

**AN ORDINANCE ESTABLISHING A MORATORIUM ON NON-RESIDENTIAL DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS WITHIN THE TOWN OF MILLS RIVER**

**WHEREAS**, the Town of Mills River (the "Town") recognizes the importance of safeguarding public health, safety, and welfare through sound land use practices; and

**WHEREAS**, approximately 15% of the Town's jurisdiction of 22 square miles is designated as special flood hazard areas—defined by the Federal Emergency Management Agency (FEMA) as the area that will be inundated by a flood event having a 1-percent chance of being equaled or exceeded in any given year—and which are subject to periodic flooding and pose risks to property, infrastructure, and the environment; and

**WHEREAS**, the Town recognizes the need to study the use of these areas, particularly pertaining to need to control and limit development in these areas to prevent unnecessary risks to life, property, and the natural environment, and to protect the safety of the public; and

**WHEREAS**, the Town seeks to establish land use management strategies in the areas of the Town that are in the most danger of flooding, ensure compliance with federal, state, and local regulations, and allow time for the review of best practices, land use management in the areas with where the risk of flooding creates danger to the public, and comprehensive planning efforts for future development; and

**WHEREAS**, the Town Council has determined that action is necessary to address non-residential development in flood hazard areas in order to protect public and private property and the health, safety, and welfare of the residents of the Town; and

**WHEREAS**, the Town held a public hearing, as required by N.C.G.S 160D-601, on April 10, 2025 to hear concerns and receive questions from the public. Public notice was published on March 26 and April 2 in the Hendersonville Lightning, meeting the notice requirements as outlined in N.C.G.S 160D-601.

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

**Section 1. Moratorium on Non-Residential Development in Special Flood Hazard Areas**

(a) A moratorium is hereby established on the approval or issuance of any and all Town permits (zoning, watershed, etc.) for non-residential development in special flood hazard areas.

(b) This moratorium shall apply to all new non-residential development, including but not limited to fill and grading activities, the construction of buildings, structures, and parking lots, in special flood hazard areas, as determined by the most recent FEMA Flood Insurance Rate Maps (FIRMs) or any subsequent updates to those maps. Agricultural uses are exempt from Town zoning and are not required to obtain permits and are therefore not subject to this moratorium.

Currently much of the special flood hazard areas in the Town are unregulated, so any type of development or filling of land could occur. Such development or fill could pose a risk of injury to persons and danger to property. A moratorium will pause the potential for unregulated development in floodplains while the Town works to adopt land use regulations for these areas.

## **Section 2. Exemptions**

This moratorium shall not apply to the following:

- (a) Repairs, replacements, or modifications of existing non-residential structures that do not expand the structure's footprint or increase the risk of flooding
- (b) Development related to public infrastructure or utilities, where required for the health, safety, and welfare of the community
- (c) Modification of any existing permits
- (d) Any other exempt project as identified in G.S. 160D-107(c).

## **Section 3. Statement of Problem**

Hurricane Helene caused widespread, catastrophic flooding impacts to the Town of Mills River and Western North Carolina. The Town of Mills River has no floodplain ordinances, does not participate in the NFIP, and floodplains are considered unregulated. In the wake of Hurricane Helene, the Town has made an effort to investigate the NFIP and potentially adopt a flood damage prevention ordinance, meeting directly with the NC State NFIP Coordinator to educate the Town on these matters. Due to the NFIP impacts on the agricultural community, the Town needs additional time to investigate other types of land use regulations for potential adoption, that would have fewer adverse impacts on our local farmers and protect the public safety.

## **Section 4. Duration of Moratorium**

The moratorium established by this Ordinance shall remain in effect for a period of up to [180] days from the effective date of this Ordinance, or until such time as the Town Council adopts amendments to its land development regulations or takes other action regarding development in flood hazard areas, whichever occurs first.

## **Section 5. Statement of Actions**

- (a) The Town staff is directed to review land use regulations in surrounding communities that regulate development in special flood hazard areas and to develop draft options for land use regulations applicable in special flood hazard areas specific to the Town of Mills River to address the potential impacts of non-residential development in such areas.
- (b) The Town Council may, upon receipt of such recommendations and draft regulations, consider changes to its land use regulations, or other relevant policies, in order to ensure development practices that minimize the risks of flooding and support long-term flood mitigation efforts.

## **Section 6. Severability**

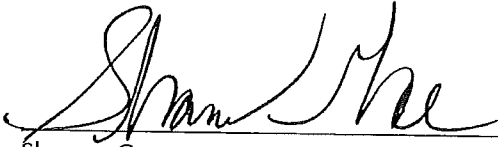
If any section, clause, provision, or portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

**Section 7. Effective Date**


This Ordinance shall become effective immediately upon adoption.

**BE IT FURTHER ORDAINED**, this moratorium shall take effect and be effective immediately upon adoption 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 10<sup>th</sup> day of April, 2025.

  
Shanon Gonce  
Mayor

ATTEST By:

  
Patty Brown, CMC, NCCMC  
Town Clerk

