

**AN ORDINANCE AMENDING TITLE XV LAND USAGE OF THE MILLS RIVER CODE OF ORDINANCES, CHAPTER 154 (ZONING) IN ACCORDANCE WITH TXT-24-01**

**WHEREAS**, the Town Manager and Planning Director initiated a text amendment to clarify the maximum allowed residential density for detached single family homes in the Town's Mixed Use zoning district.

**WHEREAS**, the Planning Board voted unanimously at the March 5, 2024 public meeting to recommend approval of text amendment TXT-24-01 due to consistencies with the Town's Making Mills River 2040 Comprehensive Plan, specifically Objective 1.1, Policy 1.1.1 and Policy 1.1.3; Objective 1.4, Policy 1.4.1 and Policy 1.4.5; and Objective 2.3.

**WHEREAS**, the Mills River Town Council held a public hearing on April 11, 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 clarifies the maximum residential density allowed in the Mixed-Use Zoning district. In keeping with the intent to enhance and protect the rural character of Mills River, residential density shall not exceed one (1) dwelling unit per 30,000 sq. feet of land for detached single-family dwellings.

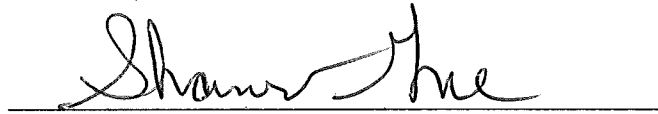
Except as specifically amended herein, Chapter 154 of the Town of Mills River Code of Ordinances shall remain valid and in full force and effect. Specific details are attached.

**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:**

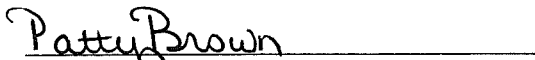
**THAT**, text amendment TXT-24-01 is comprised of the following: amendments to Chapter 154, see attached and shall take effect and be effective at 12:01 AM on April 12, 2024, and shall be in full force and effect at all times thereafter until duly amended.

**ADOPTED AND PASSED** by the Town Council of the Town of Mills River, North Carolina, this the 11<sup>th</sup> day of April, 2024.



Shanon Gonca  
Mayor

ATTEST By:



Patty Brown, CMC, NCCMC  
Deputy Town Clerk



# TITLE XV: LAND USAGE

## CHAPTER 154: ZONING

### MR-MIXED USE DISTRICT

#### § 154.066 MR-MIXED USE DISTRICT.

The MR-Mixed Use District is established to allow all uses (excluding hazardous waste disposal facilities and radioactive waste disposal facilities and adult establishments ) but to regulate certain uses so as to ensure that neighborhood impact is mitigated. The neighborhood impact from the uses listed below will be mitigated through the use of minimum specific site standards combined with general standards which provide the flexibility to impose a higher level of specific site standards dependent upon the degree of neighborhood impact.

(A) ~~(A)~~—Minimum residential lot size. In keeping with the intent to enhance and protect the rural character of Mills River, residential lot sizes shall be no less than 30,000 square feet per single-family dwelling. This minimum lot size shall not apply to existing residential lots nor residential lots which have been platted and recorded with the Henderson County Register of Deeds as of 31 July 2004. In cases where the Watershed Protection Ordinance requires a larger lot size, the Henderson County Water Supply Watershed Ordinance shall prevail.

(B) ~~Maximum residential density. In keeping with the intent to enhance and protect the rural character of Mills River, residential density shall not exceed one (1) dwelling unit per 30,000 square feet of land for detached single-family dwellings. This density requirement shall not apply to multi-family developments, tiny home parks, park model parks, RV parks, and manufactured home parks, which may not exceed four (4) dwelling units per acre, per §154.082, §154.086 and §154.067.~~

(C) ~~(B)~~ Definitions. The following definitions are applicable in this § 154.066 and in other sections of this chapter only as specifically stated in the other sections:

**ACCESS ROAD CORRIDOR.** A private passageway containing a road, street, driveway, and the like, that provides the principal means of direct vehicular entry and/or exit between a regulated use and a paved, public road, street or highway. An access road corridor shall be located entirely on the subject property or on an easement appurtenant. An access road corridor shall contain a clear and unobstructed travelway, except for any necessary security gates, and shall have a minimum vertical clearance of at least 13 feet, 6 inches.

**BUFFER.** A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building), in which no development or principal use may occur, but which may contain screening, fencing, interior service roads not intended for patron use, principal use signs,

business signs and gate or security houses. Access road corridors may cross the buffer at entrance and exit points only.

**EXTREMELY HAZARDOUS FACILITY.** Any industrial facility that stores, handles, processes or manufactures any material, substance or product that is considered to be a Class 1 explosive; a Class 2, Division 2.3 gas (gases toxic by inhalation); a Class 6 toxic material or infectious substance; or a Class 7 radioactive substance or material, all as classified by the United States Department of Transportation Hazard Classification System.

**EXTREMELY HAZARDOUS SUBSTANCE.** Any material, substance or product that is considered to be a Class 1 explosive; a Class 2, Division 2.3 gas (gases toxic by inhalation); a Class 6 toxic material or infectious substance; or a Class 7 radioactive substance or material, all as classified by the United States Department of Transportation Hazard Classification System.

**HEAVY INDUSTRY.** Any industrial use establishment that is an extremely hazardous facility as defined in § 154.066(A) of this chapter, or is a large quantity generator of hazardous waste as that term is defined by the North Carolina Department of Environment and Natural Resources. Specifically excluded from this definition are those establishments that are not extremely hazardous facilities that operate in an enclosed building (s) or structure (s) having a total gross floor area of less than 30,000 square feet; and those uses listed in § 154.066(G)(1)(a) through (k).

**SETBACK.** A continuous strip of land, measured from the property lines or from any street bordering or traversing the property (whichever is closer to the principal use or building) in which no principal structure is permitted. Limited development, including buffers and related development, parking lots and accessory structures and buildings, access road corridors, and interior service roads, may occur within the setback.

**(DG)** Uses allowed by right. All uses are allowed by right in the MR-Mixed Use District unless otherwise regulated by this section or other parts of the Mills River Town Code. All uses must secure a zoning compliance permit from the Town of Mills River before beginning land disturbance or construction, to ensure that all Town permitting requirements are met.

(1) Accessory structures and buildings of all uses allowed by right in the MR-Mixed Use District are exempted from those regulations contained in § 154.112.

**(ED)** Uses governed by other ordinances. Within the MR-Mixed Use District the following uses will be allowed but will be entirely governed by the specified ordinances adopted by the Mills River Town Council:

(1) Manufactured home parks : subject to compliance with Chapter 151 of the Mills River Town Code , as may be amended.

(2) Communication towers : subject to compliance with Chapter 152 of the Mills River Town Code , as may be amended.

**(FE)** Uses permitted with standards.

(1) The following uses shall be permitted with standards:

- (a) Vehicle graveyards (See § 154.087).
- (b) Mobile/manufactured home graveyards (See § 154.087).

(2) Uses permitted with standards shall require a zoning permit from the Zoning Administrator .

(3) Solar panels shall be allowed as a secondary use as defined in this chapter. They shall not be allowed in front yards except by Minor Special Use Permit as approved by the Board of Adjustment. Application for a special use permit shall include justification for why the panels must be placed in the front yard and show that there is no practical alternative. Solar panels shall be subject to the setback requirements for structures in each district. Stand-alone solar panels shall be limited to 10 feet in height. Solar panels attached to buildings shall extend more than 5 feet above the building . Stand-alone solar panels that are secondary uses to residential uses shall not be required to buffer . Stand-alone solar panels that are secondary uses to commercial uses shall be required to plant a buffer strip along side and rear property lines as defined in the zoning definitions. Residential panels shall not produce more than 150% of the power required for the site.

(4) Wind turbines shall be allowed in all districts under a Major Special Use Permit under § 154.138. Wind turbines shall be required to have a setback from all property lines of 2 times the fall radius of the wind turbine.

(GF) (Reserved)

(HG) Special uses .

(1) The following special uses shall be permitted in the MR-Mixed Use District under a Major Special Use Permit , subject to the Mills River Town Council finding that both the general site standards stated in § 154.138 and those specific site standards listed in § 154.087, if any, will be met:

- (a) Incinerators .
- (b) Solid waste management facilities .
- (c) Mining and extraction operations .
- (d) Concrete plants .
- (e) Asphalt plants .
- (f) Junkyards .
- (g) Motor sports facilities .
- (h) Slaughtering plants .
- (i) Amusement parks .

(j) Chip mills .

(k) Heavy industry .

(l) Tiny home parks, park model parks, recreational vehicle parks .

(2) It is expressly acknowledged that the above-referenced uses will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood as long as the site standards as specified in § 154.087 and the general site standards as specified in § 154.138(D) are met.

(H) Prohibited uses. The following uses shall be prohibited in the MR-Mixed Use District:

(1) Hazardous waste disposal facilities , unless preempted pursuant to G.S. § 130A-293.

(2) Radioactive Waste Disposal Facilities , unless preempted pursuant to G.S. § 104E-6.2.

(3) Adult establishments .

(I) Expansion and alteration of certain uses in the MR-Mixed Use District.

(1) Uses having a special use permit . The following requirements apply to those uses listed in § 154.066(G) which receive a special use permit after the effective date of a Zoning Map of the Town of Mills River amendment applying the MR-Mixed Use District in the applicable area:

(a) Alteration of a use (without physical expansion). Alterations of the operations of a use shall be allowed as long as the alterations do not violate any specific standards of this chapter (see § 154.087), general standards of this chapter (see § 154.138) or conditions of the special use permit . If an alteration would result in the violation of any specific standards of this chapter (see § 154.087), general standards of this chapter (see § 154.138) or conditions of the special use permit , an amendment to the special use permit shall be required, otherwise the alteration will be deemed a violation of this chapter. This subsection shall not be deemed to allow a use to change to another use listed in § 154.066(G) without applying for a new special use permit . Alterations of operations shall include, but not be limited to, increases in productivity arising from the addition of equipment, the addition of employee shifts or the change of means and methods.

(b) Physical expansion of a use. A use may expand its facilities without any additional restrictions and without securing an amendment to the special use permit if the specific standards of this chapter (see § 154.087), general standards of this chapter (see § 154.138), or the conditions of the permit , if any, will not be violated and if the total size of the structures or areas devoted to the principal uses after the proposed expansion would not be increased by more than 10%. Notwithstanding the foregoing, no use may expand in accordance with the terms of this exception on more than 2 occasions without securing an amendment to the special use permit . All other expansions will require an amendment to the special use permit . If any condition of the special use permit will be violated by a

proposed expansion to facilities, or the proposed expansion will result in more than 2 expansions to facilities pursuant to the exception contained herein above, or the expansion results in the total size of the structures or areas devoted to the principal use being expanded by more than 10%, then the expansion will be deemed a violation of this chapter.

(2) Uses for which a special use permit was not required when established. For those uses of the same type as those listed in § 154.066(G) constructed or established after the effective date of a Zoning Map of the Town of Mills River amendment applying the MR-Mixed Use District in the applicable area, which did not require a special use permit when the use was constructed or established, any expansion or alteration to the operations, or any expansion or alteration to the structures or areas devoted to the principal use, which bring the use within the definition for those uses listed in § 154.066(G) shall require a special use permit. The entire use, including but not limited to the expansion or alteration, shall be required to comply with all applicable standards in the MR-Mixed Use District.

(3) Preexisting uses. For those uses of the same type as those listed in § 154.066(G) constructed or established before the effective date of a Zoning Map of the Town of Mills River amendment applying the MR-Mixed Use District in the applicable area the following requirements shall apply:

(a) Alteration of a use (without physical expansion). Alterations of the operations of a use of the type listed in § 154.066(G) shall be allowed without a special use permit if the use did not meet the definition of 1 of the uses listed in § 154.066(G) when constructed or established, and the alteration does not bring the use within the definition for 1 of the uses listed in § 154.066(G). If, however, the alteration will bring the use within the definition of 1 of the uses listed in § 154.066(G), then a special use permit shall be required. Once a special use permit is obtained for a preexisting use, however, further alterations shall be governed by § 154.066(I)(1)(a) above.

(b) Physical expansion of a use. Expansions of the facilities for uses of the type listed in § 154.066(G) shall be allowed without a special use permit if the use would not have met the definition of one of the uses listed in § 154.066(G) when constructed or established, and the expansion does not bring the use within the definition for one of the uses listed in § 154.066(G). If, however, the expansion will bring the use within the definition of one of the uses listed in § 154.066(G) or the use would have met the definition of one of the uses listed in § 154.066(G) when constructed or established, then a special use permit shall be required. Once a special use is obtained for a preexisting use, however, further expansions shall be governed by § 154.066(I)(1)(b) above.

(c) Applicable standards. Notwithstanding any provisions of this chapter, alterations or expansions to uses required to obtain a special use permit pursuant to this § 154.066(I)(3) [whether or not they are later governed by § 154.066(I)(1)(a) or § 154.066(I)(1)(b) above] shall be required to meet the specific site standards listed in § 154.087 to the extent possible for the expanded or altered portion of the facility or operation only. Any the alteration or expansion shall be required to meet the general standards listed in § 154.138 with or without conditions imposed by the Mills River Town Council as allowed by this chapter. The conditions may include, but not be limited to,

imposition of specific site standards of the types listed in § 154.087. Notwithstanding anything herein to the contrary, development occurring around a preexisting use will not affect the ability of the use to alter or expand its facilities or operations.

(K) Subsequent events. Events occurring subsequent to the date of an application for a special use permit for those uses in the MR-Mixed Use District requiring the permit, including but not limited to the location of a health-care facility or school within the stated separation or a change in the residential density, shall not operate to invalidate the permit or affect the ability of the use to alter or expand its facilities or operations. In addition, development occurring around a preexisting use or a use for which a special use permit was not required when established will not affect the ability of the use to alter or expand its facilities or operations.

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

(1) Maximum building size: 15,000 square feet. Public Schools as defined in § 154.007(B) are exempt from this provision for building size maximum.

(2) Maximum building height : 40 feet.

(3) Minimum front yard setback from major street: 75 feet. 2

(4) Minimum front yard setback from all other streets : 60 feet.

(5) Minimum rear and side yard setback : 30 feet.

(L) Buffer /screening requirements.

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

(2) In all other cases, uses in the MR-Mixed Use District shall comply with applicable landscaping and screening requirements in the Town of Mills River Landscape Ordinance.

(Ord. passed 3-1-2004; Am. Ord. 00013, passed 7-29-2004; Am. Ord. passed 10-13-2005; Am. Ord. 00038, passed 11-21-2006; Am. Ord. 00066, passed 4-28-2011; Am. Ord. 00080, passed 5-23-2013; Am. Ord. 2018-03, passed 3-8-2018; Am. Ord. 2018-10, passed 11-8-2017; Am. Ord. 2021-06, passed 4-22-2021)



§ 154.109 ONE PRINCIPAL BUILDING ON A LOT.

Only one (1) principal building and its customary accessory buildings may hereafter be erected on any one (1) lot, except as otherwise provided in this chapter. This restriction shall not apply in the MR-MU District or the MR-LI District.

(Ord. passed 3-1-2004; Am. Ord. passed 7-29-2004; Am. Ord. 10-13-2005; Am. Ord. 00071, passed 3-22-2012; Am. Ord. 2021-06, passed 4-22-2021)

§ 154.111 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one (1) principal building and its customary accessory buildings on the lot, except in the case of a specially designed group development of institutional, residential, commercial or industrial buildings in an appropriate zoning district, e.g., school campus, cluster housing, shopping centers, industrial parks, manufactured home parks and planned unit developments. This restriction shall not apply in the MR-MU District or the MR-LI District.

(Ord. passed 3-1-2004; Am. Ord. passed 7-29-2004; Am. Ord. 10-13-2005; Am. Ord. 00071, passed 3-22-2012; Am. Ord. 2021-06, passed 4-22-2021)