

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

**ARTICLE I
AUTHORITY**

This Ordinance is enacted by the Town Council of Mills River, North Carolina pursuant to Chapter 160D of the North Carolina General Statutes. Town Council does hereby ordain and enact into law the following amendments to the Code of Ordinances for the Town of Mills River.

**ARTICLE II
AMENDMENT TO LAND USE**

The Administration Section of the Code of Ordinances of the Town of Mills River as enacted effective February 26, 2004, and with various amendments, is further amended as to the following articles, chapters, sections and subsections:

CHAPTER 153.010 PUBLIC NOTICE REQUIRED

Text Amendment TXT-21-09 modifies Chapter 153 of the Mills River Town Code to add a provision requiring the Town provide both mailed and posted public notice for residential major subdivisions. For residential developments that are defined as a major subdivision, the Town of Mills River shall provide mailed public notice to adjacent property owners and a posted public notice sign on the subject property proposed for development in advance of the public meeting of the Planning Board at which the matter will be considered. Public notice is also required for major amendments to subdivision development plans that warrant approval by the Planning Board and cannot be approved administratively by the Subdivision Administrator. See Exhibit A for further details.

Except as specifically amended herein, Chapter 153 of the Town of Mills River Code of Ordinances shall remain valid and in full force and effect.

**ARTICLE III
SEVERABILITY**

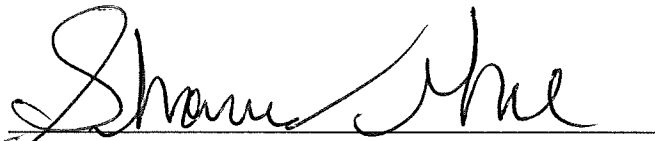
Each section and subsection of said ordinance as adopted herein constitutes a separate and distinct provision. Whenever possible, each provision of such Ordinance shall be interpreted in a manner as to be effective and valid under applicable law. In the event that any provision so such Ordinance shall 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 Code of Ordinances of the Town of Mills River, North Carolina shall take effect and be effective at 12:01 AM on February 11, 2022, 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 10th day of February 2022.



Shanon Gonce
Mayor

ATTEST By:



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

TITLE XV: LAND USAGE

CHAPTER 153: SUBDIVISIONS

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- Appendix 8 Application for improvement guarantees
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- Appendix 10: A statement of understanding regarding family subdivisions
- Appendix 11: Affidavit of understanding of farmland preservation district

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GENERAL PROVISIONS

§ 153.001 TITLE.

This chapter shall be known and may be cited as the "Subdivision Ordinance for the Town of Mills River, North Carolina," and may be referred to as the "Subdivision Ordinance."
(Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

§ 153.002 PURPOSE.

The purpose of this chapter is to promote, through proper planning, health, safety and general welfare by providing for the orderly subdivision of land in the Town of Mills River. More specifically, this chapter is deemed necessary to:

- (A) Establish procedures and standards for the subdivision of land;
- (B) Provide for orderly growth and development;
- (C) Promote environmental quality;
- (D) Protect and enhance property ownership and land values;
- (E) Provide for dedication or reservation of road right-of-way;
- (F) Assure the proper design and installation of roads and utilities; and
- (G) To assure proper legal description, identification and recordation of property boundaries to maintain an accurate, up-to-date land records management system.

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

§ 153.003 [RESERVED].

(Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00052, passed 6-26-2008)

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24 **§ 153.004 AUTHORITY.**

25 The enactment of this chapter is authorized pursuant to G.S. Chapter 160D,
26 Article 8.

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

28 **§ 153.005 JURISDICTION.**

29 This chapter shall apply to and govern each and every lot, parcel or tract of
30 land within the incorporated areas of the town. This chapter shall not apply to
31 existing lots, parcels or subdivisions of record which were properly recorded prior to
32 the effective date of this chapter, or any amendments thereto.

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

34 **§ 153.006 GENERAL APPROVAL FOR SUBDIVISIONS PLATS.**

35 A final plat must be prepared and approved pursuant to this chapter whenever
36 a subdivision of land occurs. No land disturbing or construction activity carried out
37 in conjunction with the development of a subdivision shall be commenced until a
38 development plan has been approved. Prior to recordation, all plats must meet the
39 requirements of G.S. § 47-30.

40 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2017-07, passed 11-
41 10-2017)

42 **§ 153.007 COMPLIANCE REQUIRED.**

43 All applicants for subdivisions are responsible for complying with the specific
44 standards and requirements stated in this chapter and its appendices.

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

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46 **§ 153.008 COMPLIANCE WITH OTHER PROVISIONS.**

47 All proposed subdivisions of land, including all those defined in § 153.045,
48 shall comply, where applicable, with the requirements of the Zoning Ordinance of The
49 Town of Mills River, the Water Supply Watershed Protection Ordinance for
50 ~~Henderson County~~[the Town of Mills River](#), the Property Address Ordinance for
51 Henderson County and any other officially adopted plans, maps or ordinances
52 approved by any governmental body or agency having proper jurisdiction.

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

54 **§ 153.009 TRAFFIC IMPACT ANALYSIS (TIA) REQUIRED.**

55 Residential developments that are defined as a major subdivision must
56 provide a traffic impact analysis (TIA) prepared— by a licensed North Carolina civil
57 engineer. The analysis must be submitted with an application for a major subdivision.
58 The report shall document the traffic operational impacts and any recommended
59 improvements on the key roadway segments and intersections that have been
60 identified as primary accesses to the proposed development from major roads within
61 the Town.

62 (Ord. 2018-02, passed 2-8-2018)

63 **§ 153.010 PUBLIC NOTICE REQUIRED.**

64 For residential developments that are defined as a major subdivision, the
65 Town of Mills River shall provide mailed public notice to adjacent property owners
66 and a posted public notice sign on the subject property proposed for development in
67 advance of the public meeting of the Planning Board at which the matter will be
68 considered. Public notice is also required for major amendments to subdivision
69 development plans that warrant approval by the Planning Board and can not be
70 approved administratively by the Subdivision Administrator.

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71 Mailed notice. Whenever there is an application for a residential major
72 subdivision, the owner of that parcel of land as shown on the Henderson County tax
73 listing and the owners of all parcels of land abutting that parcel of land as well as all
74 properties separated from the subject property by street, reserved right-of-way,
75 railroad, other transportation corridor as shown on the Henderson County tax listing,
76 or separated by a river, stream, pond, or other body of water, shall be mailed a notice
77 of a public meeting of the Planning Board concerning the major subdivision
78 application by first-class mail at the last address listed for the owners on the
79 Henderson County tax abstracts. This notice must be deposited in the mail at least ten
80 (10) but not more than twenty-five (25) days prior to the date of the public meeting
81 of the Planning Board. The person(s) mailing the notices shall certify to the Planning
82 Board that fact, and the certificate shall be deemed conclusive in the absence of fraud.

83 Posted notice. For any residential major subdivision application, the Town of
84 Mills River shall post a sign in a prominent location on or near the subject property
85 which indicates that a development has been proposed for the subject property. In
86 the event that more than one (1) parcel is involved in a particular residential major
87 subdivision application, at least one (1) public notice sign shall be posted in a central
88 location; however, the Town of Mills River may post multiple signs. The sign(s) shall
89 be posted during the period between twenty-five (25) days prior and ten (10) days
90 prior to the date of the public meeting of the Planning Board.

91 **PROCEDURE FOR SUBDIVISION APPLICATIONS**

92 **§ 153.045 SUBDIVISION TYPES.**

93 (A) Subdivisions shall be of one of the following types: minor, family,
94 nonstandard or major. The major and minor subdivisions carry subtypes as follows:
95 residential, commercial or industrial. All commercial or industrial subdivisions and

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96 residential subdivisions with lots designated for commercial or industrial use shall
97 be so designated and shall be reviewed by the Planning Board under the procedure
98 for major subdivisions, regardless of the number of lots proposed.

99 (B) *Certificate of understanding.* The following certificate of understanding
100 shall be required to accompany all final plats including the property owner's
101 signature before being approved for recordation by the Zoning Administrator. A
102 certificate of understanding not printed on the face of the final plat and submitted as
103 a separate document must be notarized before approval. The Zoning Administrator
104 or their designee shall record the subdivision file number on all certificates of
105 understanding;

106 **Certificate of Understanding**

107 I (we) hereby certify that I am (we are) the owner(s) of the property located
108 within the subdivision-regulation jurisdiction of the Town of Mills River as shown and
109 described hereon, being on record with the Town of Mills River as File #_____, and
110 that I (we) hereby adopt this plan of subdivision. I (we) understand that expansion of
111 this subdivision may result in the upgrading of road infrastructure, utilities and
112 additional right-of-way dedication and other applicable requirements as required by
113 the Subdivision and Zoning Regulations, Chapter 153 and Chapter 154 of the Town of
114 Mills River Code. All proposed roads in this subdivision will meet the minimum
115 requirements outlined Chapter 153 for the type of subdivision approved.

116 _____
117 Date Owner(s)

118 (C) *Unsealed copies and plan size requirements.* An unsealed copy of all plats
119 shall be submitted in addition to requirements for sealed plats and plans. All drawings
120 shall be submitted with at least one paper copy 11 inches by 17 inches size or less.

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121 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00066, passed 4-28-
122 2011; Am. Ord. 2018-10, passed 11-8-2017)

123 **§ 153.049 PROCEDURE FOR REVIEW OF MAJOR SUBDIVISIONS.**

124 Before the plat for a major subdivision (11 or more lots) can be recorded, the
125 applicant shall complete the application for a major subdivision (Appendix 1 and
126 Appendix 6) and comply with the following items.

127 (A) *Pre-application conference and site analysis sketch.*

128 (1) A pre-application conference shall be held at least fifteen (15)
129 days prior to the submission of any major subdivision application. The conference
130 shall include the applicant and the Subdivision Administrator. The purpose of the
131 conference is to acquaint an applicant with the application process and to review, in
132 general, the proposed development. The applicant should be prepared to discuss the
133 development plans for the entire tract and any adjacent property under the same
134 ownership. The applicant shall bring to the meeting a site analysis sketch (see Figure
135 1) that shall identify for the entire tract the following features:

- 136 (a) Streams, creeks, ponds and reservoirs;
- 137 (b) Floodplains and wetlands;
- 138 (c) Steep slopes, defined as those greater than 20%;
- 139 (d) Unique natural areas;
- 140 (e) Rock outcroppings;
- 141 (f) Farmland and pastureland;
- 142 (g) Wooded or forested areas; and
- 143 (h) Cemeteries.

144 (2) The site analysis sketch shall be prepared based on aerial
145 photography, visual observations and an on-site inspection of the tract. The site
146 analysis sketch need not be professionally prepared. However, it shall be at a scale

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147 that is clearly legible and provides sufficient detail to describe the general location of
148 proposed development and the stated features for discussion purposes. It is not
149 necessary at the pre-application conference to have detailed plans with described lots
150 and rights-of-way. The conference is intended for the free exchange of information
151 between the applicant and the Subdivision Administrator and to explore how the
152 applicant intends to design the development, what density levels are contemplated
153 and what areas are proposed for preservation, and the like, before a great deal of time
154 and expense is expended on subdivision design.

155 (3) Pre-application conferences may be attended by other
156 governmental agencies or staff, Planning Board members or those invited by the
157 applicant. The Subdivision Administrator may waive the conferences for successive
158 sections under an approved master plan.

159 (B) *Master plan submission.* A master plan developed in conformance
160 with Appendix 4, shall be submitted to the Planning Board through the Subdivision
161 Administrator for review and approval for any major subdivision at least thirty (30)
162 days prior to the date of the regularly scheduled meeting of the Planning Board. The
163 purpose of the master plan is to present the development concept for the entire
164 project. The master plan is intended to provide general information about the
165 proposed development to allow for an assessment of its impact on the orderly growth
166 and development of the town, environmental quality, land values, natural features
167 identified on the site analysis sketch and the town's and governmental services. The
168 applicant shall submit ~~three~~ one (1) full-sized copies, ~~and~~ one (1) reduced-sized
169 copy, and one (1) electronic copy of the master plan, all at a scale appropriate to
170 clearly depict the property. ~~If the reduced-sized plan is larger than 11 inches by 17~~
171 ~~inches, at least 10 copies shall be submitted.~~ The master plan may consist of multiple
172 sheets, if needed. The Subdivision Administrator may, upon receipt of the master

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173 plan, forward a copy to any review agency for information purposes or for comment.
174 Applicants proposing single section or phase subdivisions may submit a combined
175 master plan and development plan ("master/development plan") that shall be
176 prepared in conformance with this chapter and the requirements of a development
177 plan, as enumerated in Appendix 5. If during the development of the project, the
178 master plan is revised to affect any of the following: increase the number of building
179 lots to be created or units to be constructed; create a substantive change in the
180 subdivision configuration, road layout, and the like; substantially change the use of
181 any portion of the tract; develop or build in areas that were identified as features in
182 the site analysis sketch (see division (A) above) and that were identified in the master
183 plan as open spaces or protected areas, these shall be considered major plan
184 amendments and the applicant shall then submit a revised master plan for Planning
185 Board review and approval in accordance with this section. The Town of Mills River
186 shall provide mailed public notice and posted public notice on the subject property in
187 advance of the Planning Board meeting at which the major amendment to the
188 subdivision master plan will be considered, per §153.010.

189 (C) *Development plan submission and review.*

190 (1) A development plan, prepared in conformance with this chapter
191 as enumerated in Appendix 5, shall be submitted to the Planning Board for review
192 and approval of any major subdivision. A development plan is a graphic
193 representation or map of the tract of land to be developed indicating all proposed
194 divisions of land, their uses, improvements and other information as may be required
195 to fully disclose the applicant's intentions. The purpose of the plan is to provide
196 general and specific information and is not intended to be a recordable document.

197 (2) The development plan may be submitted for the entire
198 subdivision or any section thereof. Application shall be made and submitted to the

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199 Subdivision Administrator at least thirty (30) days prior to the date of a regularly
200 scheduled meeting of the Planning Board. The application, including all drawings, fees
201 and attachments, shall be submitted at one (1) time to the Subdivision Administrator.
202 The applicant shall submit ~~three~~ one (1) full-sized copies, ~~and~~ one (1) reduced-
203 sized copy, and one electronic copy of the development plan, all at a scale appropriate
204 to clearly depict the property. ~~If the reduced sized plan is larger than 11 inches by 17~~
205 ~~inches, at least 10 copies shall be submitted.~~ The development plan may consist of
206 multiple sheets, if needed. Formal review of the subdivision shall not begin until the
207 Administrator has verified that the application is complete. The verification should,
208 when possible, be made within ~~two~~ five (5) business days of its receipt. The
209 Subdivision Administrator shall notify the applicant, in writing, of the application's
210 status ~~and the date of the Planning Board's first consideration of the application.~~

211 (3) The Subdivision Administrator shall review the application with
212 regard to all applicable standards and conformity to this chapter. The Subdivision
213 Administrator shall submit to the Planning Board a summary of findings along with
214 comments from review agencies. A copy of the findings shall be given to the applicant
215 prior to the Planning Board's review. The Subdivision Administrator shall certify to
216 the Planning Board that mailed public notice was provided to the owner of the subject
217 property proposed for development of a major residential subdivision and to the
218 owners of all property adjacent to the subject property. A public notice sign shall be
219 posted on or near the subject property as described in §153.010. The Planning Board
220 shall have a maximum of sixty (60) days from the date of its first consideration of the
221 plan within which to take action. In the opinion of the Planning Board, if a
222 development plan application is incomplete, the Planning Board may return the
223 application to the applicant identifying the specific omissions, without invoking the
224 sixty (60) day action requirement. The Planning Board may take the following

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225 actions: approve a development plan as submitted; ~~or~~ approve the plan with
226 conditions (if conditions are agreed to in writing by the applicant); table for
227 additional consideration; or deny the plan. The Subdivision Administrator shall,
228 within ten (10) days after Planning Board review, notify the applicant, in writing, of
229 the Planning Board's action and any conditions imposed by the Board. Unless
230 otherwise stated by the Planning Board, any conditions of development plan approval
231 must be satisfied within the time specified by the Planning Board. If the conditions on
232 the development plan are accepted by the applicant, the development plan shall be
233 approved and the conditions shall be put in writing, signed by both parties, and
234 become binding. Failure to comply with any conditions of approval set by the
235 Planning Board, including failure to meet deadlines, shall result in the development
236 plan approval becoming null and void.

237 (4) The applicant may, only upon receipt of approval of the
238 development plan from the Planning Board, proceed with the establishment of
239 erosion and sedimentation control measures, clearing and other land disturbing and
240 improvement activities associated with the project. Development plan approval shall
241 be valid for two (2) years, and the approval shall be annotated on the plan itself and
242 certified by the Subdivision Administrator. The Planning Board may, for just cause,
243 grant extensions of development plan approval for a maximum of two (2~~1~~) additional
244 years. The plan shall have the date of approval and the date of written notification to
245 the owner or owner's agent specifying the conditions, if any, of the approval. Where
246 the conditions involve the redesign of the plan, annotations shall be made on the
247 "revised development plan" only, and approval shall not be effective until the plan is
248 certified by the Subdivision Administrator. Following development plan approval,
249 ~~any substantive changes to the plan such as those due to site conditions~~ if the
250 development plan is revised at a later date to affect any of the following: increase the

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251 number of building lots to be created or units to be constructed; create a substantive
252 change in the subdivision configuration, road layout, and the like; substantially
253 change the use of any portion of the tract; develop or build in areas that were
254 identified as features in the site analysis sketch or existing development plan as open
255 spaces or protected areas, these shall be considered major plan amendments and
256 must be approved by the Planning Board. The applicant shall submit a revised
257 development plan to the Subdivision Administrator for Planning Board review and
258 approval in accordance with this section. The Town of Mills River shall provide mailed
259 public notice and posted public notice on the subject property in advance of the
260 Planning Board meeting at which the major amendment to the subdivision
261 development plan will be considered, per §153.010. ~~The changes should be submitted~~
262 ~~to the Subdivision Administrator on a plan titled "Revised development plan."~~
263 Incidental changes or minor amendments may be approved by the Subdivision
264 Administrator for just cause as long as the changes do not constitute a substantial
265 deviation from the approved master plan. Minor amendments to a subdivision
266 development plan that can be approved by the Subdivision Administrator do not
267 warrant public notice.

268 (D) Final plat *submission and review.* A final plat, developed in
269 conformance with Appendix 7, shall be submitted to the Subdivision Administrator
270 with the required forms and applicable fees. The final plat may include the entire
271 subdivision or any section thereof. The Subdivision Administrator may approve a plat
272 for fewer than the number of lots approved but a surcharge may be assessed. The
273 Subdivision Administrator shall review the final plat for conformance with all
274 applicable standards and conformance to the approved development plan. The final
275 plat may be approved administratively if the plan meets all requirements of the
276 ordinance and satisfies all conditions imposed by the Planning Board. If the final plat

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277 is not administratively approved, it must be submitted to the Planning Board for
278 approval. The submission must be made to the Subdivision Administrator fifteen (15)
279 days prior to the regularly scheduled meeting of the Planning Board. Upon approval,
280 and before any lots are transferred, the applicant shall record the final plat at the
281 office of the Henderson County Register of Deeds. Incidental changes to the final plat
282 which do not in any way affect the character of the development may be submitted
283 prior to or after recordation and may be approved for recordation by the Subdivision
284 Administrator. No lots governed by this chapter may be sold or conveyed until a final
285 plat is approved and recorded in the office of the Register of Deeds of Henderson
286 County.
287 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

288 **APPLICATION, ENFORCEMENT AND LEGAL STATUS**
289 **PROVISIONS**

290 **§ 153.115 DESIGNATION OF AGENT.**

291 The applicant for any subdivision review or approval procedure may submit,
292 along with any initial application, an affidavit (see Appendix 2) specifying an agent
293 who may represent the owner in all matters.
294 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

295 **§ 153.116 FEES.**

296 The applicant shall pay plan and plat review fees and, if applicable, an
297 extension fee in an amount as may be set from time to time by the Mills River Town
298 Council and posted at the Town Hall.
299 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005)

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300 **§ 153.117 APPROVAL PREREQUISITE TO PLAT RECORDATION.**

301 Pursuant to G.S. § 160D-804, and except where otherwise provided in this
302 chapter, no final plat of a subdivision within the jurisdiction of this chapter shall be
303 recorded by the Register of Deeds of Henderson County until it has been approved by
304 the Subdivision Administrator, the Mills River Planning Board or as provided herein.
305 The Register of Deeds shall not file or record a plat of the subdivision of land, any part
306 of which is located within the jurisdiction of this chapter that has not been approved
307 in accordance with these provisions. In addition to meeting the requirements of this
308 chapter, subdivisions proposed within designated watershed areas shall be subject to
309 the provisions of the Water Supply Watershed Protection Ordinance for ~~Henderson~~
310 ~~County~~the Town of Mills River, and the Watershed Administrator or his or her
311 designee shall certify on the plats that the subdivision complies with the provisions
312 of the Water Supply Watershed Protection Ordinance. Subdivisions proposed within
313 zoned areas of Mills River shall be subject to the appropriate zoning ordinance, and
314 the Administrator of the ordinance shall certify that the subdivision complies with
315 the applicable zoning regulations.

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

317 **§ 153.118 CERTIFICATION OF EXEMPTIONS.**

318 (A) Any plat of property exempted from the regulations of this chapter
319 shall be certified by the Subdivision Administrator ~~or~~and a professional land
320 surveyor as exempt, prior to the plat being recorded. The plat is not exempt from the
321 Zoning, Water Supply Watershed or any other local ordinances. Pursuant to G.S. § 47-
322 30(f)11 (Duty of the Surveyor), a professional land surveyor may certify that the plat
323 represents an exception to the definition of subdivision and is not subject to the
324 provisions of the Subdivision Ordinance. ~~The plat may be recorded without being~~

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325 ~~certified by the Subdivision Administrator.~~ Any exemption from the regulations of
326 this chapter shall not be deemed an exemption from any other applicable ordinance.

327 (B) Any court-ordered subdivision should comply, to the maximum extent
328 possible, with the provisions of this chapter.

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

330 **§ 153.119 PLAT APPROVAL REQUIRED FOR BUILDING PERMIT.**

331 No zoning permit or building permit may be issued for any construction on
332 any proposed lot shown on a development plan until a final plat has been approved
333 and recorded, except that a building permit may be issued for one (1) structure on
334 one (1) lot shown on any approved development plan prior to recordation of a final
335 plat. The Henderson County Permits & Inspections Department shall deny building
336 permits for subdivision lots created in violation with the terms and conditions of this
337 chapter.

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

339 **§ 153.120 LAND AUCTIONS.**

340 Where application for major or minor subdivisions is made with the intent that
341 the divided property will be sold at land auction, the final plat shall clearly state the
342 following: "The property herein is to be sold by auction. Any further subdivisions
343 must meet applicable standards set forth in the Mills River Subdivision Ordinance."
344 In addition, restrictive covenants regarding road maintenance for any dedicated
345 rights-of-way must be approved in advance by the Planning Board and recorded prior
346 to the auction.

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

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348 **§ 153.121 [RESERVED].**

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

350 **§ 153.122 VARIANCES.**

351 The Mills River ~~Town Council~~Board of Adjustment may authorize a technical
352 variance from these regulations, per §154.179(B). An application for a variance must
353 be made in conjunction with an application for subdivision approval. In considering
354 a request for a variance, the Mills River ~~Town Council~~Board of Adjustment shall
355 determine that an undue hardship may result from strict compliance with the terms
356 of this chapter. The ~~Council~~Board of Adjustment shall consider the physical
357 characteristics of the land, adjacent land uses and the intensity of the proposed
358 development. In determining an undue hardship, the ~~Council~~Board of Adjustment
359 shall consider unique conditions peculiar to the site and design flexibility to preserve
360 and protect the site's natural features. The variance shall constitute the minimum
361 variance necessary to mitigate the hardship and shall not violate the intent of this
362 chapter, nor shall it constitute a detriment to the health, safety and welfare of other
363 properties within and adjacent to the subdivision. Any modifications thus authorized
364 must be entered, in writing, in the minutes of the Mills River ~~Town Council~~Board of
365 Adjustment and on the face of the final plat. In addition, a written decision must be
366 prepared and delivered to the applicant stating the reasons on which the departure
367 from the terms of the ordinance was justified.

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

369 **§ 153.123 LIMITATIONS ON APPLICATIONS PENDING.**

370 Only one (1) application for a subdivision may be reviewed by any board or
371 agency at any one time on any of the original property boundaries.

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

Town of Mills River, NC Code of Ordinances

373 **§ 153.124 AMENDMENTS.**

374 (A) The Mills River Town Council may from time to time amend the terms
375 of this chapter, but no amendment shall become effective unless it shall have been
376 proposed by or shall have been submitted to the Planning Board for review and
377 recommendation.

378 (B) No amendment shall be adopted by the Mills River Town Council until
379 it has held a legislative hearing on the amendment. Notice of the hearing shall be
380 published in a newspaper of general circulation in ~~the county~~Henderson County at
381 least once a week for two (2) successive calendar weeks before the hearing. The initial
382 notice shall appear not less than ten (10) days nor more than twenty-five (25) days
383 before the hearing date. In computing the period, the date of publication is not to be
384 counted, but the date of the hearing shall be counted. Notice shall be provided as
385 described in §154.199.

386 (C) Any modifications to the appendixes of this chapter made necessary
387 by changes in local, state or federal laws may be made administratively by the
388 Subdivision Administrator, as necessary, without a public hearing being required.
389 The applications, forms and appendixes attached to this chapter may be modified by
390 the Subdivision Administrator, with Planning Board approval.

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

392 **§ 153.125 APPEALS.**

393 Appeals from decisions of the Subdivision Administrator shall be taken to the
394 Mills River Board of Adjustment through an evidentiary hearing process; appeals
395 from decisions of the Town Council shall be taken to the appropriate court of record
396 as provided by law. Appeals must be filed, in writing, within thirty (30) days from the
397 date of the respective order or decision is issued.

Town of Mills River, NC Code of Ordinances

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

399 **§ 153.126 [RESERVED].**

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

401 **§ 153.127 EFFECTIVE DATE.**

402 This chapter shall take effect and be in force from and after 12:01 a.m. on

403 March 1, 2004.

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