

AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE BY CLARIFYING AN EXISTING DEFINITION IN ACCORDANCE WITH TXT-25-03

WHEREAS, the Planning Board discussed the lack of clarity in the definition of “common area” and “recreation area” in the subdivision code §153.026, which allowed a developer to propose a recreation area/walking trail off site from a proposed major residential subdivision.

WHEREAS, the Planning Board voted at the May 6, 2025 meeting to initiate a text amendment to clarify the existing definition of “common area” and “recreation area” in the Town subdivision ordinance §153.026.

WHEREAS, the Planning Board attorney and the Town attorney both confirmed this text amendment does not violate the down-zoning prohibition in SL 2024-57.

WHEREAS, the Planning Board voted unanimously at the June 17, 2025 rescheduled public meeting to recommend approval of text amendment TXT-25-03 due to consistencies with the Town’s Making Mills River 2040 Comprehensive Plan, specifically Objective 1.4, Policy 1.4.1, Policy 1.4.3, and Policy 1.4.5; and Objective 2.4, Policy 2.4.2

WHEREAS, the Mills River Town Council held a public hearing on August 14, 2025 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 existing definitions in §153.026 of the Town of Mills River Subdivision Ordinance.

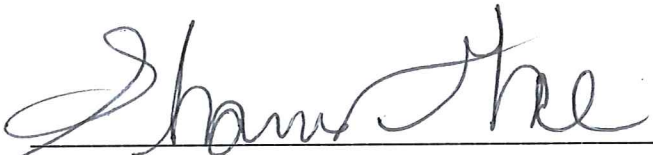
WHEREAS, each section and subsection of said ordinance as adopted herein constitutes a separate and distinct provision. Whenever possible, each provision of such Ordinance shall be interpreted in a manner as to be effective and valid under applicable law. In the event that any provision so such Ordinance 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-25-03 is comprised of the following: amendments to the Subdivision Ordinance §153.026, by clarifying an existing definition (see attached) and shall

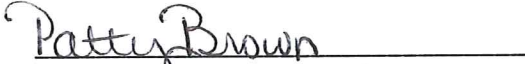
take effect and be effective at 12:01 AM on August 15, 2025, and shall be in full force and effect at all times thereafter until duly amended.

ADOPTED AND PASSED by the Town Council of the Town of Mills River, North Carolina, this the 14th day of August, 2025.



Shanon Gonce
Mayor

ATTEST By:



Patty Brown, CMC, NCCMC
Town Clerk



§ 153.026 DEFINITIONS OF TERMS.

For the purpose of this chapter, the following terms have been defined as follows:

ADMINISTRATIVELY. Review and approval by staff, without formal Planning Board action.

APPLICANT. The legal owner of the subject tract upon whom final responsibility for ensuring compliance with the terms and conditions of this chapter rests. For purposes of submission and review of an application, an agent designated by the legal owner, in accordance with § 153.115, will also be considered an applicant.

BOND. See IMPROVEMENT GUARANTEE.

BRIDGE. A structure carrying a pathway or roadway over a depression, obstacle or barrier.

COMMON AREA. Land or a combination of land and water resources within ~~or~~ and related to a development for active and/or passive recreation which is reserved for public or private use for the enjoyment of the residents of the development and their guests and may include various man-made features that accommodate such activities. Common areas are not considered lots for the purposes of this chapter. (See also OPEN SPACE.)

CUL-DE-SAC. See ROAD.

DESIGNATED PUBLIC WATER SUPPLY WATERSHED. An area designated by the North Carolina Environmental Management Commission, delineated on the official map entitled "Watershed Protection Map of the Town of Mills River, North Carolina," and regulated by the Mills River Natural Resources Ordinance and Mills River Zoning Ordinance.

DEVELOPABLE AREA. The portion of a tract of land where development is not hindered by severe slopes, floodplains, unsuitable topography or similar obstructions to development.

DEVELOPER. See APPLICANT.

DRIVEWAY. A private passageway providing the principal means of direct vehicular entry and/or exit between a dwelling unit on an individual lot and a road. If the driveway is located entirely on the individual lot, it shall be exempt from all applicable road standards. If, however, the driveway is located entirely or partially outside of the individual lot that it is intended to serve, then that portion which is located outside of the individual lot shall be treated as a road, as that term is defined herein, and shall be subject to all applicable road standards.

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

OPEN SPACE. Land that is generally left in its natural state and not developed. Roads and parking lots are not considered open space. (See also COMMON AREA.)

RECOMBINATION. The combining of previously subdivided and recorded lots or portions thereof where the total number of lots is not increased and the resulting lots meet the requirements of this chapter.

RECREATION AREA. See COMMON AREA.

REVIEW AGENCY. Any local, state or federal government agency qualified to review and comment on subdivision development plans; the agencies may include but not be limited to: the NCDOT, Henderson County Permits and Inspection Department, Fire Marshal's Office, Health Department, County Engineer, Mills River Zoning Board of Adjustment, Mills River Watershed Review Board and Mills River Planning Board .

RIGHT-OF-WAY. A defined and dedicated area by way of permanent easement or public or private ownership of land for the purposes of facilitating access among and between parcels of land. (See also EASEMENT.)

ROAD. A dedicated public or private right-of-way for vehicular and pedestrian traffic; roads may be of any of the following types and classifications:

(1) PUBLIC LOCAL RESIDENTIAL SUBDIVISION ROAD. Either culs-de-sac , loop roads or roads that do not connect thoroughfares or serve major traffic generators (as defined by State Road Standards).

(2) PUBLIC RESIDENTIAL COLLECTOR ROAD. A road which serves as the connecting street between local residential roads and the thoroughfare system (as defined by State Road Standards).

(3) PRIVATE RESIDENTIAL COLLECTOR ROAD. A road or a section of a road which provides direct or indirect access from the entrance of the subdivision inward to 25 or more existing or proposed residential lots and/or dwelling units and is designed to be the main travel path for the residential access. PRIVATE RESIDENTIAL COLLECTOR ROAD is a road or a section of a road which:

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

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