

AN ORDINANCE AMENDING TITLE XV LAND USAGE OF THE MILLS RIVER CODE OF ORDINANCES, CHAPTER 154 (ZONING) IN ACCORDANCE WITH TXT-23-03

WHEREAS, at the August 1, 2023 Planning Board meeting, members discussed the need for a Town lighting ordinance to protect and enhance the rural and small-town character of Mills River.

WHEREAS, at the September 5, 2023 Planning Board meeting, members reviewed example ordinances from surrounding municipalities and counties and directed staff to begin drafting a formal text amendment.

WHEREAS, The Planning Board reviewed draft ordinance text at the October 3 and November 7, 2023 meetings, providing feedback and revisions for the draft ordinance.

WHEREAS, the Planning Board voted unanimously at the December 5, 2023 public meeting to recommend approval of text amendment TXT-23-03 due to consistencies with the Town's Making Mills River 2040 Comprehensive Plan, specifically Objective 1.1, Policy 1.1.2; Objective 1.4, Policy 1.4.5; Objective 2.4, Policy 2.4.1, and Objective 3.4.

WHEREAS, the Mills River Town Council held a public hearing on January 25, 2024 to consider said request, and gave the public an opportunity to be heard.

WHEREAS, the Town Council concurs with the Planning Board's consistency findings, approved a statement of plan consistency, and briefly explained why Council considers the action taken to be reasonable and in the public interest.

WHEREAS, 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.

WHEREAS, 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:

The proposed text includes the general purpose and intent of lighting standards.

Except as specifically amended herein, Chapter 154 of the Town of Mills River Code of Ordinances shall remain valid and in full force and effect. Specific details are attached.

WHEREAS, 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.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MILLS RIVER:

THAT, text amendment TXT-23-03 is comprised of the following: amendments to Chapter 154, see attached and shall take effect and be effective at 12:01 AM on January 26, 2024, 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 25th day of January, 2024.



Shanon Gonce
Mayor

ATTEST By:



Patty Brown, CMC, NCCMC
Deputy Town Clerk



TITLE XV: LAND USAGE

CHAPTER 154: ZONING

General Regulations

- 154.105 Nonconforming uses
- 154.106 Off-street parking
- 154.107 Off-street loading and unloading space
- 154.108 Required yards and other spaces
- 154.109 One principal building on a lot
- 154.110 Conformity with regulations required
- 154.111 Relationship of building to lot
- 154.112 Accessory structures and buildings
- 154.113 Vehicle graveyard or mobile/manufactured home graveyard as accessory uses
- 154.114 Recreational vehicles
- 154.115 Commercial waste container screening requirements
- 154.116 Traffic impact analysis (TIA)
- 154.117 Lighting Standards

GENERAL REGULATIONS

§ 154.117 LIGHTING STANDARDS.

(A) Purpose. The purpose of this section is to control light pollution, spillage, glare, and light trespass so as not to adversely affect motorists, pedestrians, and land uses of adjacent properties. Lighting intensities should be controlled to assure that excessive light spillage, trespass, and glare are not directed at adjacent properties and residential areas, or unnecessarily directed upwards toward the sky. The goals of this section are as follows:

(1) Minimize adverse offsite impacts of lighting such as light trespass and obtrusive light.

(2) Curtail light pollution, reduce skyglow, and preserve the dark sky night environment.

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10 (3) Help protect the natural environment from the adverse effects of artificial lighting at
 11 night.

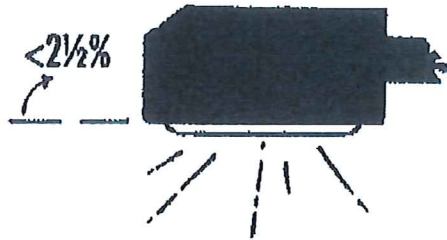
12 (4) Conserve energy associated with artificial lighting to the greatest extent possible.

13 (B) Definitions. The following words, terms and phrases, when used in this section, shall have the
 14 meanings ascribed to them in this section, except where the context clearly indicates a separate
 15 meaning.

16 Candela or candle means a measure of light intensity in a certain direction, which is useful
 17 in determining how much light is shining out of a fixture and in what direction.

18 Cutoff angle means the angle, measured up from the nadir, between the vertical axis and
 19 the first line of sight at which the bare source is not visible.

20 Cutoff fixture means a fixture light distribution where no more than 2.5 percent of a lamp's
 21 light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture
 22 and no more than ten percent of the lamp's light intensity is emitted at an angle ten degrees
 23 below such horizontal plane at all lateral angles around the fixture.



24 Direct light means light emitted directly from the lamp, off of the reflector or reflector
 25 diffuser, or through the refractor or diffuser lens of a luminaire.

26 Directional fixture means an assembly that holds the lamp along with any globe, shade, or
 27 other covering surrounding the lamp that may be adjusted to concentrate or throw light in a
 28 specific direction.

29 Disabling glare means light directed from a property or source that is five times greater or
 30 more than the ambient light on a public road or walkway adjacent to a road as measured in
 31 footcandles.

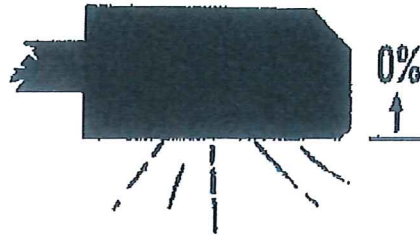
32 Fixture means the assembly that houses the lamp and can include all or some of the
 33 following parts: housing; mounting bracket or pole socket; lamp holder; ballast; reflector or
 34 mirror; refractor or lens.

35 Flood lamp means a form of lighting designed to direct its output in a specific direction with
 36 a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by
 37 the manufacturer.

38 Floodlight or spotlight means any light fixture or lamp that incorporates a reflector or a
 39 refractor to concentrate the light output into a directed beam in a particular direction.

40 Footcandle (FC) means a unit of illuminance amounting to one lumen per square foot.

44 Full cutoff fixture means a fixture light distribution where no light intensity is emitted at or
 45 above a horizontal plane drawn through the bottom of the fixture and no more than ten
 46 percent of the lamp's light intensity is emitted at an angle ten degrees below that horizontal
 47 plane, at all lateral angles around the fixture.



48
 49 Glare means light emitting from a luminaire with intensity great enough to reduce a
 50 viewer's ability to see and in extreme cases causing momentary blindness.

51 Grandfathered luminaires means luminaires not conforming to this article that were in
 52 place on the effective date of the ordinance from which this article is derived. When an
 53 ordinance "grandfathers" a luminaire, it means that such already existing outdoor lighting does
 54 not need to be changed unless so specified for adherence to such ordinance.

55 Height of luminaire means the vertical distance from the ground directly below the
 56 centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.
 57

58 IESNA means the Illuminating Engineering Society of North America, a nonprofit
 59 professional organization of lighting specialists that has established recommended design
 60 standards for various lighting applications.

61 Indirect light means direct light that has been reflected or has scattered off of other
 62 surfaces.

63 Isocandle plan means a demonstration or topographic of light distribution over a given
 64 area.

65 Lamp means the component of a luminaire that produces the actual light.
 66

67 Light trespass means the shining of light produced by a luminaire beyond the boundaries of
 68 the property on which it is located and desired, as measured at the border.

69 Lumen means a unit of luminous flux. The total quantity of light emitted from a light
 70 source. One footcandle is one lumen per square foot. For the purposes of this article, the
 71 lumen output values shall be the initial lumen output ratings of a lamp.

72 Luminaire means a complete lighting unit consisting of a lamp together with the parts
 73 designed to distribute the light, to position and protect the lamp and to connect the lamp to the
 74 power supply.

75 Maintained footcandle means illuminance of lighting fixtures adjusted for a maintenance
 76 factor accounting for dirt buildup and lamp output depreciation. The maintenance factor used
 77 in the design process to account for this depreciation cannot be lower than 0.72 for high-
 78 pressure sodium and 0.64 for metal halide and mercury vapor.

79 Noncutoff fixture means a fixture light distribution where there is no light intensity

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80 limitation in the zone above the maximum distribution of light intensity.

81 *Outdoor lighting* means the nighttime illumination of an outdoor area or object by any
82 manmade device located outdoors that produces light by any means.

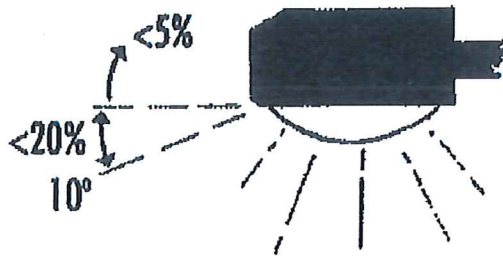
83 *Outdoor recreational facilities* means public or private facilities such as, but not limited to,
84 football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas.

85 Walkways, paths and greenways shall not be considered outdoor recreational facilities in
86 regards to the provisions of this article.

87 *Outdoor sports field* means an area designed for active recreation, whether publicly or
88 privately owned, including, but not limited to, baseball/softball diamonds, soccer fields, football
89 fields, golf courses, golf driving ranges, tennis courts, racetracks and swimming pools. Walkways,
90 paths and greenways shall not be considered outdoor sports fields in regards to the provisions
91 of this article.

92 *Point-by-point footcandle array* means a graphical representation of points placed onto a
93 grid or layout where each point identifies the amount of illuminance (light) in footcandles or lux
94 (one-tenth of a footcandle). The spacing between points can vary depending on the size of the
95 area to be lighted. For many typical outdoor layouts, a ten-foot by ten-foot spacing grid layout
96 is used. Larger areas may utilize a 15-foot or 20-foot grid spacing. This type layout can also
97 indicate luminance or reflected light instead of illuminance.

98
99 *Semi-cutoff fixture* means a fixture light distribution where no more than five percent of a
100 lamp's light intensity is emitted at or above a horizontal plane drawn through the bottom of the
101 fixture and no more than 20 percent of the lamp's light intensity is emitted at an angle ten
102 degrees below that horizontal plane at all lateral angles around the fixture.



103
104 *Temporary outdoor lighting* means the specific illumination of an outdoor area of an object
105 by any manmade device located outdoors that produces light by any means for a period of less
106 than seven days, with at least 180 days passing before being used again.

107 *Vehicular canopy* means a roofed, open, drive-through structure designed to provide
108 temporary shelter for vehicles and their occupants while making use of a business' services.

109 *Walkways, paths, and greenways* means areas that, through their design, suggest
110 pedestrian traffic of some type, including, but not limited to, walking, bicycling, running, etc.
111

112 (C) *Applicability.* The lighting standards of this section shall be applicable as follows:

113 (1) All non-residential uses shall be subject to these standards. The lighting ordinance
114 will apply to all new uses and new developments requiring a zoning compliance permit
115 when new light fixtures will be installed.

- 116 (2) Multi-family residential uses shall be subject to these standards.
- 117 (3) Major and minor subdivisions that include the construction of new roadways with
118 road lighting shall be subject to these standards.
- 119 (4) All new exterior light fixtures and site lighting installed after the effective date of this
120 section and within the zoning jurisdiction of the Town of Mills River, shall comply with
121 the standards of this section, unless exempted or considered nonconforming.
- 122 (5) Prohibited lighting identified in section (G) is applicable to all uses and properties in
123 the Town of Mills River.
- 124 (D) Lighting fixture standards.
- 125 (1) All new wall pack lights shall be full cutoff and shielded.
- 126 (2) New floodlights on non-residential properties shall be full cutoff and shielded to
127 prevent uplight and to prevent front, side, and/or rear light trespass onto surrounding
128 properties.
- 129 (3) All new site area lighting shall be full cutoff and shielded. This is applicable both in
130 non-residential developments and major or minor residential subdivisions with new
131 roadway construction.
- 132 (4) Roadway lighting shall be full cutoff and shielded.
- 133 (5) Pedestrian lighting along sidewalks, trails, greenways and other pedestrian specific
134 areas shall consist of cutoff fixtures.
- 135 (6) Sign lighting shall be shielded so that light is not unnecessarily directed towards
136 motorists and pedestrians. Sign lighting shall not consist of uplighting or spotlights on
137 the ground directed upward at a sign, which will unnecessarily contribute to light
138 pollution of the night sky.
- 139 (E) Site and Area Lighting Standards.
- 140 (1) The maximum light level using maintained lumens shall be no more than 1.0 foot
141 candles for any land use at ground level at the property line.
- 142 (2) The maximum light level using maintained lumens shall be no more than 0.25 foot
143 candles for any land use at ground level adjacent to a stream buffer or surface water
144 buffer. Stream and surface water buffers are defined as extending thirty (30) feet from
145 each bank of the stream or water body. No light fixtures may be installed within a
146 stream buffer, except for safety lighting used to illuminate pedestrian trails, pathways,
147 and recreational areas within a stream buffer.
- 148 (3) A lighting plan must be submitted for review for all new site and area lighting with
149 isolux drawings documenting light levels for any fixtures that may lead to light trespass
150 onto neighboring properties.

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151 (5) Lighting level and placement shall be designed in accordance with the most recently
152 published Illuminating Engineers Society (IES) Lighting Library Standards Collection
153 recommended practices.

154 (6) Sites with compliant lighting plans shall be deemed in compliance with these
155 standards when the fixtures are installed as shown on an approved lighting plan as to
156 type, orientation, location, height, shielding and rating of fixtures.

157 (7) A lighting plan is not required to take into account light sources external to the site.

158 (8) For the purposes of this section, maintained lumens shall mean L80 or 80% of initial
159 lumen output.

160 (F) Exempt Lighting. The following lighting applications are exempted from this section.

161 (1) Flagpole lighting.

162 (2) Sport and recreational facility lighting of a temporary duration.

163 (3) Temporary construction lighting.

164 (4) Temporary lighting used for emergency conditions.

165 (5) Low voltage landscape lighting that is located outside of a stream or surface water
166 buffer.

167 (6) Safety lighting within a stream or surface water buffer for the illumination of
168 greenways, pathways, pedestrian areas, or recreational areas.

169 (7) Temporary holiday and seasonal lighting.

170 (8) Lighting required by federal, state, or local laws or regulations.

171 (9) Temporary lighting for community events or special events of a short duration.

172 (10) Lights erected or used for a temporary duration by or on the order of a
173 governmental or public official or entity in the performance of an essential public
174 service.

175 (G) Existing nonconforming lighting and required replacement. Non-compliant lighting installed
176 prior to the effective date of this section shall be considered nonconforming and may continue
177 to be used in accordance with the nonconforming standards found in §154.105 of Town code.
178 The following applies to existing non-compliant lighting installed prior to the effective date of
179 this section. Full compliance with the lighting standards in this section shall be required under
180 the following circumstances:

181 (1) When repairing or replacing fifty percent (50%) or more of the total light fixtures on a
182 site within any twelve (12) month period.

183 (2) When expanding or improving fifty percent (50%) or more of an existing parking lot,
184 loading area, internal road network, or other lighted area.

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185 (3) Any replacement of an exterior wall pack light or flood light fixture at any time shall
186 be required to meet the light fixture standards of this section.

187 (H) Prohibited lighting. The following lighting types are specifically prohibited on all properties
188 and for all land uses in the Town of Mills River.

189 (1) Search lights, laser lights, or any other similar high intensity lights, especially those
190 directed upward.

191 (2) Any lighting or light fixture that is oriented upward, except as otherwise provided for
192 in this section.

193 (3) Lighting that could be confused for a traffic control device.

194 (4) Flickering, strobing, pulsing, rotating, or flashing lights, especially those that may
195 interfere with motorists, pedestrians, and aircraft, except as otherwise provided for in
196 this section.

197 (I) Administration and enforcement.

198 (1) Light measurement. Light level measurements shall be made at the property line of
199 the property upon which the light to be measured is being generated. If measurement
200 on private property is not possible or practical, light level measurements may be made
201 at the boundary of the nearest public street right-of-way that adjoins the property.
202 Measurements shall be made at finished grade (ground level), with the light-registering
203 portion of the meter held parallel to the ground and pointing upward. Lighting levels are
204 to be measure in foot-candles (FC) with a direct reading, portable light meter.

205 (2) Lighting plan required. A lighting plan shall be submitted with all land development
206 permit applications proposing the establishment of outdoor lighting or as applicable per
207 §154.117(B). A lighting plan shall consist of the following:

208 (a) A site plan drawn to scale showing building(s), landscaping, parking and
209 loading areas, internal roads, and proposed exterior lighting fixtures.

210 (b) Location of all post, canopy, supports, and light fixtures, including the height
211 of each fixture, for any building, structure, parking, display, and loading areas.

212 (c) Specifications and fixture detail drawings of the proposed illuminating
213 devices, lamps, and supports, including designation as Illuminating Engineering
214 Society of North America (IESNA) "cut-off" fixtures. This description may include
215 but is not limited to manufacturers catalog cuts, enlarged or reduced to the
216 correct scale of the site plan, and drawings including sections where required.

217 (d) Locations of all pole mounted and building mounted fixtures and a numerical
218 twenty-five (25) foot by twenty-five (25) foot grid of lighting levels, in foot-
219 candles, that the fixtures will produce on the ground (photometric report). The
220 photometric report will indicate the minimum and maximum foot-candle levels
221 within the lighted areas of the site. An isolux lighting plan is also permitted in

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fulfillment of this section provided that it indicates the foot-candles at grade by contour diagram or grid points that cover the site.

TITLE XV: LAND USAGE

CHAPTER 153: SUBDIVISIONS

General Provisions

153.001	Title
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Minimum Design and Construction Standards for Major Subdivisions

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153.073	Road name signs and regulatory signs
153.074	Conformance with approved thoroughfare plan
153.075	Right-of-way access
153.076	Road frontage and existing off-site access
153.077	Stormwater drainage
153.078	Pedestrian facilities
153.079	Lot designs
153.080	(Reserved)
153.081	Buffers for major subdivisions
153.082	Air quality
153.083	Farmland preservation program
153.084	(Reserved)
153.085	Miscellaneous advisory provisions

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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)

§ 153.004 AUTHORITY.

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

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

24 **§ 153.005 JURISDICTION.**

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

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

30 **§ 153.006 GENERAL APPROVAL FOR SUBDIVISIONS PLATS.**

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

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

36 **§ 153.007 COMPLIANCE REQUIRED.**

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

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

40 **§ 153.008 COMPLIANCE WITH OTHER PROVISIONS.**

41 All proposed subdivisions of land, including all those defined in § 153.045, shall comply,
42 where applicable, with the requirements of the Zoning Ordinance of The Town of Mills River, the
43 Water Supply Watershed Protection Ordinance for Henderson County, the Property Address
44 Ordinance for Henderson County and any other officially adopted plans, maps or ordinances
45 approved by any governmental body or agency having proper jurisdiction.

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

47 **§ 153.009 TRAFFIC IMPACT ANALYSIS (TIA) REQUIRED.**

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

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

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90 for re-division, then the applicant may be required by the Zoning Administrator to reapply under
91 the major subdivision procedure. The applicant for a minor subdivision shall comply with the
92 following:

93 (1) Expansion.

94 (a) A minor subdivision may be expanded under the minor
95 subdivision procedure if all of the following conditions are met:

96 1. The expansion results in a total of 10 or fewer lots
97 within the boundaries of the tract that was the subject of the original minor subdivision
98 application.

99 2. The expansion involves no more than a total of three (3)
100 phases, including the original minor subdivision application.

101 3. The expansion spans no more than three (3) years from
102 the date of approval of the original minor subdivision application.

103 4. The expansion is designed (at least in preliminary form)
104 and disclosed at the time of approval of the original application.

105 5. Applications for phased minor subdivisions that will
106 ultimately contain four (4) or more lots must comply with the provisions of § 153.046(A)(5) and
107 (6) at the time the original application is filed.

108 (b) If a minor subdivision is ever expanded, the Planning Board may
109 require the upgrading of improvements, including road paving, utility upgrading and additional
110 right-of-way dedication. If an expansion of a minor subdivision results in a total of greater than
111 10 lots, then the applicant will be required to reapply for a major subdivision.

112 (2) Except in cases of expansions of approved minor subdivisions allowed in
113 division (A)(1)(a), above, the minor subdivision procedure may not be used a second time within
114 three (3) years on property that is less than 1,500 feet from the original property boundaries of
115 the original tract which was the subject of a previously approved minor subdivision application
116 and which has been in common ownership with the original tract at any time within the three (3)
117 year period. No person may utilize the minor subdivision procedures for the purpose of evading
118 the requirements of major subdivisions. In the event that a person is found to have used this §
119 153.046 for purposes other than a bona fide minor subdivision, then the person may be required
120 to comply with any and all applicable requirements for a major subdivision and may be required
121 to re-record a plat. In addition, abuse of this § 153.046 will be deemed a violation of this chapter
122 and may subject the violator to any and all applicable penalties.

123 (3) The minor subdivision procedure may not be used in conjunction with
124 an application for a major subdivision.

125 (4) A minor subdivision application may be approved by the Subdivision
126 Administrator or referred to the Planning Board for review under the provisions of this section.

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127 (5) Except as provided in this subsection, minor subdivision roads must be
128 constructed and must be designated as either public or private. If public, the requirements in §
129 153.069(B) shall apply and, if private, the requirements of § 153.069(C) through (J) shall apply. A
130 minor subdivision of fewer than four (4) lots where private roads are proposed is exempt from
131 all road requirements in this chapter except the requirements for road name approval in §
132 153.071 and for right-of-way access in § 153.075 shall apply. (See also § 153.046A(1)(a)5).

133 (6) Applications for minor subdivisions with (four) 4 or more lots must
134 contain a road development plan that has a scaled drawing of the proposed road cross section
135 and associated drainage improvements, which shall be in conformance with the standards in §
136 153.069. Upon review and approval of the drawings, the Subdivision Administrator shall issue a
137 conditional approval of the preliminary plat. Upon completion and subsequent inspection and
138 approval by the Subdivision Administrator and upon satisfaction of the applicable requirements
139 in division (A)(7) below, the final plat may be approved by the Subdivision Administrator.

140 (7) In addition to the requirements above, a minor subdivision must comply
141 (where applicable) with § 153.067 (Sedimentation and Erosion Control Plan), § 153.068 (Water
142 supply and sewer system required), § 153.069 (Roads in general), § 153.070 (Shoulder
143 stabilization), § 153.071 (Road name approval), § 153.072 (Subdivision names and name signs), §
144 153.073 (Road name signs and regulatory signs), § 153.074 (Conformance with approved
145 thoroughfare plan), § 153.075 (Right-of-way access), § 153.076 (Road frontage and existing off-
146 site access), § 153.077 (Stormwater drainage), § 153.079 (Lot designs), and § 153.082 (Air
147 quality) of this chapter. Minor subdivisions that include the construction of new roadways with
148 road lighting shall also adhere to the requirements of §154.117 (Lighting Standards).

149 (8) The final plat for a minor subdivision shall contain all information
150 required in Appendix 7.

151 (9) The applicant shall become familiar with the miscellaneous advisory
152 provisions contained in § 153.085.

153 (B) If the minor subdivision complies with the standards set forth herein and the
154 proposed roads have been completed and inspected or improvement guarantees (such as
155 bonding) have been provided and accepted (ref. § 153.100), the Subdivision Administrator shall
156 provide the approval in writing on the application and on the face of the final plat. Once the plat
157 has been approved, the final plat may be recorded.

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

159 § 153.047 PROCEDURE FOR REVIEW OF FAMILY SUBDIVISIONS.

160 (A) The purpose of the family subdivision is to allow the creation of lots from larger
161 tracts for the use of bona-fide family members. Application does not require submission of a
162 development plan, only submission of the final plat for approval. No application forms are
163 required; however, § 153.116, Fees, shall apply. The applicant, however, must satisfy the
164 Subdivision Administrator that such division is in fact a "family subdivision" by submitting a
165 statement in a form substantially similar to that provided in Appendix 10. Each family member

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166 may be deeded only one (1) lot of record per family subdivision. The deed for each lot in a family
167 subdivision must contain an express statement that the conveyance is a conveyance of a lot
168 within a family subdivision and must contain an express grant of a right-of-way to a public road.

169 (B) If the family subdivision complies with the standards set forth in this section, the
170 Subdivision Administrator shall provide approval in writing on the face of the final plat and shall
171 retain a copy for town records. Once the plat has been approved, the final plat may be recorded
172 and a copy of the recorded plat shall be return to the Town of Mills River for the record.

173 (C) Within a family subdivision, there must be a minimum of 30 feet right of way to
174 each lot on the face of the plat and reflected on each deed.

175 (D) No person may utilize this § 153.047 for the purpose of evading the
176 requirements of any applicable provisions of this chapter. In the event that a person is found to
177 have used this § 153.047 for purposes other than a bona-fide family subdivision, then the person
178 may be required to comply with any and all requirements for a major subdivision and may be
179 required to rerecord a plat. In addition, abuse of this § 153.047 will be deemed a violation of this
180 chapter and may subject the violator to any and all applicable penalties.

181 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00047, passed 8-23-2007)

182 **§ 153.048 PROCEDURE FOR REVIEW OF NONSTANDARD**
183 **SUBDIVISIONS.**

184 (A) The procedure for review of a nonstandard subdivision, as defined herein, is as
185 follows: Lots for public utility use, special use lots and cemetery lots, if sufficiently identified and
186 encumbered for all respective uses (i.e., pump station, water tank, sign lot, common recreation
187 area, and the like) may be approved either in conjunction with a major or minor subdivision,
188 development plan review or separately by the Subdivision Administrator, upon submission of a
189 plat describing the subdivision. The lots are not counted in totaling the number of lots in a
190 subdivision for administrative purposes.

191 (B) Procedure for review of townhouse developments. In cases where townhouse
192 development review is not superseded by other regulations (such as zoning), the townhouse
193 developments, as defined herein, shall be reviewed by the Planning Board. Application for
194 review shall be made to the Subdivision Administrator. Plans for each development shall be
195 prepared in conformance with § 153.049 and with special provisions, general regulations, and
196 exceptions and modifications of this chapter, except that the following sections, upon request,
197 may be modified by the Planning Board: § 153.069(G) (Minimum curve radius), § 153.069(H)
198 (Intersections), § 153.075 (Right-of-way access), § 153.079(A) (Lot dimensions) and § 153.079(D)
199 (Lot configuration and frontage). In such cases, the Planning Board may use discretion in
200 applying subdivision standards.

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

202 **§ 153.049 PROCEDURE FOR REVIEW OF MAJOR SUBDIVISIONS.**

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

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

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

214 (a) Streams, creeks, ponds and reservoirs;

215 (b) Floodplains and wetlands;

216 (c) Steep slopes, defined as those greater than 20%;

217 (d) Unique natural areas;

218 (e) Rock outcroppings;

219 (f) Farmland and pastureland;

220 (g) Wooded or forested areas; and

221 (h) Cemeteries.

222 (2) The site analysis sketch shall be prepared based on aerial photography,
223 visual observations and an on-site inspection of the tract. The site analysis sketch need not be
224 professionally prepared. However, it shall be at a scale that is clearly legible and provides
225 sufficient detail to describe the general location of proposed development and the stated
226 features for discussion purposes. It is not necessary at the pre-application conference to have
227 detailed plans with described lots and rights-of-way. The conference is intended for the free
228 exchange of information between the applicant and the Subdivision Administrator and to
229 explore how the applicant intends to design the development, what density levels are
230 contemplated and what areas are proposed for preservation, and the like, before a great deal of
231 time and expense is expended on subdivision design.

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

236 (B) *Master plan submission.* A master plan developed in conformance with
237 Appendix 4, shall be submitted to the Planning Board through the Subdivision Administrator for

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238 review and approval for any major subdivision at least 30 days prior to the date of the regularly
239 scheduled meeting of the Planning Board. The purpose of the master plan is to present the
240 development concept for the entire project. The master plan is intended to provide general
241 information about the proposed development to allow for an assessment of its impact on the
242 orderly growth and development of the town, environmental quality, land values, natural
243 features identified on the site analysis sketch and the town's and governmental services. The
244 applicant shall submit three (3) full-sized copies and one (1) reduced-sized copy of the master
245 plan, all at a scale appropriate to clearly depict the property. If the reduced-sized plan is larger
246 than 11 inches by 17 inches, at least 10 copies shall be submitted. The master plan may consist
247 of multiple sheets, if needed. The Subdivision Administrator may, upon receipt of the master
248 plan, forward a copy to any review agency for information purposes or for comment. Applicants
249 proposing single section or phase subdivisions may submit a combined master plan and
250 development plan ("master/development plan") that shall be prepared in conformance with this
251 chapter and the requirements of a development plan, as enumerated in Appendix 5. If during
252 the development of the project, the master plan is revised to affect any of the following:
253 increase the number of building lots to be created or units to be constructed; create a
254 substantive change in the subdivision configuration, road layout, and the like; substantially
255 change the use of any portion of the tract; develop or build in areas that were identified as
256 features in the site analysis sketch (see division (A) above) and that were identified in the master
257 plan as open spaces or protected areas, the applicant shall then submit a revised master plan for
258 Planning Board review and approval in accordance with this section.

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

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

267 (2) The development plan may be submitted for the entire subdivision or
268 any section thereof. Application shall be made and submitted to the Subdivision Administrator at
269 least 30 days prior to the date of a regularly scheduled meeting of the Planning Board. The
270 application, including all drawings, fees and attachments, shall be submitted at one (1) time to
271 the Subdivision Administrator. The applicant shall submit three (3) full-sized copies and one (1)
272 reduced-sized copy of the development plan, all at a scale appropriate to clearly depict the
273 property. If the reduced-sized plan is larger than 11 inches by 17 inches, at least 10 copies shall
274 be submitted. The development plan may consist of multiple sheets, if needed. Formal review of
275 the subdivision shall not begin until the Administrator has verified that the application is
276 complete. The verification should, when possible, be made within two (2) business days of its
277 receipt. The Subdivision Administrator shall notify the applicant, in writing, of the application's
278 status and the date of the Planning Board's first consideration of the application.

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279 (3) The Subdivision Administrator shall review the application with regard
280 to all applicable standards and conformity to this chapter. The Subdivision Administrator shall
281 submit to the Planning Board a summary of findings along with comments from review agencies.
282 A copy of the findings shall be given to the applicant prior to the Planning Board's review. The
283 Planning Board shall have a maximum of 60 days from the date of its first consideration of the
284 plan within which to take action. In the opinion of the Planning Board, if a development plan
285 application is incomplete, the Planning Board may return the application to the applicant
286 identifying the specific omissions, without invoking the 60 day action requirement. The Planning
287 Board may take the following actions: approve a development plan as submitted; or approve the
288 plan with conditions; or deny the plan. The Subdivision Administrator shall, within 10 days after
289 Planning Board review, notify the applicant, in writing, of the Planning Board's action and any
290 conditions imposed by the Board. Unless otherwise stated by the Planning Board, any conditions
291 of development plan approval must be satisfied within the time specified by the Planning Board.
292 If the conditions on the development plan are accepted by the applicant, the development plan
293 shall be approved and the conditions shall be put in writing and become binding. Failure to
294 comply with any conditions of approval set by the Planning Board, including failure to meet
295 deadlines, shall result in the development plan approval becoming null and void.

296 (4) The applicant may, only upon receipt of approval of the development
297 plan from the Planning Board, proceed with the establishment of erosion and sedimentation
298 control measures, clearing and other land disturbing and improvement activities associated with
299 the project. Development plan approval shall be valid for two (2) years, and the approval shall be
300 annotated on the plan itself and certified by the Subdivision Administrator. The Planning Board
301 may, for just cause, grant extensions of development plan approval for a maximum of (1)
302 additional year. The plan shall have the date of approval and the date of written notification to
303 the owner or owner's agent specifying the conditions, if any, of the approval. Where the
304 conditions involve the redesign of the plan, annotations shall be made on the "revised
305 development plan" only, and approval shall not be effective until the plan is certified by the
306 Subdivision Administrator. Following development plan approval, any substantive changes to the
307 plan such as those due to site conditions must be approved by the Planning Board. The changes
308 should be submitted to the Subdivision Administrator on a plan titled "Revised development
309 plan." Incidental changes may be approved by the Subdivision Administrator as long as the
310 changes do not constitute a substantial deviation from the approved master plan.

311 (D) Final plat *submission and review.* A final plat, developed in conformance with
312 Appendix 7, shall be submitted to the Subdivision Administrator with the required forms and
313 applicable fees. The final plat may include the entire subdivision or any section thereof. The
314 Subdivision Administrator may approve a plat for fewer than the number of lots approved but a
315 surcharge may be assessed. The Subdivision Administrator shall review the final plat for
316 conformance with all applicable standards and conformance to the approved development plan.
317 The final plat may be approved administratively if the plan meets all requirements of the
318 ordinance and satisfies all conditions imposed by the Planning Board. If the final plat is not
319 administratively approved, it must be submitted to the Planning Board for approval. The
320 submission must be made to the Subdivision Administrator 15 days prior to the regularly
321 scheduled meeting of the Planning Board. Upon approval, and before any lots are transferred,

322 the applicant shall record the final plat at the office of the Henderson County Register of Deeds.
323 Incidental changes to the final plat which do not in any way affect the character of the
324 development may be submitted prior to or after recordation and may be approved for
325 recordation by the Subdivision Administrator. No lots governed by this chapter may be sold or
326 conveyed until a final plat is approved and recorded in the office of the Register of Deeds of
327 Henderson County.

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

329 **MINIMUM DESIGN AND CONSTRUCTION STANDARDS FOR**
330 **MAJOR SUBDIVISIONS**

331 **§ 153.065 GENERAL.**

332 All major subdivisions shall be developed in accordance with the minimum design and
333 construction standards set forth in this subchapter unless specifically exempted elsewhere in this
334 chapter.

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

336 **§ 153.066 [RESERVED]**

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

338 **§ 153.067 SEDIMENTATION AND EROSION CONTROL PLAN.**

339 Any subdivision of land regulated by the terms of this chapter shall submit to the
340 Subdivision Administrator a written notice from the NCDENR, Land Quality Section, verifying that
341 a soil erosion and sedimentation control plan has been received or a written notice from a
342 professional land surveyor, engineer, landscape architect, architect, or professional planner
343 certifying that no plan is required. The plans are required anytime one (1) acre or more of land is
344 disturbed.

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

346 **§ 153.068 WATER SUPPLY AND SEWER SYSTEM REQUIRED.**

347 Every lot within a subdivision shall be served by a water supply and sewer system that is
348 adequate to accommodate the reasonable needs of the proposed use and comply with all
349 applicable health regulations. Where public or community water supply and/or sewer systems
350 are proposed, a letter from each respective agency must accompany the application, whereby
351 the letter states that there is sufficient capacity to make connection to the utility. The applicant
352 must provide evidence that water supply and/or sewer system plans have been approved by the

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353 appropriate agency. All public or private (community) water supply and sewerage systems shall
354 be installed and shall meet the requirements of the Henderson County Health Department or
355 other governmental authorities having jurisdiction thereof. The development plan may be
356 approved contingent on final approval from the agencies; however, the final plat shall not be
357 approved until all the final approvals have been obtained.

358 (A) *Individual water supply and sewer systems (well and septic tanks).* For
359 subdivisions in which the water supply and/or sewer system to be installed is an individual
360 system for each lot, the installation of the systems will not be required prior to final plat
361 approval.

362 (B) If the subdivision in question is to have a sewer system other than one
363 connected to a municipal system, and other than described in division (A) above, the following
364 required:

365 (1) The applicant must provide a statement of responsibility for any sewer
366 lines extending beyond the subdivision tract to the point(s) of connection.

367 (2) The applicant must provide drawings of sewer lines extending beyond
368 the subdivision tract to the point(s) of connection. These drawings should also show all locations
369 with sufficient area for repair, if needed;

370 (3) Sealed approval of the local Health Department or agency currently in
371 authority; and

372 (4) Engineered plans, including drawings of sewage lift stations, as to the
373 system.

374 (5) If the private sewer line is to run along a public road with no recorded
375 easement, a third party agreement with the agency currently in authority of said road, the Town
376 of Mills River, and the subdivision must be reached.

377 (C) *Public water supply and sewer system connection requirement.*

378 (1) A subdivision shall be required to connect to a public water supply
379 system when the subdivision is located within a distance from the existing water system equal to
380 the product of 100 feet multiplied by the number of lots proposed for the subdivision. However,
381 if the subdivision is located more than 5,000 feet from an existing water line, such connection is
382 not a requirement.

383 (2) A subdivision shall be required to connect to a public sewer system
384 when the subdivision is located within a distance equal to the product of 50 feet multiplied by
385 the number of proposed lots; however, the maximum distance required for connection shall be
386 2,500 feet.

387 (3) Exceptions to this provision may be allowed on the basis of terrain,
388 availability of acquiring easements, denial of allocation by the public utility, insufficient capacity
389 of the public system or other circumstances which are unusual or unique to this site. Requests
390 for exceptions must be made, in writing, to the Subdivision Administrator who may require that

391 such requests be supported by a professional engineer's review of the subdivision plans and
392 planned route of the utility extension. If the Subdivision Administrator determines that it would
393 not be economically feasible for a subdivision to be connected to a public water or sewer
394 system, another system may be used, subject to approval by the appropriate agencies.

395 (D) *Fire hydrants.* Any subdivision served by a public water system shall meet the
396 respective State of North Carolina's minimum requirements for fire hydrant installation. For any
397 major subdivision without a fire suppression rated water system, that either has or is adjacent to
398 an adequate permanent surface water supply, the applicant may be required to install a dry fire
399 hydrant system, the type and the location of which is to be determined by the Fire Marshal. A
400 road to the water source providing permanent all-weather access to the water source that is
401 adequate for fire-fighting equipment shall be required, if applicable.

402 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00047, passed 8-23-2007)

403 **§ 153.069 ROADS IN GENERAL.**

404 If the tract to be subdivided is located on both sides of an existing, recorded private
405 right-of-way that contains an existing private road, the applicant shall be required to upgrade the
406 portions of the existing private road which are contained on the tract that is being subdivided to
407 meet the road standards found in this chapter. It should be understood that all roads proposed
408 to be public must originate as private roads until there is formal dedication and acceptance by
409 the state or a municipality. All roads proposed to be private may, if designed and constructed to
410 public standards and dedicated by those with the authority to do so, eventually become public.
411 The applicant shall determine at the time of application if the subdivision roads are to be public,
412 private or a combination of both types. The designation shall be subsequently noted on final
413 subdivision plats. The applicant for a commercial or industrial subdivision shall provide roads
414 constructed at no less than state road standards for public residential collector roads, regardless
415 of whether the roads are proposed to be public or private.

416 (A) *Travel way minimum.* All roads must have a minimum gravel or paved travel way
417 of 12 feet.

418 (B) *Public roads.* All roads proposed for public use shall be annotated "public" on
419 plans and plats and shall be designed and constructed in accordance with the standards
420 necessary to make the roads eligible to be put on the State Highway Maintenance System at a
421 later date. The standards, hereafter referred to as "state road standards," are contained in a
422 publication of the North Carolina Department of Transportation, Division of Highways, titled
423 "Subdivision Roads - Minimum Construction Standards," a copy of which is available for review in
424 the office of the Subdivision Administrator. Designation as public shall be presumed an offer of
425 dedication to the public.

426 (C) *Private roads.* All roads not intended for public use shall be designated
427 "private" on plats and plans and shall be designed and constructed in accordance with the
428 standards of this chapter. (See also Table 1 in this section.) Where private roads are proposed as
429 extensions of existing public roads, the developer must clearly justify why existing public roads

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430 should not be extended for public use. Roads within family subdivisions are expressly exempt
 431 from the provisions of this section and are required only to meet the minimum standards as set
 432 forth in § 153.047 of this chapter. Where private road designs are used for approvals of a
 433 subdivision, a note shall be placed on the final plat stating: The private roads indicated on this
 434 final plat need not meet the requirements of the North Carolina Department of Transportation
 435 for acceptance into the state road system.

436 (D) *Standards for private roads.* To be approved, all private roads shall meet the
 437 minimum design and construction standards according to the following road classifications:

438 (1) **PRIVATE RESIDENTIAL COLLECTOR ROAD** is a road or a section of a road
 439 which:

440 (a) Provides direct or indirect access from the entrance of the
 441 subdivision inward to 25 or more existing or proposed residential lots and/or dwelling units and
 442 is designed to be the main travel path for the residential access. In calculating residential density,
 443 dwelling units having driveway access on the subject road and dwelling units on side roads which
 444 feed the subject residential collector road shall be counted. The terminus or **LAST BLOCK** of a
 445 residential collector road ending in a dead end may be designed to the standards of a local
 446 residential subdivision road as long as the **LAST BLOCK** serves fewer than 25 units.

447 (b) Is designed to serve, or has the potential to serve in a future
 448 phase, property in the same ownership of the applicant that, if developed, will meet the 25
 449 dwelling-unit standard.

450 (c) Connects proposed developments with existing developments
 451 where the aggregate sum of dwelling units in both developments is 25 or more.

452 (d) Serves a nonresidential facility located within a residential
 453 development, such as a frequently used recreation area, club house, golf course, public utility
 454 site, and the like. (NOTE: See Table 1, "Collector" column.)

455 (2) **PRIVATE LOCAL RESIDENTIAL SUBDIVISION ROAD** is a road or group of
 456 roads which abuts less than 25 residential lots or serves less than 25 existing or proposed
 457 residential dwelling units and does not connect thoroughfares. (NOTE: See Table 1, "Local"
 458 column.)

459 (3) **PRIVATE LIMITED LOCAL RESIDENTIAL SUBDIVISION ROAD** is a road
 460 which abuts no more than three (3) residential lots, each containing or to contain no more than
 461 one (1) existing or proposed residential dwelling unit and its associated driveway and which does
 462 not connect thoroughfares. (NOTE: See Table 1, "Limited Local" column.)

TABLE 1			
Road <i>Classification</i>			
Item	Collector	Local	Limited Local

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Number of residential units served	25 +	1 to 24 (1)	1 to 3 (1)
Right-of-way width			
Roads	50 feet	45 feet	30 feet
Cul-de-sac (radius)	N/A	50 feet(2)	50 feet(2)
Sight distance on vertical curves	150 feet	110 feet	110 feet
Centerline radius	110 feet(3)	90 feet(3)	90 feet(3)
Maximum grade			
Stone only	12%	15%	15%
Paved surface	16%	18%	18%
Road construction			
Minimum travelway width (2 way road)	18 feet	18 feet	14 feet
Minimum travelway width (1 way road)	12 feet	12 feet	12 feet
Minimum travelway width (cul-de-sac)	N/A(2) feet	N/A(2) feet	N/A(2) feet
Shoulder width (each side, 2 way road)	6 feet(4)	4 feet(4)	2 feet
Shoulder width (each side, 1 way road)	2 feet	2 feet	2 feet
Stone base (ABC) compacted	8 inches	6 inches	6 inches
Asphalt(5)	1-1/2 inches of I-2 or BST		
Cut and fill slope	2 to 1(6)	1-1/2 to 1(6)	1-1/2 to 1(6)

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Ditch slope	4 to 1	3 to 1	3 to 1
Vertical clearance	13 feet	13 feet	13 feet
	6 inches	6 inches	6 inches

NOTES:

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

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

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

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

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

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

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

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

[\(7\) New subdivision roads that include roadway lighting shall comply with the provisions of §154.117 \(Lighting Standards\).](#)

463

464 Definitions:

465 ABC - Aggregate base course

466 I-2 - Asphalt

467 BST - Bituminous surface treatment (tar and gravel)

468 (4) If not specifically listed in Table 1 above or elsewhere in this chapter,
 469 design and subsequent construction of private roads shall be reviewed by the Planning Board
 470 based on the standards and requirements of the NCDOT and with the local NCDOT District
 471 Engineer policy modifications. A typical road cross section is shown in the NCDOT publication

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472 entitled *Subdivision Roads - Minimum Construction Standards*, a copy of which can be reviewed
473 at the Mills River Town Hall.

474 (E) *Road drainage and culverts.* All road or drainage structures shall be
475 constructed in accordance with state road standards. Road drainage side ditches shall be
476 constructed with sufficient depth and width to carry the expected volume of stormwater runoff.
477 Where the road crosses streams or minor watercourses, culverts shall be designed and installed
478 in accordance with state road standards. Development plans shall show all the drainage culvert
479 locations, as well as the length, diameter and type of culvert.

480 (F) *Road construction.* All roads must be constructed with suitable stone and
481 compacted properly. Used asphalt is unacceptable as a base course. The subbase must be of
482 suitable soil capable of supporting the road above. The road should be built so that water will
483 drain from the road surface into side ditches. Because of the difficulty of operating vehicles on
484 steep grades and the high potential for erosion, where possible, roads should be constructed
485 along the contour of the land. No stone-based road may exceed the following grades: 15% local
486 residential road and 12% collector, and no paved road may exceed 18% and 16%, respectively. If
487 combination paved and stone-based road sections are proposed, the paved sections must
488 extend 50 feet from any point a road grade exceeds the minimum for a stone-based road. The
489 Subdivision Administrator may require that a professional engineer or professional land surveyor
490 certify on the final plat that no portion of the road(s) have grades that exceed maximum
491 allowable grade as defined herein or submit a final as-built graded center line profile showing
492 grade and alignment for all roads.

493 (G) *Minimum curve radius.* Where practical, roads shall be centered in the road
494 right-of-way. The minimum curve radius (the distance measured from the centerline of the road
495 to a fixed point inside the curve) shall be no less than 90 feet except as provided below. The
496 right-of-way must include sufficient width for the travelway and the necessary shoulders, ditches
497 and slopes. Where the existing cross slope on private limited local residential subdivision roads
498 or private local residential subdivision roads is 15% or greater, a minimum centerline radius of 60
499 feet shall be permitted. Where the existing cross slope on private residential collector roads is
500 15% or greater, a minimum centerline radius of 80 feet shall be permitted. Curve radii must be
501 noted on development plans.

502 (H) *Intersections.* The proposed intersection of all roads should conform with the
503 corresponding design standards. Adequate sight distances along the proposed roads shall be
504 provided by choosing a good location for the right-of-way and clearing sight triangles when
505 building the road. When connecting roads, the minimum sight distance is 70 feet along the
506 existing road right-of-way and 10 feet along the new road right-of-way. The intersection of roads
507 must provide an adequate place for vehicles to stop before entering the road. Roads must have
508 an apron design at proposed intersections in order to permit a vehicle to enter when another
509 vehicle is waiting to turn.

510 (I) *Dead ends, culs-de-sac and turnarounds.* All roads or sections thereof with dead-
511 ends or culs-de-sac should not exceed 2,500 feet in length. Loop roads should be encouraged
512 where possible in lieu of culs-de-sac. The Planning Board may require the installation of a
513 temporary turnaround at the end of a phased project or a partial turnaround along any road that

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514 exceeds 1,500 feet in length. Vehicle turnaround areas shall be provided at the end of all dead-
515 end roads that exceed 300 feet. The required turnaround on a dead-end road shall have a
516 roadway radius of not less than 35 feet. Stub roads shall be designed in locations which will
517 permit the future extension of subdivision roads.

518 (J) Bridges.

519 (1) Bridges *on public roads*. Bridges located on proposed public roads in
520 residential, commercial or industrial subdivisions shall be designed according to state road
521 standards for public road bridges. The applicant shall submit a copy of the bridge design plans as
522 part of the development plan application. The plans should include certification from a
523 registered professional engineer indicating that the plans meet state road standards for public
524 road bridges. The Planning Board may approve the development plan contingent on submission
525 of the plans to the Subdivision Administrator. However, prior to final plat approval or release of
526 any improvement guarantee the applicant must submit a copy of documentation indicating plan
527 approval by NCDOT and a copy of an as-built drawing of the bridge with certification from a
528 registered professional engineer that the bridge meets state road standards for public road
529 bridges.

530 (2) Bridges *on private roads in residential subdivisions*. If bridges on private
531 roads in residential subdivisions are proposed, the applicant must submit a copy of bridge plans
532 showing certification from a registered professional engineer indicating that the bridge plans
533 meet state road standards for public road bridges for drainage, hydraulics and minimum live
534 load. Bridges proposed for private roads shall comply with state road standards for public road
535 bridges for drainage, hydraulics and minimum live load. The proposed bridges must meet the
536 standards for vertical clearance for roads shown in Table 1. The travelway width across the
537 proposed bridge must not be less than the travelway width of the road on either side of the
538 proposed bridge, but in no event shall the bridge travelway be less than 12 feet. If the travelway
539 of a private bridge is less than 18 feet wide and the bridge is proposed to accommodate two-way
540 traffic, a paved or gravel turnout shall be provided on each end of the proposed bridge to
541 provide space for at least one (1) vehicle to safely pull over and allow an oncoming vehicle to
542 traverse the bridge. However, prior to final plat approval or release of any improvement
543 guarantee, however, the applicant must submit a copy of an as-built drawing of the bridge with
544 certification from a registered professional engineer that the bridge meets the standards
545 required in this subsection.

546 (3) Bridges *on private roads in commercial or industrial subdivisions*.
547 Bridges located on proposed private roads in commercial or industrial subdivisions shall be
548 designed according to state road standards for public road bridges. The applicant shall submit a
549 copy of the bridge design plans as part of the development plan application. The plans should
550 include certification from a registered professional engineer indicating that the plans meet state
551 road standards for public road bridges. The Planning Board may approve the development plan
552 contingent on submission of the plans to the Subdivision Administrator. Prior to final plat
553 approval or release of any improvement guarantee, however, the applicant must submit a copy
554 of an as-built drawing of the bridge with certification from a registered professional engineer
555 that the bridge meets state road standards for public road bridges.

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556 (K) Commercial subdivision entrances. Interior roads in a commercial subdivision
 557 shall comply with Table 1 Road Construction Standards with no exemption for less than four (4)
 558 lots as granted for residential subdivisions.

559 (L) Subdivision lighting standards. If newly constructed subdivision roads include
 560 new roadway or pedestrian lighting, the light fixtures must meet the requirements of §154.117
 561 (Lighting Standards).

562 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00047, passed 8-23-2007; Am.
 563 Ord. 00066, passed 4-28-2011)

564 **§ 153.070 SHOULDER STABILIZATION.**

565 All areas disturbed by the construction of a private and/or a public road, including cut
 566 and fill slopes, shoulders and ditch banks, shall be seeded in permanent vegetation to stabilize
 567 the soil and prevent erosion. Seeding should be done as soon as feasible after road construction.

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

569 **§ 153.071 ROAD NAME APPROVAL.**

570 Proposed road names for a private and/or a public road shall be pre-approved by
 571 Henderson County in accordance with the Henderson County Property Address Ordinance.
 572 Proposed roads which are obviously in alignment with other roads already existing and named
 573 shall bear the names of the existing roads. In no case shall names for proposed roads duplicate
 574 or be phonetically similar to existing road names in Henderson County, irrespective of the use of
 575 the suffix (i.e., road, avenue, boulevard, drive, place, court and the like). Road names shall not
 576 exceed 15 characters, including spaces, but not including prefixes and suffixes. For mapping
 577 purposes, short roads should have correspondingly short road names.

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

579 **§ 153.072 SUBDIVISION NAMES AND NAME SIGNS.**

580 All major subdivisions may provide for, at the primary entrance, a subdivision name sign
 581 to conform with Henderson County sign standards. The signs should be located in dedicated sign
 582 easements, which must be shown on the final plat. The name of a subdivision shall not duplicate
 583 a name that is identical to or phonetically similar to any other subdivision or named community
 584 in Henderson County.

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

586 **§ 153.073 ROAD NAMES SIGNS AND REGULATORY SIGNS.**

587 Each subdivision shall provide road name signs and regulatory signs (speed limit signs,
588 stop signs, and the like) in accordance with the Henderson County Property Address Ordinance
589 and with applicable federal, state and local laws, rules and regulations.

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

591 **§ 153.074 CONFORMANCE WITH APPROVED THOROUGHFARE**
592 **PLAN.**

593 No subdivision application shall be approved unless the application preserves all lands
594 proposed as future rights-of-way for any public road as may from time to time be included in an
595 adopted official thoroughfare plan for Town of Mills River.

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

597 **§ 153.075 RIGHT-OF-WAY ACCESS.**

598 All subdivision lots must abut on a private or public right-of-way. The right-of-way shall,
599 for public roads, meet or exceed the minimum width specified in the state road standards or, for
600 private roads, the minimum width specified in Table 1 of § 153.069 and must be capable of
601 supporting a road. The right-of-way standards apply within the boundaries of the property being
602 developed. Proposed subdivisions which abut an existing or recorded public or private right-of-
603 way which do not meet the minimum width requirements of this chapter shall be required to
604 provide additional rights-of-way to conform to the ordinance standards to the maximum extent
605 possible, as provided below. The applicant shall provide up to half (½) of the required right-of-
606 way measured from the center line of the existing right-of-way. If the subdivision is located on
607 both sides of the existing road right-of-way, then the full right-of-way requirement shall be
608 required. (See also § 153.069.) Access to a proposed subdivision through another jurisdiction
609 shall meet or exceed all right-of-way requirements herein. Exceptions to the state road standards
610 for right-of-way or the right-of-way standards shown in Table 1, whichever is applicable, may be
611 provided for lots in conservation areas and for planned unit developments, but the exceptions
612 must be specifically approved by the Planning Board.

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

614 **§ 153.076 ROAD FRONTAGE AND EXISTING OFF-SITE ACCESS.**

615 (A) Any tract of land to be subdivided must either have frontage on an existing
616 public (state-maintained) road or a private right-of-way to a public road. For a proposed minor or
617 family subdivision which has less than 30 feet of frontage on an existing public (state-
618 maintained) road or less than 30 feet of right-of-way to a public road, the subdivision shall not
619 be divided into more lots than provided in Table 2. Inadequate frontage or existing off-site access

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620 over a private right-of-way shall restrict the maximum number of lots into which a subject tract
621 may be divided, regardless of total acreage.

<i>TABLE 2</i>	
If Road Frontage or Existing Off-Site Access ROW at the Narrowest Point is	Then, the maximum number of lots allowed is
Less than 30 feet	1 lot per acre
30 feet or greater	No maximum

622

623 (B) In the event that 5 or more lots may be created and the grade of the road at any
624 point in the off-site access right-of-way exceeds 18% grade, then the Planning Board will review
625 the application on a case-by-case basis.

626 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00066, passed 4-28-2011)

627 **§ 153.077 STORMWATER DRAINAGE.**

628 (A) All development plans shall show the general drainage patterns of all areas of
629 the subdivision. Where the drainage of the subdivision does not follow the natural drainage of
630 the property, the applicant shall design the new drainage systems, including swales, ditches,
631 pipes, culverts, detention ponds, lakes or similar devices, to minimize any adverse effect on the
632 proposed subdivision and on adjacent and downstream properties. Stormwater drainage
633 improvements shall be designed and constructed to minimize erosion and downstream
634 sedimentation, to follow natural drainage where possible, to minimize flooding or standing
635 water conditions, to maintain desirable groundwater conditions and to avoid excessive
636 stormwater discharge. Points of stormwater discharge shall be within the site unless otherwise
637 approved by the Planning Board and adjoining property owners.

638 (B) All roads, bridges and major culverts shall be designed according to state road
639 standards.

640 (C) An easement shall be reserved on-site by the applicant, or otherwise provided,
641 conforming with the lines of any drainageway into which natural runoff has been diverted.
642 Drainage improvements, where applicable, shall be designed in accordance with state road
643 standards.

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

645 **§ 153.078 PEDESTRIAN FACILITIES.**

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

648 (B) Sidewalks should be at least five (5) feet in width, made with permanent
649 weather proof material, and located in a road right of way or sidewalk easement.

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

653 (D) If subdivision pedestrian facilities include lighting of trails, sidewalks, greenways,
654 or other common facility, the lighting must comply with §154.117 (Lighting Standards).

655 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00066, passed 4-28-2011)

656 **§ 153.079 LOT DESIGNS.**

657 (A) *Lot dimensions.* The lot area, width, depth, shape, orientation and building
658 setback lines shall be reasonable for the location of the subdivision and for the type of
659 development and use contemplated and shall be sufficient to accommodate proposed utilities.
660 The minimum lot area, depth, width and setbacks shall comply with the district requirements of
661 the Town of Mills River Zoning Ordinance and/or the requirements of the Henderson County
662 Water Supply Watershed Protection Ordinance, where applicable. Lot area shall be calculated
663 excluding road right-of-way.

664 (B) *Special use lots and common areas.* Special use lots that are not intended for
665 sale and have restricted use such as entrance sign lots, common area, recreation areas, water
666 tank or pump station sites, and the like, may be exempted for the purpose of calculating the
667 number of lots in a subdivision. Proposed structures on the lots must, however, meet any
668 applicable zoning or watershed requirements. The special use lots must be clearly identified for
669 their designated use on the development plan and the final plat.

670 (C) *Future development.* Development plans and master plans should be drawn to
671 show all short-term and long-term plans of the applicant, including the general location of roads,
672 lots and other features. It is expressly acknowledged that long-term plans are subject to change;
673 however, to the extent that an applicant has the long-term plans, they should be disclosed.
674 Areas for which no future phases are known or disclosed should be labeled as "future
675 development" on the master plans and development plans for major subdivisions. Subdivision of
676 any "future development" areas on minor subdivisions must meet § 153.046 of the Subdivision
677 Ordinance. When any "future development" areas of major subdivisions are to be subdivided,
678 the development must comply with this chapter, including review by Planning Board under §
679 153.049.

680 (D) *Lot configuration and frontage.* Where possible, side lot lines shall be at right
681 angles or radial to the streets on which the lots face. Flag lots or lots which only have a narrow

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682 strip of land fronting the lot on a street may be approved by the Planning Board and/or the
683 Subdivision Administrator (only for minor subdivisions) but only under unusual circumstances.
684 The narrowest width of any lot abutting the right-of-way will be 30 feet. The 30 foot width may
685 be waived for family subdivisions pursuant to § 153.047. Double-fronted lots should be used
686 only when necessary.

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

688 **§ 153.080 [RESERVED].**

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

690 **§ 153.081 BUFFERS FOR MAJOR SUBDIVISIONS.**

691 (A) Buffers for major subdivision shall be planted per the criteria found in § 154.232.

692 (B) For residential subdivisions, a buffer strip of no less than 60 feet wide is required
693 adjacent to a street and no less than 10 feet wide is required around the perimeter of the
694 subdivision. For street buffers, the buffer strip area can be reduced to 30 feet with an earth
695 berm.

696 (C) For commercial or industrial subdivisions, a buffer strip of no less than 10 feet
697 wide is required where lots back up to or are adjacent to a street or between dissimilar uses of
698 land such as a residential area.

699 (D) Retention of existing vegetation that would provide an equivalent buffer is
700 encouraged. The Planning Board shall have the authority to determine if existing vegetation
701 fulfills the intent of the buffer requirement or if additional vegetation should be planted.

702 (E) Street and perimeter areas shall be maintained by the developer or by an
703 owner's association.

704 (Ord. passed 3-1-2004; Am. Ord. passed 10-13-2005; Am. Ord. 2018-01, passed 1-12-2018)

705 **§ 153.082 AIR QUALITY.**

706 As required by G.S. Chapter 143, Article 21, of the North Carolina General Statutes, all
707 subdivisions shall show proof of compliance, if applicable, with air quality guidelines established
708 by the Division of Air Quality and NCDENR.

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

710 **§ 153.083 FARMLAND PRESERVATION PROGRAM.**

711 If the property proposed for subdivision lies within a half (½) mile of any land in a
712 Farmland Preservation District, the applicant must submit an affidavit (see Appendix 11)

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713 certifying that the applicant is aware of existing Farmland Preservation Districts as identified on
714 maps provided by the Henderson County office of the Natural Resource Conservation Service. In
715 addition, a note on the final plat shall state that the property lies within a (½) mile of land in a
716 Farmland Preservation District.

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

718 **§ 153.084 [RESERVED].**

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

720 **§ 153.085 MISCELLANEOUS PROVISIONS.**

721 The following provisions shall be followed, if applicable, by the applicant:

722 (A) *Stream setbacks.* A minimum 30 foot setback for buildings or other structures,
723 excluding bridges or culverts, is required along all perennial streams indicated on the most
724 recent versions of USGS § 1:24,000 (7.5 minute) scale topographic maps. These maps are
725 available for inspection in the Mills River Town Hall. The minimum 30 foot setback from
726 perennial streams, where applicable, must be noted on development plans and final plats.

727 (B) *Utility easements.* Utility easements are recommended and should be
728 provided, preferably centered on rear or side lot lines, and should be at least 20 feet in total
729 width. The applicant should discuss easement locations with the appropriate utility agency.

730 (C) *Maintenance of buffers.* All buffer plant materials should be protected and
731 maintained in a healthy and growing condition. Unhealthy or dead plants should be replaced
732 with similar plants within 1 growing season.

733 (D) *Street disclosure requirements.* North Carolina law, under G.S. § 136-102.6,
734 requires that a developer make certain disclosures to each and every buyer of property,
735 including whether the road serving the buyer's lot is public or private, who owns the road, how
736 the road will be maintained and who shall be responsible for the maintenance. The law further
737 requires certain road maintenance agreements be executed. A summary of G.S. § 136-102.6 is
738 included in Appendix 9.

739 (E) *Soils map.* Where subdivisions are proposed, with an average lot area of less
740 than one (1) acre, and no public or community sewer is available, the applicant should review a
741 soils map of the property and be knowledgeable of the suitability of ground absorption systems
742 for his or her development.

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