be subject to the standards in this chapter. In zoned areas, the development shall be  
695 subject to the applicable standards of this chapter and to the standards of the Town  
696 of Mills River Zoning Ordinance. Compliance with the standards of this chapter, and  
697 the Zoning Ordinance if applicable, is therefore encouraged if there is any possibility  
698 that a manufactured home park will be established. In no case, however, shall either  
699 of the first 2 units be required to be moved in order to achieve compliance with  
700 standards of this chapter.

701 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
702 2016)

703 **§ 151.064 EXPANSION OF MINOR PARK TO MAJOR PARK.**

704 If expansion of a minor park developed under this chapter results in 11 or  
705 more spaces and/or manufactured homes on a tract of land, the development,  
706 including the first 10 spaces and/or manufactured homes, shall be considered a major  
707 park as defined by this chapter and shall be subject to all of the standards in this  
708 chapter, including those for major parks. Compliance with the major park standards  
709 of this chapter is therefore encouraged if there is any possibility that a major park will  
710 be established. In no case, however, shall any of the first 10 units be required to be  
711 moved in order to achieve compliance with standards for major parks in this chapter.

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712 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
713 2016)

714 **ADMINISTRATION**

715 **§ 151.080 PREEXISTING/NONCONFORMING MANUFACTURED**  
716 **HOME PARKS.**

717 (A) Any manufactured home park, as defined by this chapter, existing on  
718 the effective date of this chapter or any subsequent amendment thereto may continue  
719 to operate without being subject to the requirements of this chapter, unless  
720 expansion is proposed (see § 151.081).

721 (B) Manufactured home parks existing prior to the effective date of this  
722 chapter (“preexisting manufactured home parks”) must have registered with the  
723 Henderson County Planning Department before January 1, 2000. Any preexisting  
724 manufactured home park which is not registered may be subject to the provisions of  
725 this chapter. Preexisting manufactured home parks registered with the Planning  
726 Department may be expanded, provided that any such expansion shall be in  
727 accordance with the requirements of this chapter.

728 (C) A manufactured home park space shall be considered preexisting if, on  
729 the effective date of this chapter, the space:

- 730 (1) Contains an occupied manufactured home; or  
731 (2) Is defined on the ground by the presence of 2 of the following:  
732 (a) A water supply system service connection;  
733 (b) A sewage disposal system service connection; and  
734 (c) Electric service equipment.

735 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
736 2016)

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737 **§ 151.081 EXPANSION OF EXISTING MANUFACTURED HOME**  
738 **PARKS.**

739 The addition of any new spaces to a manufactured home park existing prior to  
740 enactment of this chapter, except as provided in division (A) below, shall be  
741 considered an expansion of the park and shall be subject to the requirements of this  
742 chapter.

743 (A) *Infilling.* If a preexisting manufactured home park is to be expanded  
744 but the expansion does not require the construction of new internal roads to serve  
745 the new spaces, the development will not be required to comply with the  
746 requirements of this chapter, provided that all of the following conditions are met:

747 (1) The development must occur within the boundaries of the  
748 existing park;

749 (2) The number of new spaces shall not exceed more than 33% of  
750 the existing spaces; and

751 (3) The setbacks for manufactured home units set up on newly  
752 created spaces shall not exceed the average setbacks of existing units located wholly  
753 or in part within 100 feet on each side of the new space and which front on the same  
754 road as the new space.

755 (B) *Other expansions.* If expansion of a preexisting manufactured home  
756 park involves new internal road construction, the new development will be  
757 considered a new phase and shall comply, to the extent possible, with the  
758 requirements of this chapter. The compliance shall be determined by the  
759 Administrator on a case-by-case basis; however, compliance will not require that any  
760 existing units be relocated.

761 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
762 2016)

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763 **§ 151.082 WAIVER OF REQUIREMENTS.**

764 Town Council may approve variations or modifications of any regular  
765 provision of this chapter as part of the [Major](#) Special Use [Permit](#) process defined in §  
766 154.180.

767 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
768 2016)

769 **§ 151.083 APPEALS.**

770 Appeals from decisions of the Mills River Town Council shall be made to the  
771 Superior Court of Henderson County in the nature of certiorari. An applicant shall file  
772 an appeal by giving written notice to the Administrator within 30 days of the decision  
773 of the approval authority. A petition for writ of certiorari in the Superior Court must  
774 be filed with the Clerk of Superior Court within 30 days after a decision of the Town  
775 Council. Unless otherwise ordered by a court of competent jurisdiction, this chapter  
776 may be enforced pursuant to §§ 151.084 and 151.085 while any appeal under this  
777 section is pending.

778 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
779 2016)

780 **§ 151.084 REVOCATION OF CERTIFICATE OF COMPLETION.**

781 (A) Failure to comply with any of the requirements of this chapter or with  
782 any permit issued pursuant to this chapter may subject the manufactured home park  
783 applicant to revocation of the certificate of completion (COC) in accordance with this  
784 section.

785 (B) If the Administrator finds a park to be in violation, he or she shall notify  
786 the applicant, in writing. The notice shall state the specific violations and set



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787 reasonable time limits for corrective actions and subsequent inspections. In the event  
788 that the applicant takes no action to correct violations, the Administrator shall notify  
789 him or her, by certified mail, that the COC for the park will be revoked at the close of  
790 10 business days from the date of the written notice. Should the applicant correct the  
791 violations prior to the COC being revoked, he or she shall request that the  
792 Administrator conduct an inspection. If the Administrator finds that the park is no  
793 longer in violation, he or she shall notify the applicant that the COC will continue to  
794 be valid. If the violations have not been remedied, the COC shall be revoked. The  
795 revocation and the reasons for such shall be made in writing to the manufactured  
796 home park applicant.

797 (C) If a COC has been revoked:

798 (1) The applicant shall not rent or lease any vacant spaces until the  
799 violations have been corrected and the COC is reinstated.

800 (2) The applicant shall notify each renter/lessee of a space within  
801 the park within 10 days after receiving written notification that the COC has been  
802 revoked. The applicant shall provide the Administrator with a signed statement from  
803 each renter/lessee indicating that notice from the applicant has been received. Any  
804 lease that is renewed after revocation of the certificate of completion shall be at the  
805 renter's/lessee's own risk.

806 (D) The Administrator may revoke a COC for violations of any part of this  
807 chapter, except for those regulated by the Henderson County Health, Inspections or  
808 Solid Waste Departments. In these cases, the Administrator shall work with the other  
809 departments regarding the revocation of a COC.

810 (E) A COC may be reinstated if the manufactured home park applicant  
811 applies to the Administrator and the Administrator finds that the park is in  
812 compliance with the regulations for which the COC was revoked.

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813 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
814 2016)

815 **§ 151.085 [RESERVED].**

816 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
817 2016)

818 **§ 151.086 [RESERVED].**

819 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
820 2016)

821 **§ 151.087 [RESERVED].**

822 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
823 2016)

824 **§ 151.088 FORMS.**

825 Any forms or checklists listed in the Appendices of this chapter are general in  
826 nature and may be modified by the Administrator, Planning Board or Town Council  
827 as necessary.

828 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
829 2016)

830 **§ 151.089 FEES.**

831 Reasonable fees for applications and revisions thereto, certificate of  
832 completion inspections, reinspections and variances under this chapter may be set by  
833 the Mills River Town Council. See fee schedule posted in Mills River Town Hall.

834 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
835 2016)

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836 **§ 151.090 AMENDMENTS.**

837           The Mills River Town Council may, from time to time, amend the terms of this  
838 chapter, but no amendment shall become effective unless it shall have been proposed  
839 by or shall have been submitted to the Planning Board for review and  
840 recommendation. The Planning Board shall have 2 regularly scheduled meetings  
841 from the time a proposed amendment is submitted to it within which to submit its  
842 recommendation. No amendment shall be adopted by the Town Council until it has  
843 held a [legislative](#) ~~public~~-hearing on the amendment. Notice of the [legislative](#) hearing  
844 shall comply with the provisions of G.S. [§160D-601](#)~~160A-364~~, as amended.  
845 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
846 2016)

847 **§ 151.999 PENALTY.**

848           The construction of a manufactured home park in violation of this chapter, or  
849 failure to comply with any of the requirements of this chapter or with any permit  
850 issued pursuant to this chapter, subject the applicant, the manufactured home park  
851 owner and/or developer to revocation of the permit (See §81-11.) and the penalties  
852 and enforcement provisions pursuant to G.S. § 160A-175, including, but not limited  
853 to, the following:

854           (A) *Equitable remedies.* This chapter may be enforced by equitable  
855 remedies, and any unlawful condition existing in violation of this chapter may be  
856 enforced by injunction and order of abatement in accordance with G.S. § 160A-175.

857           (1) *Injunction.* Where necessary to effectuate compliance with  
858 this chapter, the Ordinance Administrator or the other official charged with the  
859 responsibility of enforcing the Town of Mills River Ordinances may institute an action  
860 in a court of competent jurisdiction seeking an injunction against the further violation

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861 of this chapter. The action may be joined with a civil action instituted to collect  
862 accrued civil penalties in accordance with the provisions herein.

863 (2) *Order of abatement.* Where necessary to abate a condition  
864 existing upon land in violation of this chapter or a use made of land in violation of this  
865 chapter, the Ordinance Administrator or the other official charged with the  
866 responsibility of enforcing the Town of Mills River Ordinances may institute an action  
867 in a court of competent jurisdiction seeking an order of abatement of the use or  
868 condition of land in violation of this chapter. The action may be joined to an action for  
869 an injunction and/or an action to recover civil penalties accrued against an individual  
870 for the use or condition of land in violation of this chapter.

871 (3) *Other equitable remedies.* This chapter may be enforced by  
872 any other equitable remedy which a court of competent jurisdiction deems just and  
873 proper.

874 (B) *Civil penalties.* Any individual who is found in violation of this  
875 chapter may be subject to a civil penalty of \$50 or other amount as established by  
876 Town Council. Each day's violation shall be treated as a separate offense.

877 (1) ~~Compliance order~~ Notice of Violation.

878 (a) Upon making a determination that a person is in  
879 violation of this chapter, the Ordinance Administrator or the other official charged  
880 with the responsibility of enforcing the Town of Mills River Ordinances shall issue a  
881 ~~compliance order~~ notice of violation to the owner of the property in violation of this  
882 chapter in accordance with § 154.999. ~~The compliance order shall notify the violator~~  
883 ~~of the violation in writing.~~ The ~~order~~ notice shall identify the circumstances giving  
884 rise to the violation, including the times, dates and places of the violation. The  
885 ~~notification~~ notice shall further identify the action which is necessary to comply with  
886 this chapter. The notification shall state that if the violator does not comply within a



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887 reasonable time, not to exceed ~~15~~30 days, the individual will be subjected to a civil  
888 penalty. If circumstances exist such that the violator cannot come into compliance  
889 within ~~15~~30 days, the Ordinance Administrator or the other official charged with the  
890 responsibility of enforcing the Town of Mills River Ordinances may grant an extension  
891 of time after which the individual will be subjected to a criminal penalty  
892 commensurate with the magnitude of the violation. The ~~compliance order~~notice of  
893 violation shall further state that failure to comply with the terms of the ~~compliance~~  
894 ~~order~~notice of violation will subject the violator to a civil penalty and shall further  
895 state the amount of the civil penalty.

896 (b) Failure to comply with the terms of a ~~compliance~~  
897 ~~order~~notice of violation issued by the Ordinance Administrator or the other official  
898 charged with the responsibility of enforcing the Town of Mills River Ordinances  
899 within the time stated in the order shall subject the violator to a civil penalty of \$50  
900 or other amount as established by Town Council. Each day that the violation  
901 continues shall be considered a separate offense, and the violator may be subject to  
902 an additional civil penalty for each separate offense.

903 (2) *Civil action.* When necessary to collect any civil penalty or  
904 accrued civil penalties, a civil action may be instituted against an individual for the  
905 collection of all accrued penalties by the Ordinance Administrator or the other official  
906 charged with the responsibility of enforcing the Town of Mills River Ordinances.

907 (C) *Criminal penalties.* Unless otherwise provided by this chapter or  
908 other applicable law, violation of this chapter shall constitute a Class 3 misdemeanor  
909 punishable by a fine not to exceed \$500. Each day's violation shall be treated as a  
910 separate offense.

911 (1) *Warning ticket.* Upon the initial violation of a particular  
912 provision of this chapter, an individual may be issued a warning ticket or notice of

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913 violation. The warning ticket shall identify the particular practice which is in violation  
914 of this chapter and shall state the time, date and place of the violation. The warning  
915 ticket shall further state that if the individual commits further similar violations  
916 within the 6 months following the date of the warning ticket, the Ordinance  
917 Administrator or the other official charged with the responsibility of enforcing the  
918 Town of Mills River Ordinances may issue a notice of violation or cause a warrant to  
919 be issued for the individual's arrest.

920           (2) *Warrant.* If an individual violates this chapter within the 6  
921 months following the issuance of a warning ticket or notice of violation in a manner  
922 that is similar to the violation specified in the warning ticket or notice of violation, the  
923 Ordinance Administrator or the other official charged with the responsibility of  
924 enforcing the Town of Mills River Ordinances may cause a warrant to be issued for  
925 the arrest of the individual.

926           (3) *Enforcement.* Notwithstanding any other provisions of this  
927 chapter, the Ordinance Administrator or the other official charged with the  
928 responsibility of enforcing the Town of Mills River Ordinances may issue a notice of  
929 violation or cause a warrant to be issued without having first issued a warning ticket  
930 where he or she deems it necessary to effectively enforce the terms of this chapter.

931           (D) Revocation of Development Approvals. In addition to initiation of  
932 enforcement actions, development approvals may be revoked by notifying the holder  
933 in writing stating the reason for the revocation. The Town shall follow the same  
934 development review and approval process required for issuance of the development  
935 approval, including any required notice or hearing, in the review and approval of any  
936 revocation of that approval. Development approvals shall be revoked for any  
937 substantial departure from the approved application, plans, or specifications; for  
938 refusal or failure to comply with the requirements of any applicable element of this

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939 chapter; or for false statements or misrepresentations made in securing the approval.

940 Any development approval mistakenly issued in violation of an applicable State law

941 or local ordinance may also be revoked. The revocation of a development approval by

942 a staff member may be appealed pursuant to G.S. § 160D-405.

943

944 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-

945 2016)

946

**APPENDIX A: MANUFACTURED HOME PARK SITE  
DEVELOPMENT PLAN REQUIREMENTS**

947

948

Section

949

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951

952

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*Per § 151.021(B) of the Manufactured Home Park Ordinance, a manufactured home park developer shall submit 8 legible copies of the proposed site development plan, drawn at a scale of 1 inch equals 100 feet. The following information shall be indicated on the proposed site development plan or presented in supporting documents, if necessary. Each document submitted must be clearly labeled with the name of the developer, the manufactured home park name (including phase number, if applicable), and the date. Applicants for minor parks shall not be required to provide items marked below with an asterisk (\*).*

957

(A) General Legend:

958

(1) Scale (1 inch = 100 feet).

959

(2) North arrow.

960

(3) Property owner's name and address.

961

962

owner).

(4) Applicant's name and address (if different from property

963

964

to surrounding area road network.

(5) Vicinity map showing general location of project site in relation

965

966

development (if applicable).

(6) Phase map showing location of subject phase within the overall

967

(7) Key to symbols, lines and other features used on plan.

968

(B) Title Block:

969

970

numbers, if applicable).

(1) Park name (including phase number and range of space

971

(2) Title of plan (site development plan).



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972 (3) Name, address and phone number of individual or firm  
973 preparing plan elements.

974 (4) Date of plan (and revision dates, if applicable).

975 (5) Tax parcel identification number for each parcel within the  
976 manufactured home park or phase thereof.

977 (C) Plan Details and Site Characteristics:

978 (1) Boundary lines of the proposed manufactured home park or  
979 phase thereof.

980 (2) Topographic contours at 20 foot whole intervals or as otherwise  
981 available from United States Geologic Survey (USGS) or Tennessee Valley Authority  
982 (TVA) maps\*.

983 (3) Location, names and state road numbers (if applicable) of  
984 existing streets/roads (including rights-of-way) inside the manufactured home park.

985 (4) Location, names and state road numbers (if applicable) of  
986 existing streets/roads (including rights-of-way) within 100 feet of the boundaries of  
987 the manufactured home park\*.

988 (5) Location of existing and proposed bridges, easements and  
989 railroad or other rights-of-way within the manufactured home park.

990 (6) Location of existing and proposed bridges, easements and  
991 railroad or other rights-of-way within 100 feet of the boundaries of the manufactured  
992 home park\*.

993 (7) Location of proposed roads and off-site access corridors,  
994 indicating width and approximate finished grade.

995 (8) Proposed names of internal roads and, if needed, off-site access  
996 corridors.

997 (9) Location of driveways and parking spaces.

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998                   (10) Cross sections of typical roads, turnarounds, off-site access  
999 corridors, driveways and parking spaces with proposed construction standards  
1000 noted\*.

1001                   (11) Location of existing and proposed utilities with line sizes noted  
1002 (public water supply and sewage disposal systems only).

1003                   (12) Names of adjoining property owners, manufactured home parks  
1004 and subdivisions within 100 feet of the boundaries of the manufactured home park,  
1005 if available through the Henderson County Land Records Office\*.

1006                   (13) Approximate location of 100 year flood hazard boundary line (if  
1007 applicable)\*.

1008                   (14) Locations and approximate dimensions of existing  
1009 manufactured home spaces and manufactured homes (if applicable).

1010                   (15) Proposed locations and approximate dimensions of new  
1011 manufactured home spaces or manufactured homes.

1012                   (16) Locations of existing and proposed (non-manufactured home)  
1013 structures (it is not necessary to show locations for accessory buildings for individual  
1014 manufactured home units).

1015                   (17) Building setback line(s) from manufactured home park  
1016 boundary per § 151.045(B).

1017                   (18) Building setback line(s) from external streets, rights-of-way or  
1018 access easements per § 151.045(C).

1019                   (19) Building setback line(s) from internal roads per § 151.045(D).

1020                   (20) Approximate location and dimensions of proposed common  
1021 areas (if applicable), including outdoor play areas, community buildings, walking  
1022 paths, and the like (common areas shall be designated as such on the plan per §  
1023 151.043).

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- 1024 (21) Fire hydrant locations, if public water supply system proposed.
- 1025 (22) Dry hydrant locations, if applicable.
- 1026 (23) Zoning district boundaries, water supply watershed
- 1027 boundaries, fire district boundaries and political boundaries\*.
- 1028 (24) Location of mail delivery points and solid waste collection
- 1029 points (if applicable).
- 1030 (25) Location and dimensions of park identification signs.
- 1031 (26) Location of existing and proposed ponds, lakes and
- 1032 watercourses (with names noted, if applicable).
- 1033 (27) Location of existing and proposed drainage improvements in
- 1034 accordance with § 151.050.
- 1035 (D) Project Summary:
- 1036 (1) Total project or phase area in acres.
- 1037 (2) Number of proposed manufactured home spaces in the park or
- 1038 phase thereof (if a phase, also include total number of spaces proposed in park).
- 1039 (3) For parks with preexisting spaces, the number of existing spaces
- 1040 in park or phase thereof.
- 1041 (4) Dwelling unit density, in units per acre (to nearest 0.1 acre)\*.
- 1042 (5) Amount of common area provided to nearest 0.1 acre (if
- 1043 applicable).
- 1044 (6) Type of proposed water supply system and sewage disposal
- 1045 system.
- 1046 (7) Distances to nearest public water supply system and nearest
- 1047 public sewage disposal system.
- 1048 (8) Current zoning and water supply watershed districts (if
- 1049 applicable)\*.

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- 1050 (9) Fire district names\*.
- 1051 (10) For parks without public water supply systems, the distance
- 1052 from the entrance to the park to the nearest water supply source for fire protection
- 1053 or to the nearest fire department if no other source available.
- 1054 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-
- 1055 2016)



1056

APPENDIX B

APPENDIX B

Application Number: \_\_\_\_\_ MR-PL-0016
TOWN OF MILLS RIVER
MANUFACTURED HOME PARK CONSTRUCTION PERMIT APPLICATION FORM

Manufactured Home Park Name Phase (If Applicable)

Property Owner's Name

Address

City/State/ZIP Telephone Number

Applicant's Name (if different from Property Owner)

Address

City/State/ZIP Telephone Number

Parcel Identification Number(s): \_\_\_\_\_

Location and Description of Property to be Developed: \_\_\_\_\_

Size of Property to be Developed: Entire Park: \_\_\_\_\_ This Phase: \_\_\_\_\_

New Park: ( ) Yes ( ) No OR Expansion to Existing Park: ( ) Yes ( ) No

If Expansion to Existing Park, Number of Pre-Existing Spaces: \_\_\_\_\_

Number of New Spaces Proposed: This Phase \_\_\_\_\_ Entire Park \_\_\_\_\_

Water Supply Watershed District: \_\_\_\_\_ Fire District: \_\_\_\_\_

Proposed Type of Water Supply System: \_\_\_\_\_

Proposed Type of Sewage Disposal System: \_\_\_\_\_

I certify that the information contained in this application and supporting materials is true and accurate to the best of my knowledge.

Signature of Property Owner Date

Signature of Applicant (if different from above) Date

\*\*\*\*\*

Town Use Only

Application Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Method: \_\_\_\_\_

Date of Action on Variance (if applicable): \_\_\_\_\_

Comments: \_\_\_\_\_

1057

1058

(Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-

1059

2016)

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# APPENDIX C: Manufactured Home Park COC Application Form30A

## APPENDIX C

Application Number: \_\_\_\_\_ MR-PL-0017

### TOWN OF MILLS RIVER MANUFACTURED HOME PARK CERTIFICATE OF COMPLETION APPLICATION FORM

Manufactured Home Park Name \_\_\_\_\_ Phase (if Applicable) \_\_\_\_\_

Property Owner's Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_ Telephone Number \_\_\_\_\_

Applicant's Name (if different from Property Owner) \_\_\_\_\_

Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date Manufactured Home Park Construction Permit Issued: \_\_\_\_\_

Date(s) of Approval of Any Revised Site Development Plan (s): \_\_\_\_\_

Number of New Spaces Created: Entire Park: \_\_\_\_\_ This Phase: \_\_\_\_\_

New Park: ( ) Yes ( ) No OR Expansion to Existing Park: ( ) Yes ( ) No

Does the park and its improvements (shown on the "as-built" drawing) conform with the site development plan and other materials approved at the time of issuance of the Manufactured Home Park Construction Permit? ( ) Yes ( ) No

If no, please explain: \_\_\_\_\_

I certify that the information contained in this application and supporting materials is true and accurate to the best of my knowledge.

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant (if different from above) \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*

#### Town Use Only

Application Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Method: \_\_\_\_\_

Date of Action on Variance (if applicable): \_\_\_\_\_

Comments: \_\_\_\_\_

1062

Town of Mills River, NC Code of Ordinances

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1063 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2016-04, passed 7-28-  
1064 2016)

ADOPTED MARCH 25, 2021

# TITLE XV: LAND USAGE

## CHAPTER 152: NUISANCES

- 152.01 Purpose and objectives
- 152.02 Jurisdiction and exception
- 152.03 Definitions
- 152.04 Prohibitions
- 152.05 Outdoor storage
- 152.06 Administration and enforcement
- 152.07 Investigation and response to public nuisance
- 152.08 Vehicle restoration permit
- 152.09 Appeals
- 152.99 Violations, penalties, costs, and reimbursements

1 **§ 152.01 PURPOSE AND OBJECTIVES.**

2 (A) *Purpose.* This Chapter is enacted to protect the health, safety, and  
3 general welfare of the people of the Town of Mills River pursuant to powers granted  
4 under G.S. 160A-175, G.S. 160A-193, G.S. 160A-303, G.S. 160A-303.1, G.S. 160A-303.2;  
5 the Mills River Town Code; subsequent recodifications and/or amendments; and  
6 other applicable ordinances as may be adopted in the future.

7 (B) *Objectives.* The principal objectives of this chapter are:

8 (1) To prevent injury and illness to occupants of property and the  
9 public and to remove public nuisances.

10 (2) To provide town wide standards for the abatement of public  
11 nuisances, including but not limited to solid waste, junked motor vehicles and  
12 abandoned manufactured homes.

13 (3) To establish responsibility of involved parties and assure that  
14 people are not unnecessarily exposed to dangers of public nuisances.



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15                   (4) To ensure proper actions may be taken to abate public  
16 nuisances.  
17 (Ord. 2019-02, passed 10-12-2019)

18 **§ 152.02 JURISDICTION AND EXCEPTION.**

19           (A) *Jurisdiction.* This chapter shall apply to all the land within the corporate  
20 limits of the Town of Mills River.

21           (B) *Exception.* This chapter shall not regulate property being actively used  
22 as a bona fide farm which is any tract of land used for dairying, the raising of  
23 agricultural products, forest products, livestock or poultry, or any other use defined  
24 as **AGRICULTURE** in § 154.007 of the Town Code and including facilities for the sale  
25 of such products from the premises where produced.  
26 (Ord. 2019-02, passed 10-12-2019)

27 **§ 152.03 DEFINITIONS.**

28           The following terms are defined for purposes of this chapter:

29           **ABANDONED MANUFACTURED HOME.** A manufactured home that has not  
30 had legal power or was not properly connected to a permitted septic/sewer system  
31 and water supply in the most recent six months, not to be interpreted to include a  
32 manufactured home stored or parked in accordance with a valid zoning permit.

33           **ABATEMENT.** The proper removal, repair, and/or containment of substances  
34 or materials hazardous to humans and/or the environment. Abatement is part of  
35 remediation.

36           **BUILDING.** Any structure having a roof supported by columns or by  
37 walls and intended for shelter, housing or enclosure of persons, animals or chattels.  
38 Two buildings connected by a common roof shall be considered as one building,

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39 provided that the width of the connecting roof shall be at least 20% of the principal  
40 building width, but in no case less than six feet in width. The connection of two  
41 buildings by means of an open porch, breeze way or passageway without a roof, or  
42 with a roof less than six feet in width, shall not be deemed to make them one building.

43 **JUNK.** Any discarded, abandoned, or scrapped copper, brass, metal,  
44 rope, rags, batteries, appliances, paper or rubber; discarded, dismantled, abandoned,  
45 or wrecked automobiles or other vehicles or parts thereof; dismantled or abandoned  
46 mobile/manufactured homes or RV's or travel trailers or parts thereof; discarded,  
47 dismantled or wrecked motorized or non-motorized equipment or parts thereof;  
48 discarded or scrapped iron, steel or other scrapped ferrous material; or any other  
49 materials, items or equipment similar to those listed herein.

50 **JUNKED MOTOR VEHICLE.** A motor vehicle that does not display a current  
51 license plate or vehicle registration and is partially dismantled or wrecked, cannot be  
52 self-propelled or moved in the manner it was originally intended to move, or is more  
53 than five years old and appears to be worth less than \$500 as provided by the  
54 municipality, or a junked motor vehicle as defined in G.S. 160A-303.2.

55 **MANUFACTURED HOME.** A single-family residential dwelling built in  
56 accordance with the Federal Manufactured Housing Construction and Safety  
57 Standards Act of 1974 (which became effective June 15, 1976), as amended. For  
58 purposes of this chapter, however, the term also includes mobile homes.

59 **OCCUPANT.** Any person who occupies real property, whether with or without  
60 any right, title or interest in the property, and any person in possession or charge of  
61 such property, in the event the owner resides or is located elsewhere.

62 **OWNER.** Any person, persons, organization, or corporation that owns, in  
63 whole or in part, the land, structure, or other property or is the purchaser of the  
64 property under contract for deed.

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65           **PERSONAL PROPERTY.** All property other than that defined in the definitions  
66 of **PROPERTY** and **REAL PROPERTY, REAL ESTATE AND LAND** of this section that is  
67 subject to ownership.

68           **PLANNING/ZONING DEPARTMENT.** The town department responsible for  
69 enforcing this chapter.

70           **PROPERTY.** Publicly or privately owned real property including parcels of  
71 land, buildings, or structures.

72           **PROPERTY AGENT.** A person authorized by a property owner to act in  
73 transacting business matters or in managing the affairs of the subject property.

74           **PUBLIC NUISANCE.** Any activity or use of property or personal property or  
75 failure to act that adversely affects the public and shall include, but is not limited to,  
76 any condition which poses an immediate and direct hazard to human health if left  
77 unheeded due to the existence of the condition itself or due to the immediate threat  
78 of transmission of disease through insects, animals, or other means of transmission  
79 or infections.

80           **RECREATIONAL VEHICLE.** A vehicular type unit primarily designed as  
81 temporary and mobile living quarters for recreational, camping or travel use, which  
82 either has its own motive power or is mounted on and drawn by another vehicle. The  
83 units do not satisfy the dimensional requirements of a manufactured home.

84           **REMEDIATION.** The action of stopping or reversing conditions, uses,  
85 substances or materials hazardous to humans and/or the environment or otherwise  
86 creating a nuisance.

87           **VEHICLE RESTORATION PERMIT.** A permit that allows persons to  
88 actively restore an unlicensed and unregistered vehicle.

89 (Ord. 2019-02, passed 10-12-2019)

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90 **§ 152.04 PROHIBITIONS.**

91 The creation or maintenance of a public nuisance is prohibited. Without  
92 limiting the generality of the foregoing, the following are hereby expressly declared  
93 to be public nuisances:

94 (A) Improper sewage disposal to such degree that sewage or effluent is  
95 discharging onto the surface of the ground, backing up into a structure, or discharging  
96 into a body of water.

97 (B) An unsecured opening caused by improperly abandoned cistern, well  
98 pit, sewage treatment system, unused or non-maintained swimming pool, mine shaft  
99 or tunnel.

100 (C) Failure to keep waste, refuse, or garbage in an enclosed building or  
101 properly contained in a closed, insect and rodent proof container designed or  
102 reasonably adapted for such purpose.

103 (D) Accumulation of carcass(es) of animals, birds, or fish by failing to bury,  
104 store, or otherwise dispose of in a sanitary manner within 24 hours after death.

105 (E) Significant outdoor storage of solid waste including but not limited to:  
106 decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage,  
107 rotting lumber, packing materials, scrap metal, pallets, fuel storage containers, tools,  
108 tires and wheels, furnaces, home appliances, furniture, plumbing fixtures,  
109 construction materials, amusement park devices, metal, pipes, rubber, glass bottles,  
110 machinery, wood, brick, cement block, all-terrain vehicles, toys, bicycles, junk or any  
111 other substances in which flies, mosquitoes, other disease-carrying insects, rodents  
112 or other vermin can harbor.

113 (F) Accumulations of rubbish or junk as to become dangerous or injurious  
114 to the health and safety of any individual or to the public.

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115 (G) Any junked motor vehicles without a current vehicle restoration  
116 permit and/or any abandoned manufactured home as defined.

117 (H) Infestations of flies, fleas, cockroaches, lice, rats, mice, fly larvae,  
118 hookworm larvae or other insects, parasites or vermin.

119 (I) Breeding grounds which support mosquito larvae and mosquitoes  
120 capable of carrying diseases, or any other disease-causing microorganism.

121 (J) Use of a recreational vehicle as a primary residence without permitted  
122 electric, water, and sewerage connections.

123 (K) Recreational vehicles used to store solid waste.

124 (Ord. 2019-02, passed 10-12-2019)

125 **§ 152.05 OUTDOOR STORAGE.**

126 Outdoor storage by commercial and industrial uses shall be limited to items  
127 that are designed and intended for permanent outdoor usage, storage, and/or sale.  
128 Outdoor storage areas in business and industrial zones shall conform to a minimum  
129 of one-half the minimum front building setback and not block or obstruct parking  
130 spaces or any line of sight for a public road.

131 (Ord. 2019-02, passed 10-12-2019)

132 **§ 152.06 ADMINISTRATION AND ENFORCEMENT.**

133 Where there is a violation of any provision of this chapter, the town, in its  
134 discretion, may require any appropriate action as described in this chapter.

135 (A) Town *ordinances*. Except where otherwise specified, this chapter is  
136 subject to all provisions of the Mills River Town Code. The Town Manager or his/her  
137 designee (Department) shall be responsible for administration and enforcement of  
138 this chapter.



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139 (B) *Declaration as a public nuisance.*

140 (1) It shall be the duty of the Planning/Zoning Department acting  
141 by and through its authorized delegate to determine whether or not a public nuisance  
142 exists. The Department shall act by and through complaints only.

143 (2) For purposes of emergency response and notification to  
144 applicable authorities and posting for the public, the Planning/Zoning Department  
145 may determine that a structure, property, or portion of a property constitutes an  
146 immediate environmental health nuisance pursuant to Chapter 130A and the North  
147 Carolina General Statutes and North Carolina Administrative Code. In the event the  
148 Department makes this determination the nuisance will be referred to the Henderson  
149 County Department of Public Health for administration and abatement.

150 (C) *Modifications to or dismissal of the public nuisance declaration.*

151 (1) The Planning/Zoning Department may modify conditions of the  
152 declaration or dismiss the declaration of a public nuisance.

153 (2) Such modifications or dismissal shall occur only after the  
154 Planning/Zoning Department has confirmed that the violation no longer exists or if  
155 there has been substantial and continuing improvement towards abating the  
156 nuisance.

157 (3) The Planning/Zoning Department will base its criteria for  
158 determining levels of nuisance on the best health and safety information available at  
159 the time of the declaration and cannot be held liable for future discoveries.

160 (4) For good cause shown, the owner or occupant may request  
161 authorization from the Planning/Zoning Department for an extension of time to  
162 complete abatement activities. An extension may be granted if the extension does not  
163 increase the risk to public or safety and is deemed appropriate. Extensions may not  
164 be granted unless the owner or occupant shows substantial improvement toward

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165 abating the nuisance and shall be for a period of be no longer than 30 days. Additional  
166 extensions shall be at the discretion of the Planning/Zoning Department and shall  
167 only be considered if there has been substantial and continuing improvement  
168 towards abating the nuisance.

169 (D) *Access to premises and records.* The owner or occupant shall, upon the  
170 request of the Town and after proper identification, permit access to all parts of the  
171 site or structure where a nuisance has been declared as often as necessary, and at any  
172 reasonable time for the purposes of inspection, remediation and abatement, and shall  
173 exhibit and allow copying of any and all records necessary to ascertain compliance  
174 with this chapter. If the occupant will not permit entry upon the property, the  
175 Planning/Zoning Department shall complete the requirements of an administrative  
176 search warrant in order to inspect the complaint.

177 (E) *Interference.* No person shall in any way interfere with or hinder the  
178 Planning/Zoning Department in the performance of duties, or refuse access to gather  
179 information necessary to ascertain compliance with this chapter.

180 (Ord. 2019-02, passed 10-12-2019)

181 **§ 152.07 INVESTIGATION AND RESPONSE TO PUBLIC NUISANCE.**

182 (A) *Owner notification.* Upon declaration of a public nuisance, the  
183 Planning/Zoning Department shall give written notice of its determination and  
184 orders to abate the nuisance to the owner, occupant and property agent, if applicable.  
185 A recipient of any such notice must take all action required within the time period  
186 stated in the notice. This notice shall be served in person, by regular mail, or by an  
187 officer authorized to serve a warrant and contain the following:

188 (1) Property location by street address, parcel identification  
189 number, or other property description.

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190                   (2)     Information identifying the nature of the public nuisance at the  
191 property.

192                   (3)     A summary of the owner's and occupant's responsibilities under  
193 this chapter.

194                   (4)     Specific orders for abatement or remediation of the public  
195 nuisance.

196                   (5)     A date for completion of the abatement not to exceed 30 days  
197 following the receipt of the notice unless a shorter time is required due to the  
198 Planning/Zoning Department's further determination that the immediate abatement  
199 is necessary to protect public and safety. In such cases, the reason for a shortened  
200 abatement period shall be specified.

201                   (6)     Information regarding a right of appeal as provided in § 152.09  
202 of this chapter and that, unless the threat to public is abated or removed in accordance  
203 with the terms of the notice, the Planning/Zoning Department will have the public  
204 nuisance abated or removed at the expense of the owner under the provisions of this  
205 chapter and/or other applicable state or local law.

206                   (B)     *Unknown or absent* property owner. In the event the owner of the  
207 property is unknown or absent and has no known representative upon whom the  
208 notice can be served, the Planning/Zoning Department shall post a written or printed  
209 notice on the property stating that, unless the threat to the public is abated or  
210 removed within 30 days of the date of posting, the Planning/Zoning Department will  
211 have the public nuisance abated or removed at the expense of the owner under the  
212 provisions of this chapter and/or other applicable state or local law.

213                   (C)     *Public notification.* The Planning/Zoning Department shall provide  
214 information in writing about the public nuisance declaration and potential hazard(s)  
215 to the following persons as applicable and appropriate:

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216 (1) Child Protective Services Division of the Henderson County  
217 Department of Social Services in situations of potential child maltreatment or  
218 endangerment.

219 (2) Adult Protective Services Division of the Henderson County  
220 Department of Social Services in situations of potential vulnerable adult  
221 maltreatment or endangerment.

222 (3) Neighbors in close proximity likely to be affected by the  
223 conditions found at the site.

224 (4) Local law enforcement officers.

225 (5) Henderson County Environmental (Public) Health.

226 (6) Other state and local authorities that may have public or  
227 environmental protection responsibilities.

228 (D) *Warning sign.* The Planning/Zoning Department shall post a warning  
229 sign when deemed necessary to further protect the public and safety. The warning  
230 sign shall be posted on the entrance(s) of the structure or property and contain  
231 information sufficient to alert visitors or returning occupants to the site that it may  
232 be dangerous to enter, that entry is prohibited unless authorized by the  
233 Planning/Zoning Department or law enforcement department posting the sign. Any  
234 person other than the Planning/Zoning Department or designated agent that  
235 removes a warning sign shall be in violation of this chapter.

236 (E) *Abating public nuisance.* If the owner, property agent or occupant fails  
237 or neglects to comply with the requirements in the notice provided under division (A)  
238 of this section, then the Planning/Zoning Department shall abate or remediate the  
239 public nuisance described in the notice. The town will recoup such costs as necessary  
240 to abate the public nuisance as provided in § 152.99 of this chapter.

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241 (F) *Vacating the public nuisance order.* Upon verification and acceptable  
242 proof of proper abatement, remediation, repair, or removal at the site, the  
243 Planning/Zoning Department shall issue written notice to those persons served  
244 notice under subsection A of this section that the public nuisance order is vacated.  
245 Notice shall also be provided, as applicable and appropriate, to those persons  
246 provided information under division (C) of this section.

247 (Ord. 2019-02, passed 10-12-2019)

248 **§ 152.08 VEHICLE RESTORATION PERMIT.**

249 (A) Persons storing any motor vehicle for more than 30 days outside a fully  
250 enclosed permanent structure for the purpose of restoration shall obtain a vehicle  
251 restoration permit from the Planning/Zoning Department. The permit shall be placed  
252 in the vehicle in a location viewable from outside the vehicle.

253 (B) This permit shall allow for one restoration vehicle and up to one parts  
254 vehicle that must be compatible with the vehicle being restored.

255 (C) The permit allows for outdoor storage of the vehicle(s) for a period of  
256 up to six months.

257 (D) A maximum of two six-month extensions may be granted upon request,  
258 provided substantial progress can be proven in the restoration of the vehicle at each  
259 extension interval. Progress will be measured by receipts for the purchase of parts or  
260 services or visible reconstruction or deconstruction.

261 (E) At no time shall the vehicle become a public health nuisance by  
262 collecting water to breed mosquitoes, losing fluid to contaminate the soil or becoming  
263 a harborage for vermin.



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264 (F) If restoration work is not complete upon the permit expiration date, the  
265 vehicle shall be removed or placed inside a fully enclosed building as required by this  
266 chapter.  
267 (Ord. 2019-02, passed 10-12-2019)

268 **§ 152.09 APPEALS.**

269 (A) *Right of appeal.* When a public nuisance is declared, an owner of the  
270 affected property may appeal the declaration, including an order for abatement or  
271 remediation, by filing a written request with the Mills River Zoning Board of  
272 Adjustment.

273 (B) *Hearing.* If any owner makes a written request to the Zoning Board of  
274 Adjustment for an evidentiary hearing, such hearing shall be held in accordance to  
275 procedures as described in §§ 154.175 through 154.179 of the Town Code.

276 (1) *Schedule.* The evidentiary hearing shall be held at the next  
277 available meeting that satisfies public notice requirements after the request for a  
278 hearing was received.

279 (2) *Witnesses and evidence.* All parties shall have full opportunity to  
280 respond to and present evidence and witnesses.

281 (3) *Standard of proof.* The appellant shall have the burden of  
282 proving its position by clear and convincing evidence.

283 (4) *Rules of evidence.* Hearings shall be informal and the rules of  
284 evidence as applied in the courts shall not apply. Irrelevant, immaterial, and  
285 repetitious evidence shall be excluded.

286 (C) *Record of hearing.* The hearing shall be recorded, and the minutes of the  
287 meeting shall be approved by the Zoning Board of Adjustment at their next scheduled  
288 meeting.

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289 (D) *Notice of decision.* The decision of the Zoning Board of Adjustment shall  
290 be issued in writing within ten calendar days following the hearing. Unless otherwise  
291 provided by law, the decision of the Zoning Board of Adjustment shall constitute the  
292 final decision.

293 (E) *Further appellate rights.* Any party aggrieved by a final decision is  
294 entitled to judicial review of the decision. A petition for a writ of certiorari by the  
295 party must be filed with the Court of Appeals not more than 30 calendar days after  
296 notice of the final decision has been issued from the Zoning Board of Adjustment.

297 (Ord. 2019-02, passed 10-12-2019)

298 **§ 152.99 VIOLATIONS, PENALTIES, COSTS, AND**  
299 **REIMBURSEMENTS.**

300 (A) *Civil penalties.* Any person who is an owner or occupant of property and  
301 who violates this chapter, or permits a nuisance to exist on the property under  
302 his/her control, or fails to take action to abate the existence of the violation(s) within  
303 the time specified in the notice described in § 152.07 above, when ordered or notified  
304 to do so by the Planning/Zoning Department, shall be subject to a civil penalty of \$50  
305 or other amount as determined by Town Council. Each day's violation shall be treated  
306 as a separate offense.

307 (B) *Civil action.* In the event of a violation of this ordinance or any order  
308 entered for abatement of a nuisance, the town may take appropriate action to enforce  
309 this chapter, including application for injunctive relief, action to compel performance,  
310 or other appropriate action in court, if necessary, to prevent, restrain, correct, or  
311 abate such violations. The town may recover all costs and expenditures expensed  
312 towards remedying the violation, including administrative time and attorneys' fees.

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313 (C) *Criminal violation.* A violation of this ordinance is a Class 3  
314 misdemeanor pursuant to G.S. 14-4.

315 (D) If required to remove, abate or remediate a public nuisance, the town  
316 shall make every reasonable effort to recover costs incurred in removal, abatement  
317 or remediation in a civil action. The cost of enforcement action under this chapter  
318 may be assessed and charged against the real property on which the public nuisance  
319 was located. The town shall extend the cost as assessed and charged against said real  
320 property. Nothing herein precludes or limits the town from seeking recovery of costs  
321 through other methods allowed by Federal or state law.

322 (E) *Subrogation rights.* Nothing in this chapter is intended to limit the  
323 subrogation rights of any party and the owner occupants. The town shall maintain the  
324 right to recover costs, referenced in this section, from persons contributing to the  
325 damage.

326 (F) Revocation of Development Approvals. In addition to initiation of  
327 enforcement actions, Town issued permits may be revoked by notifying the holder in  
328 writing stating the reason for the revocation. The Town shall follow the same permit  
329 review and approval process required for issuance of the permit, including any  
330 required notice or hearing, in the review and approval of any revocation of that  
331 permit. Permits shall be revoked for any substantial departure from the approved  
332 application, plans, or specifications; for refusal or failure to comply with the  
333 requirements of any applicable element of this chapter; or for false statements or  
334 misrepresentations made in securing the permit. Any permit mistakenly issued in  
335 violation of an applicable State law or local ordinance may also be revoked. The  
336 revocation of a permit by a staff member may be appealed pursuant to G.S. § 160D-  
337 405.

338 (Ord. 2019-02, passed 10-12-2019)

# **TITLE XV: LAND USAGE**

## **CHAPTER 155: VESTED RIGHTS**

155.01 Purpose

155.02 Definitions

155.03 Establishment of development vested right

155.04 Approval procedures

155.05 Duration

155.06 Termination

155.07 Limitations

155.08 Repeal of statute

155.09 When effective; applicability

155.10 Title

Appendix: Application for vested right

[ADOPTED MARCH 25, 2021](#)

1 **§ 155.01 PURPOSE.**

2 The purpose of this chapter is to implement the provisions of G.S. § ~~160A-385.1~~[160D-](#)  
3 [108](#) pursuant to which a statutory vested right is established upon the approval of a site  
4 specific development plan.

5 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

6 **§ 155.02 DEFINITIONS.**

7 As used in this chapter, the following terms shall have the meanings indicated, unless  
8 a different meaning is apparent from the context used:

9 ***APPROVAL AUTHORITY.*** The Town Council of Mills River.

10 ***COUNCIL.*** The Mills River Town Council.

11 ***SITE SPECIFIC DEVELOPMENT PLAN.*** A plan which has been submitted to the  
12 Council or its designee by a landowner, describing with reasonable certainty the type and  
13 intensity of use for a specific parcel or parcels of property. The plan may be in the form of,  
14 but not limited to, any of the following plans: a planned unit development plan; a subdivision  
15 plat; a ~~conditional or~~ special use district zoning plan. The plan shall include the legal  
16 boundaries of the site, significant topographical and other natural features affecting  
17 development of the site; the approximate location on the site of the proposed buildings,  
18 structures and other improvements; the approximate dimensions, including height, of  
19 proposed buildings and other structures; the approximate location of all existing and  
20 proposed infrastructure on the site, including water, sewer, roads, bicycle paths and  
21 pedestrian walkways. Notwithstanding the foregoing, neither a variance, a sketch plan nor  
22 any other document that fails to describe with a reasonable certainty the type and intensity  
23 of use for a specified parcel of property shall constitute a site specific development plan.



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24            **DEVELOPMENT VESTED RIGHT.** A right pursuant to G.S. § ~~160A-385.1~~[160D](#) to  
25 undertake and complete the development and use of property under the terms and  
26 conditions of an approved site specific development plan.

27            **LANDOWNER.** Any owner of a legal or equitable interest in real property, including  
28 heirs, devisees, successors, assigns, and personal representatives of such owner. The  
29 landowner may allow an attorney, licensed to practice in the State of North Carolina, an  
30 engineer, licensed to practice in the State of North Carolina or a person holding a valid option  
31 to purchase to act as his or her agent or representative for purposes of submitting a proposed  
32 site specific development plan.

33            **PROPERTY.** All real property located within the corporate limits of the Town of  
34 Mills River, North Carolina, whether or not the area is zoned, is within the planning and  
35 zoning jurisdiction of the Mills River Town Council.

36 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

37 **§ 155.03 ESTABLISHMENT OF DEVELOPMENT VESTED RIGHT.**

38            (A) A development vested right shall be deemed established upon the valid  
39 approval or conditional approval by the Council of a site specific development plan, following  
40 a properly noticed public hearing. The vested right confers upon the landowner only the  
41 right to undertake and complete the development and use the property under the terms and  
42 conditions of the site development plan ~~or the phased development plan.~~

43            (B) Failure to abide by any terms or conditions imposed shall result in a forfeiture  
44 of development vested rights.

45            (C) The Council may approve or disapprove a site specific development plan based  
46 upon the need to protect the public health, safety and welfare. The Council may require such  
47 terms and conditions as it may deem necessary to protect the public health, safety and  
48 welfare.

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49 (D) The establishment of a development vested right shall not preclude the  
50 application of overlay zoning that imposes additional requirements, but does not affect the  
51 allowable type or intensity of use, or ordinances or regulations that are general in nature and  
52 are applicable to all property subject to land use regulation by the Town of Mills River,  
53 including, but not limited to, building, fire, plumbing, electrical and mechanical codes.  
54 Otherwise applicable new or amended regulations shall become effective with respect to  
55 property that is subject to a site specific development plan upon the expiration or  
56 termination of the vested right in accordance with this chapter.

57 (E) A development vested right is not a personal right, but shall attach to and run  
58 with the real property. After approval of a site specific development plan, all successors to  
59 the original landowner shall be entitled to exercise such right while applicable.

60 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

61 **§ 155.04 APPROVAL PROCEDURES.**

62 (A) A site specific development plan shall be processed in accordance with the  
63 following procedures:

64 (1) The landowner must apply, on a form to be provided by the town, for a  
65 development vested right.

66 (2) All applications shall be made at the Mills River Town Hall.

67 (3) An application fee, to be established by the Council, shall be required  
68 upon submission of the application.

69 (4) Each application shall be accompanied by 1 copy of the site specific  
70 development plan. Each site specific development plan shall contain the following notation  
71 in the uppermost right-hand corner:

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72                    “This site specific development plan establishes a development vested  
73 right pursuant to G.S. § ~~160A-385.1~~160D. Unless terminated at an earlier date, the  
74 development vested right shall be valid until \_\_\_\_\_.

75                    Mayor, Town of Mills River”

76            (B)    Following approval or conditional approval of a site specific development  
77 plan, nothing in this chapter shall exempt such plan from subsequent reviews and approvals  
78 to ensure compliance with the terms and conditions of the original approval, provided that  
79 such reviews and approvals are not inconsistent with the original approval.

80            (C)    Nothing in this chapter shall prohibit the revocation of the original approval  
81 or other remedies for failure to comply with applicable terms and conditions of approval.

82            (D)    Within 45 days of the application for a development vested right, the Council  
83 shall hold a public hearing. A notice of the public hearing shall be published in a newspaper  
84 of general circulation within the county twice per week for the 2 successive weeks prior to  
85 the hearing. The public hearing shall be conducted and may be continued pursuant to the  
86 provisions of G.S. § 160A-81.

87            (E)    Within 30 days after the date of completion of the public hearing, the Council  
88 shall either approve the development vested right, deny the development vested right or  
89 conditionally approve the development vested right.

90 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

91 **§ 155.05    DURATION.**

92            (A)    A development vested right that has been vested as provided in this chapter  
93 shall remain vested for a period of 2 years unless otherwise terminated or unless specifically  
94 and unambiguously provided otherwise pursuant to the following subsection. This vesting  
95 shall not be extended by any amendment or modification to a site specific development plan

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96 unless expressly provided by the Council at the time the amendment or modification is  
97 approved.

98 (B) Notwithstanding the provisions of the preceding division, the Council may  
99 provide that rights shall be vested for a period exceeding 2 years but not exceeding 5 years,  
100 where warranted in light of all relevant circumstances, including, but not necessarily limited  
101 to, the size of the development, the level of investment, economic cycles and market  
102 conditions. Long-term, multi-phased projects of at least 25 acres may be vested for up to  
103 seven years. These determinations shall be in the sole sound discretion of the Council at the  
104 time the site specific development plan is approved.

105 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

106 **§ 155.06 TERMINATION.**

107 A development vested right that has been vested as provided in this chapter shall  
108 terminate with any 1 of the following being satisfied:

109 (A) Upon the issuance of a building permit, the expiration provisions of G.S. §  
110 ~~160A-418~~160D-1111 and the revocation provisions of G.S. § ~~160A-422~~160D-403 shall apply,  
111 except that a building permit shall not expire or be revoked because of the running of time  
112 while a development vested right under this section is outstanding.

113 (B) At the end of the applicable vesting period with respect to building and uses  
114 for which no valid building permit application has been filed.

115 (C) With the written consent of the affected landowner.

116 (D) Upon a finding by the Council, by ordinance after notice and public hearing,  
117 that natural or man-made hazards on or in the immediate vicinity of the property, if  
118 uncorrected, would pose a serious threat to the public health, safety and welfare if the project  
119 were to proceed as contemplated in the site specific development plan; provided, however,  
120 that no landowner in the immediate vicinity shall intentionally create or allow to be created

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121 any hazards, subsequent to the vesting hereunder, for the purpose of causing the termination  
122 of a development vested right.

123 (E) Upon payment to the affected landowner of compensation for all costs,  
124 expenses, and other losses incurred by the landowner, including, but not necessarily limited  
125 to, all fees paid in consideration of financing and all architectural, planning, marketing, legal  
126 and other consultant's fees incurred after approval by the county, together with interest  
127 thereon at the legal rate until paid. Compensation shall include any diminution in value of  
128 the property which is caused by such action.

129 (F) Upon findings by the Council, by ordinance after notice and public hearing,  
130 that the landowner or his or her representative intentionally supplied inaccurate  
131 information or made material misrepresentations which made a difference in the approval  
132 by the Council of the site specific development plan.

133 (G) Upon enactment or promulgation of a state or federal law or regulation that  
134 precludes development as contemplated in the site specific development plan, in which case  
135 the Council may modify the affected provisions, upon finding that the change in state or  
136 federal law has a fundamental effect on the plan, by ordinance after notice and public  
137 hearing.

138 (H) Upon the repeal and absence of replacement of G.S. § ~~160A-385.1~~160D-108.  
139 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

140 **§ 155.07 LIMITATIONS.**

141 Nothing in this chapter is intended or shall be deemed to create any vested right other  
142 than those established pursuant to G.S. § ~~160A-385.1~~160D-108. Nothing in this chapter shall  
143 preclude judicial determination, based on common law principles or other statutory  
144 provisions, that a vested right exists in a particular case or that a compensable taking has



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145 occurred. Except as expressly provided herein, nothing in this chapter shall be construed to  
146 alter the existing common law.

147 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

148 **§ 155.08 REPEAL OF STATUTE.**

149 In the event that G.S. § ~~160A-385.1~~[160D-108](#) is repealed and not replaced, this  
150 chapter shall be deemed repealed and the provisions hereof no longer effective.

151 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

152 **§ 155.09 WHEN EFFECTIVE; APPLICABILITY.**

153 This chapter shall be effective upon adoption and shall only apply to site specific  
154 development plans approved on or after the effective date of this chapter.

155 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

156 **§ 155.10 TITLE.**

157 This chapter may be cited as the “Town of Mills River Vested Rights Ordinance.”

158 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

159

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160 **APPENDIX: APPLICATION FOR VESTED RIGHT**

161 Town of Mills River

162 Application for Vested Right

163 Pursuant to N.C.G.S. ~~160A-385.1~~[160D-108](#)

164 NAME

165 ADDRESS

166 PROPERTY ADDRESS

167 PROPERTY PIN NUMBER

168 CERTIFICATION

169 I, \_\_\_\_\_, hereby certify that I am seeking to acquire  
170 a vested right pursuant to N.C.G.S. ~~160A-385.1~~[160D-108](#) and the Town of Mills River Vested  
171 Rights Ordinance. I understand and agree that my application will be considered by the Mills  
172 River Town Council following notice and a public hearing and that I am under a duty to  
173 provide complete and accurate information to the Town Council.

174 This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

175 Applicant

176 \*\*\*\*\*

177 TOWN USE ONLY

178 Received by:

179 Date:

180 Fee Paid: \_\_\_\_\_ Received by:

181 Date:

182 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)